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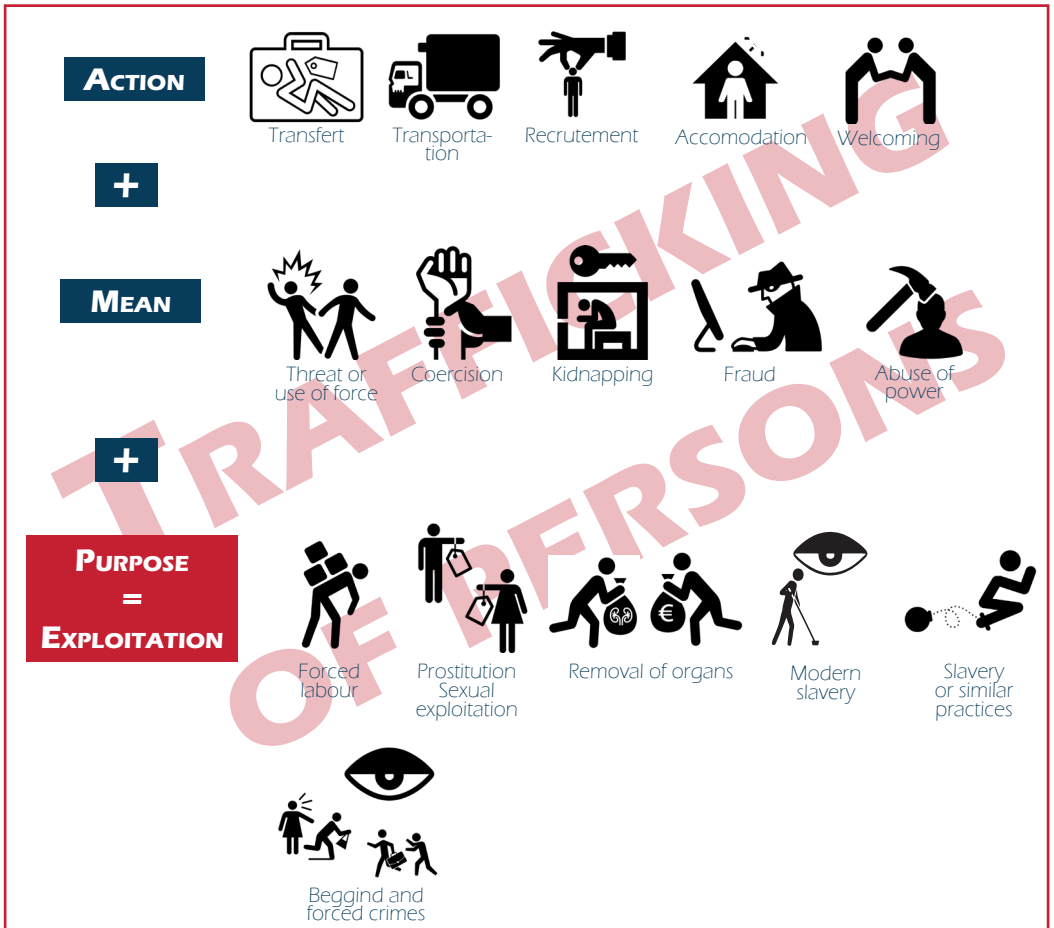


REPORT ON THE FIGHT AGAINST HUMAN TRAFFICKING AND THE EXPLOITATION OF HUMAN BEINGS



Article 3.a. of Palermo Protocol, 2000

«Trafficking in persons» shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.



WHAT IS HUMAN TRAFFICKING ?

“ *No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.* ”

Article 4 of the Universal Declaration of Human Rights

Article 4 of the Universal Declaration of Human Rights provides a general and absolute ban on human trafficking and exploitation of human beings. A violation of this ban is regarded as one of the most serious violations of fundamental rights.

The interdependence of human rights means that when a person is a victim of human trafficking, almost all their rights are simultaneously violated: their dignity, their freedom of movement, their physical integrity, the right to fair and favourable working conditions, the right to a sufficient standard of living, and the right to health.

Stopping human trafficking is a difficult task for governments, institutions and associations which help victims. The complexity of the problem of human trafficking requires a global response based on human rights, and which must rest on three broad objectives:

- ◆ prevention
- ◆ protection
- ◆ penalties

PRINCIPAL STANDARDS AND INTERNATIONAL LEGAL INSTRUMENTS

- ◆ Supplementary Protocol to the United Nations Convention against Transnational Organized Crime to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, 15 November 2000 (known as the 'Palermo Protocol')
- ◆ International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29)
- ◆ ILO Abolition of Forced Labour Convention, 1957 (No. 105)
- ◆ Council of Europe Convention on Action against Trafficking in Human Beings, 16 May 2005 (Convention No. 197, known as the 'Warsaw Convention').
- ◆ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims

In France, human trafficking is defined in Article 225-4-1 of the Criminal Code, it carries a punishment of seven years imprisonment and a €150,000 fine (aggravating circumstances may increase the sentence).

