



HAL
open science

**”Private and family life” in times of pandemic.
Continuities and ruptures of a discriminatory policy:
The French case**

Laura Odasso, Frederique Fogel

► **To cite this version:**

Laura Odasso, Frederique Fogel. ”Private and family life” in times of pandemic. Continuities and ruptures of a discriminatory policy: The French case. *Revue Européenne des Migrations Internationales*, 2023, COVID-19, migrations and itineraries. Mobilities through the prism of immobility: Paradox and reality, 38 (1-2), 10.4000/remi.21859 . hal-04365104

HAL Id: hal-04365104

<https://hal.science/hal-04365104>

Submitted on 27 Dec 2023

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L’archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d’enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

“Private and family life” in times of pandemic. Continuities and ruptures of a discriminatory policy: The French case

Laura Odasso, Frédérique Fogel, Translated by Alexandra Poméon O'Neill, Katherine Booth

IN **REVUE EUROPÉENNE DES MIGRATIONS INTERNATIONALES** VOLUME 38, ISSUE 1, 2022, PAGES 115 TO 137

PUBLISHERS **UNIVERSITÉ DE POITIERS**

ISSN 0765-0752

ISBN 9782381940212

DOI 10.4000/remi.20140

Article available online at

<https://www.cairn-int.info/revue-europeenne-des-migrations-internationales-2022-1-page-115.htm>



CAIRN.INFO
MATIÈRES À RÉFLEXION



Discovering the outline of this issue, following the journal by email, subscribing...

Click on this QR Code to access the page of this issue on Cairn.info.

Electronic distribution Cairn.info for Université de Poitiers.

Reproducing this article (including by photocopying) is only authorized in accordance with the general terms and conditions of use for the website, or with the general terms and conditions of the license held by your institution, where applicable. Any other reproduction, in full or in part, or storage in a database, in any form and by any means whatsoever is strictly prohibited without the prior written consent of the publisher, except where permitted under French law.



Revue européenne des migrations internationales

vol. 38 - n°1 et 2 | 2022

COVID-19, migrations et parcours. Des mobilités aux prismes de l'immobilité : paradoxes et réalités

“Private and Family Life” in Times of Pandemic, Continuities and Breaks in a Discriminatory Policy: The Case of France

« Vie privée et familiale » en temps de pandémie. Continuités et ruptures d'une politique discriminatoire : le cas de la France

«Vida privada y familiar» en tiempos de pandemia. Continuidades y rupturas de una política discriminatoria: el caso de Francia

Laura Odasso and Frédérique Fogel

Translator: Alexandra Poméon O'Neill and Katherine Booth



Electronic version

URL: <https://journals.openedition.org/remi/21859>

DOI: 10.4000/remi.21859

ISSN: 1777-5418

This article is a translation of:

« Vie privée et familiale » en temps de pandémie. Continuités et ruptures d'une politique discriminatoire : le cas de la France - URL : <https://journals.openedition.org/remi/20140> [fr]

Publisher

Université de Poitiers

Printed version

ISBN: 978-23-81940-21-2

ISSN: 0765-0752

Electronic reference

Laura Odasso and Frédérique Fogel, “Private and Family Life” in Times of Pandemic, Continuities and Breaks in a Discriminatory Policy: The Case of France”, *Revue européenne des migrations internationales* [Online], vol. 38 - n°1 et 2 | 2022, Online since 02 January 2024, connection on 13 February 2023. URL: <http://journals.openedition.org/remi/21859> ; DOI: <https://doi.org/10.4000/remi.21859>

This text was automatically generated on 13 February 2023.



Creative Commons - Attribution 4.0 International - CC BY 4.0

<https://creativecommons.org/licenses/by/4.0/>

“Private and Family Life” in Times of Pandemic, Continuities and Breaks in a Discriminatory Policy: The Case of France

« Vie privée et familiale » en temps de pandémie. Continuïtés et ruptures d’une politique discriminatoire : le cas de la France

« Vida privada y familiar » en tiempos de pandemia. Continuidades y rupturas de una política discriminatoria: el caso de Francia

Laura Odasso and Frédérique Fogel

Translation : Alexandra Poméon O’Neill and Katherine Booth

- 1 The health crisis impacted the lives of people in migration situations, when the political-administrative measures implemented to address COVID-19 affected their access to the law. In this article, we focus on the consequences of such measures for the emotional and personal ties of non-European nationals and their loved ones.
- 2 The main theme running through our research concerns the family in the construction of the “nation”. Elsewhere, we have shown the role played by emotional and kinship ties in obtaining permission to stay and naturalisation, and the extent to which their evaluation by the authorities contributes to the selection of “good” immigrants and, thus, to discrimination against others and their loved ones (Odasso, 2021a, 2020 and 2016; Fogel, 2019). At the beginning of 2020, with the adoption of the first measures in the context of the health emergency, we observed that the personal, marital and family situations of the people we were studying were affected. These findings, which applied to both binational couples and migrant families, prompted us to come together and to pool our questions with the aim of understanding the implications of the health crisis for a rather heterogeneous population, grouped together by the immigration system in the same legal category, “private and family life”, according to the expression enshrined in the French *Code de l’entrée et du séjour des étrangers et du droit d’asile* (Code

on the Entry and Residence of Foreigners and the Right to Asylum – CESEDA). We focus here on four examples of situations in which, from a legal perspective, emotional and family ties allow regularisation on French territory, the renewal of a residence permit, family reunification and the reuniting of foreign partners with French nationals, whether or not they are in the process of getting married.

- 3 These situations are derived from an ongoing ethnography of binational couples and foreign families¹ in Île-de-France, but also in Auvergne-Rhône-Alpes (Ain and Rhône), Grand Est (Alsace) and Occitanie (Hérault). We have been following some of these people for over a decade, while others have been identified recently through (mainly online) support groups that emerged during lockdown, when most of the association-run reception centres were closed. We met with them physically or online to collect their accounts of experiences with migration-related bureaucracy, while carrying out an updated assessment of the government measures that applied to them in 2020 and 2021. We monitored the regulations and administrative practices announced by decree, but also through more discreet channels, such as parliamentary questions and tweets from the Ministries of the Interior and Foreign Affairs. We also focused on administrative law proceedings and petitions to the *Conseil d'État* (Council of State), as well as reactions to these institutional and legal measures among specialised lawyers and associations supporting foreign nationals.
- 4 At the same time, we observed the (online and offline) mobilisation of organisations and movements of separated spouses and families, and of binational couples waiting to be reunited. We carried out surveys in the institutional places where the fates of foreign women and men are decided and supplemented our data with elements from the media debate and official statistics that shed light on the perspective of those involved in French migration policy, and that lead us to question whether they are in line with, or diverge from, our observations in the field. From the guarantees of the CESEDA, implemented in administrative regulations (Lochak, 1976), to the changes brought about by new provisions adopted since 2020, our fieldwork reveals bureaucratic-legal dynamics and uncertain and fragmented temporalities that immobilise the administrative process, strongly impacting the personal and family life of our interviewees.
- 5 The management of the health crisis accentuated spatial, administrative and existential immobility, by exacerbating the ordinary dysfunctions and situations of precariousness, or dependence, already observed. It created new forms of undesirability, but also gave visibility to mobility that had previously been in the shadows and triggered sociolegal mobilisation with specific features that contributed to developing the legal awareness of people in migration situations. We show that these dynamics are in part linked to a process of deterioration in the migration policies directed at migrants and their families which predates the pandemic, while at the same time reveal new twists and turns in life and migration pathways, or life pathways that unexpectedly became migration pathways. In this paper we therefore focus on the interconnection between what remains, what has changed and what has been accelerated, through the prism of the dialectic of administrative/existential immobilisation and social uses of the law including legal mobilisation.
- 6 We begin by setting out the theoretical framework of our argument. We then put it into context, in particular by identifying the continuities and breaks in the legal and bureaucratic conditions that apply to the administrative pathways of people in

migration situations in and around the health crisis. This macro- and meso-level analysis is then interlinked with a microanalytical approach that considers individual experiences and motivations, and collective dynamics. Thus, using case studies relating to “private and family life” chosen for their relevance to the uncertain temporalities inherent in the social, political and administrative configuration of 2020-2021, we address how the management of the crisis affects the possibilities of access to the law arising from emotional and personal relationships. These cases shed light on the tension between breaks and continuities in the pandemic period and that preceding it. We conclude with some proposals that put the pandemic into perspective within the overall migration policy and the experiences of foreign nationals living in France.

