



# EVALUATION REPORT

FRANCE

## Third evaluation round

Access to justice  
and effective remedies  
for victims of trafficking  
in human beings

### GRETA

Group of Experts  
on Action against  
Trafficking  
in Human Beings

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## Executive summary

Since the second evaluation round of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, France has continued to develop the legislative and policy framework relevant to action against trafficking in human beings. The second national action plan against trafficking in human beings, covering the period 2019-2021, was adopted in October 2019, some three years after the end of the first plan. Since 2014, the role of an independent national rapporteur on trafficking in human beings has been fulfilled by the National Consultative Committee on Human Rights (CNCDH), which has adopted a report on the evaluation of the first national action plan as well as three opinions on trafficking in human beings. GRETA considers that the French authorities should mobilise sufficient financial and human resources in order to effectively combat all forms of trafficking in human beings and ensure that strategic documents are adopted in a timely manner.

France remains primarily a country of destination for victims of trafficking in human beings, but is also a country of origin and transit. The continued absence of a national mechanism for identifying victims of trafficking makes it difficult to have an accurate picture of the situation. According to the data drawn from the victim's database of the Ministry of the Interior statistics department, the number of victims of human trafficking and other offences linked to one of the purposes of human trafficking was 1 401 in 2016, 1 263 in 2017, 1 445 in 2018, 1 460 in 2019 and 1 243 in 2020.

The focus of the third evaluation round of the Convention being on trafficking victims' access to justice and effective remedies, the report analyses in detail the implementation of provisions of the Convention establishing substantive and procedural obligations relevant to this topic.

GRETA notes that frontline law enforcement officers often do not have sufficient knowledge of the phenomenon of trafficking and cannot properly inform trafficking victims of their rights and the procedures to be followed. Furthermore, the right to an interpreter is not respected when complaints are lodged by victims with law enforcement agencies, and there is no public funding enabling NGOs to hire interpreters to inform victims of their rights. GRETA considers that the French authorities should step up their efforts to provide information to victims of human trafficking on their rights, and ensure the availability of qualified interpreters who are familiar with the issue of human trafficking and techniques to interview trafficking victims, especially children.

French legislation provides for the right of victims of trafficking to free legal aid, subject to meeting a number of requirements. Victims who do not meet the requirements to be granted legal aid may be supported by an NGO providing assistance to victims or victim assistance offices. There is neither training nor specialisation of lawyers to support victims of trafficking. GRETA urges the French authorities to take further steps to ensure that legal assistance is provided systematically as soon as there are reasonable grounds for believing that an individual is a victim of trafficking and before they have to decide whether or not they want to co-operate with the authorities and/or make an official statement.

While victims of trafficking holding residence permits are allowed to work and register with the National Employment Agency, they often face barriers in obtaining effective access to the labour market, due to factors such as the trauma of having been exploited, insufficient command of the French language or lack of professional skills. GRETA considers that the French authorities should promote the social and economic inclusion of victims of trafficking by facilitating their access to work, vocational training and education.

While welcoming the existing legal avenues to claim compensation, GRETA is concerned that the amounts of damages awarded to trafficking victims by criminal courts and the commissions for the compensation of victims of criminal offences (CIVIs) are low and that little use is made of the seizure of perpetrators' assets. GRETA urges the French authorities to make further efforts to guarantee effective access to compensation for victims of trafficking, to ensure that the collection of evidence about the harm the victim has suffered is part of the criminal investigations, and to make full use of the legislation on the freezing and confiscation of assets to secure compensation to victims. Furthermore, GRETA suggests that the authorities ensure that the amounts granted in respect of recovery of unpaid salaries can be paid in advance by the State, which subsequently reclaims them from the offender.

There has been an increase in the number of investigations and prosecutions in human trafficking cases since 2016, but the number of convictions for human trafficking is low, suggesting that the offence of human trafficking is often requalified as another offence. GRETA considers that the French authorities should take additional steps to ensure that cases of trafficking are investigated proactively and prosecuted effectively, leading to effective, proportionate and dissuasive sentences, including through developing specialisation among investigators, judges and prosecutors to deal with human trafficking cases.

French law still contains no provision on enshrining the principle that trafficking victims should not be punished for engaging in illegal activities to the extent that they have been compelled to commit them. In a dispatch dated 8 February 2021, the Minister of Justice requested prosecutors to rule out criminal liability for children coerced into committing an offence. GRETA is concerned that the dispatch is limited to child victims of trafficking, and that victims of trafficking continue to be prosecuted and jailed for offences that they were compelled to commit. GRETA urges the French authorities to adopt a specific legal provision on the non-punishment of victims of trafficking and/or issue instructions to investigation services and prosecutor's offices specifying the scope of the non-punishment provision.

Furthermore, GRETA considers that the French authorities should ensure that available protection measures are effectively applied to victims and witnesses of trafficking in order to protect them, including by making more frequent use of audio-visual equipment to interview victims, and increasing the number of rooms specially designed for interviewing child victims.