HUMAN TRAFFICKING IN THE WORLD

A PANDEMIC PROBLEM WHICH IS DIFFICULT TO IDENTIFY

Human trafficking can take very different forms and cover very different situations. Behind the various forms of human trafficking and the different types of exploitation hide millions of anonymous and often invisible faces which must be made visible in order to be able to effectively combat the problem and to take action on the protection of the rights of the victims.

These are the suffering faces of millions of victims of human trafficking: women, children, and men forced into prostitution on the streets of our cities; domestic slaves shut up in the secrecy of houses and suffering the bullying of their 'employers'; migrants working to death itself in the clandestine workshops of the clothes industry or on farms; unaccompanied minors wandering the streets and forced into begging or crime for the profit of others. But also the still largely unknown faces of the traffickers, organized in transnational gangster networks, or of simple 'employers' abusing the vulnerability of others to make money.

SOME FIGURES ON HUMAN TRAFFICKING AND EXPLOITATION OF HUMAN BEINGS

Human trafficking (source ONUDC)	Force labour (source OIT)
<p>Around <i>2.5 millions people are victims of human trafficking each year</i></p> <ul style="list-style-type: none"> ▪ 1.9 millions women and girls ▪ 600,000 men and boys 	<p>Nearly <i>21 millions people are victims of forced labour each year.</i></p> <ul style="list-style-type: none"> ▪ 11.4 millions women and girls ▪ 9.5 millions men and boys
<p>Human trafficking generates at least 32 billion euros of annual turnover. It is the third most lucrative form of trafficking in the world.</p>	<p>In the private sector, forced labour generates 150 billion dollars of illegal profits per annum.</p>

OTHER FACTS

- ◆ The offences of human trafficking and/or exploitation of persons affect practically every country in every region of the world.
- ◆ Prostitution, domestic work, agriculture, construction, manufacturing and the entertainment industry are among the sectors most concerned.
- ◆ Migrant workers and indigenous populations are particularly vulnerable to human trafficking and exploitation.



THE DIFFICULTY OF IDENTIFYING THE PROBLEM

Since 2012, the United Nations Office on Drugs and Crime (UNODC) has published statistical reports on human trafficking throughout the world. These reports have led to improved knowledge on human trafficking in its national and international forms. They provide a general overview of the global trends. The information collected relates to the number and the profile of the victims detected (age, gender, and nationality), as well as the number and the profile of people prosecuted and convicted for human trafficking (gender and nationality).

Although collecting data mainly from national authorities ensures a certain robustness in the figures, it does not prevent the data analysed from being distorted by certain statistical skews. In fact, the official data are collected with the administrative objective of recording the efforts made in relation to the applicable national legislation, and not with a scientific objective of gaining knowledge of the problem. In the same way, the data relating to the judicial response to human trafficking may also be skewed by the preference of certain jurisdictions to identify one particular type of human trafficking rather than another type.

These statistical skews could explain why in a considerable number of regions human trafficking for sexual exploitation is overrepresented in the figures communicated, since it has long been a beacon in the fight against the exploitation of human beings. This may also explain the overrepresentation of women in the global figures for the profile of victims, as they are very often the main victims of this form of exploitation.

One can, in addition, observe significant statistical discrepancies between the various regions and within the regions themselves, variations which find their origin in the differences in resources allocated by each State to the mechanisms of ‘monitoring’ the problem.

HUMAN TRAFFICKING IN FRANCE : AN UNKNOWN REALITY

Public data both on human trafficking and on exploitation in France suffer from a lack of robustness and coherence. In fact, the State does not collect any statistics on human trafficking as such, and is not even in a position to do so, due to a lack of procedural questions relating to this issue.

It suffices however to approach the actors in the fight against human trafficking to discover that although sexual exploitation is a significant form of exploitation, it does not cover the whole of the problem, and that far from the generally accepted ideas, modern slavery does exist in our country, as well as the forced labour of vulnerable people, and a number of children and teenagers are forced to beg or steal.

Civil society, closest to the victims for many years

For many years, and well before the adoption of a National Action Plan, the actors in civil society were the only people to take action to identify, help, and support victims of human trafficking and exploitation. They have acquired a thorough knowledge of the problem and expertise which the authorities must draw on.

In 2007, upon the initiative of the Secours Catholique, 26 associations gathered to form the 'Together against human trafficking' group (*Ensemble contre la traite des êtres humains*) which focusses on two objectives: to raise general public awareness of this complex problem, and to encourage French and international political decision makers to join with the victims and to fight against this form of criminality.

www.contrelatraite.org

In the global panorama, France seems not only to be a country of transit and destination for the victims of human trafficking, but also a country which experiences internal acts of human trafficking and exploitation, even if this problem is more marginal.