Legal and Administrative Production of a “Superfluous” Population

- 7 The literature shows that the existence of various mobility regimes normalises the movements of certain international and transnational travellers, while trapping and even criminalising others who aspire to leave their country (Glick Schiller and Salazar, 2013: 189). In our fieldwork with undocumented migrants who have been living in France for several years, or with men and women in a regular administrative situation awaiting the decision on family reunification to enable their spouses and children to join them, or with binational couples who are unable to reunite, marry and live together legally, there is an echo of the “great divide” that distinguishes from the outset those whose right to mobility is recognised by international conventions. They have the necessary documents to cross international borders and, over the course of their lives, use their skills, knowledge and competence to change their status and improve their personal and family situation. Others circulate without the necessary documents and devise more risky strategies. For the former, access to the territory and residence in France depends on the visa obtained from the French consular authorities in the country of origin. For the latter, who have travelled on the margins, the capacity to act is repeatedly thwarted. Although information circulates, many do not manage to leave, or learn on arrival in France that reception is conditional, and that it will take a great deal of patience and energy to achieve a regular administrative situation, which will remain precarious in many respects and for many years (Fogel, 2019).
- 8 These people on the move are subject to checks activated by agents (consular and prefectural officials, airline staff, etc.) and by key instruments (laws, procedures, databases, etc.) in the migration system, within what Rea (2017) has aptly termed the “network border”, the purpose of which is twofold: to facilitate the passage of some people and to block others who are considered undesirable by the state, and by Europe. This border operates in multiple spaces (consulates in the country of origin, points of entry into Europe, on the territory when people seek to settle in a regular situation) and therefore, depending on their situations and characteristics, people in migration situations find themselves repeatedly confronted with it, sometimes at unexpected times (Odasso, 2021b). This border extends to the challenges that stand in the way of personal migration projects, in the form of a recurring discrepancy between “rules” and “reality”: the situation of the individual, couple or family does not correspond precisely to the criteria (legal, administrative, political, sometimes moral) that define access to visas and residence on the grounds of “private and family life”. Most migrants

learn the rules in situ, as they are confronted with the requirements and constraints of their mobility, and then of their settlement in relation to the need to obtain a residence permit, which should ultimately restore their right to mobility.

- 9 Consequently, the migratory pathway, seen as a continuum, is not only a process that is part of the individual's life pathway, made up of private and public stages, multiple and multiscale interactions, and frictions between aspirations, motivations and constraints, but is a real "career" in Howard Becker's terms. It is a "learning process [which] is constructed objectively through a legal-institutional and socio-economic pathway, and subjectively through the contrast between initial expectations and the realities of the migratory experience". (Martiniello and Rea, 2011). These objective and subjective dimensions are also eminently temporal. Time is a key instrument in the management of foreign nationals (Cwerner, 2001), and the literature has shown the harmful effects of the friction between institutional time and biographical time on the capacity to act and the projects of migrants and their families, including those who are highly qualified (Merla and Smit, 2020).
- 10 Beyond health-related issues, the pandemic represents a "time of cumulative hardship" (Carillon *et al.*, 2020) and "adds precariousness to precariousness" (Desgrées du Loû, 2020). On the one hand, it tipped the most disadvantaged people into "a 'disaffiliation zone' marked by social non-existence" (Carillon *et al.*, 2020: 4), by exacerbating pre-existing logics. However, we go further to observe that, on the other hand, it confuses mobility regimes by immobilising previously mobile people, for example those who were formerly able to enjoy international travel on a temporary basis using a tourist visa and thus reunite as an unmarried couple, or those who, after lengthy procedures, had obtained authorisation for reunification. The bureaucratic complications caused by the management of the health crisis, but which are in fact part of the management of international mobility, complicated life pathways that seemed, before March 2020, to be spared, starting with the total halt of air travel and the closure of borders during the first lockdown. At the macro level of the phenomenon, it is tempting to identify a singular effect of this operation to control the pandemic, which imposed an interruption on all forms of circulation, a pause that affected all those who had made plans to "travel" in the same way, regardless of the nature of their plans, their means or their documents. This pause was only a momentary break, before a differentiated resumption where the (in)capacities of each individual became apparent again, with some of the difficulties getting worse. Thus, the pandemic suddenly transformed personal life choices into migratory pathways: some people found a solution to reunite and reshape their emotional life, while others – who were already constrained before the crisis – were once again at an impasse. An in-depth analysis of migration careers during the months of the pandemic shows that our interviewees experienced different policy orientations after the blockage, which they tried to control by "navigating" (Tuckett, 2015) the new norms and old relations of domination embedded in migration management. Indeed, they interact *with* immigration law and its changes, but not exclusively *according to* these rules. They also incorporate behaviours that conform to the socio-cultural norms of the country (Tuckett, 2018), as well as to the practical opportunities that can be seen in the measures, depending on highly unevenly distributed social, cultural and economic capital.
- 11 In this context, socio-legal mobilisation plays a pivotal role; it enables those who have the means to engage in it, and the possibilities to benefit from it, to counteract

administrative immobilisation and its deleterious effects. It makes it possible to turn critical personal situations into claims or assertions of rights, and more broadly to raise awareness of rights among those involved (Lochak, 2016; Odasso, 2021a) and, in turn, among those who witness such mobilisation. However, based on our prior empirical knowledge, and on the dialectic between produced/perceived immobilisation and mobilisation efforts observed during the various stages of the crisis, we note both continuities and breaks. This leads us to argue that the legal and administrative handling of emotional and family mobility is very much connected to the management of a population considered non-essential and undesirable, “superfluous” (Marks, 2011; Schmalz, 2017). It is the law itself – and its application – that produces this superfluity by justifying and normalising the exclusion of certain groups from the enjoyment of a right, or even by considering that granting them rights would entail major risks (Marks, 2011). We will show how it does this, while maintaining a space for mobilisation aimed at the recognition of rights. In our view, such mobilisation makes it possible to broaden the focus from the individual to the collective and to consider “reclaimed [...] superfluity, understood as the ‘in-the-wayness’ of those struggling to transform the conditions in which human superfluity is produced and reproduced” (Marks, 2011: 1). In this way, we go beyond the univocal idea of the pandemic as a generator of immobilisation to shed light on microdynamics which, on different scales and depending on configurations, reveal situations that vary according to the temporalities of the crisis and actions to counteract the blockage.

Continuities and Breaks...

- 12 Since the 1990s, the immobilisation of people outside the channels of access to the law, by rendering administrative procedures more complex and protracted, has been documented (Dauvergne, 2008). Two aspects are significant here, which had an impact on individual pathways when the health crisis hit: reception at prefectural facilities and visa policy.
- 13 During the 2010s, administrative careers were characterised by contact with various administrative bodies which received applicants after hours of waiting. For example, in Paris, a first-time application for residence was initially examined at the reception desk of the *Centre de réception des étrangers* (reception centre for foreign nationals – CRE), then, a second time, in an office where a summons was issued to lodge the application at the *Sous-Direction de l'Administration des étrangers* (Sub-Directorate of the Administration for foreign nationals) of the *Préfecture de police*. Over an observation period of approximately ten years the duration of this process increased from six weeks to twelve months. In 2013, a report by MP Mathias Fekl denounced the “disgraceful conditions” of prefectural reception. Cimade (2016) monitored the pathways of those using its legal advice services and gathered their testimonies in a document with a telling title, *À guichets fermés. Demandes de titres de séjour : les personnes étrangères mises à distance des préfectures* (At closed reception desks. Applications for residence permits: foreign nationals distanced from prefectures). Many prefectures (among those used by our interviewees) are replacing direct access to the front office with the obligation to make an appointment online (Chaoui, 2022). Indeed, the digitalisation of access to the law and the exclusion of some potential applicants began long before the pandemic, on the pretext of “improving reception and the work of the prefecture”.

