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OPINION

OPINION ON THE 2ND NATIONAL ACTION PLAN AGAINST TRAFFICKING IN HUMAN BEINGS (2019-2021)

19 NOVEMBER 2019



*The Opinion on the 2nd national action plan against trafficking in human beings (2019-2021)
Plenary assembly of 19 November 2019 (unanimous adoption and one abstention)*

SUMMARY

On 18th October 2019, the French government presented the second national action plan against trafficking in human beings (2019-2021), due for almost three years. This document fails to meet the expectations of the CNCDH, the independent national rapporteur for this issue. The CNCDH reiterates the utmost importance of the creation of an effective national mechanism to identify and support victims of trafficking and exploitation, which must form the core of France's strategy for preventing and combatting this phenomenon.

It also underlines that major structural pitfalls act as an obstacle to any practical application of this national action plan: without a defined timeframe or budget, its implementation is wishful thinking. The CNCDH therefore urges the coordination committee provided for in the plan to convene as soon as possible and to define an annual strategic plan incorporating specific deadlines, detailed measures, monitoring indicators, costs identified per measure, and a dedicated source of funding.

On 18th October 2019, almost three years after the implementation period of the first national action plan against trafficking in human beings (2014-2016), the French government presented the second national action plan (2019-2021) on EU Anti-Trafficking Day. As the independent national rapporteur, the National Consultative Commission for Human Rights (CNCDH) issued an evaluation of the implementation of the first plan¹ on 6th July 2017. In it, the CNCDH highlighted that actions taken failed to satisfy the objectives set. A large number of the measures featured in the plan were only partially implemented, and many were not implemented at all.

In a context where new forms of exploitation are emerging, particularly due to the internet and forced immigration, the CNCDH is dismayed that development of the new plan is not sufficiently based on this evaluation, which aimed to advise the French government on its development and turn it into an effective strategy. Today, the CNCDH presents an opinion on the second national action plan, particularly with regard to recommendations that it put forward in 2017 and European and international standards concerning the fight against trafficking in human beings.

The CNCDH is dismayed at the lack of ambition demonstrated by some of the measures in the document presented on 18 October 2019, which are at times directly lifted from the previous plan, and in some cases weakened. The time having come to implement the plan, the CNCDH considers that improvement of the proposed measures must be defined within the context of the coordination committee and in systematic collaboration with associations and trade unions.

The CNCDH also recommends referring to the work it has published since 2017, in which it states the strategies it deems necessary to effectively prevent and combat trafficking in and exploitation of human beings². While the plan's content fails to fully respond to the CNCDH's expectations, it nevertheless reiterates the urgency of its implementation. This is why the CNCDH has provided analysis of the plan's structural pitfalls which it feels constitute major barriers to its practical application.

1. CNCDH, *Evaluation du plan d'action national contre la traite des êtres humains (2014-2016)*, 6 July 2017. Available online: <https://bit.ly/2tnnAvy>

2. Press release: *Trafficking in human beings - A new national action plan finally published after three years of waiting* (18 October 2019) <https://bit.ly/2BRilZF>; Press release: *The fight against trafficking in and exploitation of human beings: the government must take action!* (10 May 2019) <https://bit.ly/31VFip1>; Declaration unanimously adopted by the CNCDH at the Plenary assembly (2 October 2018) <https://bit.ly/2NnbigA>; Press release: *The CNCDH warns of the urgency of adopting a new national plan to fight against trafficking in human beings* (20 May 2018) <https://bit.ly/2pXSJaO>; Press release: *The fight against trafficking in human beings: remembering and commemorating is essential. Taking action every day is vital* (10 May 2018) <https://bit.ly/2oq91IU>; Press release: *The fight against trafficking in human beings: the government must take urgent action* (22 January 2018) <https://bit.ly/3492m58>; CNCDH, *La traite des êtres humains : les idées reçues t'aveuglent, ouvre les yeux !* (2017, republished in 2019) Available online: <https://bit.ly/2pIGIRK>

Identification and protection of victims: the vital creation of a national referral mechanism in accordance with France's international commitments

The CNCDH considers that an effective national referral mechanism designed to receive, identify, and support victims must form the core of the strategy for the prevention and fight against trafficking in and exploitation of human beings. It must also enable anyone potentially in contact with a victim (whether they are a member of the police, justice system, labour inspectorate, education sector, health sector, etc.) to look them up and identify them. It must also enable referrals made by associations or people to have witnessed such mistreatment to be collected and followed up. Victims can only be identified by the police currently in France, and, as of the Act of 13 April 2016, by the labour inspectorate.