STATISTICS

Number of offences detected by the police and gendarmerie in France

	2014	January-May 2015
Human trafficking	49	45
Procuring	255	313
Forced prostitution	54	32
Forced slavery	1	1
Exploitation of begging	12	25
Undignified working and housing conditions	112	100
Forced labour	0	0
Servitude	0	0
Organs trafficking	0	0
Total	483	516

Source : Ministry for the Interior/data bases of recorded procedures (DGNP), Ministerial Internal Security Statistical Department (SSMSI)

Figures for cases related to human trafficking recorded in the national criminal records in 2013

	Broad definition (9 offences related to human trafficking)	Article 225-4-1 of the Criminal Code
Number of cases leading to conviction	420	21
Number of people concerned	728	53

Source : Ministry for Justice/DACG/criminal records

LESSONS DRAWN FROM THE STATISTICS

◆ The low quantity of statistical data relating to the reporting of human trafficking offences by the police and gendarmerie reveals that **potential victims of human trafficking do not identify themselves as such and that they only very seldom report the offences of which they are victim. Offences are consequently very largely under-reported.**

◆ **These same statistical data testify to the insufficiency of the resources devoted by France to the identification of potential victims of human trafficking.** Thus, certain forms of exploitation (forced labour, servitude, and slavery) are not the subject of any reports made to the forces of law and order (figures show no reported cases), yet they are not non-existent, as in particular is revealed by the Siliadin against France case heard by the European Court of Human Rights (ECtHR, 26 July 2015)

◆ The extreme paucity of these statistical data, compared with the quantity of those relating to procuring and forced prostitution, indirectly reveals the ‘sexual skew in the identification of human trafficking’, which leads to justifying, in the name of the fight against human trafficking, any form of fight against prostitution, instead of identifying and repressing all exploitation including forced labour, servitude, slavery and practices which are similar.

◆ **The low number of offences reported, prosecutions, and convictions for human trafficking leave one to suppose that the various institutional actors (magistrates, police, and gendarmes) do not fully comprehend the scope of the crime defined in Article 225-4-1 of the Criminal Code.** The definition of the offence being complex, it is very probable that legal experts make the convenient choice of employing the legal classification with which they are more familiar, such as, in particular, undignified working or housing conditions, or procuring.

◆ The figures on exploitation from the national criminal records show that the criminal legal policy as regards human trafficking still lacks ambition today.

➔ The CNCDH view is that **these insufficiencies could be partly rectified through:**

- ◆ **better coordination of the services of the ministries concerned who are responsible for drawing up statistics;**
- ◆ **multi-disciplinary scientific work**, in particular with the assistance of Universities and the associative sector.

The CNCDH more specifically recommends carrying out **investigations into victimhood.**

TRAFFICKING OF MINORS IN FRANCE

Among the various categories of victims of human trafficking and exploitation, children should benefit from unconditional protection due to their particular vulnerability.

Contrary to the definition of human trafficking of adults, the offence of trafficking with regard to minors includes both the actual actions (recruitment, transport, purchase, and sale) and the objective (exploitation), even in the absence of false pretences (force or other forms of servitude, abduction, fraud, misleading, and abuse of authority). Indeed, the consent of the child is in all cases irrelevant in law.

Many children are separated from their families and exploited in the underground economy, where they are even more difficult to identify and where they are confronted with many forms of violence. Often stripped and deprived of alternatives to find an escape route from their situation, whether they undergo exploitation by unscrupulous individuals or organized crime networks, children are much more vulnerable than adults in the face of the dangers of human trafficking and exploitation.

The great vulnerability of children, the specific dangers that they face, the sometimes irreversible consequences of human trafficking or exploitation, and the physical and psychological trauma they undergo, are among the many points of attention that associations, organizations, institutions and experts spoken to by the CNCDH highlighted in their respective work. However, **trafficking of minors in France remains a problem which is largely unknown and NGOs and active actors in the fight against human trafficking and the exploitation of minors believe that the problem remains largely underestimated by the public authorities, the child welfare authorities, and more broadly in public opinion.**



ABSENCE OF STATISTICAL DATA

The data relating to trafficking of minors are sparse, even non-existent. Due to a lack of established indicators and statistical data, it is today impossible to say with any precision how many children are victims of human trafficking in France, nor how many of them have been monitored within the framework of a legal or administrative procedure.



STUDY ON THE ASSUMPTION OF RESPONSIBILITY FOR CHILD VICTIMS OF HUMAN TRAFFICKING

The study 'Minors and human trafficking - identification of the assumption of responsibility: Which practices? What protection?' was born out of a meeting between the ECPAT NGO and the lawyer Bénédicte Lavaud-Legendre (CNRS researcher specialized in human trafficking). The work accomplished points to the progress which remains to be achieved, in particular to prevent the protection of these child victims from being conditioned by the existence of a corrective procedure. More broadly, this work targets training of the key actors on these problems, and in particular on the question of control.

