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EVALUATION

**RAPPORTEUR
NATIONAL
INDÉPENDANT**

EVALUATION OF THE IMPLEMENTATION OF THE NATIONAL ACTION PLAN AGAINST TRAFFICKING IN HUMAN BEINGS (2014-2016)

6 JULY 2017



The evaluation of the implementation of the national action plan against trafficking in human beings
was adopted unanimously at the plenary session of 6th July 2017.

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A national action plan against trafficking in human beings (THB) was adopted by the Council of Ministers on 14 May 2014, laying the foundations for a coherent public policy – involving cross-government action – with ambitious objectives: provide victims with better protection and demonstrate determination in prosecuting traffickers in human beings. As early as January 2013, the Interministerial Mission for Protecting Women against Violence and Combating Trafficking in Human Beings (MIPROF)¹ was set up with the task of drawing up this national action plan and then implementing it with assistance from others. The CNCDH welcomed the creation of this interministerial mission and praises the work it does.

With the current national plan drawing to a close in April 2017, at the beginning of 2017 the CNCDH, as the independent national rapporteur on combating human trafficking, began to evaluate the implementation of the national action plan against THB. It should be highlighted here that a great many of the observations and recommendations outlined in the CNCDH's 2016 report on the current situation regarding the fight against trafficking in and exploitation of persons in France are still relevant, and would be worth referring to². Moreover, the recommendations drawn up for the attention of France, on 6 July 2017, by the Group of Experts on Action against Trafficking in Human Beings (GRETA), are entirely in line with those of the CNCDH³.

Although a certain number of provisions have been adopted to meet the plan's objectives – not least those stipulated by the Law of 13 April 2016 *on strengthening action against prostitution and providing assistance to persons in a situation of prostitution*, the plan's implementation falls short of the objectives: either some of the plan's measures have not been put into practice, or they have not been effective enough.

Two overarching guidelines characterise the implementation of this plan: first, combating trafficking for sexual exploitation is a priority and, second, this is more difficult to achieve beyond the Paris region. Consequently, the next action plan will have to focus on broadening the scope for action to encompass all forms of trafficking in human beings, including boys and men as well, and across other areas besides Paris or the Paris region (Ile-de-France). It is also important to clear up the confusion on the part of the public authorities between prostitution and trafficking in human beings, which prevents an accurate understanding of the latter.

The poor understanding of the offence of THB by certain investigation departments and judges, and the difficulty characterising what constitutes it go some way to explaining the low rate of prosecutions recorded in this respect – even if there has been progress over recent years. But the difficulties characterising THB from a

1. Decree no. 2013-7 of 3 January 2013 *bearing on the setup of an Interministerial Mission for Protecting Women against Violence and Combating Trafficking in Human Beings*, Article 1: «An Interministerial Mission for Protecting Women against Violence and Combating Trafficking in Human Beings is set up under the Minister of Women's Rights.»

2. CNCDH, *La lutte contre la traite et l'exploitation des êtres humains*, Paris, La Documentation française, 2016. www.cncdh.fr/fr/publications/rapport-sur-la-lutte-contre-la-traite-et-l'exploitation-des-etres-humains

3. GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France, Second evaluation round, 6 July 2017.

legal point of view should not undermine the protection offered to victims of trafficking and exploitation. This is why the CNCDH will underscore two points in its recommendations:

- similar to what exists for sexual exploitation, which is described as such in Article L 316-1 of the French Code for Entry and Residence of Foreigners and Right of Asylum (CESEDA), the other forms of exploitation should suffice to entitle victims to a residence document and a place in safe house accommodation;
- identification of victims of trafficking in human beings – and exploitation – should come under the remit of a national mechanism overseen by an independent public authority (along the lines of the United Kingdom mechanism).

Insofar as trafficking in human beings is a major violation of the fundamental rights and respect for human dignity of the most vulnerable persons, suitable protection must be offered to THB victims. It is crucial that their situation be secured, and above all that their papers be put in order; that they be given shelter – possibly by putting them at a safe distance from the exploitation networks in which they were caught up; that they be offered medico-psychological support, as this is a prerequisite for their recovery; and they be given guidance as part of a social and professional integration route. As a result, protection for victims will have to form the cornerstone of the next action plan's measures.

This document, in its aim to be as succinct as possible, will not necessarily

go into the implementation of measures in detail. Instead, it seeks to:

- evaluate, on a measure-by-measure basis, the implementation of the national action plan against trafficking in human beings;
- outline recommendations for the attention of the public authorities to ensure that the measures are properly implemented. Since these recommendations form a checklist which the Government will be able to refer to when drawing up the next national action plan, they are recapped at the end of the document for ease of reference.

Lastly, the CNCDH would like to highlight that it is in favour of using the expression « trafficking in and exploitation of human beings » instead of simply referring to « trafficking in human beings ». Although it has become the norm to use the latter expression to describe all forms of behaviour contributing to a person's exploitation, it is nevertheless important to remember that while trafficking facilitates a person's exploitation, it is not exploitation in itself. Care must therefore be taken to distinguish one from the other. Use of the expression «trafficking in human beings» to describe exploitation can no doubt be explained by the fact that, in French law, exploitation is not clearly considered a crime, save for its most serious forms: slavery, enslavement and forced labour. Related offences must be cited for exploitation to be punished: pimping, recourse to prostitution, substandard housing or working conditions, organ trafficking, forced begging or forcing a person to commit a crime or offence (forced offending). Such offences mainly or incidentally encompass acts of

exploitation, but not only. What is more, apart from sexual exploitation and forced begging, which are generally understood on the basis of the latter, the other forms of exploitation tend to be perceived in the context of combating illegal labour, illegal immigration or organised crime. It is no longer at all clear in such cases that we are dealing with instances of exploitation. As such, it is essential that acts of exploitation be identified over and above the appearance of illegal labour, irregular immigration or thefts committed by an organised group. By acknowledging that action against trafficking in human beings, in the broad sense, entails combating not just trafficking, in the strict sense, but also and above all exploitation, a better understanding can be gained of where the main failings of current French practice lie.

WHAT IS HUMAN TRAFFICKING ? ?

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 bene-

fits 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.»

ACT



Transfert



Transportation



Recrutement



Accommodation



Welcoming

+

MEANS



Threat or use of force



Coercion



Kidnapping



Fraud



Abuse of power



Remuneration promises

+

GOAL

=

EXPLOITATION



Forced labour



Prostitution
Sexual exploitation



Removal of organs



Modern slavery



Slavery or similar practices



Begging and forced crimes

PRINCIPAL STANDARDS AND INTERNATIONAL LEGAL INSTRUMENTS

«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*

• *International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29)*

• *ILO Abolition of Forced Labour Convention, 1957 (No. 105)*

• *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')*

• *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*

• *Supplementary Protocol the ILO Abolition*

of Forced labour Convention, 2014

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

**EVALUATION OF THE IMPLEMENTATION
OF THE NATIONAL ACTION PLAN AGAINST
TRAFFICKING IN HUMAN BEINGS
(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. IDENTIFY AND SUPPORT 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.

PRIORITY 1

IDENTIFY AND SUPPORT TRAFFICKING VICTIMS



MESURE 1 REACH OUT TO VICTIMS AND HELP THEM TO ENJOY THEIR RIGHTS

Not
implemented



ACTIONS OF THE STATE

No cultural mediators have been recruited.
The draft contact form was abandoned
on request of the Ministry of the Interior.



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

Cultural mediation plays a key role in identifying, supporting and protecting victims of trafficking in human beings – who are often foreign nationals⁴. The CNCDH therefore recommends helping to finance the recruitment of cultural mediators by associations in contact with THB victims.

In order to avoid certain pitfalls, the cultural mediators must be appointed within multidisciplinary teams of social workers; the mediators will have to be trained specifically in detecting and assisting trafficking victims, whatever form of exploitation they have endured (this requires making provisions for training budgets in addition to funding for creating cultural mediator positions). The remit of cultural mediators will extend beyond the detection of victims, and it must be possible for them to be called on at each stage of the victim's trajectory: from the moment they are detected right through to the securing of their situation.

4. See CNCDH, *Rapport sur la lutte contre la traite et l'exploitation des êtres humains*, Paris, La Documentation Française, 2016, pp. 142-143.

This initial measure refers more generally to the problem of identifying potential victims of trafficking and exploitation – a prerequisite for their protection. Identification is an issue both as regards procedure and the bodies authorised to detect such victims.

For the time being, only the gendarmerie and police authorities are responsible for identifying victims. For foreign victims, recognition of their victim status is all the more important as their right to stay is contingent upon this. The Ministry of the Interior circular dated 19 May 2015 stipulates that this recognition by law enforcement is conditional upon «reasonable grounds to believe that a foreign national is a victim of trafficking in human beings»⁵, but does not clarify which criteria are likely to characterise such grounds. Although the MIPROF's idea to provide law enforcement with an instruction leaflet for identifying child victims may help to harmonise practices – for children only – the extent of its use in practice is unclear.

The CNCDH does not agree with the decision to abandon the contact form and invites the Ministry of the Interior and MIPROF to set up a harmonised procedure within the various government departments, as swiftly as possible, for identifying victims

This harmonised procedure could take the form of a circular setting out precise, common criteria for identifying victims. These indicators (or criteria) for identifying victims of trafficking and exploitation must be established in liaison with the specialised

5. Circular dated 19 May 2015 on conditions for allowing foreign nationals who are victims of THB or pimping to stay in the country.

associations and trade unions that have spent many years developing tools and sound expertise in the field. To that end, the findings of the EuroTrafGuid project⁶, for which France was one of the partners, would also be worth drawing on.

Furthermore, the CNCDH does not consider the monopoly that the police authorities have over identification to be satisfactory: some trafficking victims have legitimate reasons, because of their administrative status or out of fear of reprisals for example, for not wishing to lodge a complaint or testify in judicial proceedings in connection with a case of THB.

The CNCDH therefore recommends, on the one hand, separating the procedure where potential THB victims are identified from the judicial procedure and, on the other, setting up harmonised and shared identification procedures and tools.