- 14 From 17 March 2020, in order to limit the circulation of the virus, immigration administrative offices were closed and in-person support activities for foreign nationals were suspended. From the end of March, association and trade union activists launched petitions for the regularisation of undocumented migrants (Gisti, 2020b), as a measure to protect the most vulnerable and those who often hold jobs that are “essential” to the economy (Brun and Simon, 2020). At the end of May, collectives called for a march in solidarity with undocumented migrants (Gisti, 2020b).
- 15 While the control of border movements was extended through the introduction of ad hoc conditions (quarantine, national and international travel authorisation for compelling reasons, COVID test), the resumption of services was marked by other measures such as curfews and anti-COVID procedures in public facilities, which seemed destined to be made permanent. For example, in Paris, the obligation to obtain an appointment online to start the procedure for a first-time application for a residence permit came into force in the summer of 2020. Only a dozen weekly appointments were allocated for regularisation procedures, whereas, prior to the pandemic, the CRE reception desk saw more than fifty people a day: this drastic reduction shows that most operations are carried out “at closed reception desks” (Sfez, 2021). Moreover, it is almost impossible to obtain the required initial appointment on the prefecture’s website (Bizien-Filippi, 2022). Since December 2020, a group of associations has been organising an alternative solution: collective filings of summary applications for “necessary steps” at the administrative courts to compel prefectures to give an appointment to people who are in a position to regularise their situation. More than one hundred summary applications have been filed and decided, with the vast majority of decisions ordering prefectures to issue an appointment and pay costs (Gisti, 2019). However, when the subject was raised in interview, most interviewees categorically refused to use this process, which they perceived as putting them in the position of an accused person, summoned to defend themselves, accentuating the difficult feelings associated with any form of visibility through administrative procedures.
- 16 In the various countries, measures did not correspond, nor did the health-related instructions or mobility arrangements. The immobilisation of institutions was also evident in consular posts. For separated families, the options became more complex. The issuance of tourist visas, used by transnational couples (for want of grounds more suited to the reality of their relationship), was interrupted, as were most international air connections. With the future of these obstacles uncertain, formerly discreet couples began to make their voices heard and to make their presence known by demanding a legal framework for their situation. However, the situation was far more serious for nationals from countries who were already affected by a highly restrictive visa policy implemented by France on the basis of a migratory risk assessment of the applicant (Infantino, 2013). In addition, there were the existing difficulties in certain bilateral relations, for example between Algeria and France, which had harmful consequences for migratory choices (Souiah, 2019). Although there is a general tendency towards restriction, the heterogeneity of visa issuing practices has been repeatedly highlighted by researchers and associations. The pandemic added new obstacles, including in relation to the issuance of visas as of right such as those for family reunification. Statistics from the *Direction générale des étrangers en France* (General Directorate for Foreign Nationals in France, Ministry of the Interior – DGEF) confirm our field observations, indicating that the number of visas issued fell sharply in 2020 (-79.8%),

with a total of 712,317 visas issued. Within this number, short-stay visas for the Schengen area decreased even more (-82.9%), while long-stay visas fell less sharply by 37.1% (DGEF, 2021). Furthermore, in March 2021, direct arrivals of foreign nationals "in an irregular situation" were about 20% lower in 2020 than in 2019, a decrease understood to be related to "the global pandemic context".

- 17 More generally, in 2020, the issue of first-time residence permits (approximately 220,535) fell by 20.5% compared to 2019. Although the family remains the main ground for granting such permits, they decreased by 16.9% (90,502 in 2019, 75,245 in 2020) (DGEF, 2021). Given that these permits are less affected by the closure of borders, according to the DGEF this decrease is less significant than for other permits, as "a proportion of family permits are allocated to people already residing in the territory", but at what price! We will not attempt to comment on the reliability of the figures themselves, as we are unable to establish the relationship between the closure of front offices and the administrative work prevented or carried out during periods of lockdown, compared to other periods. However, the DGEF statistics from the past several years show a steady decline in the issuance of first-time residence permits. The downward trend did not begin with the health-related measures introduced as a result of the pandemic, but rather corresponds to a long-term technical impact of migration policy.

The Effects of Management of the Health Crisis on Emotional Relationships and Families

- 18 Since March 2020, ad hoc measures and successive, sometimes contradictory, announcements have been superimposed on migration law and have complicated already convoluted procedures, adding uncertainty to a decision-making system fraught with arbitrariness. Such measures have led to blockages, postponements and longer delays, but also to experimentation and forms of solidarity.
- 19 Without seeking to be exhaustive, we present in the following sections four types of "private and family life" situations which immobilise and then modify the possibilities, with hardly any prospect of returning to exactly the same situation as "before":
- Those who, after years of being in an irregular administrative situation, finally reach the point of submitting an application for exceptional leave to remain, but cannot do so because the front offices are closed, then almost inaccessible;
 - Those whose applications are in progress, but the decision on which has not yet been taken or communicated, and who are therefore immobilised for an indefinite period;
 - Those whose application for family reunification has been approved after several months, or even years, of waiting, but to whom the consulates do not issue visas;
 - Those who cannot prove their relationship as a couple, or are in the process of getting married, but for whom it is impossible to pursue this step, and their reunion is prohibited, postponed.

Families Already on the Territory

- 20 From 17 March 2020, for several months, the prefectural services usually accessible to foreign nationals who initiate, pursue or conclude a procedure to gain access to the law, closed. In Paris, the CRE, where the procedure used to start with a pre-reception

visit, without an appointment, stopped receiving first-time applicants. As their file was not assessed by this first instance body, they were no longer registered, nor did they receive their foreign national identification number, nor the summons for the official filing of their application at the Prefecture. This was the case for many foreign nationals who had finally acquired the five years of proven presence and the necessary documents to be granted residency as a spouse or parent of a child who has been in school for at least three years.² Applications and requests for renewal in progress were interrupted: appointments obtained before the lockdown were cancelled.

- 21 Then two orders³ extended the validity of certain documents by six months: long-stay “D” visas, residence permits, documents proving receipt of residency applications (*récépissé*) and provisional residence permits whose expiry date was between 16 March (the day before the lockdown) and 15 June 2020. The administrative blockage, and then the extension of permits, which made the “holder of an expired permit” a “documented foreign national” in the “land of documents” (Têtu-Delage, 2009), caused additional uncertainty. With regard to other situations, changes to existing practices were gradually introduced. For example, instead of collecting a residence permit in person in the front office of the prefecture, the applicant received it by post. For those waiting for a response following the *Examen de Situation Administrative* (Administrative Status Review) of their first application for a permit, the processing time announced in the front office when the application was submitted was officially two months, often longer. Others were summoned by telephone or text message to submit their application on a new date, or notified by post that their summons to attend in May had been postponed until the end of November, with the following wording:

“Summons. In accordance with the instructions of the Ministry of the Interior, in order to fight effectively against the COVID-19 epidemic, the reception at the *Préfecture de police* of members of the public in matters relating to the right to stay has been suspended since 17 March 2020. Therefore, your appointment on... has been postponed to the following date...”

- 22 The transition to digitalisation of all procedures set in. When lockdown ended, most services did not reopen to the public. Initially, conversion schedules were published, indicating, for example, that all appointments on 15 June had been postponed until 15 September. This attempt at organisation was quickly abandoned and replaced by the announcement of case-by-case processing, which excluded a very large proportion of applicants who had not been contacted after several months. In June, the following information was still posted on the door of the CRE on rue Truffaut (Paris):

“First-time applicants for a residence permit. ATTENTION: Do not go to the CRE on your own initiative. Depending on your situation, you will be invited to submit your application by electronic means or to make an appointment online. To make an appointment at the *Préfecture de police*, please go to the website [...]. Or contact us on 3430.”