ORIGINS OF THE CHILD VICTIMS

The majority of child victims of human trafficking present on French soil come from the Balkans (Albania, Bosnia-Herzegovina, Bulgaria, Romania, and Serbia, among others), and more generally from Eastern Europe. **Many of these minors are not permanently present in France but move from one European country to another**, according to their age, to the type of exploitation to which they are subjected, or to the application of the legislation in the country of destination. **This movement between several countries also deepens the isolation in which these young people are placed.**

In the last few years, there has been an increase in the number of child victims coming from other countries, and more precisely Nigeria, Morocco, Afghanistan, but also China. Much rarer are the cases of human trafficking of minors of French nationality: among these French child victims of human trafficking and exploitation, a great number of them are commonly victims of prostitution or cult activity.

TYPES OF EXPLOITATION CONFRONTED BY CHILD VICTIMS OF HUMAN TRAFFICKING

◆ Sexual exploitation

In France, and contrary to the generally accepted idea, child victims of human trafficking and sexual exploitation constitute a minority, sexual exploitation of children is not the most widespread form of child exploitation.

◆ Exploitation of labour and domestic servitude

Certain children undergo exploitation through forced work and services. These children are often put forward by their families in difficult economic situations in order to provide for their needs, and among them a large number find themselves in human trafficking. The work carried out within this framework is often dangerous and is carried out under conditions which are harmful to their health, their education, their personal and social development, and even their life.

◆ Begging and forced crime

In France, children are especially concerned with forced begging (particularly very young children who are not old enough to steal), and in the majority of cases (as it is certainly the most visible problem) coercion to commit crime. In France, incitation to commit an offence - thefts from the pavement terraces of cafés and restaurants or cash and ticket machines, burglaries, charity scams - is often the first charge made against the adult perpetrators of the exploitation of others, and more particularly of children. The adults who instrumentalize these minors cover themselves while completely exposing the child committing the offence. Forcing children to commit crime unquestionably constitutes a form of ill-treatment, but the nature and the degree of coercion to commit these offences can vary. Thus, although in certain cases the children are exploited by criminal gangs which make money from the crimes that they commit, in other cases the children may be forced into crime by their own families or their entourage to ensure their own survival and that of their close relations.



CHILD VICTIMS OF HUMAN TRAFFICKING FORCED INTO CRIME

Presently, the effectiveness of the understanding of the problem of minors forced into crime remains insufficient. This lack of understanding of the problem of human trafficking, which children who are forced into crime are victims of, should be questioned, as it seems obvious that the children arrested and remanded several times do not use the money they make from thefts and other offences for their themselves, taking into account their physical state, their nutritional deficiencies, and their behaviour.

Often perpetrators of multiple offences, and in spite of repeated contact with the police and legal authorities, there are dozens (even hundreds according to some sources) of children repeatedly receiving sanctions without ever being identified as victims of human trafficking, and consequently not benefiting from any protection.

In the eyes of society these children are regarded only as criminals, through their origin and the type of exploitation which they undergo (mainly forced crime). The visibility of their activity and the focus of the media and certain politicians give the impression of a generalized problem, which fuels the prejudices against these persons.

For a child to be regarded as a true victim of human trafficking or exploitation in the public opinion, they must show the marks of submission, resignation, and suffering inflicted by their tormentors. However, unfortunately, this is often not the case, the psychological suffering is completely internalised by these children and the physical suffering remains undetectable at first glance.

The CNCDH believes that it is urgent that the authorities change paradigm: the child, very often instrumentalized by one or more adults who exploit them, may certainly have committed one or more offences; but they are first and foremost and above all victims of human trafficking or exploitation which calls for support and protection measures.

INDIRECT CHILD VICTIMS

Contrary to the majority of adults, children are not always direct victims. They may become de facto victims, due to the situation of human trafficking which their parents are the victim of, in the majority of cases their mother, or more generally, the adult who accompanies them. These indirect victims, who in the vast majority are the children of exploited people, **should also benefit from protection and support.** These children have also faced real difficulties, imprisoned in an environment with detrimental effects on their development preventing them from flourishing and from benefiting from protection and the care necessary for their well-being. The children are therefore left to themselves and generally receive neither institutional nor family education, they thus face physical and mental trauma (for example, they may have witnessed violence perpetrated against the adult accompanying them), hindering their cognitive and emotional development.

THE NATIONAL ACTION PLAN AGAINST HUMAN TRAFFICKING 2014 - 2016

Because human trafficking and the exploitation of human beings are complex problems, with multiple forms, which affect women, girls, men and boys and which can relate to any type of human activity, they call for multiple responses, from prevention to protection of the rights of the victims and the prosecution of the traffickers, and from harmonization and adaptation of legislation to their effective implementation. It is in response to these challenges of the fight against human trafficking and exploitation that in May 2014 the French Government adopted a 'National Action Plan against human trafficking'

Through this Plan, the Government sets itself **three priorities**.