As reiterated in the plan, *“common identification indicators are yet to be defined between government departments and specialised associations. However, identification is a complex process which must be supported by defined indicators that are shared between all stakeholders”*. While measure 16 in the plan provides for the *“implementation of a national referral mechanism”*, the content of the latter completely fails to reflect the ambition of such a mechanism, as advised by the Warsaw Convention (2005, Council of Europe) and Directive 2011/36/EU. The plan simply proposes to publish an interministerial circular for the benefit of judicial and administrative authorities, containing a list of victim identification indicators and a *“reminder of everyone's roles and responsibilities for the implementation of public action”*.

This interministerial circular alone is no substitute for a “national mechanism” and will not be able to ensure equal access to rights for all victims without discrimination, nor facilitate effective pathways out of all the forms of trafficking in and exploitation of human beings. This is why the CNCDH is reiterating its recommendation for the creation of an effective national referral mechanism.

This mechanism would also help inform public action on a wider basis and ensure effective access to rights, particularly in terms of stay and accommodation. First, by identifying and guiding victims, this mechanism would facilitate evaluation of requirements for specialised accommodation, encourage the implementation of adapted solutions, and therefore prevent the problem of accommodation being appropriated for victims of trafficking in human beings, much to the detriment of other vulnerable groups such as asylum seekers, as underpinned in measure 24.

Second, by building on the effective implementation of *“contact persons for trafficking in human beings”* in prefectures and structuring of this network of contact persons, which are obligations of the prefectures, the mechanism could strengthen effective delivery of residence permits for victims of all forms of trafficking, in accordance with the Code for Entry and Residence of Foreign Nationals and Right of Asylum (CESEDA).

Recommendation 1: A national referral mechanism must be created to identify and support victims of trafficking in and exploitation of human beings, which enables victims to be identified and requirements to be assessed, particularly in terms of specialised accommodation for victims of trafficking in human beings; and to ensure effective access to rights, particularly with regard to the right to remain.

Improving coordination and defining the means of implementation of the second national action plan (2019-2021)

The second plan reinforces attachment of the coordination of the fight against trafficking in human beings to the Interministerial Mission for Protecting Women against Violence and Combating Trafficking in Human Beings (MIPROF), and, by extension, to the Secretary of State for Gender Equality and the Fight against Discrimination. The mere appointment of pilot and partner ministries for each measure as laid out in the plan is not adequate enough to ensure effective coordination or a cross-sector approach to trafficking in human beings, which spans multiple forms beyond sexual exploitation and the exploitation of women.

As already indicated in its 2017 evaluation, the CNCDH believes that a cross-government body specifically and exclusively dedicated to fighting against trafficking in and exploitation of human beings must be created. This cross-government body must be attached to the Prime Minister in order to ensure strong political support for the fight against this occasionally invisible and often unpunished criminal phenomenon, underline its entirely cross-government nature, and ensure that all forms of exploitation are considered.

Recommendation 2: A cross-government body specifically dedicated to fighting against the trafficking in and exploitation of human beings in all its forms must be created and attached to the Prime Minister in order to ensure effective coordination of the plan's implementation and the prevention and fight against the phenomenon.

Presentation of this second plan comes almost three years after the end of the previous one and in the fourth quarter of 2019, in which its application period is due to start. In addition, the plan fails to include any indications on scheduling. The CNCDH considers it should urgently be made operational: the coordination committee responsible for monitoring its implementation must therefore convene as soon as possible for this purpose. The coordination committee should convene at least twice per year in order to ensure effective monitoring of the plan's application, in accordance with measure 36.

This body must establish an annual work programme that comprehensively sets out measures in the plan to be implemented in the current year as of its first meeting in 2019, as well as the means of implementation in the form of an annual strategic plan. The latter must contain the coordination committee's meeting schedule, the application schedule for the measures detailed in the plan, monitoring indicators, implementation costs, and

the dedicated source of funding. This plan will constitute a key monitoring tool for the coordination committee and a key evaluation tool for the CNCDH.