- 23 During the summer of 2020, the direction of exchanges was reversed: contrary to the information given when the application was submitted, it was no longer the service’s responsibility to contact the applicant, but the applicant’s responsibility to contact the service, by email or telephone, to ask for an update on the processing of his or her file and to request a new appointment. The procedure that applied to applications already submitted was rapidly extended to all cases: contact had to be made by telephone (permanently busy), e-mail (no reply or an inappropriate automatic reply), and an appointment request form (the online prefectural schedule filled up at the end of

August in a few hours). Most attempts were unsuccessful, and the steps had to be repeated, e-mails had to be resent several times, and additional addresses had to be obtained to try to reach different levels of the prefectural hierarchy. For those who had not submitted their application before the first lockdown, or those for whom, due to their personal or administrative situation, the opportunity to do so arose at that time, possibilities were limited. In November 2020, the digitised procedure was identified under the overall heading *Saisine des services de l'État par voie électronique* (Electronic application to government services, <http://invite.contacts-demarches.interieur.gouv.fr>). In practice, digital procedures were put in place for applications as of right. For example, in October 2020, at the Paris *Prefecture de Police*, only applications from young people who had reached the age of majority and arrived in France before their thirteenth birthday with their families, and applications for residence permits on the grounds of “sickness” were accepted. On the other hand, for all applications for regularisation, in other words, access to “exceptional” leave to remain, at the discretion of the prefect, appointments were issued in dribs and drabs, necessitating many hours of attempting to obtain one, over several weeks. The vast majority of multiple connections resulted in this response: “There are no more free time slots for your request for an appointment. Please try again later”. The time wasted trying to get an appointment online meant that many people were outside the time limit, and therefore outside the law. In the past, discussions in the front office were also taken into account in the decision.

- 24 The example of the migratory pathway and administrative career of an Armenian family, who had been refugees in Paris since 2010, shows the way in which the effects of the pandemic on prefectural management represented an extension of existing migration policy. On arrival, the parents applied for asylum. The family was accommodated in an emergency accommodation centre, the children went to school, the girl to primary school, the boy to secondary school. The family went out for supplies, Sunday mass, and contacts with associations providing assistance and teaching French language. The school’s social worker put them in contact with the *Réseau éducation sans frontières* (RESF). In 2011, the parents’ asylum application was rejected, and their appeal to the National Court of Asylum was dismissed in 2011. The couple’s eldest son, Yohan (a student at a vocational college), reached the age of majority in 2013 and had to apply for a residence permit, the first in his family. His mother and sister, Noémie, put together his file; his father, who was undocumented, joined the queue in front of the CRE at five o’clock in the morning; Yohan met up with him just before it opened, and a support worker from RESF took over for the procedures in the front office. Yohan, who arrived in France after his thirteenth birthday and whose parents were in an irregular administrative situation, did not meet any of the criteria for a “private and family life” permit. He applied for a “student” permit to continue his education and start a dual apprenticeship course. The procedure took almost two years, during which he continued his studies. He obtained his first permit in 2015, when his parents submitted their own applications as “parents of schoolchildren”, and obtained their residence permits.
- 25 Yohan’s student residence permit was renewed each year after months of procedures. He took on a series of apprenticeship contracts, obtained several diplomas, found a permanent contract in the catering sector and began changing his status from student to employee during his trial period at the end of 2018, by sending an email to request

an appointment at the prefecture. At the beginning of 2019, the change of status had not yet been successfully completed: the young man had a *récépissé* granting him a temporary right to residency pending completion of the residency application procedure, and his work contract had not been confirmed. In mid-2019, while the *récépissé* was still valid, he found a contract in the personal care sector and was able to show pay slips. The *récépissé* was renewed several times and extended on the grounds of the health crisis until October 2020. But his contract came to an end following the death of his employer. Yohan was unable to find work: the catering sector was struck by health-related measures, lockdowns and curfews. When business resumed, no one with a *récépissé* was hired. At the beginning of 2020, the Regional Directorate for Business, Competition, Consumer Affairs, Labour and Employment issued a decision refusing to approve the change of professional activity (from catering to care). As a result, at the end of 2020, Yohan received an Obligation to Leave French Territory, which he contested at the administrative court with the support of a lawyer.

- 26 In autumn 2020, his sister, Noémie (a high school student), who had recently reached the age of majority, started her own application process. She had arrived in France before her thirteenth birthday, her parents were in a regular situation, her school grades were excellent, and she had all the required documentation: however, it took her several months to follow the sometimes contradictory instructions on the prefecture's website, to find the right form, to fill it in, and to attach the scanned documents. She obtained an in-person appointment in the summer of 2021, just before her nineteenth birthday, to officially submit her application.
- 27 At the end of 2020, Yohan and Noemie's parents reached their fifth year of residence in a regular administrative situation: the request for renewal was the opportunity to apply for a ten-year resident permit. It turned out that getting an appointment for renewal on the Prefecture's website was no harder than it was before the health crisis, it just required a bit more patience. At the front office, they were given a *récépissé*, valid for three months, and were told that they would be summoned in two months to collect their permit, but time passed without any information. In the end, they had to contact the service via the internet to request an extension of validity of the *récépissé*. At the front office, various explanations were provided: "*COVID prolongs all procedures*" (in comparison, since the digital procedures have been in place, the review of applications as of right does not take as long; but, five years after their regularisation, their former status as undocumented migrants continued to slow down the processing of their applications); "*The decision has not yet been made, the application has been referred*" (which means "referred" to the Prefect's office, even though the documents submitted did not raise any problems when the application was filed and the prefectural officer had not expressed any doubts about the outcome); "*Ah, your son's application is being reviewed, it may take longer than expected...*" Indeed, it is common for members of the same family, who have gone through the ordeals of a migratory pathway together without direct access to the law, to experience administrative dissociation, even though they consider themselves to be a "family", as their daily lives, their solidarity and their feelings demonstrate. But as soon as the administrative status of one member presents "flaws", they all find themselves associated, despite the differences in status and grounds for access to the law. This was already the case before the health crisis: a young Indian girl who arrived in France before her thirteenth birthday and applied for her first residence permit had to spend an additional month under the regime of the temporary right to residency granted by *récépissé*, on the pretext that her parents, who had been

undocumented and had just been regularised, had not yet provided their first pay slips and proof of registration with the general health insurance system (Fogel, 2015). This long-established strategy in administrative practice aims to put pressure on applicants to keep them in a precarious situation. During the pandemic, this practice became more acute.

- 28 The voices of these people in seriously precarious administrative situations are hardly ever heard in the public arena, with the exception of particular events (Siméant, 1998). During the pandemic, their voices could be detected through intermediaries, through the actions of associations defending the rights of foreign nationals or activist lawyers who denounced digitalisation as the ultimate form of distancing from front offices, and who tried to multiply applications for legal remedies as a residual form of legal activism.

Family Reunification

“Holders of a family reunification long stay visa are currently not allowed to cross the border. The visa will be issued when the border reopens.”⁴

- 29 After March 2020, several family members whose applications for family reunification had been approved after months of processing received standard messages like the one above from the French consular post in their country of origin, as they were waiting for a long-stay visa to travel to France to be reunited with their spouse, on the basis that their country was classified by France as an “area where COVID-19 is actively circulating”. This was the case for Mamadou (a thirty-eight-year-old Senegalese man holding an “employee” multi-year residence permit, as a cleaner) who applied for family reunification at the Montpellier prefecture in 2018 to enable his wife, Aya, to join him. She requested a visa from the Dakar consulate in April 2019. After almost two years of ongoing procedures, in March 2020, the prefecture authorised Aya to come to France. But one month later, the consulate announced the suspension of the issuance of visas due to the pandemic. Family members of foreign residents were not included in the category of people who could travel to France, even after the partial reopening of the borders in July 2020 (Gisti, 2020a). This freezing of visas was based on an unpublished instruction from the Prime Minister of 15 August 2020 specifying the categories of people authorised by way of derogation to enter the territory. According to Cimade, Gisti, the *Ligue des droits de l’Homme*, the *Association des Avocats pour la Défense du droit des étrangers* and the *Syndicat des avocats de France*, this instruction “was never published online and is therefore inapplicable, unenforceable and deemed to have been repealed four months after it was signed in accordance with the provisions of the French *Code des relations entre le public et l’administration* [Code on relations between the public and the administration]” (summary application for suspension, Council of State, *Juge des référés* [Judge hearing applications for summary relief], Art. L521-1 of the Code of Administrative Justice).
- 30 On this basis, and drawing on other arguments, these associations filed petitions with the Council of State for annulment and summary suspension in December 2020, requesting the suspension and subsequent annulment of the freeze on the issuance of visas. The online group *Regroupement Familial Conjoints de Résidents* (Family Reunification Spouses of Residents) followed this collective petition closely on behalf of separated families. Created in September 2020, this group describes itself as a “Collective fighting discrimination suffered by some foreign residents in France who are deprived of their

