

How are supported foreigners by french penitentiary system

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Residency card as a tool for reinsertion

Conditions to access to residency card:

- Specific cases
- Minor residing in France since the age of 13
- French marriage
- Parents of french minor
- Life undangered by serious decease
- Work capabilities
- 10 years of usual residence
- If expulsion and regularisation are impossible
- Humanitarian considerations
- Agreement of the « Prefet »
- must not threaten public order

Find the right balance between law, public order and respect of family life

•The criminal convictions are not enough to void Access to full right residency card (application note dated february 1994)

Items to consider : nature and seriousness of the offense, duration of residence in France, time since last offense, behaviour (reinsertion's efforts), family situation and consequences on the all family, relationship with the country of origin...

In practice, difficult for inmates to apply :

Inmates must apply in person when they submit their application so that their biometric data can be registered to request or renew their Residency Card

Residency card

- 10 years validity
- Renewal on demand two months before expiration

Renewal preventing factors :

Absence from the french territory for more than three years

Polygamy

minor offense under 15 year old

Major cancelling factor: expulsion due to public offence

- Administrative sanction pronounced by the « Prefet » : order of expulsion
- Penal sanction pronounced by a judicial judge : banning of french territory

Can be countered by

- Cancelling request (administrative, or judge)
- Exceptional President grace

Other cancelling factors : Administratives , judiciary

- The « Prefet » refuses the request when the reminder of sentence is too long
- The application can be suspended for expulsion.

Benefits

The receipt itself of Residency card application already allow :

- Sentence adjustement
- Grant of social rights : healthcare « CMUC »
- Alternative sentence : better release preparation, by enabling community projects

Standardization of requests for Residency cards

French administrative note of March 2013

Only for sentenced persons, not people waiting for judgement

Sentence must exceed 3 monthes

For foreigner inmates , or inmates whose Residency Card has expired in the mean time.

Standardization of requests for Residency cards

Protocols between Ministry of Justice and Ministry of Internal Affairs

Designation of prefectural correspondants and penitentiary correspondants.

Centralization of requests by the correspondants, to ensure processing of the requests.

Notification of favorable decisions to the person concerned, to the judge, to the penitentiary referent

Notification of favorable decisions to the interested party, to penitentiary correspondant and interior correspondant

Protocol signature between prefectures, probation's services, office of access Rights and registry's service of the prison

Set up of regular permanence of adviser of prefecture in prison

Sentencing reduction and residency card

By the law, Inmates can benefit a sentencing reduction even if they have no residency card

Sentencing reduction

- A conditionnal release with deportation can be executed immediately
- A conditionnal release with « return to country »
- condition : to have a valid passeport and justify reinsertion's project in the origine 's country

Community sentences and measures of expulsion

Judiciary measure : non admission in french territory (definitive or temporary : 10 years)

Administrative measure : ministerial deportation order

- Judicial review
- Suspended sentence with probation
- Community service

Judiciary dominance on administrative police of foreigners ?

- Judicial control : A judiciary exception
- The only one measure which prevents to quit french territory, even if there is a ministerial expulsion order

Others community sentences

- The other sanctions like suspended sentence with probation suspend the inadmissibility of french territory (10 years)
- The reason : probationer needs judge's authorization to quit french territory
- An exception : definitive inadmissibility of french territory and ministerial deportation order

Community service : Penalty or employment ?

- French Community service order is considered like a penalty and not as an employment

- (20 hours to 280 hours)

- Foreigners can execute a community service order even if they have an irregular situation

- Foreigners probationer benefits social rights by the community service even if irregular situation

Conclusion

- Law for foreign inmates and probationers is a complex topic
- Differences between theory and practices
- Inmates and probationers needs supports
- Specialized association funding is decreasing