Recommendation 3: The coordination committee for the fight against trafficking in human beings must convene as soon as possible, then at least twice per year in order to ensure effective monitoring of the plan's implementation, in accordance with measure 36 of the latter. The coordination committee must include victims of trafficking as well as trade unions; neither were included on the previous coordination committee. The meeting schedule must be defined in the first meeting and incorporated into an annual strategic plan.

Recommendation 4: The coordination committee must establish an annual strategic plan and do so for each year of the plan's implementation period, rolling out implementation of the national action plan within a 1-year schedule with specific timeframes, detailed measures, monitoring indicators, costs identified per measure, and a dedicated and identified source of funding.

Funding of the plan, and, more broadly, of the fight against trafficking in human beings, remains a substantial pitfall; one that was clearly denounced by the CNCDH in its 2017 evaluation. Budgetary information fails to feature in any of the measures, whether regarding costs or sources of funding. The plan merely indicates that "*funding will be provided by several State budget programmes and by funds from the French agency for Recovery and Management of Seized Confiscated Assets (AGRASC)*". However, the cross-sector approach reflected by the distribution of roles among ministries involves identifying the budgetary actions related to the measures they each oversee.

At this stage, implementation of the plan is wishful thinking and evaluating the potential implementation costs is particularly difficult. Failing the creation of a new budgetary action that explicitly refers to and is dedicated to trafficking in human beings, the CNCDH calls for pinpointing of budgetary actions which are intended to contribute to the application of measures for each ministry in the plan they oversee.

The CNCDH is also dismayed that budgetary action no.15 dedicated to the "*prevention and fight against prostitution and trafficking in human beings*" created in 2014 simultaneously with the first national action plan, was cut in 2019. While the CNCDH was not in favour of budgetary action leading to confusion between the fight against prostitution and the fight against trafficking in human beings, it nevertheless considers the fact it has been cut without being replaced problematic, not only on a symbolical level, but also in terms of implementation, monitoring, evaluation, and accountability of the plan.

Recommendation 5: The cost of the measures in the plan must be evaluated and budgetary actions on which they rely identified, signposted, and funded accordingly. These aspects must be included in the annual strategic plan.

Recommendation 6: Budgetary action specific to the cross-government body for the fight against trafficking in and exploitation of human beings, which the CNCDH would very much like to come about, must be created. This action must encompass the operating budget for the body, as well as an intervention budget³.

Ensure continuity of research to better inform public action on trafficking in and exploitation of human beings

Knowledge of trafficking in and exploitation of human beings in France remains insufficient and is particularly lacking in terms of statistical data. Since 2015, a working group has brought together the departments of the Ministries of the Interior, Justice, General Directorate for Foreign Nationals in France, and the General Directorate for Labour with the aim to harmonise data. However, this data remains partial. The same applies to data collected for the annual survey on victims of trafficking in human beings supported by associations, coordinated as of 2016 by the MIPROF and the French Office for the Protection of Refugees and Stateless Persons (ONDRP).

Data from both these surveys should be cross-referenced in order to provide an overall view of the phenomenon. In this context, the CNCDH welcomes the fact that *“improving knowledge to better guide public action”* forms the subject of specific action in the second national action plan, therefore reflecting awareness of this requirement.

However, rolling this action out over two measures concerning the survey on victims cared for by associations and that of administrative data is not as ambitious as it could be. First, by simply planning to renew the survey on victims, the plan demonstrates a significant lack of ownership of the approach on the part of public authorities insofar as the survey is carried out thanks to work undertaken by associations who are not funded to do it. It is crucial to support them technically and financially, and to include trade unions in the approach.

Second, the annual publication of administrative data also remains in its initial form. The situation causes the future of the survey to be called into question in the context of the announced closure of the National Institute for Advanced Studies in Security and Justice (INHESJ), on which ONDRP depends, who oversees the collection of administrative data. As such, the CNCDH recommends ensuring the continuity and institutionalisation of the collection of administrative data on victims cared for by associations via the creation of a permanent national observatory for the trafficking in and exploitation of human beings, attached to the cross-government body, which the CNCDH would also very much like to come about. The CNCDH strongly encourages public authorities to engage trade unions and associations upstream in this thought process, to reach out to other national observatories

3. CNCDH, *Evaluation du plan d'action national contre la traite des êtres humains* (2014-2016), 6 July 2017. Available online: <https://bit.ly/2tnnAvy>

and to draw inspiration from existing practices at European level.