families". In support of the legal action, it organised demonstrations in Paris, in front of the Council of State, in September 2020, at the end of December 2020 and in January 2021 under the banner: "Together in support of spouses of residents without visas!!!" The placards expressed perceptions of discrimination: "I hope you are having a good holiday with your family. I haven't seen mine for fifteen months" and "Darmanin made me isolate for nine months, without my family, and yet I've never had COVID-19". Litigation seemed to be the only way out of the impasse of which these families felt themselves to be "victims". However, another action was conducted to raise awareness more widely, outside the traditional legal institutions, on situations of prolonged immobilisation and separation. Numerous posters were circulated online. One summarised several criticisms: "Processing time for applications exceeds twenty-four months"; "Inequality of rights between resident spouses and French spouses"; "I miss my child! I wasn't even able to attend the birth"; "Depression, anguish, separated families, bleak future, we're no longer living, we're suffering, help us!"; "For COVID, France needed me! I was there. Today I need her, where's France?"; centring on a key demand: "I'm alone, help me! Don't deprive me of my family! What happened to the right to union? Where's France, the champion of equality?"

- 31 These and other slogans encapsulate the harmful emotional impacts and the sense of differentiation, of being marginalised, experienced by these separated spouses and families, some of whom were considered essential workers during the first lockdown, had been long-time residents of France, were taxpayers, and yet felt themselves to be in a highly unequal position, discriminated against in comparison to French citizens. Moreover, obtaining approval for a family reunification visa is a long and complicated administrative process. As Aziz (a thirty-three-year-old Tunisian man waiting to be reunited with his wife Samia, who, in the meantime, gave birth to a baby girl, Leila) put it:

"Coming on top of an already complicated situation, the pandemic was the last straw... family reunification procedures take months and months, it's exhausting."

- 32 In response to the applications for summary relief submitted, the Council of State, in its decision of 21 January 2021, suspended the government's decision, as it considered that "the French authorities [...] did not provide any evidence to allow us to consider the flow in question, which is small in relation to the country's population, as being likely to contribute significantly to an increase in the risk of mixing and a risk of 'exponential infection'" (Council of State, Judge hearing applications for summary relief, 21/01/2021, No. 447878). This measure therefore "seriously infringed on the normal family life of the persons concerned and the best interests of the children" (Gisti, 2021a). As a result, the following week, the international travel certificate was updated to include the category "Third-country national holding a long-stay visa issued on the grounds of family reunification of refugees, beneficiaries of subsidiary protection and stateless persons". French consulates abroad began to issue visas. It had taken months of administrative and existential immobilisation for these families, as well as legal action and mobilisation.

Binational Couples, in the Process of Getting Married and Otherwise

"Before the pandemic, there was no such thing as a couple, who were not married or in a civil union [...], who didn't live under the same roof, with a cat or a dog, for many couples it was a choice, a way of life, they saw each other every three months and that didn't prevent

the relationship from being serious! Suddenly, our old politicians discovered that there were all these couples who had existed for years, who were mainly travelling on tourist visas to come together and who were not necessarily planning to get married... well, they discovered that, and I think it pissed them off, it really pissed them off." (Michel)

- 33 In October 2019, during a trip to Kazakhstan, Michel (a sixty-one-year-old Frenchman, manager of an IT company, divorced) met Aliya. Their relationship continued and they decided to live between the two countries until Michel's retirement, when they would settle together in Kazakhstan. Aliya, a fifty-year-old saleswoman with two children from a previous marriage, would have to work for another ten years. However, "*the pandemic accelerated things and made us take unexpected decisions, because it's all about strong passports and weak passports. And Aliya has a weak passport*", Michel explained. After another meeting in Kazakhstan in January 2020, Aliya was granted a tourist visa to come to France on 15 March 2020. But following the government announcements and in view of the uncertainty of the situation, the couple agreed that Aliya should stay with her children. France went into lockdown, and Kazakhstan closed its borders to visitors, except for the family members of nationals. The couple then found themselves at an impasse for longer than they had imagined. As the quotation from Michel above suggests, there is no legal framework for Franco-foreign couples who are neither married, nor in a civil union, nor cohabiting, with no compelling reason for international travel. When tourism stops and tourist visas are no longer issued, they are immobilised.
- 34 In an attempt to unblock the situation, Michel approached an online group created in spring 2020, which brought together hundreds of couples separated by the pandemic, seeking, like him, to "*make things happen*" by "*making some noise on social networks and in the media*" (Daniel, a thirty-year-old engineer, in a couple with Heng, Burmese), by contacting MPs and the government to assert their rights as French citizens in a binational relationship. In July 2020, this group became *LoveIsNotTourism* due to the rapid dissemination of this expression and hashtag on social networks, which resonated in the media in many countries around the world, where such couples encountered obstacles to their life projects. In France, the group quickly split, as differences emerged between the leaders on the forms and modalities of action. The first group, *LoveIsNotTourism*, planned to confront the government head-on by taking the case to the Council of State in order to obtain the right of reunion for couples (a fund was created to cover the cost of a lawyer). The second group, *LoveIsNotTourism – Franco-foreign couples* (of which Michel and Daniel are now administrators) preferred the strategy of dialogue with the authorities. Following a demonstration in Paris in July 2020, a delegation from the second group was received by the Ministries of the Interior and Foreign Affairs, ministries in charge of immigration, although, as interviewees noted, the restrictions affecting these couples were primarily justified on health grounds. The government agreed to introduce a pass in August 2020 to allow couples to temporarily reunite. However, the issuance of this travel document was subject to restrictive criteria enabling the French state to approve "good" couples before departure of the foreign spouse, thus creating a discriminatory selection of potential visitors (Pawlotsky, 2021). Couples had to prove a relationship of more than six months before the start of the pandemic, with at least one meeting in France, and a return ticket for the foreign partner to his/her country. In addition, the pass was not a substitute for a visa. Third country nationals who require a visa to enter France had to apply for a pass to cross the border as well as a visa to enter and stay on French

territory for a maximum of three months. No passes were issued in August, as the approval process was too complicated: the file had to be sent to the French Consulate in the foreign partner’s country of origin, approved by the visa subdivision in Nantes, and then the final decision was taken by the *Centre interministériel des crises* (Inter-ministerial Crisis Centre – CIC), a special unit of the Ministry of the Interior. In September 2020, the procedure was modified and approval by the CIC was no longer required. A few passes were issued from the autumn until the temporary closure of the procedure in February 2021, announced by a tweet from the Ministry. However, several couples never received a reply and others obtained a negative reply with the note: “This decision is final, it cannot be appealed”. This was wrong, as Henri, a lawyer, explained:

“The ministers clearly stated that this procedure was going to be put in place, and we can rely on that [...] even a tweet or an oral statement can be considered to be a decision, as long as it gives individuals rights; and even when we don’t receive a reply within two months of the application, it’s an implicit refusal, and therefore we consider that an implicit decision has been made and we can lodge an appeal. But few people know this, because they all think that you need an official document, etc., so there have been hardly any appeals.”

35 Daniel pointed out: “It’s a unilateral decision, and this pass excluded lots of couples who had to find an alternative solution”. This was the case for Michel and Aliya. As they did not meet the conditions for obtaining the pass, they made enquiries about meeting in a third country where both would be allowed entry without a visa: Turkey, in September 2020. Then, due to Aliya’s “weak passport”, the couple decided to get married to facilitate their meetings. While it was difficult for Aliya to enter France, Michel, as the husband of a Kazakh woman, would be able travel to Kazakhstan. At the end of 2020, on the advice of a lawyer, Aliya and Michel got married in Ukraine by paying 800 USD. This country where Russian is spoken facilitated the procedures for recording the marriage in Kazakhstan, which would enable Michel to apply for a “spouse’s long-stay” visa at the Kazakh embassy in Paris. However, from January 2021, France banned departures to third countries in the absence of compelling reasons, and as the marriage was not recognised in France, he could not invoke this ground. To have the marriage recognised, he required a derogation, since the couple had failed to apply for a certificate of legal capacity to marry which is mandatory for ceremonies contracted abroad. This takes a few months and several investigations, as was already the case before the outbreak of the pandemic.