Associations, which may be accredited, and trade unions could also be authorised to detect potential victims of trafficking and exploitation

6. The EuroTrafGuid project is a European initiative. It was led by France Expertise with the involvement of six partner countries (Bulgaria, Spain, France, Greece, the Netherlands and Romania). Through this project, which formed part of the EU Strategy towards the Eradication of Trafficking in Human Beings, it was possible, between 2011 and 2013, to develop practical tools for identifying victims of trafficking in human beings, as well as a report on good practices. www.expertisefrance.fr/Domains-d-activite/Stabilite-Surete-et-Securite/EuroTrafGuid-identification-des-victimes-de-traite-des-etres-humains

A national identification mechanism, overseen by an independent public authority, could be set up along the lines of the British mechanism.

National Referral Mechanism (NRM)

Since 2009, the UK has had a national system in place for identifying victims of human trafficking and/or modern slavery and ensuring they receive the appropriate support.

First of all, a referral may be made by diverse authorities such as a police force, customs, social services or an accredited NGO. This referral is forwarded to one of two public competent authorities in the matter (referrals are processed by two authorities depending on whether the victim is a British or foreign national).

There are two stages to the decision-making process by which the public authority identifies a victim of trafficking in human beings. Stage one involves the authority ascertaining whether there are «reasonable grounds» to believe that the individual referred is a potential victim of THB. If there are, the latter is allocated a place within Government-funded safe house accommodation and granted a reflection and recovery period of 45 calendar days. During this stage, the public authority endeavours to gather more information to gain a more detailed idea of the person's situation. At the end of this stage, which may possibly take longer where necessary, a «conclusive decision» is made: if the referred person is found to be a victim, they benefit from legal and social assistance.



MEASURE 2 DEVELOP PROFESSIONALS' TRAINING IN IDENTIFYING AND PROTECTING VICTIMS

Partially
implemented



ACTIONS OF THE STATE

On the MIPROF's initiative, as part of working groups particularly bringing together institutional stakeholders and associations, several tools have been set up.

An instruction leaflet for the attention of non-specialised investigators (police/gendarmerie) and members of the judiciary has been drawn up in partnership with the Directorate General of National Gendarmerie (DGGN), Directorate General of National Police (DGNP), Directorate of Criminal Affairs and Pardons (DACG) and professionals on the ground. Its aim is to improve the identification of child victims by non-specialised members of the judiciary and police force. It sets out a model contextual interview report form, integrated in the national gendarmerie and police procedural drafting support software and disseminated within jurisdictions. It is available on the justice, gendarmerie and police intranet sites.

A training booklet has been finalised for educators working for Child Protection Services (ASE) and Judicial Youth Protection Services (PJJ), with a view to improving understanding of the phenomenon of THB and the hold exploiters have over children, so as to facilitate the identification and support of victims. It can be consulted under the

heading «unaccompanied minors' mission (MMNA)» of the Ministry of Justice website, or by writing to the MIPROF. It is handed out during training sessions on evaluating minority and isolation, organised by the National Centre for the Territorial Civil Service (CNFPT) and the Unaccompanied Minors' Mission (MMNA).

A tool for labour inspectors is also currently being developed (and should be available by September). This comprises an instruction leaflet on trafficking in human beings and a model report table and interview report form, and will shortly be used as an aid in initial training and continuing professional development programmes delivered by the National Institute for Labour, Employment and Vocational Training (INTEFP).



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The CNCDH applauds the setup of training tools for identifying and protecting victims of trafficking in human beings.

That said, the existing (or envisaged) identification procedures must go hand in hand with training actions – otherwise the tools will have been developed to no avail.

The CNCDH is also dismayed at the lack of pooling and accessibility of educational resources, which should have been ensured by the design of a dedicated website.

Provisions should be made to design an institutional website which is specifically given over to combating trafficking and exploitation in all their forms (and which is not attached to the website on combating violence against women).

All of the information concerning action against THB could be gathered together on this website: legal information, victims' rights, safe house accommodation and support options and a list of all the existing training programmes – particularly those delivered by associations.

The CNCDH also urges more training programmes to be set up for the different professionals mentioned in the plan (physicians, nurses, teachers, consular services, etc.)

The THB contact persons in prefectures must also be trained. Factsheets for the attention of trade unions will have to

be drawn up, for they are on the front line for observing trafficking phenomena for the purpose of labour exploitation. These programmes involve setting up a procedure for identifying THB victims that is grounded in clear, precise criteria (see measure 1). The CNCDH recommends involving associations and trade unions more in designing the content of training programmes.

It should be pointed out that, for their part, associations and trade unions deliver a number of training programmes – primarily for social stakeholders. While civil society, especially the «Ensemble contre la traite des êtres humains» collective coordinated by the organisation Secours catholique, has designed tools for improving the identification of trafficking victims (films, educational booklets and other training and awareness-raising tools, etc.), it is a shame that the MIPROF did not respond to requests to support distribution of these tools.

The CNCDH recommends that the public authorities contribute more towards the financing of these actions, and ensure their dissemination and promotion. In this regard, the MIPROF is called to take up responsibilities in terms of coordination, instigating and supporting civil society.



MEASURE 3 INFORM AND RAISE AWARENESS AMONG THE GENERAL PUBLIC

Partially
implemented



ACTIONS OF THE STATE

The public authorities have not launched an awareness campaign on trafficking in human beings. In June 2016, however, a campaign on preventing the purchase of sexual services did raise the subject of trafficking for sexual exploitation.

In October 2016, the «Ensemble contre la traite des êtres humains» collective produced a documentary on child trafficking and exploitation in France, with an accompanying educational booklet. These tools have been widely distributed across society (lower and upper secondary schools, associations, social centres, human rights films festivals, etc.), but without backing from the MIPROF or public authorities.

For its part, the Committee against Modern Slavery (CEM) organised a national poster campaign in December 2016 on modern slavery, in particular with the Paris City Council and JC Decaux.

Furthermore, to gain a more accurate idea of the scale of the phenomenon and nature of the different forms of THB, the MIPROF and French Office for the Protection of Refugees and Stateless Persons (ONDRP) drew up a questionnaire, in partnership with various associations, to collect data on THB victims, monitored by the associations

in 2015 in mainland France. The results of this survey were made publicly available on 14 June 2017. For their part, the statistics departments of the Ministries of the Interior and Justice set about redefining their statistical nomenclature on trafficking in and exploitation of human beings.



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The campaign on preventing the purchase of sexual services, entitled « *Le prix d'une passe n'est pas celui que tu crois* » (The price each time isn't the one you think) was a joint action on the part of the Ministry for Families, Children and Women's Rights and the association Mouvement du Nid – France. It took as its basis the «abolitionist» model promoted by the Law of 13 April 2016 on strengthening action against prostitution, which bans the purchase of sexual services. The posters and postcards showed portraits of prostitutes with the following message «*Le prix d'une passe n'est pas celui que tu crois – Acheter du sexe c'est participer à la traite et à la destruction de millions de personnes vulnérables* » (The price each time isn't the one you think - Paying for sex contributes to the trafficking and destruction of millions of vulnerable people).

The aim of the campaign was to discourage the demand for all forms of prostitution. In this respect, it complies with the recommendations of both the European Commission⁷ and the Council of Europe⁸ which recommend action against the demand for all forms of trafficking. In terms of trafficking for sexual exploitation, the existence of the prostitution market is an incentive for traffickers to stake out

their ground on this market, as it represents opportunities for substantial earnings. It is therefore necessary to discourage the demand for prostitution as a whole – even if, it goes without saying, not all persons engaging in prostitution are necessarily victims of trafficking in human beings. On this point, the CNCDH has stressed the need to distinguish between trafficking for sexual exploitation and prostitution⁹. Prostitution covers a range of situations: although the majority of prostitutes are exploited by a third party, this is not always the case. What is more, prostitutes are not necessarily trafficking victims.

This campaign only concerned sexual exploitation; the CNCDH recommends that other campaigns be rolled out, on the other forms of trafficking and exploitation.

The same observations apply to the campaign launched over social media, for the 10th EU Anti-Trafficking Day (18 October 2016), to remind people that purchasing a sexual service is now illegal and liable to a €1,500 fine.

To support associations' awareness-raising efforts and pending the launch of a proper national information campaign, the CNCDH asks the Government to turn action against trafficking in and exploitation of human beings into a «national worthy cause».

Every year, this governmental endorsement enables a not-for-profit

7. Recital 25 of the Directive of 5 April 2011: «Member States should establish and/or strengthen policies to prevent trafficking in human beings, including measures to discourage and reduce the demand that fosters all forms of exploitation,»

8. Warsaw Convention

9. CNCDH, *Avis sur la proposition de loi renforçant la lutte contre le système prostitutionnel*, 22 May 2014 ref. JO n°0136 du 14 juin 2014 texte n° 70

organisation or organisations grouped in a collective to benefit from free broadcasts with public radio and television companies of a communication and mobilisation campaign on a public interest theme – which changes every year. The officially recognised theme thus benefits from a high profile among the public and institutions, which can help to develop, step up and increase the effectiveness of associated actions. In 2016, it contacted the President of the Republic and Prime Minister about this, to no avail.

The scale of the phenomenon of trafficking in human beings in France is relatively unknown, and the CNCDH therefore applauds the project initiated by the MIPROF and ONDRP, in partnership with a number of associations, to actively involve associations in detecting THB victims – in addition to the official data published by the public competent authorities. This initiative merits praise, insofar as it represents a first step in the collection of reliable data in France on THB whilst also helping to bring this reality – about which too many people are still in the dark – into the open.

For all that, the mapping of THB in mainland France resulting from the responses given by associations is evidently incomplete and biased: not all of the associations identified have responded (only 13 out of the 59 consulted were able to provide data for 2015), and those who did were primarily working with victims of sexual exploitation. The results obtained in this way confirm the idea that trafficking for sexual exploitation overwhelmingly trumps trafficking for labour exploitation. That said, the initiators of this survey, aware of these pitfalls, are committing to improving the data collection system.

Moreover the CNCDH recommends conducting a survey on the extent of the phenomenon of trafficking in and exploitation of human beings in Overseas France; particularly the *Départements* of Mayotte and French Guiana where the presence of a particularly vulnerable population – not least a large number of unaccompanied minors – is spawning risks of THB and exploitation.