This permanent national observatory would also be tasked with coordinating research and studies on the theme, of which some are already included in the plan. Measures 10 and 12 provide for a survey on trafficking in human beings for labour exploitation, as well as a study on mechanisms for the protection of victims and prosecution of perpetrators. The CNCDH welcomes these initiatives, since this type of data forms a key aspect in guiding public action. This research work can and must engage trade unions and associations upstream. Qualitative and quantitative data will improve training on and increase awareness of the issues concerning trafficking in and exploitation of human beings, strengthening prevention as a result.

Lastly, the CNCDH is deeply dismayed that public authorities have failed to take stock of the importance of raising awareness among vulnerable groups and the general public in order to fight against this phenomenon effectively and counter misconceptions. This can be seen in measure 1 of the plan for example, which provides for a governmental campaign run solely online to raise awareness among the general public, whereas the previous plan provided for a campaign in physical public spaces - although this measure was never accomplished.

Similarly, while consideration of the “business world” in actions designed to raise awareness is a positive development, the terms of its implication are overly vague. Detailing actions for prevention and training in which businesses will be involved is essential, and particular focus must be placed on the inclusion of subcontracted service providers to prevent corporate sponsors from waiving responsibility. However, the CNCDH notes that action 4 is dedicated to training professionals in contact with potential and identified victims, which constitutes substantial progress in relation to the previous plan. It will continue to pay particular attention to this essential course of action.

Recommendation 7: A permanent national observatory for trafficking in and exploitation of human beings must be created, reporting to the cross-government body that the CNCDH would very much like to come about, to ensure continuity and consolidation of the collection of administrative and victim data; lead qualitative studies in conjunction with those directly concerned, particularly victims and potential victims as much as possible, strengthen awareness among the general public and vulnerable groups, and train professionals.

Summary of recommendations

Recommendation 1: A national referral mechanism must be created to identify and support victims of trafficking in and exploitation of human beings, which enables victims to be identified and requirements to be assessed, particularly in terms of specialised accommodation for victims of trafficking in human beings; and to ensure effective access to rights, particularly with regard to right to remain.

Recommendation 2: A cross-government body specifically dedicated to fighting against trafficking in and exploitation of human beings in all its forms must be created and attached to the Prime Minister to ensure effective coordination of the plan's implementation and the prevention and fight against the phenomenon.

Recommendation 3: The coordination committee for the fight against trafficking in human beings must convene as soon as possible, then at least twice per year in order to ensure effective monitoring of the plan's implementation, in accordance with measure 36 of the latter. The coordination committee must include victims of trafficking, as well as trade unions; neither were included on the previous coordination committee. The meeting schedule must be defined in the first meeting and incorporated in an annual strategic plan.

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Recommendation 7: A permanent national observatory for trafficking in and exploitation of human beings must be created, reporting to the cross-government body that the CNCDH would very much like to come about, to ensure continuity and consolidation of the collection

4. CNCDH, *Evaluation du plan d'action national contre la traite des êtres humains* (2014-2016), 6 July 2017. Available online: <https://bit.ly/2tnnAvy>

of administrative and victim data; lead qualitative studies in conjunction with those directly concerned, particularly victims and potential victims as much as possible, strengthen awareness among the general public and vulnerable groups, and train professionals.



Created in 1947 at the instigation of René Cassin, **the National Consultative Commission on Human Rights (CNC DH) is the French national institution responsible for promoting and protecting human rights with level 'A' accreditation from the United Nations.**

The CNC DH performs a three-pronged role that involves the following:

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- monitoring the effectiveness in France of rights protected by international human rights conventions;
- overseeing France's implementation of recommendations made by international committees.

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The CNC DH has been an independent National Rapporteur on the fight against all forms of racism since 1990, on the fight against the trafficking and exploitation of human beings since 2014, on the fight against homophobia since 2018.

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