36 The situation was certainly easier for partners from countries that do not require a visa for France. Several strategies were suggested in the online groups to circumvent the limitation on entry to France, including travelling by Eurostar from London (until the end of January 2021) and arriving via Lisbon or Dublin on an intra-European flight. The free movement zone left gaps in the entry control system, especially since certificates asked for the traveller’s country of departure and not his or her nationality. Michel commented:

“At LoveIsNotTourism we know that it’s more difficult for those who need a visa, it’s a double penalty; and even so, we shouldn’t be naive, between arriving from Los Angeles and arriving from Bamako, it’s not the same thing!”

37 The case of Franco-Algerian couples is of particular interest in this respect. Accounting for more than a third of the members of the LoveIsNoTourism group, the uniqueness of their situations led them to form a separate group with a rather significant title, *Couples franco-algériens-Les Oubliés* [Franco-Algerian Couples-The Forgotten]. Flore (a forty-six-

year-old divorced teacher of French as a foreign language), who had been in a relationship for almost five years with Aziz (a thirty-eight-year-old single teacher in Algeria), summarised the issue by observing that, firstly, Algerians in France are governed by the specific norms of the Evian agreements and, secondly, Algeria closed its borders completely, including to its own nationals, at the start of the health crisis. This meant that it was impossible to have a pass issued, as the Algerian partner would be unable to return home.

"All the alternative solutions were of no use to us and, it's true that there were a lot of us in the group, but we didn't feel that we were given any attention at all. I understand the positions of the others... the fact that our spouse is from the Maghreb or Africa has a negative connotation in French society in general, and so in order to get things moving in the media and at the political level, they couldn't put us in the spotlight, and so they focused on Franco-Russian, Franco-Canadian and even Franco-South American couples, and we felt very isolated and our cases were never mentioned. And so, at some point, there was friction, and that's why another group was set up." (Flore)

- 38 The name of the collective, Franco-Algerian Couples-The Forgotten, reflects this sense of stigmatisation and the observation that neither France nor Algeria had paid attention to the fate of these couples. As travel between the two countries was interrupted, Algerian nationals were unable to obtain passes to reunite with their partners. But the members continued to multiply their attempts to resolve this immobility. Indeed, the COVID crisis added further constraints to an already complicated situation: there is a long-standing problem with visa issuance by French consulates in Algeria. For example, Aziz, Flore's companion, had only been able to go to France once and was subsequently unable to obtain a visa although his application was based on the same elements.
- 39 Othmane (a thirty-eight-year-old man and Sarah's partner since 2018, a thirty-six-year-old nursing assistant) had been working at the customs office and had resigned in preparation for his planned marriage (Algerian state employees are not allowed to marry foreign women). In 2019, Othmane applied for a tourist visa to spend Christmas in France with Sarah and her children from a previous marriage. The visa was refused. Othmane had a sister living in France, his grandfather was French and his parents had lived in France. He decided to apply for French nationality in December 2019, which was refused in September 2020. In the meantime, Sarah decided to move to Algeria with her two children in February 2020. The couple began the process of applying for a certificate of legal capacity to marry, in order to contract the marriage in Algeria and then have it recognised in France. After a very thorough investigation and separate interviews, one at the town hall in France and the other at the French consulate in Algiers, in November 2020, the couple received the certificate, first by email and then a paper copy by post. However, in the meantime, Algeria had closed its borders, and Algerians were not allowed to enter France. As a result, Othman and Sarah's marriage was blocked, as marriage proceedings did not fall within the list of compelling reasons for international travel.
- 40 The situation evolved in the spring of 2021, as a result of two legal actions initiated by another group, *Débloccage mariage mixte collectif: Couples binationaux francoétrangers* (Unblocking transnational marriages collective: French and foreign bi-national couples). This group, which emerged from a split in the "Forgotten" group due to differences of opinion on rights to family life, focused its struggle on the situation of couples in the process of getting married. Its online presentation reads as follows:

“This group was created to ensure that the French government no longer blocks our marriages under the pretext of the COVID-19 pandemic and its variants, and issues marriage visas as in other countries (e.g. the United States) for binational couples in which one of the partners is a French national. Is the situation of a future spouse of a French national different from that of a spouse of a French national who is granted a visa? And this situation [should be covered by] the certificate for entry into France. The virus knows no borders. But love does, even though marriage is a lifelong commitment!”

- 41 The group cited provisions from universal declarations that protect marital freedom. Indeed, the situation of the group’s administrator (in a Franco-Algerian couple) and four other couples was used to argue for a summary application for suspension, co-sponsored by the association *Les Amoureux au ban public*, filed with the Council of State. Surprisingly, the Council of State responded favourably:⁵ from a legal point of view, the blocking of the marriage procedure was disproportionate and unjustifiable in view of the health risks; the arguments were similar to those used in the ministerial order on family reunification visas. The Council of State ordered the authorities to proceed with the registration and processing of visa applications for marriage in France with a French national. Although the summary order was immediately applicable, for a long time, the government failed to implement the Council of State’s ruling, causing couples to fear the worse as “*the government is playing for time*” (Flore). All Franco-foreign couples for whom registration of marriage had been published in France could benefit from this procedure, however, the visa was not automatically issued. Sarah tried to understand her specific situation and that of several other couples, who had already started a marriage procedure abroad after obtaining a certificate on legal capacity to marry. Could she start a new procedure in France? Contradictory opinions were circulating on social networks about the possibility of switching from one procedure to another; exchanges in online groups became spaces for sharing experience and legal support, but also human support to overcome the immobilisation and separation of couples. These uncertainties were also fuelled by the administrative silence of consulates regarding this procedure. Finally, on 25 May 2021, the Ministry of the Interior declared in response to a parliamentary question (Question No. 37208) that the issuance of visas to marry in France was possible. However, it was still necessary to apply for a pass by way of derogation, as marriage was not a “compelling reason” to enter French territory.
- 42 This legal victory was not entirely satisfactory to all the couples and associations, as it brought the issue of marriage back to the centre of the granting of a right to mobility and family life, which was therefore the key to overcoming immobilisation. Flore said: “*We were not particularly pro marriage, especially as we were both divorced*”. Several partners in relationships with Algerians admitted that they decided to marry because other forms of union are not recognised in Algeria, but most of the couples we met — and in particular those active in two *LoveIsNotTourism* groups — mentioned the disconnect between their choice of union and the obligation to establish it in order to obtain rights (Donzelot, 2005; Salcedo Robledo, 2015). People who had never considered long-term settlement in France decided to do so, after a marriage (or in some cases a civil union) rapidly contracted when they were able to reunite with their partner. Their pathways became migratory: they would remain in an irregular situation and accumulate evidence of living together for several years in order to apply for a “private and family life” permit as the spouse of a French national. Due to the uncertainties of

measures on crossing international borders and the health situation, couples were afraid of being separated again. As Daniel noted:

"The more constraints the French state puts in place, the more people are going to try to find ways to circumvent them, especially as these constraints are not harmonised at European level. And politicians introduce constraints to prevent people from coming, so once they get into French territory, the more they want to stay there and remain illegally. If there was a simple, logical rule, I'm sure there would be fewer people staying on the French territory."

- 43 Since marriage to a French national was not included among the compelling reasons, and owing to the many dysfunctions, discretionary criteria applied in consulates, and delays in the processing of applications for marriage visas, the group *Déblocage visa mariage* (Unblocking marriage visas) lodged another complaint with the Council of State and won in June 2021. These legal victories are important and gave hope to binational couples. However, several interviewees were pessimistic about the future of measures adopted in times of pandemic: hierarchies of desirability between the nationalities of French spouses persist, and for unmarried couples, the temporary introduction of the pass was a short-term action that left little hope for partners who did not wish to marry or contract a civil union. Michel pointed out:

"COVID was a pretext to close the borders. The government made their electoral calculations, they will lose a handful of voters by blocking couples, that's too bad, but they will gain many more on the other side. I always make the parallel with the vaccine, very few critical cases for a great benefit!"