1. TO IDENTIFY AND SUPPORT HUMAN TRAFFICKING VICTIMS

The starting point for the mobilization of public services resides **in the best identification of the victims of human trafficking, who could thus be better informed and better exercise their rights**. It is the key stage in the fight against human trafficking from which everything else flows.

To support the victims and to allow them to again take their place in society, better handling of victims is planned for, in particular access to residence permits, accommodation, and the social security benefits to which they have a right. Complementary measures are also planned for the victims of prostitution and human trafficking of minors.

2. TO PROSECUTE AND DISMANTLE THE NETWORKS OF HUMAN TRAFFICKING

Human trafficking is mainly a transnational criminal problem. **The Plan envisages a mobilization of the public services to prosecute more of these offences, and to seize and confiscate the assets of the perpetrators**. This action should be mirrored by tighter European and international co-operation to dismantle the networks and to protect the victims.

3. TO MAKE THE FIGHT AGAINST HUMAN TRAFFICKING AN ENTIRELY SEPARATE PUBLIC POLICY

The Plan envisages making the fight against human trafficking an entirely separate public policy with its own governance at the national level as well as at the local level.

This Plan is the result of the mobilization of all the ministries concerned, and dialogue with associations, which will be closely associated to its development and its regular evaluation. The financing of the plan should be ensured by several State budgetary programmes, and the creation of a fund defined by finance law was announced for 2015.

**PRINCIPAL OBSERVATIONS
AND RECOMMENDATIONS
OF THE NATIONAL CONSULTATIVE COMMISSION
FOR HUMAN RIGHTS**

The work of the CNCDH tends to show that the implementation of the National Action Plan is still far from being effective, and that a considerable number of measures have not yet been implemented.

The Plan developed by the Interdepartmental Mission for the Protection of Women against Violence and the fight against human trafficking (MIPROF) will not be sufficient. The authorities must mobilize and concretely implement the provisions envisaged by the Plan: new financial resources are necessary, the provisions in national law should already have been applied, in particular with regards to the rights of foreign nationals, child welfare and accommodation in order to effectively and efficiently combat human trafficking. **The fight against human trafficking will be effective only if it is coherent at every level and if it is coordinated at the national level. If the priority is truly to make human trafficking an entirely separate public policy, then it must consist of a whole of coordinated actions, carried out by the public authorities and financed by these, in view of obtaining an effective change in the situation :** prosecutions of the perpetrators of human trafficking and dismantling the networks, and identification, protection and support for the victims.

The CNCDH underlines that it is necessary to combat all forms of human trafficking, but regrets that not all forms of human trafficking receive the same attention from the authorities. Beyond human trafficking for purposes of sexual exploitation, the victims of human trafficking for economic ends or domestic slavery, begging or forced crime are seldom identified as such by the relevant designated authorities.

At the time this report is published, these criteria are not fulfilled and France is still not equipped with a true public policy to combat human trafficking and the exploitation of human beings.

COORDINATION

OBSERVATIONS

The overall coordination of the fight against human trafficking and the exploitation of human beings remains insufficient to date. However, this coordination is not only necessary to effectively combat human trafficking, but it also constitutes an obligation which arises from the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings.

Measure 20 of the National action plan against human trafficking provides that the follow-up and the coordination of the Plan will be ensured by ‘a project administration’. These missions were entrusted to the Interdepartmental mission for the protection of women against violence and the fight against human trafficking (MIPROF), an interdepartmental body attached to the Secretariat for Women’s rights.

It is important to welcome the work achieved by the MIPROF, and to recall that it was the MIPROF which brought in the first National Action Plan for the fight against human trafficking over the period 2014-2016. Nevertheless, **in the eyes of the CNCDH, entrusting the coordination of the fight against human trafficking and the exploitation of human beings to the MIPROF seems problematic for two reasons:**

- ♦ **Firstly, this linkage blurs the visibility of the fight against human trafficking** and gives the impression that this fight fits in the broader field of the fight against violence against women, while at the same time implying that human trafficking in France is reducible to human trafficking for the purposes of sexual exploitation. The CNCDH stresses that the fight against human trafficking and exploitation can only really be effective if the problem is understood as a whole and that its ever-changing character is taken into account.
- ♦ **The linkage is problematic since in reality it does not make the fight against human trafficking and the exploitation of human beings an entirely separate policy, controlled by a specific administration and provided with the necessary human and financial resources.**

RECOMMENDATIONS

The CNCDH recommends, for reasons of intelligibility and authority of the measures to combat human trafficking and exploitation, conferring a general characteristic upon exploitation rather than reducing the problem to exploitation for prostitution and approaching human trafficking only from this angle.

In this sense, **the CNCDH recommends that the mission of the MIPROF relating to violence against women remains attached to the ministry in charge of women’s rights, and that the mission to combat human trafficking is dissociated in order for it to be attached to the office of the Prime Minister.**

This attachment will make it possible to fully situate the interdepartmental nature of this mission, and to ensure the taking into account of all forms of human trafficking and exploitation, and also to provide visibility on the victims of human trafficking for economic ends or domestic slavery, begging or forced crime (among others) which today are still too often neglected.