GRETA considers that the French authorities should strengthen engagement with the private sector and ensure that the Law on due diligence by companies is fully implemented, in particular by supporting the preparation of due diligence plans and evaluating the effects of this law on the prevention of trafficking for the purpose of labour exploitation as well as its implementation.

The report also examines progress made on the implementation of previous GRETA recommendations on selected topics. While welcoming recent efforts to prevent and combat trafficking for the purpose of labour exploitation, GRETA considers that the French authorities should step up proactive inspections in sectors at high risk of trafficking, expand co-operation with trade unions, and raise awareness among the general public as well as, in a targeted manner, among migrant workers, about the risks of trafficking for the purpose of labour exploitation and of trafficking victims' rights.

Noting that major difficulties still exist in identifying victims of trafficking in France, GRETA urges the authorities to introduce a National Referral Mechanism defining the role to be played and the procedure to be followed by all stakeholders that may come into direct contact with victims of trafficking, to disseminate tools and indicators for identifying victims of trafficking for different types of exploitation, and to ensure that, in practice, presumed and formally identified victims of trafficking are granted a recovery and reflection period.

While welcoming the efforts made by the French authorities to improve assistance to victims of trafficking, GRETA is concerned that the number of accommodation facilities for victims of trafficking and the public funds allocated to NGOs helping victims are still insufficient. Therefore, GRETA makes a series of recommendations to address these gaps.

GRETA is also concerned about the growing trend of child trafficking in France and the inadequacy of the resources put in place to identify victims and provide care to them. The authorities should introduce specific procedures for children in the National Referral Mechanism to be established, and develop reintegration programmes for child victims of trafficking.

Finally, GRETA urges the French authorities to take additional measures to ensure that victims of trafficking can fully benefit from the right to obtain a residence permit, including on grounds of their personal situation, by appointing a contact person at each prefecture without further delay and training the relevant staff members at prefectures on the issue of trafficking.

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## Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) was established pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), which entered into force on 1 February 2008. GRETA is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party.

In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions of the Convention on which the evaluation procedure is based.

The first round of monitoring of the Convention provided an overview of its implementation by State Parties. The second evaluation round of the Convention examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings, the protection of the rights of victims of trafficking, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking.

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims' access to justice and effective remedies, which is essential for victims' rehabilitation and reinstatement of rights, and reflects a victim-centred and human-rights based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic, in particular articles 12, 15, 23, 26, 27, 28, 29, 30 and 32.

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, access to translation and interpretation, when appropriate, regularisation of the victim's stay, the right to seek and enjoy asylum, and full respect for the principle of *non-refoulement*. These preconditions, corresponding to various provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA's previous recommendations on selected topics through a separate country-specific part of the questionnaire. GRETA's findings and analysis of these topics are presented in a separate chapter.

## I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for France on 1 May 2008. GRETA’s first evaluation report<sup>1</sup> on France was published on 28 January 2013, and the second evaluation report<sup>2</sup> on 6 July 2017.

2. On the basis of GRETA’s second report, on 10 October 2017 the Committee of the Parties to the Convention adopted a recommendation to the French authorities, requesting them to inform the Committee of measures taken to comply with the recommendation within a one-year period. The report submitted by the French authorities was considered at the 24th meeting of the Committee of the Parties (5 April 2019) and was made public.<sup>3</sup>

3. On 14 May 2020, GRETA launched the third round of evaluation of the Convention in respect of France by sending the questionnaire for this round to the French authorities. The deadline for submitting the reply to the questionnaire was 15 September 2020 and the authorities’ reply was received on 17 September 2020.

4. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the French authorities, the above-mentioned report and additional information submitted by them in reply to the Committee of the Parties’ recommendation, as well as information received from civil society. An evaluation visit to France took place from 8 to 12 February 2021 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Ms Helga Gayer, President of GRETA;
- Ms Dorothea Winkler, 1st Vice-President of GRETA *ad interim*;
- Ms Petya Nestorova, Executive Secretary of the Convention;
- Mr Mesut Bedirhanoglu, Administrator in the Secretariat of the Convention.

5. During the visit, the GRETA delegation met representatives of the Interministerial task-force on combating violence against women and human trafficking (*Mission interministérielle pour la protection des femmes contre les violences et la lutte contre la traite des êtres humains* - MIPROF), the Ministry of the Interior, the Ministry of Justice, the Ministry of Solidarity and Health, the Ministry of Labour, Employment and Economic Inclusion, the Ministry for Europe and Foreign Affairs, the Ministry of National Education, Youth and Sport, the French Office for Immigration and Integration (*Office français de l’immigration et de l’intégration* - OFII) and the French Office for the Protection of Refugees and Stateless Persons (*Office français pour la protection des réfugiés et des apatrides* - OFPRA). GRETA also met Ms Isabelle Dely, Vice-President of the National Court of Asylum (CNDA), Mr Jean-Marie Burguburu, President of the National Consultative Committee on Human Rights (*Commission nationale consultative des droits de l’homme* - CNCDH), which acts as National Rapporteur on human trafficking, Mr Eric Delemar, Ombudsperson for Children, and Mr Dominique Potier, Member of Parliament. In addition, the GRETA delegation met representatives of Paris Police Prefecture as well as prosecutors and judges at Paris Law Court (*Tribunal judiciaire de Paris*).