MEASURE 4 RAISE PUBLIC AWARENESS OF THE RISK

Partially
implemented



ACTIONS OF THE STATE

Provisions have been adopted to heighten children's awareness of sexual exploitation. Article 18 of the Law of 13 April 2016 on strengthening action against prostitution provides that information on the realities of prostitution and the dangers of selling one's body must be dispensed in secondary schools¹⁰.

Consulates have carried out a counter-trafficking measure by circulating a documentary note in consular premises, to warn potential victims of the risks of trafficking, particularly through procedures bearing on adoption, visa applications for domestic staff and forced marriages. The Ministry of Foreign Affairs has uploaded an information campaign on its website entitled « *Non au mariage forcé* » (No to forced marriage), for the attention of individuals heading abroad and potential victims of such a phenomenon¹¹. On top of that, before leaving for their posting, staff posted to countries at risk and given a "heightened state of alert" classification (such as Algeria, Bangladesh, India, Mali,

Morocco, Mauritania, Niger, Pakistan and Senegal) have their attention specifically drawn to the issue of forced marriages.

A law that came into force on 27 March 2017¹² requires parent companies and principals to evaluate and mitigate human rights violations, as well as the environmental risks in their supply chains – by adopting a « vigilance plan ». Although this new instrument does not explicitly address THB, it particularly sets out to promote decent labour and, consequently, to punish all forms of forced labour or trafficking in human beings for labour exploitation.

Regarding employees and employers, a draft partnership agreement on combating trafficking in human beings is shortly due to be presented to employers' organisations, employees' trade unions and chambers of commerce and industry.

10. Article L312-17-1-1 of the French Education Code
11. www.diplomatie.gouv.fr/fr/conseils-aux-voyageurs/infos-pratiques/assistance-aux-francais/mariages-forces/

12. Law no. 2017-399 of 27 March 2017 on the vigilance duty of parent companies and principals



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

In the end, this measure has only partially been put into practice, both in terms of the target groups and the subject to be brought to their attention, which is mainly restricted to sexual exploitation.

The information stipulated in the French Education Code does not bear on trafficking in human beings, but prostitution. Furthermore, provision of this information depends on institution heads and the involvement of the associations given this task.

In reference to the observations made above (Measure 3), the awareness of at-risk groups could be raised by trade unions.

In certain activity sectors that are particularly exposed to risks of THB and exploitation, including agriculture, seasonal labour, construction and civil engineering, the clothing industry, catering or domestic work, migrants must be informed of their rights (via brochures that are available in several languages).

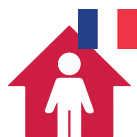
The CNCDH recommends increasing awareness actions aimed at at-risk groups by organising poster campaigns in such public places as airports, train or bus stations.

The CNCDH hails the adoption of the legislation on the vigilance duty of companies over their supply chains, and urges greater vigilance on the part of public and private building owners as well as of

these companies over employees' working conditions.

The CNCDH also recommends supporting the information and awareness-raising efforts conducted by associations in the countries of origin, among foreign workers considering coming to France, on the risks of trafficking and exploitation.

Lastly, before any new information or awareness campaigns are rolled out, the CNCDH advises that the scope of existing initiatives be assessed. This assessment must make it possible to develop new, better suited, tools, in liaison with the specialised associations and trade unions.



MEASURE 5

ENSURE VICTIMS THE POSSIBILITY OF REMAINING AND RESIDING IN THE COUNTRY EVEN WHEN THEY ARE UNABLE TO COOPERATE WITH THE SECURITY FORCES

Partially implemented



ACTIONS OF THE STATE

Under the terms of Article L 316-1 of the CESEDA, as amended by Law no. 2016-444 of 13 April 2016, Article 8, victims of trafficking in human beings who have lodged a complaint or provided testimony automatically benefit from the «private and family life» residence permit. For the record, the same article provides for the issuance of a residence permit for a THB victim when the accused is subject to a definitive conviction.

The French system bearing on trafficking victims' possibility of remaining in the country sets aside a particular status for victims of trafficking for sexual exploitation. The latter may benefit from a residence permit irrespective of whether or not they cooperate with the security forces¹³. Such a residence permit is nevertheless contingent upon the victim giving up all forms of prostitution.

13. L 316-1-1, CESEDA

RESIDENCE PERMITS ISSUED TO VICTIMS OF TRAFFICKING IN HUMAN BEINGS

	2012		2013		2014		2015		2016	
	1 st issuance	Renewal	1 st issuance	Renewal	1 st issuance	Renewal	1 st issuance	Renewal	1 st issuance	Renewal
Residence permit	5	13	2	12	2	11	1	25	4	32
Total residence permits	18		14		13		26		36	
Temporary residence permits P&FL	35	148	41	144	62	154	45	149	71	150
Total Residence permits P&FL	183		185		216		194		221	
Total	201		194		229		220		257	

Source : MI-DESD, 11 JUNE 2015



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The current system is not satisfactory.

The principle of non-discrimination implies the absence of discrimination between victims of trafficking and exploitation between them, depending on the forms of exploitation or their situation (their gender, age, nationality or extent of cooperation with the judicial authorities, etc.). And yet the current system only provides for the automatic issuance of a residence permit to victims of THB for sexual exploitation or, for the other forms of exploitation, for victims who have lodged a complaint or provided testimony in criminal proceedings.

The new Article L316-1-1 of the CESEDA makes the issuance of a temporary residence permit contingent upon cessation of involvement in prostitution. The law replaces the State's duty to assist and protect with prostitution victims' obligation to cease such involvement if they wish to benefit from this assistance or protection. The CNCDH cannot approve of such a provision, which is at odds with the principle of equal access to rights. What is more, implementation thereof at the very least appears uncertain given the difficulties of all kinds (economic, social, professional) encountered by persons wishing to find a route out of prostitution.

Access to the residence permit pursuant to Article L 316-1 comes across as difficult for several reasons. First of all, obtaining a residence permit is contingent upon lodging

a complaint or providing testimony. And yet a great many victims do not dare reach out to the judicial services for fear of reprisals for themselves or their family. Second, many trafficking victims have no birth certificate, passport or certificate of nationality. The difficulties obtaining such documents from the authorities of their country of origin, compounded by identification problems¹⁴ make it impossible to introduce a request for papers to be put in order via this method.

Moreover, application of Article L 316-1 of the CESEDA does not seem to be uniform territory-wide. Some prefectures only issue receipts of residence permits while the investigation has not resulted in the offenders being convicted. Whereas Article L 744-10 of the CESEDA extends the right to benefit from the asylum seeker's allowance (ADA) to people who have obtained a residence permit pursuant to Article L 316-1, in practice receipt holders do not always manage to exercise said right. Other prefectures refuse to grant HTB victims the possibility of remaining in the country solely on the basis of a receipt stating they have lodged a complaint, and proceed to question the investigation services on the content of the application. The circular of 19 May 2015 appears to encourage such practice¹⁵. This means that trafficking victims sometimes have their residence permit application rejected on the grounds

14. Trafficking victims are often required by networks to hold an asylum application with a false identity and false stories. It is this false identity that is therefore known to the prefectural departments. Proving a victim's real identity is no simple matter, and requires the latter to be in contact with the authorities of his or her country.

15. As required by the situation, [the] services [of the prefecture] may forward a request to the competent investigation services for the purposes of obtaining additional information to process applications».

that the complaint lodged has become the subject of an investigation solely about undeclared work – even when the victim has not been informed thereof, does not know the reasons therefore and does not have any way of objecting thereto.

Issuance of the permit is still dependent, therefore, on the qualification retained by the gendarmerie/police services, and then by the public prosecutor. For sexual exploitation victims, it is easier to obtain a permit no matter whether they are also known to be victims of trafficking in human beings at the time they lodge a complaint or not, insofar as the offence of pimping is also mentioned in Article L. 316-1 of the CESEDA. This is not the case for other forms of exploitation, however. Due the complexity involved in characterising the constituent parts of trafficking that are closely related to exploitation, legal action is usually taken on the sole grounds of an instance of exploitation (for example undignified working conditions), which does not entitle the victim to a right to stay pursuant to Article L 316-1.

In order not to distinguish between victims of exploitation, the CNCDH recommends amending the text of this Article, by extending the scope of its beneficiaries to include victims of offences corresponding to the grounds of exploitation of trafficking in human beings mentioned in Article 225-4-1 of the French Criminal Code.

Very few residence permits for humanitarian reasons (L 313-14 of the CESEDA) are issued to victims of trafficking in human beings.

The CNCDH applauds the remarkable efforts of the OFPRA this year bearing on recognition of the refugee status for victims of trafficking for sexual exploitation, but it notes that this alternative to Article L 316-1 for securing the situation of THB victims is only valid for some of them.

For all these reasons, the CNCDH recommends more fundamentally separating the residence permit issuance procedure from criminal justice proceedings

Precedence must be given to securing the situation of victims, as well as to their assistance. Legalisation, or regularisation, of their residence by automatically issuing a residence permit is an essential provision. On the one hand, this guarantees their access to justice and restoration of their economic and social rights and, on the other, it above all prevents the same offences from being committed against them. This is why the CNCDH recommends setting up a national identification and guidance mechanism (see measure 1) and the recognition of a residence permit for foreign THB victims identified as such by the national authority that would be responsible for implementing this mechanism. In this way, any trafficking victim who is a foreign national would be permitted to stay on French soil, whether or not they cooperate with the judicial authorities. This is, incidentally, what is stipulated in several international pieces of legislation to which France is party (Warsaw Convention, Protocol to the Forced Labour Convention, ILO).

The CNCDH therefore recommends automatically issuing to any foreign national – including Community nationals subject to transitional arrangements – with regard to whom concordant facts (detailed account of the person, monitored by a specialised association or trade union, evidence gathered by the authorities or any other available piece of information) imply that s/he is a victim of trafficking or exploitation :

- temporary residence permission for a minimum duration of six months, which includes a work permit;
- followed by a one-year «private and family life» temporary residence permit, which also includes a work permit, and is automatically renewed for the time it takes the victim to effectively exercise their rights to justice and to have their economic and social rights restored.

Regarding the procedure for issuing these residence permits, the CNCDH recommends:

- planning a simple procedure;
- exempting foreign victims with no financial means from fees associated with the issuance of these residence permits or, at the very least, deferring the payment thereof.