FINANCING

OBSERVATIONS

The implementation of an effective public policy to combat human trafficking and the exploitation of human beings requires significant, annual and transparent funding. This consists of both providing the coordinating authority for the fight against human trafficking and the exploitation of human beings with the financial and human resources necessary for its proper operation, and of granting associations working for the respect of human dignity and the fight against any form of exploitation of human beings the necessary resources - tangible and sustainable - for the implementation of their actions of prevention and support for victims.

The CNCDH thus believes that the creation of a separate budgetary line is necessary for the implementation of this interdepartmental mission of coordination dedicated to the fight against human trafficking. This budgetary line must include the operational budget for this mission and a budget for action. The latter will allow certain actions envisaged by the Plan to be financed directly and to be the single entry point for associations for the validation and the management of their funds on the basis of precise workload planning and regular monitoring of their engagements.

A substantial increase in the funding granted to the implementation of Action 15 - 'Preventing and combatting prostitution and human trafficking' - of Programme 137 (4.98 million euros in 2016 compared to 2.8 million in 2015, an increase of 129%) raises several issues :

- ◆ increase is misleading;
- ◆ random source of financing based on the seizure of criminal assets;
- ◆ nearly all appropriations allocated only to the fight against prostitution.

Economic and social cost of human trafficking

Leaving human trafficking networks to thrive, leaving the victims in the shackles of exploitation, and failing to take measures of prevention leads to a cost for society as a whole, which allows for the cost of an active and well-proportioned public policy to combat these problems to be largely relativized.

RECOMMENDATIONS

The CNCDH invites the government and the legislator to re-examine the provisions of the State budgetary programmes related to the fight against human trafficking and exploitation.

Concerning the funds for the prevention of prostitution and for social and vocational support for prostituted persons, the CNCDH recommends that the ministries which were to provide these funds contribute effectively, and that the cost is not borne exclusively by the ministry in charge of women's rights. It recommends in addition that this funding be annual. In this respect, a more reliable source of financing should be considered which is less random than the confiscation of criminal assets and the product of fines paid by the customers of prostitution.

AWARENESS RAISING

OBSERVATIONS

One of the main barriers to an effective fight against human trafficking is the misunderstanding of the problem, largely unknown by the majority of our fellow-citizens.

The prevention of human trafficking and exploitation goes beyond repression and protection, through taking action with people who are neither perpetrators nor victims of human trafficking or exploitation, but who may become one or the other, to differing degrees and with more or less likelihood. Destined for this large audience, the international laws specific to human trafficking or exploitation generally envisage the organization of information or awareness raising campaigns, and training and education.

The CNCDH has observed that there currently exists in France a certain number of actions concerning information and awareness-raising, however they are unfortunately too few in number, are scattered and are carried out without coordination between the various actors concerned. The CNCDH notes that to date **the authorities have not launched a national public awareness campaign on human trafficking**, even though this was a keen request of the international authorities, and in particular of the Council of Europe.

RECOMMENDATIONS

The CNCDH recommends to the government that they organize information campaigns, by involving civil society, in order to raise the awareness of the general public of the various types of human trafficking and the victims.

To support this task of awareness raising, the CNCDH invites the Government to make the fight against human trafficking and the exploitation of human beings a 'great national cause'.

TRAINING

OBSERVATIONS

Without adapted training, it could not be expected of a person that they be able to detect the potential existence of evidence of human trafficking or exploitation behind the misleading appearance of cases of a child in danger, irregular migration, illegal work, prostitution, violence, repeated stealing, etc. **It is thus necessary to provide specialized training relating to the detection of human trafficking and exploitation to anyone whose role may lead them to be confronted with such evidence, including social workers or public health employees.**

There currently exists in France a certain number of training activities destined for professionals likely to come into contact with victims of human trafficking. They are unfortunately disparate, scattered and carried out without coordination between the various actors concerned, which unquestionably damages their effectiveness.

Measure 2 of the National Action Plan against human trafficking envisages the development of the training of professionals in the identification and protection of victims. Although the CNCDH welcomes the relevance of the provisions envisaged by Measure 2 of the National Action Plan, it is nevertheless concerned by the delay in their implementation.

RECOMMENDATIONS

The CNCDH invites the MIPROF, and the ministries and the organizations concerned not to further delay **developing and publishing new tools for training, which are harmonized and mutualized, and to make sure that these tools will effectively take into account all forms of exploitation targeted by human trafficking, and not only human trafficking for purposes of sexual exploitation or labour exploitation.**

The police, gendarmes, magistrates, and more broadly any professionals likely to come into contact with victims of human trafficking (employment inspectors, child welfare workers, hospital staff, etc.), should be able to have training in the identification and the support of victims, within the framework of initial or continuous training.