Conclusion

- 44 Following eighteen months of health crisis, assessment of access to the right to "private and family life" varies according to the position of individuals, couples and families in the migratory process, their administrative careers and technical phases (closure, immobilisation, resumption). Bureaucratic difficulties represent obstacles in the daily, emotional, relational and professional lives of foreign nationals, in their capacity to act and to contemplate the future. On close examination, these situations are the result of the effects of institutional immobilisation, which was, for a time, applicable to everyone, and of the transformations imposed during the resumption of services, which once again gradually introduced discrimination against particular categories. In this context, it is clear that the movement of people is less a problem of public health than of controlling access to French territory, or even of the settlement of people considered "superfluous".
- 45 In times of pandemic, the law remains the law, what changes is "access to access": for people whose applications have been concluded, but who are unable to access documents; for those whose applications are being processed, but whose wait is prolonged; for people in an irregular administrative situation, who have a complete file, but who are unable to lodge their application due to the lack of an online appointment; for binational couples prevented from reuniting and choosing the modalities of their relationship; for families who are forced to prolong a transnational situation before being able to come together. Our analysis shows that these different situations receive unequal visibility, and even the mobilisation and claims made under the law suggest a hierarchy of desirable family configurations.
- 46 Yet, the events which these people experienced from the start of the COVID era do not radically contrast with the policy emphasis of migration management which has been

in place for several decades. To them, reception at prefectural facilities and the visa policy in times of pandemic appear to be variations on the same theme: the tools are the same, from distancing to full digitalisation, the closure of reception facilities, and the absence of transparent communication. Possibilities to apply for regularisation were reduced, and through the replacement of the in-person queue by a digital queue, the difference in the numbers wishing to apply for a residence permit and those authorised to do so became invisible. Moreover, it seems that administrative court rulings deeming the lack of an alternative to digital applications to be illegal, have had no effect on prefectural practices. There is not yet enough hindsight to assess whether such a breach of equality (Gisti, 2021b) is becoming a permanent feature of the process of (restricting) access to the law.

- 47 The gradual resumption of services (after the critical phase of the crisis) was not reconfigured according to the previous model, and the pandemic is far from over. The management of migrants and of those transformed into migrants by the crisis will not see any "going back" (without going as far as to mention the "world as we knew it"), any more than various other social fields where reform was accelerated by the pandemic, with "*quoi qu'il en coûte*" (whatever it costs)⁶ principally signifying the consolidation of the "society of control" (Deleuze, 2003) and the increase in precariousness. In times of pandemic, and through the modalities chosen by the executive power to manage the situation, dysfunction constitutes a mode of management of a deliberate shortage intended to divert beneficiaries from their access to the law. This is not an "incidental event", rather it is part of a material and political continuum: by widening the focus, we observe that everything is linked to the consequences of migration policy on the migratory pathway and on the migrant condition. Being a family at a distance, just as in each other's presence, with uncertainty accentuated by the management of the health crisis, requires both constancy and adaptation. It requires know-how and interpersonal skills, the importance of which is shown by our approach from the perspective of kinship and emotional ties. The experience of binational couples, who are called upon to choose an established matrimonial model rather than a chosen mode of conjugality, which requires proof of living together, of commitment, of equality, etc., which many national couples would be hard pressed to provide, given that lifestyles and forms of life have changed so much over the last few decades. This is one of the predictable consequences of a state of "crisis", which, instead of activating new possibilities, stimulates a "return to norms".

BIBLIOGRAPHY

Bizien-Filippi Samuel (2022) À guichets fermés : les étrangers mis à distance des préfectures, *Plein droit*, 134 (3), pp. 17-20.

Brun Solène et Simon Patrick (2020) L'invisibilité des minorités dans les chiffres du Coronavirus : le détour par la Seine-Saint-Denis, *De Facto*, 19, [en ligne]. URL : <http://icmigrations.fr/2020/05/15/defacto-019-05/>

Carillon Séverine, Gosselin Anne, Coulibaly Karna, Ridde Valéry and Desgrées du Loû Annabel (2020) Immigrants facing Covid 19 containment in France: An Ordinary Hardship of Disaffiliation, *Journal of Migration and Health*, 1-2 (10032), [online]. URL: <https://doi.org/10.1016/j.jmh.2020.100032>

Chaoui Sabah (2022) Le droit au séjour au péril de la dématérialisation, *Plein droit*, 134 (3), pp. 15-16.

Cwerner Saulo B. (2001) The Times of Migration, *Journal of Ethnic and Migration Studies*, 27 (1), pp. 7-36.

Donzelot Jacques (2005 [1977]) *La police des familles*, Paris, Les Éditions de Minuit.

Dauvergne Catherine (2008) *Making People Illegal: What Globalization Means for Migration and Law*, Cambridge, Cambridge University Press.

Desgrées du Loû Annabel (2020) Être confinée en hôtel social ou en centre d'hébergement d'urgence, *De Facto*, 18, [en ligne]. URL : <http://icmigrations.fr/2020/04/07/defacto-018-03/>

Deleuze Gilles (2003 [1990]) Post-scriptum sur les sociétés de contrôle, *Pourparlers (1972-1990)*, Paris, Les Éditions de Minuit, pp. 240-247.

DGEF (2021) *Statistiques annuelles en matière d'immigration, d'asile et d'acquisition de la nationalité française*, Paris, Ministère de l'intérieur, [en ligne] consulté le 20/10/2021. URL : <https://www.immigration.interieur.gouv.fr/Info-ressources/Etudes-et-statistiques/Chiffres-cles-sejour-visas-eloignements-asile-acces-a-la-nationalite/Derniers-chiffres-cles>

Fogel Frédérique (2019) *Parenté sans papiers*, La Roche sur Yon, Dépaysage.

Fogel Frédérique (2015) Rhythm and blues de sans papiers parisiens, in Michèle Baussant, Irène Dos Santos, Évelyne Ribert et Isabelle Rivoal Éds, *Migrations humaines et mises en récit mémorielles. Approches croisées en anthropologie et préhistoire*, Nanterre, Presses Universitaires Paris Ouest, pp. 343-367.

Gisti (2021a) *Recours contre le refus de visas pour regroupement familial motivés par la pandémie de Covid-19*, [en ligne] consulté le 03/05/2021. URL : <http://www.gisti.org/spip.php?article6530>

Gisti (2021b) *Rendez-vous nos rendez-vous !*, [en ligne] consulté le 20/05/2021. URL : <http://www.gisti.org/spip.php?article6595>

Gisti (2020a) *Gel des visas de regroupement familial et de réunification familiale des réfugiés : des associations et des personnes concernées saisissent le Conseil d'État*, [en ligne] consulté le 03/05/2021. URL : <http://www.gisti.org/spip.php?article6532>

Gisti (2020b) *Régularisation des sans-papiers : une revendication relancée en période d'état d'urgence Covid-19*, [en ligne]. URL : <https://www.gisti.org/spip.php?article6383>

Gisti (2019) *Prise de rendez-vous en préfecture pour les personnes étrangères impossible via internet : comment faire ?*, [en ligne] consulté le 03/05/2021. URL : <https://gisti.org/spip.php?article6229>

Glick Schiller Nina and Salazar Noel B. (2013) Regimes of Mobility across the Globe, *Journal of Ethnic and Migration Studies*, 39 (2), pp. 183-200.