MEASURE 6

FACILITATE THE CHOICE OF ADMINISTRATIVE DOMICILE WHEN VICTIMS SUBMIT THEIR APPLICATION FOR RESIDENCE DOCUMENTS

Partially
implemented



ACTIONS OF THE STATE

The Law of 13 April 2016 introduced the possibility of victims of trafficking in human beings choosing administrative domicile with their lawyer or an association acting in the field of THB (Art. 706-40-1 of the French Code of Criminal Procedure).



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The possibility opened up by the Law of 13 April 2016 is subject to a twofold condition:

- to be able to benefit from this right, the THB victim must «contribute through [their] testimony to bringing out the truth»,
- their life or physical integrity must be «in serious danger on national soil».
- In practice, such conditions risk considerably restricting the victim's right to choose domicile with an association.

What is more, limiting the possibilities of administrative domicile to associations acting in the field of THB alone is problematic. Such wording is extremely limiting, since there are relatively few associations working specifically in this field in some areas – especially when it comes to trafficking for labour exploitation. Associations taking care of THB victims and/or guiding them in their formalities are not necessarily associations whose remit is explicitly associated with the fight against trafficking or exploitation (such as Secours catholique or Cimade for example).

Given the restrictive nature of these conditions, the CNCDH recommends repealing them: it should be possible for THB victims to elect domicile with their lawyer, an association (without specifying its remit) or a trade union – irrespective of their involvement in the criminal justice procedure and the extent to which their life may be in danger.



ME&SURE 7 INCREASE AND ADAPT THE SOLUTIONS FOR ACCOMMODATING TRAFFICKING VICTIMS

Partially
implemented



ACTIONS OF THE STATE

A trial has been initiated in Paris, under the auspices of the MIPROF and particularly involving the Public Prosecutor's Office, the City of Paris and the association AFJ : the purpose of the agreement, signed in October 2016, is to set up a protection arrangement whereby adult sexual exploitation victims, whether the plaintiffs or engaged in a court procedure on trafficking in human beings. During its experimental phase, the scheme bore on five accommodation places at the most, in an apartment under the City of Paris contingent and leased to the association AFJ.

Article 6 of the Law of 13 April 2016 registers THB or pimping victims on the list of priority target groups for being allocated a place in social housing.



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The provisions of the plan were only partially put into practice.

The first finding concerns the overcrowding of accommodation options, whether they are specialised in housing THB victims or general in nature.

The needs across the territory were not identified. The 360° territorial assessments do not mention any THB victims and only contain a section on violence against women. There is also no clear identification of stakeholders across the territory – this would be all the more invaluable since the victims can be moved on several occasions by the networks.

The second finding is that specific accommodation measures are aimed more particularly at women in the context of female victims of violence schemes, or the fight against prostitution. It also seems that precedence is given to documented victims, which automatically brings to light a discrimination between documented trafficking victims and undocumented victims.

Based on the example of the experimental agreement establishing a partnership between the Paris Public Prosecutor's Office and association AFJ, it would be worth signing more agreements between associations and judicial services in the event of a THB network being dismantled, in order to anticipate the number of necessary safe house accommodation places.

The Ac.Sé safe house accommodation scheme works well, but is based on the principle of removing the victim from the area, a condition which is not suitable for all victims requiring such accommodation.

The CNCDH recommends more widely rolling out experimental schemes for protecting and accommodating victims of THB or exploitation.

This is because it is necessary to be able to benefit from a range of accommodation options with account taken of the diversity of victims' situations. In this regard, the CNCDH is dismayed that certain accommodation schemes managed by the associations sector cannot access public financing because the Regional and Inter-Département Directorate for Accommodation and Housing (DRIHL) does not consider them to be on a large enough scale. And yet these small-scale schemes meet a specific care need and guarantee more effective support for certain victims of trafficking in human beings.

The number of accommodation and social reintegration places able to cater for women with children should also be increased (only two centres exist at present).



MEASURE 8 DEVELOP AND PROMOTE THE SECURE RECEPTION PROVIDED FOR BY THE AC.SÉ SCHEME

Partially
implemented



ACTIONS OF THE STATE

The scheme relies on a network of partners comprising 50 reception centres and 18 services or associations specialising in identifying and assisting trafficking victims (sexual exploitation, forced labour, domestic servitude, forced begging, etc.). Thanks to this network, it was possible to organise the care of 76 victims of trafficking in human beings or exploitation in 2016 (compared with 70 victims in 2014)¹⁶.

-The circular dated 19 May 2015 of the Ministry of the Interior on *conditions for being allowed to stay in the country*, under Article L 316-1 of the CESEDA, urges the prefecture services to inform potential victims of THB about the Ac.Sé scheme.

This is jointly funded by the Ministry of Social Affairs, Health and Women's Rights (Women's Rights and Equality Service), Ministry of Justice (Department for Access to Law and Justice and Assistance for Victims) and City of Paris (Gender Equality Observatory).

16. For data on the Ac.Sé scheme see Bilan des activités du Dispositif National Ac.Sé année 2016 <http://acse-alc.org/fr/a-propos-d-ac-se/qui-sommes-nous>



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The Ac.Sé scheme works well and anti-THB advocates are now fairly familiar with it, but the CNCDH regrets that it has still not been extended as initially planned; this is all the more necessary given that the scheme is now better known, often called on and is now stretched to capacity.

The cut in funding allocated by the City of Paris to the Ac.Sé scheme in 2016 (with the grant likely to cease from 2018) is cause for concern when demand is rising.

The majority of people offered care by the scheme are victims of trafficking for sexual exploitation (96%)..

The CNCDH recommends extending the beneficiary groups of this scheme to include all THB victims, irrespective of the form of exploitation in question.

In order to increase the number of available places, the CNCDH recommends disseminating a circular of the Ministry of Social Affairs to encourage accommodation and social reintegration centres (CHRSs) to join the Ac.Sé scheme.

The administrative situation of THB victims should not determine their access to such centres, and yet many CHRSS refuse to offer safe house accommodation to this type of victim.



MEASURE 9 DEVELOP A ROUTE OUT OF PROSTITUTION

Not
implemented



ACTIONS OF THE STATE

Article 5 of the Law of 13 April 2016 and Decree of 28 October 2016¹⁷ organise the route out of prostitution.

This route must be defined in light of the health, professional and social needs of the victim and enable the latter to develop an integration plan for accessing alternatives to prostitution. Any association offering assistance and guidance to struggling victims, and which is accredited to that effect, may, with the agreement of the person concerned, help to develop and implement this route.

The Prefect authorises involvement in the route as well as its renewal, after consulting with a committee set up within the Département-level Council for Preventing Delinquency (CDPD), on which representatives of the State, local authorities, a judge, health professionals and representatives of associations sit. This body is responsible for monitoring progress along the route, and particularly with ensuring the safety of the person being assisted and that they honour their undertakings.

17. Decree no. 2016-1467 of 28 October 2016 on the route to social and professional integration and out of prostitution and the accreditation of associations involved in developing and implementing it



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

As a general rule, the CNCDH does not support the fact that this measure, formulated in this way, features in the action plan action against trafficking in human beings, insofar as it tends to confirm, once again, the idea that only trafficking for sexual exploitation requires tough action on the part of the public authorities. Victims of other forms of exploitation or trafficking are excluded from such a scheme. It would be necessary to extend the protection and accommodation measures to include all victims of trafficking and exploitation, whatever form this exploitation takes.

Regarding the scheme itself and the provisions of the Law of 13 April 2016 and Decree of 28 October 2016, the CNCDH finds that progress has been slow coming. The first committees were set up recently and only one of them (Nice) has started to examine applications submitted by associations. In practice, no information has been forthcoming on the running of these committees or the conditions for allocating places¹⁸, or on the type of social and professional support (what type of training for example?) to be set up.

18. No place has been allocated to date, as all 22

The CNCDH notes that the temporary residence permission granted to a victim embarking on a route out of prosecution requires unwavering commitment on the latter's part, which can prove problematic given that, in practice, victims of sexual exploitation are likely, because of their vulnerability, to be subjected to exploitation again during their care procedure.

More broadly speaking, the CNCDH recommends doing away with the notion of «route out», which implies that leaving prostitution is simply a case of following predefined steps and does not take account of individual situations.

each person, based on their own experience and situation, has specific needs, will progress along their route at their own pace and may fall back into prostitution without that calling into question their genuine commitment to their integration plan.

What this therefore calls for is a «social and professional integration plan» as a condition for sustainable reintegration, rather than a «route out». This plan, which would highlight the personalised support aspect, would give the victim a fully-fledged active part to play in developing and implementing it.

applications submitted to the Nice committee to date have been rejected (hearing before the CNCDH of L'Amicale du Nid on 26 April 2017).



MEASURE 10

PROVIDE SPECIALISED GUIDANCE FOR CHILD TRAFFICKING VICTIMS THROUGH CHILD PROTECTION

Not implemented



ACTIONS OF THE STATE

The instruction of 17 November 2016 on the procedures for assessing unaccompanied minors¹⁹ provides that the assessor be « *attentive to all signs of exploitation or influence of which the assessee may be victim. S/he shall inform the victim of the rights afforded to victims of exploitation or trafficking in human beings, and ensures that they are guided in lodging a complaint* »..



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

With the exception of this special attention paid to the identification of unaccompanied minors who are victims of trafficking or exploitation, no specialised guidance for child victims of THB has been set up through child protection. In most cases, Child Protection Services (ASE) rely (or even delegate responsibility to) the remit of the few existing associations.

As for the new mission entrusted to teams in charge of socially assessing unaccompanied minors, this requires that they be given suitable training, which is not always the case.

The CNCDH draws attention to the fact that THB does not only concern unaccompanied minors. It therefore encourages the MIPROF to press on with its efforts to raise awareness among ASE and PJJ staff about the phenomenon of exploitation and trafficking of minors. More specifically, training for such staff should cover aspects bearing on recognition of this problem and the specific needs of child victims of THB.

19. Ministry of Justice, Instruction of 17 November 2016 adopted pursuant to Decree no. 2016-840 of 24 June 2016 on the procedures for assessing unaccompanied minors who are temporarily or definitively without the protection of their family.