IDENTIFICATION OF VICTIMS

OBSERVATIONS

The identification of victims of human trafficking is the indispensable condition for the effective safeguard of their fundamental rights and freedoms. Indeed, their access to support and protection depends on this identification. On the other hand, unidentified potential or proven victims are in a situation of danger, due in particular to the control exerted on them by the members of the trafficking networks.

No formalized identification procedure nor identification criteria for victims of human trafficking exist in France. It is however essential that all the services concerned are enabled to detect a possible situation of human trafficking or of exploitation based on common criteria, in particular when the people who are the victims do not regard themselves as such, or they are presumed to be the perpetrators of other offences (irregular situation, soliciting in a public place, repeated thefts, etc.).

Measure 1.2 of the National Action Plan, '*Organizing the administrative work for more precise identification*', provides that for each suspected victim of trafficking taken in by the investigation services a notification will be forwarded to the prefecture, through a 'liaison form' indicating the existence of 'reasonable grounds' to believe that the foreign national is indeed a victim of human trafficking.

To date, this provision of the National Action Plan has still not been implemented, and the only tools at the disposal of the relevant authorities are the list of indicators for the identification of victims of human trafficking developed in 2009 by the Interdepartmental working group on human trafficking, and a 'Note-express' (non-binding) from the Directorate-General of the National Gendarmerie, which sets up a procedure and criteria for identifying victims.

RECOMMENDATIONS

The CNCDH invites the Ministry for the Interior and the MIPROF **to implement, at the earliest opportunity, Measure 1.2 of the National Action Plan**, the harmonization of the process of identification of victims within the various administrations being a key element of the policy of protection for victims of human trafficking.

Establishing precise criteria, in particular for the 'liaison form', is essential. The CNCDH thus recommends that the concept of 'reasonable grounds' to believe that a person is a victim of human trafficking be clarified.

In addition, **it believes that the establishment of indicators (or criteria) for the identification of victims of human trafficking must be done in collaboration with specialized associations** which have been developing tools and solid expertise in this over a number of years. For this purpose, the results of the EuroTrafGuid project, to which France was partner, could usefully be employed.

Finally, the CNCDH recommends not omitting specificities relating to the identification of French victims in the definition of the indicators.

SUPPORT FOR VICTIMS

OBSERVATIONS

The political priority as regards the fight against human trafficking has consisted in recent years of favouring the dismantling of trafficking networks and crime reduction, rather than the protection of the victims. Victims should however constitute a priority, especially as the arresting and the dismantling of certain criminal groups has not made it possible to contain the problem. However, although the protection of victims (in particular with regard to the risk of re-victimisation) is a legal and moral duty of the State, it is also a means of effectively combatting human trafficking and the exploitation of human beings insofar as that it contributes to draining the source of income of the organizations and the owners: without 'labour', they no longer have a raison d'être.

The victims of human trafficking and exploitation are entitled to safety and the full re-establishment of their economic and social rights. **However the CNCDH has observed a certain number of failures:**

- ♦ **access to the right to information remains unequal and insufficient;**
- ♦ **the Plan says nothing of the social, medical, and psychological support for victims;**
- ♦ **it says almost as little on the exit routes from exploitation and social and vocational re-inclusion,** Measure 9 being dedicated uniquely to exit routes from prostitution, omitting all the other forms of exploitation.

RECOMMENDATIONS

In order for victims of human trafficking or exploitation to be provided adapted support, the CNCDH recommends:

- ♦ **Setting up individualized support for each victim of human trafficking and making the supported victim an active individual participant in the development and implementation of their re-inclusion plan;**
- ♦ **Granting the benefit of all the support and protection measures provided by Measure 9 of the National Action Plan to all victims of human trafficking, without discriminating between gender or the form of exploitation;**
- ♦ Providing material and financial resources to the specialized organizations which are de facto in charge of a mission of public utility in offering support to victims of human trafficking and exploitation.

ACCOMMODATION

OBSERVATIONS

In order to escape the grip of the traffickers, victims need accommodation where they will be safe. This need for protected housing cannot be overstated. In spite of incessant violence, victims tend not to leave a situation of violence and exploitation if they do not have a better option. The need that victims have for protected housing is at the same time immediate and long-term.

In France, safe housing is an unconditional principle and is open to all victims of human trafficking and exploitation of human beings. Nevertheless, **in practice, the supply of accommodation varies depending on the Departments, and a considerable number of people, despite being identified as current victims or as having been victims of human trafficking and exploitation, do not have access to protected housing.**

A number of associations consulted by the CNCDH note that, in recent years, the total number of accommodation places has diminished while at the same time the number of requests for shelter for victims of human trafficking in danger increased during the year 2014. This increase in the number of requests for shelter confirms the importance and the relevance of the reception, protection and support proposition which is made within the Ac.Sé. provision.