- Infantino Federica (2013) Gouverner les frontières ou appliquer des droits ? Le contrôle des mariages aux consulats de Belgique, d'Italie et de France à Casablanca, *Migrations Société*, 150, pp. 79-94.
- La Cimade (2016) *À guichets fermés. Demandes de titres de séjour : les personnes étrangères mises à distance des préfectures*, [en ligne] consulté le 10/05/2021. URL : https://www.lacimade.org/wp-content/uploads/2016/03/La_Cimade_A_Guichet_Fermes_16032016.pdf
- Lochak Danièle (2016) Les usages militants du droit, *La Revue des droits de l'homme*, 10, [en ligne]. URL : <http://journals.openedition.org/revdh/2178>
- Lochak Danièle (1976) Observations sur un infra-droit, *Droit social*, 5, pp. 43-50.
- Martiniello Marco et Rea Andrea (2011) Des flux migratoires aux carrières migratoires, *SociologieS* [en ligne]. URL : <http://journals.openedition.org/sociologies/3694>
- Marks Susan (2011) Law and the Production of Superfluity, *Transnational Legal Theory*, 2 (1), pp. 1-21.
- Merla Laura and Smit Sarah (2020) Enforced temporariness and skilled migrants' family plans: examining the friction between institutional, biographical and daily timescales, *Journal of Ethnic and Migration Studies*, [online]. URL: <https://doi.org/10.1080/1369183X.2020.1857228>
- Odasso Laura (2021a) Family Rights-Claiming as Act of Citizenship: An Intersectional Perspective on the Performance of Intimate Citizenship, *Identities*, 28 (1), pp. 74-92.
- Odasso Laura (2021b) Negotiating Legitimacy: Binational Couples in the face of Immigration Bureaucracy in Belgium and Italy, *Anthropologica*, 63 (1), [online]. URL: <https://doi.org/10.18357/anthropologica6312021273>
- Odasso Laura (2020) Les implications du dispositif d'immigration : pratiques de définitions et de redéfinitions publiques et privées des intimités binationales en France et en Belgique, *Enfances Familles Générations*, 34, [en ligne]. URL : <http://journals.openedition.org/efg/9714>
- Odasso Laura (2016) *Mixités conjugales. Discrédits, résistances et créativité dans les familles avec un partenaire arabe*, Rennes, Presses Universitaires de Rennes.
- Pawlotsky Aurélie (2021) Le laissez-passer pour les couples franco-étrangers. Quelle réalité du droit au respect de la vie privée et familiale en période d'état d'urgence sanitaire ?, *La Revue des droits de l'homme*, [en ligne]. URL : <https://doi.org/10.4000/revdh.11676>
- Rea Andrea (2017) The Network-Border: The Articulation of Mobility and Immobilisation, in Laure-Anne Bernes, Hassan Bousetta and Caroline Zickgraf Eds., *Migration in the Western Mediterranean: Spaces, Mobilities and Borders*, London, Routledge, pp. 32-51.
- Salcedo Robledo Manuela (2015) L'injonction au mariage. Le parcours d'un couple binational, *Mouvements*, 2 (82), pp. 20-27.
- Sfez Anthony (2021) *À guichets fermés*, *La Revue des droits de l'homme*, [en ligne]. URL : <https://doi.org/10.4000/revdh.11259>
- Schmalz Dana (2017) Global Responsibility Sharing and the Production of Superfluity in the Context of Refugee Protection, in Stefan Salomon, Lisa Heschl, Gerd Oberleitner and Wolfgang Benedek Eds., *Blurring Boundaries: Human Security and Forced Migration*, Nijhoff, Brill, pp. 23-47.
- Siméant Johanna (1998) *La cause des sans-papiers*, Paris, Presses de Sciences Po.

Souiah Farida (2019) "My Visa Application Was Denied, I Decided to Go Anyway". Interpreting, Experiencing, and Contesting Visa Policies and the (Im)mobility Regime in Algeria, *Migrations and Society*, 2 (1), pp. 68-80.

Têtu-Delage Marie-Thérèse (2009) *Clandestins au pays des papiers*, Paris, La Découverte.

Tuckett Anna (2018) *Rules, Paper, Status. Migrants and Precarious Bureaucracy in Contemporary Italy*, Stanford, Stanford University Press.

Tuckett Anna (2015) Strategies of Navigation. Migrants' Everyday Encounters with Italian Immigration Bureaucracy, *The Cambridge Journal of Anthropology*, 33 (1), pp. 113-128.

NOTES

1. Our research considers "all" nationalities in order to uncover the dynamics of migration and family life pathways identified before and during the pandemic. The foreign nationals discussed in this article originate from Armenia, India, Senegal, Tunisia, Kazakhstan, Burma and Algeria. This list is not exhaustive but is representative of our observations: similarities in these disparate pathways are striking, although national specificities emerge in relation to the type of administrative procedure initiated. These elements are specified in the text.
2. See Valls Circular 2012, No. NOR/INT/K/12/29185/C, Paris 28 November 2012, [online]. URL: http://www.gisti.org/IMG/pdf/circ_norintk1229185c.pdf
3. Ministerial orders No. 2020-328 of 25 March 2020 extending the period of validity of residence documents and No. 2020-460 of 22 April 2020 on various measures taken to deal with the COVID-19 epidemic.
4. Email from the French Consulate General in Algiers posted as a screenshot in April 2020 on the page of the online group observed during fieldwork.
5. Council of State, Judge hearing applications for summary relief, Ruling No. 450884 of 9 April 2021.
6. A traditional expression used as a political slogan by French President Emmanuel Macron at the beginning of the COVID-19 epidemic, March 2020.

ABSTRACTS

This article examines the impact of measures to address COVID-19 on the right to family life in France. The shutdown of prefectural reception facilities, the freezing of visas for family reunification and the closure of international borders left families at an impasse. Some people already on French territory saw the hope of regularisation fade away, while others waiting for reunification witnessed the lengthening of the period of separation. With the adoption of a series of complex government measures, recourse to exceptional legal practices (i.e.: summary proceedings) became common and various forms of collective mobilisation emerged. An analysis of administrative *immobilisation* and of this collective *mobilisation* reveals increased inequality in terms of access to the law and the visibility of certain categories. These dynamics reflect the ongoing deterioration of the rights of foreign nationals, which predates the health crisis.

Cet article interroge l'impact des mesures de lutte contre la COVID-19 sur le droit à la vie familiale en France. Fermeture de l'accueil préfectoral, gel de la délivrance des visas pour regroupement familial et clôture des frontières internationales laissent des familles dans l'impasse. Des personnes sur le territoire voient s'éloigner l'espoir d'une régularisation, d'autres en attente de réunification voient se dilater le temps de leur séparation. Des mesures gouvernementales complexes se sont succédé, le recours aux pratiques légales exceptionnelles (référé) est devenu courant, et des mobilisations collectives diverses se sont développées. L'analyse de l'*immobilisation* administrative et de ces *mobilisations* révèle une amplification des inégalités dans l'accès au droit et de la visibilité de certaines catégories. Ces dynamiques s'inscrivent dans la continuité d'une dégradation du droit des étrangers, antérieure à la crise sanitaire.

Este artículo examina el impacto de las medidas de lucha contra la COVID-19 sobre en el derecho a la vida familiar en Francia. El cierre de la acogida en las prefecturas, la congelación de los visados de reagrupación familiar y el cierre de las fronteras internacionales dejan a las familias en una situación sin solución posible. Algunas personas en el país ven cómo se desvanece la esperanza de regularización, otras que esperan la reunificación ven cómo se dilata el tiempo de su separación. El gobierno ha tomado una sucesión de medidas complejas decisiones, el recurso de prácticas jurídicas excepcionales se ha convertido en algo habitual y han tenido lugar diversas movilizaciones colectivas. El análisis de la «inmovilización» administrativa y de estas movilizaciones revela un aumento de la desigualdad en el acceso a la ley y la visibilidad de ciertas categorías. Estas dinámicas se inscriben en la continuidad de un deterioro de los derechos de los extranjeros iniciado mucho antes de la crisis sanitaria.

INDEX

Mots-clés: (im)mobilité, mobilisation, vie familiale, droit, visa, dématérialisation, numérisation, digitalisation

Palabras claves: inmovilización, movilización, vida familiar, derecho, visado, desmaterialización, digitalización

Keywords: (im)mobility, mobilisation, family life, right, visa, digitalisation, digitisation

AUTHORS

LAURA ODASSO

Researcher at the Migration and Societies Chair, Collège de France, sociologist, member of the URMIS (CNRS-UMR8245 & IRD-UMR205), and Institut Convergences Migrations, 3 rue d'Ulm, 75231 Paris cedex 05; [laura.odasso\[at\]college-de-france.fr](mailto:laura.odasso[at]college-de-france.fr)

FRÉDÉRIQUE FOGEL

Director of research at the CNRS, anthropologist, member of the Institut Convergences Migrations, LESC-UMR 7186, MSH Mondes, 21 allée de l'université, 92023 Nanterre cedex; [frederique.fogel\[at\]cnrs.fr](mailto:frederique.fogel[at]cnrs.fr)