The CNCDH recommends that Child Protection Services set up care arrangements as required by child victims of THB. It feels that such arrangements should involve the protection and support of children as well as compensation. To that end, the CNCDH asks the public authorities:

- to ensure full protection for child trafficking victims within the child protection ordinary law system. The presumption of minority should automatically be applied in cases of doubt as to a child's age. These minors must systematically receive support from an ad hoc administrator, if they are alone or in danger within their family.
- to give these minors unconditional support and care as required by their situation. Close coordination on an ongoing basis between the public services and associations working with these child victims or potential victims is essential. This must provide them with the conditions for accessing the fundamental rights ensuring that they can receive medical treatment, safe accommodation, appropriate education, training and decent living conditions ... without overlooking cultural and recreational activities. It requires clear commitment on the part of the State through lasting financing, dialogue and constant pooling of approaches and resources for accessing rights with the network of specialised associations.
- to ensure that compensation mechanisms are set up for these child victims. When monitoring these young people, the public authorities must

take a long-term view as regards all the different plans (justice, training, living conditions). They must particularly ensure that this compensation process does not abruptly stop when young people reach their majority, but that this key stage form an integral part of their recovery.

- to prepare the transition into adulthood: young victims must continue to be supported beyond 18 years of age.

In the event the child's family members are identified on national or foreign soil, returning the child to their country of origin should not be automatic. The child's best interests must always be considered, and their return planned in close liaison with the local French consular services.



MEASURE 11

DEFINE APPROPRIATE PROTECTION FOR MINORS WHO ARE BOTH OFFENDERS AND VICTIMS

Not implemented



ACTIONS OF THE STATE

A trial has begun in Paris with a view to protecting child THB victims. It is based on an agreement signed on 1 June 2016 by the Paris Police Prefect, the Public Prosecutor to the Paris regional court, the Paris City Council and *Département*-level Council, the President of Paris regional court, the Director of Judicial Youth Protection Services (PJJ), the General Secretary of the Cross-Government Committee for the Prevention of Delinquency, the Chair of the Paris Bar Association, the Director of the association Hors la Rue and the MIPROF.

With the aim of setting up a protection apparatus, there are two overarching thrusts to this trial: removing the child victims from the area on the one hand and training specialist educators capable of dealing with these very particular situations on the other.

To date, 50 Nigerian child victims of sexual exploitation have benefited from this scheme, well beyond the target initially set of a few minors.



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

To begin, the CNCDH points out that it is not appropriate to talk about minors « *who are both offenders and victims* ». These minors are not «offenders» perpetrating criminal acts, but victims of trafficking and/or exploitation, and in the context of this exploitation they are forced to commit crimes. In this respect, the principle of non-criminalisation should always be applied. The CNCDH feels that this measure 11 raises a number of questions and does not provide an appropriate solution for assisting child victims who have been forced to commit crimes. These minors must be able to access the child protection ordinary law system fully and unconditionally.

Minors who are forced to commit crimes are still all too often cast initially in a criminal light, and sometimes even convicted as such, before they are recognised as being victims.

The CNCDH urges the police departments and judges to keep a particularly careful eye out for phenomena of exploitation of minors who are forced to commit crimes. The training designed with them in mind

must take this issue on board so as to put an end to the «double penalties» to which these minors are subject.

Lastly, regarding the trial set up in the context of measure 11, the CNCDH once again draws attention to the fact that the scheme only covers the Paris region: it should be rolled out nationwide and similar agreements should be undertaken by the Child Protection services in each Département.

The CNCDH also makes the observation that the scheme was supposed to benefit THB victims forced to commit crimes, but amid the escalating problem of sexual exploitation among young Nigerian girls, the scheme has ended up assisting the latter instead. This assistance was of course necessary, and the CNCDH is delighted that more minors were able to benefit from the scheme; but some associations believe it is not accomplishing what it was initially set up to do.

The CNCDH recommends opening the scheme up to all child THB victims, with care being taken that the educators are trained in the different forms of exploitation and the specific features of each type, so as to ensure that child victims are lent suitable assistance.

PRIORITY 2

DISMANTLE NETWORKS



MEASURE 12
ENSURE THAT PUBLIC PROSECUTORS' OFFICES
MORE FREQUENTLY DECIDE TO CRIMINALISE TRAFFICKING

Partially implemented



ACTIONS OF THE STATE

On 22 January 2015, a circular setting out criminal law policy on action against trafficking in human beings

was published so as to remind judges of the constituent elements of THB and to encourage them to prosecute more often on these grounds with a view to issuing more systematic convictions for this offence²⁰.

20. Ministry of Justice, Circular of 22 January 2015 setting out criminal law policy on action against trafficking in human beings

Offenders prosecuted for THB offences

Year	THB broad scope	TEH strict scoop
2012	815	133
2013	822	95
2014	898	100
2015	901	153

Source : SDSE - SID - table lab_longi - extraction December 2016

The data presented above has been extracted both in terms of «the strict scope» (comprising only those offences defined by Articles 225-4-1 et seq. of the criminal code) and of «the broad scope» (comprising the following 9 groups of offences: substandard housing or working conditions, forced begging, trafficking in human beings, pimping, recourse to prostitution, organ trafficking, enslavement, forced labour).

List of convictions associated with trafficking in human beings

Units of account	Group	2011	2012	2013	2014	2015*
Convicted	Different people concerned Broad scope	597	707	688	701	838
	Different people concerned THB scope	16	22	64	83	

Source : casier judiciaire national – 2016 *2015 : provisionnal data



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

Public prosecutors responsible for cases of sexual exploitation, especially in Paris, often prosecute instances of sexual exploitation in relation to a THB offence. From this point of view, the justice system is more involved in the fight against THB.

Depending on public prosecutor's office, and within the same office depending on the activity sections considered, differences can be observed in the assessment of proceedings to be carried out in relation to a THB offence. These are particularly noticeable at the Paris public prosecutor's office, between the section devoted to tackling organised crime (responsible for fighting against THB for sexual exploitation), which is relatively proactive in THB matters, and the finance section (responsible for THB for labour exploitation), which seldom institutes criminal proceedings in relation to this accusation, focusing more on lesser offences which therefore receive lighter sentences.

Furthermore, the CNCDH wonders about the relevance of dividing cases up between the different sections of the public prosecutor's office, when trafficking for labour exploitation often happens in the context of organised crime.

The CNCDH notes that the circular of the Ministry of Justice does not stipulate that one of the acts under Article 225-4-1 of the Criminal Code (recruitment, transportation, accommodation, etc.) alone is enough to characterise THB, which can lead to

diverging interpretations and explains why some criminal proceedings are not instituted on the grounds of a trafficking in human beings offence. The CNCDH invites the Minister of Justice to publish a new circular to increase understanding of this offence and its constituent elements, all the while stressing the need for public prosecutor's offices to work more often with associations and trade unions, as they are likely to provide them with information for instituting proceedings.

Along the same lines, the CNCDH recommends increasing training for judges in this issue, both during initial training (there is nothing at this level to date) and continuing professional development, and by making sure that associations and trade unions are involved in this training, which will address the issue of THB in all its forms – particularly trafficking for labour exploitation.



MEASURE 13

EXTEND THE REMIT OF LABOUR INSPECTORS TO INCLUDE THE REPORTING OF TRAFFICKING IN HUMAN BEINGS OFFENCES

Implemented



ACTIONS OF THE STATE

The Law of 13 April 2016 empowered labour inspectors with the possibility of reporting a THB offence (Article L. 8112-2 of the Labour Code).



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The remit thus accorded to labour inspectors is insufficient if it does not come hand-in-hand with effective training on the matter.

The CNCDH therefore recommends including a module on trafficking in human beings in both initial training and continuing professional development alike.

The CNCDH also invites lawmakers to guarantee the right to remain in the country for people whom the labour inspectorate have identified as victims of THB or one of the forms of exploitation listed in Article 225-4-1 of the Criminal Code.

In order to guarantee protection for any worker against labour law violations in sectors particularly grappling with problems of trafficking or exploitation, the CNCDH recommends not requiring labour inspectors to inspect and denounce, in the exercise of their missions, the irregular situation of foreign workers, or to participate in

operations aimed at cracking down on irregular immigration (abolition of Para. 4 of Article L. 8112-2 of the Labour Code).



MEASURE 14
GET TRACFIN INVOLVED
IN ACTION AGAINST TRAFFICKING

**Not
implemented**

The information collected by the CNCDH does not make it possible to evaluate whether or not this measure has been implemented.



MEASURE 15

PROMOTE, WITHIN THE DIFFERENT INTERNATIONAL SETTINGS, AN INTEGRATED APPROACH TO TRAFFICKING (PREVENTION, SUPPRESSION, PROTECTION AND PARTNERSHIP)

Implemented



ACTIONS OF THE STATE

At international level, France is working towards the effective and universal application of the Protocol to the United Nations Convention against Transnational Organized Crime (UNTOC, also called the «Palermo Convention»), to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

In 2012 and 2014, at the United Nations General Assembly, France supported the resolution «Trafficking in women and girls» (Resolution 69/149) and the resolution «Permanent memorial to and remembrance of the victims of slavery and the transatlantic slave trade» of 2013 and 2014 (Resolution 69/19) respectively.

During its presidency of the Security Council in June 2016, France organised an open debate on the link between sexual violence and trafficking in human beings, with the UN Secretary-General, Special Representative of the Secretary-General on Sexual Violence in Conflict, Zainab Bangura, and the Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro. This meeting drew attention to both the

sexual slave trade practices of certain terror groups, Daesh among them, and the greater vulnerability of women refugees to human trafficking networks and to sexual violence.

In December 2016, during Spain's presidency of the Security Council, the Council unanimously adopted, with France's support, a resolution clearly recognising the link between trafficking in human beings, sexual violence and terrorism as a threat to international peace and security. Resolution 2331, which calls Member States to take decisive and immediate measures to prevent and suppress trafficking in human beings – not least in the context of armed conflict – asks the Secretary-General to present a report by the end of 2017.

The Minister for Women's Rights spoke during the 60th session of the Commission on the Status of Women in New York during a side event organised by France on trafficking in human beings in conflict situations.



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The CNCDH praises the work accomplished by the Ministry of Foreign Affairs to ensure that the issue of trafficking in human beings is given greater shrift in international bodies.