RECOMMENDATIONS

In order to safeguard the right to safe and adapted accommodation for victims of human trafficking and exploitation, the CNCDH recommends the effective implementation of Measures 7 and 8 of the National Action Plan which provide for 'increasing and adapting housing solutions for victims of human trafficking' (Measure 7) and 'developing and informing of the safe reception provided for in the Ac.sé provision' (Measure 8). The CNCDH considers it regrettable that the extension envisaged in the Ac.Sé provision has not yet been implemented, it seems all the more necessary that the provision should be better publicised and therefore more often solicited as the situation is approaching saturation.

In addition, the CNCDH recommends the authorities:

- ◆ Carry out a survey of the existing and available reception and accommodation facilities, this survey being the precondition for the effective implementation of the programming of accommodation places for victims of human trafficking;
- ◆ Not submit the granting of accommodation to the condition of regularization of the victim's stay in the country;
- ◆ Not prioritise access to accommodation according to the type of exploitation suffered;
- ◆ Favour housing solutions which are adapted to victims of human trafficking and exploitation, accommodation within a general mechanism is nevertheless possible, provided that the personnel are sufficiently trained.

CARE OF CHILD VICTIMS

OBSERVATIONS

The support for child victims of human trafficking and exploitation requires close and constant coordination between the public services and the institutional actors and associations working with these minors, the objective of this support being to give access to their most fundamental rights back to them: safe housing, adapted education, access to care and healthcare, training and decent living conditions, while allowing them access to culture and leisure.

In France, the CNCNDH, along with associations for the fight against human trafficking, underlines the poor state of support for child victims: the provisions of child welfare (ASA) are saturated, child victims of human trafficking seldom benefit from genuine schooling/training, and the presumption of their minor age is not respected. The CNCNDH notes that within the French legal framework, neither the provision for the assumption of responsibility of unaccompanied foreign minors, nor the provision for child welfare, any more than the judicial protection of juveniles provision (PJJ), provide for specific support for child victims of human trafficking and exploitation.

Consequently, these minors in a situation of danger do not benefit from an adapted scheme, while at the same time the gravity of the suffering undergone and the trauma which results from this undoubtedly require specific psychological and physical support.

RECOMMENDATIONS

The CNCNDH believes that the fight against trafficking of minors must cover the protection and the support of children and the redressing of the situation. For this purpose, the CNCNDH requests the authorities:

- ♦ **Ensure full protection of child victims of human trafficking. All the minors concerned in the territories of the French Republic should always be regarded as victims,** and not to be regarded as ‘criminals’ or ‘irregular migrants’; the presumption of their minority age must, in cases of doubt, be automatically granted; and the transition towards adulthood should be prepared and supported beyond the age of 18. Minors should systematically receive the support of an *ad hoc* administrator, if they are unaccompanied or in danger in their family, and the best interest of the child must always be taken into account.
- ♦ **Allow these minors to receive unconditional care and support adapted to their situation.** Close and constant coordination between the public services and associations working with these child victims or potential victims is imperative.
- ♦ Implement redress provisions for these child victims. During the monitoring of these young people, the public authorities must integrate the concept of the long term on all fronts (justice, training, and living conditions). They must pay particularly attention in order that the passage into adulthood does not break this process of recovery and is integrated into the rebuilding of the young person’s life.

**A policy that is monitored and evaluated
by an independent institution,
the National consultative commission for Human Rights**

Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA of the Council, provides that the Member States take the measures necessary to set up national rapporteurs or equivalent mechanisms.

These rapporteurs or equivalent mechanisms must:

- ◆ carry out assessments of trends in trafficking in human beings;
- ◆ measure the results of anti-trafficking actions, including gathering statistics in close cooperation with relevant civil society organisations active in this field;
- ◆ carry out reporting.

The mission of the national rapporteur will relate to the evaluation of the policy implemented, which will be the subject of a periodic report.

To fully play a part in the monitoring and evaluation of the results of the actions engaged, the function of national rapporteur or 'equivalent mechanism' within the meaning of the directive will be assured by the National Consultative Commission for Human Rights (CNCDH), an independent administrative authority which will be able to thus evaluate the public policy implemented.

Measure 23 of the National Action Plan for the fight against human trafficking

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The National Consultative Commission for Human Rights (CNCDH) is the French Institution for the promotion and protection of human rights accredited by the United Nations.

Created in 1947, the CNCDH has an advisory role, independent from the Government and Parliament, in the field of human rights, law and humanitarian action. It also has a monitoring role to ensure France respects its international engagements. As such it interacts with the conventional bodies and within the European and international networks whose vocation is the promotion and the protection of human rights.


As an independent administrative authority, the CNCDH bases its action on three major principles:

- ◆ independence
- ◆ plurallism
- ◆ vigilance

The CNCDH is made up of 64 members and representatives of organizations from civil society. It reflects the diversity of the opinions being expressed in France on questions related to human rights.

For more than 25 years the CNCDH has been the national independent Rapporteur on the fight against racism, anti-emitism and xenophobia, and since 2014, national independent Rapporteur on the fight against human trafficking and the exploitation of human beings.



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