The CNCDH finds that French associations have played their full part in these institutional efforts to promote an integrated approach to THB. Many of them have thus taken part in round tables or side events during various international or regional summits, at which they were sometimes able to speak in the context of plenary sessions. They have been able to present their work and the training tools they have developed.

The CNCDH finds it regrettable that the Ministry of Foreign Affairs did not cooperate more with civil society on the matter and thus recommends that the Ministry support the associations and trade unions committed to working on the international stage to step up the fight against THB. Constructive partnerships could be forged.



MEASURE 16

ENCOURAGE OUR PARTNERS TO RATIFY EXISTING INSTRUMENTS

Partially
implemented



ACTIONS OF THE STATE

At the United Nations General Assembly, France and the European Union gave their backing to the initiative for a Global Plan of Action to Combat Trafficking in Persons, adopted in 2010. France nevertheless highlighted that this initiative should not distract the international community from the goal of universally ratifying the Palermo Convention and the Protocol thereto. At present, these have been ratified by 186 States.

Like 186 other States, France adopted the Protocol of 2014 to the International Labour Organisation's Forced Labour Convention no. 29 (1930). It was among the first States to ratify it in 2016.



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

France should play a more active part in the ILO's campaign for a rapid and universal ratification of the Protocol of 2014 to the *ILO Convention no. 29*.

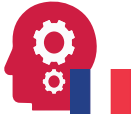
France did not ratify the *Domestic Workers Convention* (no. 189, 2011), considering that the guarantees offered to such workers under French law are greater than those provided for in this treaty. The CNCDH does, however, consider that, by ratifying it, France would help to promote this international instrument among other non-signatory States. Moreover, this would help to counter any doubts over current legislation, or collective agreements, on the subject. Further, although France ratified the *Migration for Employment Convention* (no. 97), it has not ratified the *Migrant Workers (Supplementary Provisions) Convention* (no. 143) which particularly addresses «manpower trafficking».

France has not ratified the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (1990) either, even though several of its stipulations contribute to the fight against trafficking – particularly for

the purposes of forced labour, slavery and enslavement. The Ministry of Foreign Affairs justifies this decision not to ratify it on the grounds that it is the European Union that is competent for ratifying it, since immigration policy is a matter for the European Union (Articles 79 and 80 of the Treaty on the Functioning of the European Union (TFEU)). The CNCDH questions the relevance of this reason, since this Convention does not strictly speaking concern France's migration policy, rather the guarantee of migrants' rights, which comes fully within Member States' remit.

To afford full protection to victims of labour exploitation, the CNCDH recommends that France ratify, as swiftly as possible:

- the ILO's *Domestic Workers Convention* (no. 189)
- the ILO's *Migrant Workers (Supplementary Provisions) Convention* (no. 143)
- the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*



MEASURE 17

ENSURE THE PRESENCE OF FRENCH EXPERTS IN INTERNATIONAL ORGANISATIONS

Implemented



ACTIONS OF THE STATE

Through international cooperation it is possible to organise technical assistance with the other countries – not least trafficking victims’ countries of origin. However, the sustainability of such technical assistance largely depends on the economic stability of these countries, and in this light cooperation requires ongoing efforts to adapt to the circumstances.

The objectives of this cooperation are to prevent trafficking offences and protect victims. In 2012, the services of the Ministry of Foreign Affairs commissioned a private firm with evaluating their action against trafficking in human beings. This firm recommended four strands to the ministerial services’ action: act on the consular continuum, develop the multidimensional and multi-stakeholder approach to trafficking, strengthen the Rule of Law (through their action with civil society in Africa) and step up the inter-regional approach to trafficking in human beings (by factoring in the inter-penetration of networks in the territory).

At present cooperation takes concrete form through the funding of the OSCE’s actions as well as through bilateral

cooperation with two priority target areas: South-East Europe (11 countries of the Balkans) and West Africa. In the former region, there are three objectives underpinning the strategy: identify minors headed for France, promote their enrolment in school and develop the capacity of institutional bodies in Bucharest and Belgrade. In West Africa, the priority is to bolster regional cooperation and manage very specific projects – a priority solidarity fund had been developed to finance these actions. But this fund has run out and a request for funding has been submitted to the European Union. The lack of funds has in turn reduced the number of territories benefiting from this cooperation. Finally, five countries in Eastern Europe and 11 in Africa have cooperated with the services of the Ministry of Foreign Affairs.

A network of points of contact was also set up on 20 July 2014, grouping together the diplomatic positions of 17 countries of origin where trafficking in human beings is a particular problem, with a view to developing cooperation and exchange of information.

Different French experts participate in international organisations: one official is representing the fight against trafficking in human beings at the United Nations Office on Drugs and Crime (UNODC), while another

takes part in the OSCE (Organisation for Security and Co-operation in Europe).

One French female judge works at the United Nations Office in Vienna to ensure ongoing collaboration with foreign experts. She is particularly pushing for closer ties between the French institutions and South-East European countries to improve the quality of assistance provided to child victims of trafficking or at risk of trafficking and the sharing of information.

The Ministry of Foreign Affairs has earmarked €417,500 for the setup of expert appraisals in connection with THB within international organisations.



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The CNCDH encourages the Ministry of Foreign Affairs to inform civil society about what is being done in this field and to ensure coordination with the associations and trade unions which sometimes sit (often as observers) on these bodies.



MEASURE 18

DEFINE AN ANTI-TRAFFICKING COOPERATION AGENDA AT EUROPEAN AND MULTILATERAL LEVEL

Partially implemented



ACTIONS OF THE STATE

A European network for victims' rights – no matter what the offence – was set up in 2016, with a view to strengthening their fundamental rights, irrespective of their nationality or the country in which the offence was committed.

The MIPROF also takes part in meetings of national rapporteurs at the European Commission and Council of Europe as well as European and international symposia.

Regarding action against networks, the Ministry of Justice takes part in various work and coordination seminars organised at international level. What is more, a wide range of initiatives enabling exchange of information and stronger international cooperation are listed with the jurisdictions (public prosecutor's offices of Lille, juvenile prosecution service of Paris regional court, Specialised Interregional Court of Bordeaux). The number of joint investigation teams progressed for 2015.

Within a multilateral setting, the Ministry of Foreign Affairs finances anti-trafficking programmes implemented by UNODC and the OSCE, which both have their headquarters in Vienna. Within a bilateral setting, its cooperation actions largely rely

on a regional approach: measures focusing more specifically on certain countries are conducted by the cooperation apparatus and technical experts in areas where this type of crime is a particular problem, for example: the Balkans and nations around the Gulf of Guinea.



MEASURE 19

SECURE TECHNICAL ASSISTANCE FOR COUNTRIES OF ORIGIN (, TRANSIT) AND DESTINATION OVER THE LONG TERM

Partially
implemented



ACTIONS OF THE STATE

Through international cooperation it is possible to organise technical assistance with the other countries – not least trafficking victims' countries of origin. However, the sustainability of such technical assistance largely depends on the economic stability of these countries, and in this light cooperation requires ongoing efforts to adapt to the circumstances.

The objectives of this cooperation are to prevent trafficking offences and protect victims. In 2012, the services of the Ministry of Foreign Affairs commissioned a private firm with evaluating their action against trafficking in human beings. This firm recommended four strands to the ministerial services' action: act on the consular continuum, develop the multidimensional and multi-stakeholder approach to trafficking, strengthen the Rule of Law (through their action with civil society in Africa) and step up the inter-regional approach to trafficking in human beings (by factoring in the inter-penetration of networks in the territory).

At present cooperation takes concrete form through the funding of the OSCE's actions as well as through bilateral cooperation with two priority target areas: South-East Europe (11 countries of the Balkans) and West Africa. In the former region,

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A network of points of contact was also set up on 20 July 2014, grouping together the diplomatic positions of 17 countries of origin where trafficking in human beings is a particular problem, with a view to developing cooperation and exchange of information.



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The CNCDH encourages the Ministry of Foreign Affairs to communicate more clearly on these cooperation and assistance efforts, particularly with civil society. The associations and trade unions supporting THB victims could usefully benefit from such information, and this would help them in the steps they can take in victims' countries of origin.

Furthermore, the CNCDH calls on the Ministry to assist NGOs in their requests for European funding.

PRIORITY III

TURN THE FIGHT AGAINST TRAFFICKING INTO A PUBLIC POLICY IN ITS OWN RIGHT



MESURE 20

A PLAN MONITORED AND COORDINATED BY A PROJECT MANAGER

Partially
implemented



ACTIONS OF THE STATE

The MIPROF oversees national coordination in terms of action against trafficking in human beings.



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

Over the three years of the application of the national action plan against trafficking in human beings, the MIPROF has had to report first to the Ministry for Women's Rights, then to the Ministry of Social Affairs, Health and Women's Rights and finally to the Ministry for Families, Children and Women's Rights. Today it is attached to the Minister of State for Gender Equality.

In addition to its mission to coordinate the fight against trafficking in human beings, the MIPROF also coordinates efforts to tackle violence against women, and in practice it visibly devotes more time to this part of its remit. You only have to consult the Web page devoted to the MIPROF on the Ministry's website to see this for yourself: action against trafficking in human beings is not mentioned anywhere, and the page contains a link to the website «stop-violences-femmes.gouv.fr».

What is more, it can be observed that the MIPROF's priorities in terms of THB for the most part concern trafficking for sexual exploitation, to the detriment of the other forms of trafficking.

Entrusting coordination of the fight against trafficking in and exploitation of human beings to the MIPROF is therefore problematic on two accounts. One, this responsibility undermines clarity as regards the fight against trafficking in human beings and implies that this fight is merely part of the broader scope encompassed by efforts to tackle violence against women – the understanding being that trafficking in France is limited to trafficking for sexual exploitation. Two, in practice, the fight against trafficking in and exploitation of human beings does not form part of a policy in its own right, one overseen by a specific managing body with adequate human and financial means.

Effective implementation of the National action plan therefore calls for the setup of a cross-government delegation or mission that is specifically tasked with coordinating the prevention and fight against trafficking in human beings and the protection of victims. The aim here is not to lambast the work accomplished by the MIPROF, which, on the contrary should be applauded; it would also merit remembering that it was the MIPROF that championed the first national action plan against trafficking in human beings, with very little means at its disposal. But the fact of the matter is that by entrusting coordination of the fight against trafficking in and exploitation of human beings to the MIPROF – which was already responsible for overseeing an ambitious policy to tackle violence against women – it has not been possible to turn this fight into a public policy in its own right.

The CNCDH feels that coordination of the fight against trafficking in human beings and implementation of the National action plan requires setup of a cross-government body (delegation or mission) that is specifically and solely given over to taking action against trafficking in and exploitation of human beings.

For the sake of the system's authority and clear remit, to shore up the proper cross-government dimension of this body and to ensure that all forms of trafficking and exploitation are taken into account, this body must be attached to the Prime Minister. This cross-government body will have to accommodate an observatory on trafficking in and exploitation of human beings, which will be able to provide not just statistics on victims and offenders, but also qualitative analyses on the phenomenon, with which it will be possible to create awareness-raising and training tools. The CNCDH also considers that the necessary human resources will have to be allocated to this body when it is set up to ensure it operates effectively.



MESURE 21

A FUND DEDICATED TO TRAFFICKING VICTIMS AND THE INTEGRATION OF PERSONS ENGAGED IN PROSTITUTION

Partially implemented



ACTIONS OF THE STATE

Although the MIPROF does not have its own budget, since 2014 dedicated funds have at least been ring-fenced for action against trafficking in human beings. Indeed, since the 2014 finance legislation, within programme 137 «Gender Equality», there has been an action no. 15 given over to «preventing and combating prostitution and trafficking in human beings».

The Law of 13 April 2016 aimed at stepping up the fight against the prostitution system and supporting persons engaged in prostitution has established a fund for preventing prostitution and providing social and professional guidance to persons engaged in prostitution. This fund benefits from three types of financing:

- State funds, through programme 137;
- revenue from the confiscation of assets and income from persons and networks found guilty of trafficking in human beings and of pimping, implemented by the Agency for the Management and Collection of Seized and Confiscated Assets (AGRASC);
- an amount, determined annually by interministerial instruction, deducted from the income from fines settled by persons having used the services of prostitution.

Accordingly €6.1m has been set aside to fund the mechanism for supporting a route out of prostitution in 2017 (including €3.8m for funding the financial social and professional integration allowance).

Moreover, there are funds enabling associations heading up the network in terms of combating prostitution and trafficking in human beings to receive subsidies – for a sum of €0.52m (versus €0.41m in 2016), particularly the associations «Amicale du nid», «Accompagnement lieu d'accueil» and «Mouvement du Nid».



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The CNCDH does not consider the funding allocated to the fight against trafficking in and exploitation of human beings to be sufficient in light of the stakes.

The title of action no. 15 «Preventing and combating prostitution and trafficking in human beings» and its inclusion in the Programme 137 do not enable the objective set in the national action plan – to clarify this policy – to be met; instead this is once again putting across a confused message and limiting the fight against trafficking in and exploitation of human beings solely to the fight against prostitution.

The budget for action no. 15 of Programme 137 prompts several remarks on the part of the CNCDH. First, the increase observed between 2016 and 2017 (+32.6%) is not all it seems to be, insofar as it does not correspond to additional efforts on the State's part, but is the result of a transfer of appropriations from Programme 204 to Programme 137 for an amount of €1m.

Second, the fund for preventing prostitution and for the social and professional guidance of persons engaged in prostitution comes from the confiscation of assets and income by the AGRASC, equating to the transfer of movable or immovable assets confiscated from persons found guilty of trafficking in human beings, pimping and subsequent offences. This source of funding strikes as uncertain and does not guarantee that the fund will be kept topped up in a continuous and certain

manner within the best possible timeframes.

Finally, the CNCDH is concerned that, for 2017, as had already been the case in 2016, almost all of the funds allocated to action against trafficking in human beings have actually only been put towards the fight against prostitution and assistance for prostitutes. There remain €0.52m for the other forms of trafficking and exploitation which will be given over – at national level – to financing associations heading up networks (Mouvement du nid, l'Amicale du nid, ALC and the CCEM), who do not all see support from the State increase.

On another note, the CNCDH finds it regrettable that the MIPROF is not allocated the financial means it needs to operate effectively.

It recommends creating a specific budget line for the MIPROF (or the interministerial delegation for the fight against trafficking and exploitation which it would very much like to come about), encompassing the mission operating budget and an intervention budget, enabling, on the one hand, direct funding of certain actions outlined in the National action plan and, on the other, for the sake of more effective management, for it to be the sole contact for associations in terms of validating and managing their grants on the basis of precise provisional work schedules and regular monitoring of their undertakings. This is already the case for other cross-government delegations²¹.

21. Such as the Cross-Government Delegation for the Fight against Racism and Anti-Semitism (DILCRA)

Under such conditions, any sense of efficiency in terms of rolling out the National action plan is wishful thinking, and this in turn considerably undermines the efficiency and even the very existence of the public policy against trafficking and exploitation that had been announced. The CNCDH thus considers today that the public authorities in France are not sufficiently committed to a genuine crackdown on trafficking in and exploitation of human beings in all its forms. The fight against trafficking and sexual exploitation has come more into the limelight in recent years, it is given greater consideration and should, in the short term, benefit from extra financial resources. But trafficking and exploitation for economic purposes, domestic slavery or forced labour, forced begging or forced offending are still not being addressed by the public authorities.



MEASURE 22

ENSURE COORDINATION OF ANTI-TRAFFICKING MEASURES AT DÉPARTEMENT LEVEL

CONTRE LA TRAITE

Partially implemented



ACTIONS OF THE STATE

The circular of the Ministry of Justice dated 22 January 2015 setting out criminal law policy on action against trafficking in and exploitation of human beings states that an annual meeting of Département-level Councils for Preventing Delinquency, Assisting Victims and Combating Drugs, Sectarian Aberrations and Violence against Women (CDPD) would be organised to coordinate all of the stakeholders in charge of protecting child trafficking victims.



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The Collective «Ensemble contre la traite des êtres humains» considers that calling this meeting on an annual basis is nowhere near often enough to resolve the problems of the current system, and stresses that trafficking in human beings – particularly children – should not be addressed solely from the point of view of combating crime.

The local public authorities must work more with the associations committed to helping THB victims.

What is more, the Département-level operational anti-fraud committees (CODAF) have not been educated in the THB issue. They are still primarily focused on cracking down on undeclared work – to the detriment of identifying THB victims. This is no doubt another sign of the clear divisions between Public Prosecutor Office sections.

The CNCDH therefore advises implementing the plan's recommendation to raise awareness in CODAFs. This would enable better detection of trafficking situations for labour exploitation on the one hand

and more effective action against THB offenders, while protecting their victims, on the other.

MESURE 23
A POLICY MONITORED AND ASSESSED BY
AN INDEPENDENT INSTITUTION: THE CNCDH

Implemented



ACTIONS OF THE STATE

The CNCDH has been appointed as the independent national rapporteur on the fight against trafficking in human beings. In this respect, it is tasked with performing the independent evaluation of the implementation of the plan and public policies on combating trafficking and exploitation.

In this context, in March 2016 the CNCDH published the first report on the evaluation of the implementation of the national action plan against trafficking in human beings. This report is based on constructive dialogue with the NGOs specialising in combating trafficking in human beings, and on the analysis of contributions from the public organisations in charge of tackling trafficking in and exploitation of human beings and the ministries concerned by the implementation of this public policy.

The CNCDH is also striving to raise the profile of the fight against trafficking and exploitation and, to that end, it organises or takes part in a number of different awareness and information events on the reality of trafficking in human beings in France.



COMMENTS AND RECOMMENDATIONS OF THE CNCDH

The CNCDH has endeavoured to successfully accomplish its mandate as independent national rapporteur, but it should be pointed out that it has not managed to fulfil all of the missions associated with this mandate because of insufficient human and financial means.

And yet Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011, and before that, the Warsaw Convention (2005), both provide that Member States take the necessary measures to establish national rapporteurs or equivalent mechanisms. According to Article 19 of the latter Directive and the 2009 recommendations of the CNCDH, the tasks of the mechanism shall include:

- knowledge of the phenomenon at national level, definition of trends;
- gathering of statistics;
- assessment of action taken to combat trafficking and exploitation;
- contact/cooperation with civil society;
- international point of contact, relationship with the international bodies;

- reporting to the government and Parliament

For these new missions, the CNCDH has been able to rely on its workforce, members and general secretariat, but to be able to deliver and fulfil its independent national rapporteur duties, the CNCDH must be able to adapt the way it works and receive the necessary means for strengthening its general secretariat.

For tasks requiring the gathering of statistics, knowledge of the phenomenon and assessment of public policies, it is crucial to be able to cooperate with public organisations (OCRTEH, OCLCO, DAV, MIPROF, etc.). For this cooperation to be operational, the CNCDH's role must be clearly defined and its work in liaison with the public anti-trafficking and anti-exploitation bodies formally documented. Definition of this role must involve the mandate of national rapporteur being laid down in the law, as stipulated by the National plan.

To successfully accomplish its national rapporteur duties, cooperation with civil society comes across as pressing. This is why the CNCDH, as part of its national rapporteur duties, has undertaken to work as effectively as possible with NGOs beyond its membership. But such cooperation with civil society must form a strong cornerstone of its activity. An ad hoc civil society college must thus be attached to the national mechanism and meet at regular intervals. The choice of which associations and trade unions are to sit on the college must be given to the CNCDH in complete independence. Stipulating the mandate of the independent national rapporteur in law would make this new duty official.

For the first national action plan against trafficking in human beings, the CNCDH fulfilled its mandate as independent national rapporteur with a constant workforce, which did not enable it to carry out the full scope of this mandate.

That said, the CNCDH has been able to shore up its legitimacy as a rapporteur, and it therefore intends to grow in the years to come. It would thus be necessary to put together a team at the CNCDH which is dedicated to the role of national rapporteur on trafficking in human beings. This new organisation requires scaling up the human and financial means made available to the CNCDH.

To illustrate, in the Netherlands, the National rapporteur on trafficking in human beings and sexual violence against children is assisted by a team of 14 people. The Rapporteur is independent and submits its reports to the Government. The government responds to reports in Parliament. The reports are public. The Rapporteur is not an organisation for processing complaints and does not have criminal investigation powers. But the Rapporteur and its staff do have access to criminal files in the possession of the police and judicial authorities.

**MAIN RECOMMENDATIONS AND
SUGGESTIONS FOR DRAFTING A SECOND
NATIONAL ACTION PLAN AGAINST
TRAFFICKING IN AND EXPLOITATION OF
HUMAN BEINGS.**

The work of the CNCDH is tending to show that the implementation of the National action plan is far from complete and that a good many measures have not, or only partially, been implemented.

The Plan drawn up by the Interministerial Mission for Protecting Women against Violence and Combating Trafficking in Human Beings (MIPROF) falls short of what is necessary. When drawing up the second national action plan, the public authorities must therefore get more involved and adopt measures aimed at making the fight against trafficking in and exploitation of human beings and the assistance offered to victims operational and effective: new financial means are necessary – ordinary law provisions should already have been applied, not least in terms of foreigners' rights, Child Protection and safe accommodation.


The fight against trafficking in and exploitation of human beings will only bear fruit if it is coordinated at all levels – national level especially. To achieve the priority of turning this fight into a fully-fledged public policy, it must be grounded in a series of coordinated actions, carried out and funded by the public authorities, with a view to bringing about a real change in the situation: prosecuting trafficking offenders and dismantling networks, identifying, protecting and assisting victims.


The CNCDH reiterates the need to combat all forms of trafficking in human beings, and is dismayed that the public authorities do not accord the same level of attention to all these forms. Beyond trafficking for sexual exploitation, victims of trafficking for economic purposes or domestic slavery, forced begging or offending are seldom identified as such by

the designated competent authorities.

Priority I. Turn the fight against trafficking in and exploitation of human beings into a public policy in its own right.


For the sake of the authority, profile and clear remit of the anti-trafficking and anti-exploitation system, the CNCDH recommends bestowing a general status upon it, rather than fostering an approach specific to exploitation of prostitution and trafficking to that end.

 In this regard, the CNCDH recommends setting up a cross-government body (delegation or mission) specifically dedicated to coordinating the fight against trafficking in and exploitation of human beings. To shore up the fully interministerial status of this body, to ensure that all forms of trafficking and exploitation are given consideration and to give visibility to victims of trafficking for economic purposes, domestic slavery, forced begging or offending (among others), who are too often overlooked today, this body must be attached to the Prime Minister.

 Effective implementation of the public policy against trafficking in and exploitation of human beings calls for significant, sustainable and transparent funding. This means not only allocating the necessary human and financial means to the coordinating body for the fight against trafficking in and exploitation of human beings for it

to operate effectively, but also granting the associations working for the respect of human dignity and the fight against all forms of exploitation of human beings the necessary means – concrete and lasting – to carry out their prevention and victim support actions. The CNCDH therefore invites the Government and lawmakers to revise the appropriations of the State’s budget programmes associated with the fight against trafficking and exploitation.

Priority II. Identify and assist the victims of trafficking in and exploitation of human beings

 The CNCDH invites the Ministry of the Interior and MIPROF to set up a harmonised procedure within the various government departments, as swiftly as possible, for identifying victims. This harmonised procedure could take the form of a circular setting out precise, common criteria for identifying victims. These indicators (or criteria) for identifying victims of trafficking and exploitation must be established in liaison with the specialised associations and trade unions that have spent many years developing tools and sound expertise in the field.

Furthermore, the CNCDH does not consider the monopoly that the police authorities have over identification to be satisfactory. The CNCDH therefore recommends, on the one hand, separating the procedure where potential THB victims are identified from the judicial procedure and, on the other, setting up harmonised

and shared identification procedures and tools. NGOs, which may be accredited, and trade unions could also be authorised to detect potential victims of THB. A national identification mechanism, overseen by an independent public authority, could be set up along the lines of the British mechanism.



To ensure that trafficking or exploitation victims receive the assistance they require, the CNCDH recommends:

- setting up personalised support for each trafficking victim and giving the victim a fully-fledged active part to play in developing and implementing their own reintegration plan;
- entitling all victims of trafficking to all of the assistance and protection measures, with no discrimination in terms of gender, administrative situation or form of exploitation;
- providing the specialised organisations tasked, as such, with a public service mission by assisting trafficking and exploitation victims with the physical resources and financial means.



In order to provide safe house accommodation for victims and their reception in suitable facilities, the CNCDH recommends that the public authorities:

- draw up a list of existing and available accommodation and reception facilities; this list being the prerequisite for the effective implementation of a programming of accommodation places for trafficking victims;
- not make the allocation of safe house accommodation conditional upon the victim’s stay being regularised;
- not prioritise access to accommodation based on the type of exploitation endured;

• give precedence to accommodation solutions suitable for trafficking and exploitation victims. In this regard, the CNCDH recommends more widely rolling out experimental schemes for protecting and assisting victims of trafficking or exploitation. This is because it is necessary to be able to benefit from a range of accommodation options with account taken of the diversity of victims' situations. The number of accommodation and social reintegration places able to cater for women with children should also be increased.



In order to prevent an extreme categorisation of residence permits and their discriminatory consequences, the CNCDH recommends that the law clearly state that all foreign victims of trafficking are entitled to remain on French soil, irrespective of the form of exploitation endured, and whether or not they cooperate with the judicial authorities. This cooperation should not, incidentally, be regarded as an objective criterion justifying the application of a different system – one that may be less favourable in the event of non-cooperation. On this subject, the CNCDH feels obliged to underline the fact that issuance of a residence permit is the prerequisite for integration, rather than the reward for this or for a behaviour which is, wrongly or rightly, deemed appropriate by the public authorities and law enforcement, or useful to them.

The CNCDH therefore recommends automatically issuing to any foreign national – including Community nationals subject to transitional arrangements – with regard to whom concordant facts (detailed account of the person, monitored

by a specialised association or trade union, evidence gathered by the authorities or any other available piece of information) imply that s/he is a victim of trafficking or exploitation:

- temporary residence permission for a minimum duration of six months, which includes a work permit;
- followed by a one-year «private and family life» temporary residence permit, which also includes a work permit, and is automatically renewed for the time it takes the victim to effectively exercise their rights to justice and to have their economic and social rights restored.

Regarding the procedure for issuing these residence permits, the CNCDH recommends:

- planning a simple procedure;
- exempting foreign victims with no financial means from fees associated with the issuance of these residence permits or, at the very least, deferring the payment thereof.

Priority III. Provide unconditional protection to child victims of trafficking or exploitation



The CNCDH recommends that Child Protection Services set up care arrangements as required by child victims of THB. It feels that such arrangements should involve the protection and support of children as well as compensation.

To that end, the CNCDH asks the public authorities:

- to ensure full protection for child trafficking victims within the child protection ordinary law system. The presumption of minority should automatically be applied in cases of doubt as to a child's age. These minors must systematically receive support from an ad hoc administrator, if they are alone or in danger within their family.
- to give these minors unconditional support and care as required by their situation. Close coordination on an ongoing basis between the public services and associations working with these child victims or potential victims is essential. This must provide them with the conditions for accessing the fundamental rights ensuring that they can receive medical treatment, safe accommodation, appropriate education, training and decent living conditions ... without overlooking cultural and recreational activities. It requires clear commitment on the part of the State through lasting financing, dialogue and constant pooling of approaches and resources for accessing rights with the network of specialised associations.
- to ensure that compensation mechanisms are set up for these child victims. When monitoring these young people, the public authorities must take a long-term view as regards all the different plans (justice, training, living conditions). They must particularly ensure that this compensation process does not abruptly stop when young people reach their majority, but that this key stage form an integral part of their recovery.

- to prepare the transition into adulthood: young victims must continue to be supported beyond 18 years of age.



Furthermore, the CNCDH recommends rolling out the safe house accommodation scheme for child victims nationwide, and opening it up to all child THB victims; by ensuring that the educators are trained in the different forms of exploitation and specific features of each to make sure child victims are given the assistance they require.

Priority IV. Raise awareness, inform, train



The CNCDH recommends that the Government organise information campaigns by involving civil society, so as to raise the general public's awareness of the different types of trafficking and victims.



To support this awareness responsibility, the CNCDH asks that the Government turn the fight against trafficking in and exploitation of human beings into a «worthy national cause».



The CNCDH recommends bolstering the effective exercise of the right to information for all potential trafficking victims, whether or not they cooperate with the authorities. It is vital that, as soon as these victims are identified, they are systematically informed in a language they understand and, where necessary, by calling

on the services of an interpreter:

- of their rights concerning the right to remain in the country and the conditions governing the issuance of residence permits;
- of their right to claim asylum;
- of their economic and social rights (the right to appropriate, safe housing, the right to access medical treatment, the right to access the labour market, vocational training or education, and the right to receive the temporary waiting allowance/ATA);
- of their right to access justice and claim compensation;
- of their procedural rights within the context of civil and criminal proceedings in connection with trafficking which they may be implicated in (such as the right to call a lawyer, the right to obtain jurisdictional assistance, the right to testify anonymously, the right to specific police protection).

The CNCDH recommends involving associations and trade unions more in designing the content of training programmes.



The CNCDH invites the public authorities to develop and disseminate new harmonised and pooled training tools,

and to ensure that these tools properly take on board all of the possible forms of exploitation that trafficking can take, not just trafficking for sexual exploitation or labour exploitation.

Police officers, gendarmes, judges and, more generally, all professionals likely to come across trafficking victims (labour inspectors, child protection workers, hospital staff, etc.), must be able to be trained in identifying and supporting victims, through initial training or continuing professional development.

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

Created in 1947, the CNCDDH 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 CNCDDH bases its action on three major principles :

- **independence**
- **plurallism**
- **vigilance**

The CNCDDH 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.

The CNCDDH is the national independent Rapporteur on :

- the fight against racism, anti-semitism and xenophobic since 1990
- the fight against human trafficking and the exploitation of human beings since 2014
- «Business and human rights» since April 2017

20 Avenue de Ségur, 75007 PARIS
Tel : 01.42.75.77.09
Mail : cncdh@cncdh.fr
www.cncdh.fr