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<sup>1</sup> [GRETA\(2012\)16, 1st GRETA evaluation report on France](#)

<sup>2</sup> [GRETA\(2017\)17, 2nd GRETA evaluation report on France](#)

<sup>3</sup> [CP\(2019\)14, Report submitted by the French authorities on measures taken to comply with Committee of the Parties recommendation CP\(2017\)28](#)

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6. In the course of the visit, the GRETA delegation visited Lyon and Rennes where it met officials from the regional and departmental directorates concerned, the law enforcement agencies, labour inspectors, prosecutors and judges. In addition, it visited the specialised shelter for women victims of trafficking for the purpose of sexual exploitation managed by the Foyer Jorbalan Association, and the specialised facility for victims of trafficking for the purpose of labour exploitation managed by the CCEM association, in Paris. It also visited the workshop for the integration of victims of sexual exploitation managed by the Amicale du Nid association in Lyon.
  7. Separate meetings were held with representatives of NGOs, a trade union, lawyers and victims of trafficking in human beings.
  8. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them.
  9. GRETA wishes to place on record the excellent co-operation provided by the French authorities and in particular by Ms Elisabeth Moiron-Braud, Secretary General of the MIPROF and contact person appointed to liaise with GRETA by the French authorities, as well as Ms Jessica Gourmelen and Ms Cécile Malassigné, project officers at the MIPROF.
  10. The draft version of the present report was approved by GRETA at its 41st meeting (5-8 July 2021) and was submitted to the French authorities for comments. The authorities' comments were received on 15 October 2021 and were taken into account by GRETA when adopting the final report at its 42nd meeting (22-26 November 2021). The report covers the situation up to 26 November 2021; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.



## II. Overview of the current situation and trends in the area of trafficking in human beings in France

11. France remains primarily a country of destination for victims of trafficking in human beings (THB) but is also a country of origin and transit. The continued absence of a national mechanism for identifying victims of human trafficking makes it difficult to have an accurate picture of the situation. There are various statistics gathered by different bodies. Firstly, according to the database on victims maintained by the Ministry of the Interior statistics department (*Service statistique ministériel de la sécurité intérieure - SSMSI*), which includes all victims logged in the information systems of the police and gendarmerie services (excluding double counting), the number of victims of THB and other offences linked to one of the purposes of THB<sup>4</sup> was 1 401 in 2016, 1 263 in 2017, 1 445 in 2018, 1 460 in 2019 and 1 243 in 2020. Among those victims, the number of victims of THB in the strict sense of the term<sup>5</sup> was 219 in 2016, 194 in 2017, 174 in 2018, 223 in 2019 and 192 in 2020, the other victims being considered as victims of pimping (around 60% of the cases),<sup>6</sup> work and accommodation conditions contrary to human dignity,<sup>7</sup> exploitation of begging,<sup>8</sup> and other forms of forced labour.<sup>9</sup> A breakdown of these figures shows that around 73% of the victims of trafficking and other offences linked to one of the purposes of THB were female. There are major disparities according to the type of offence: 67% of victims of the offence of work and accommodation conditions contrary to human dignity are men. The share of children increased from 17% to 27% between 2016 and 2020. In terms of nationality, the majority of the victims of THB and other offences linked to one of the purposes of THB were French (501 in 2016, 416 in 2017, 491 in 2018, 580 in 2019 and 621 in 2020), followed by citizens of Romania, Nigeria, China and Bulgaria. These figures do not reveal the real scale of the phenomenon of trafficking in human beings in France for two main reasons: firstly, although a circular dating from 2015 urges prosecutors to make greater use of the classification of THB, the different forms of exploitation are often qualified as other offences linked to one of the purposes of trafficking. Secondly, the vast majority of victims, who are mostly illegally present on the national territory, do not report acts of THB to the competent authorities,<sup>10</sup> chiefly because they fear reprisals by the traffickers or being expelled from France.

12. Secondly, the Interministerial task-force on combating violence against women and human trafficking (MIPROF) and the National Observatory on Delinquency and Criminal Law Responses (*Observatoire national de la délinquance et des réponses pénales - ONDRP*), in partnership with the NGO collective "*Ensemble contre la traite des êtres humains*", have been conducting annual surveys since 2016 to gather data on identified victims and presumed victims of trafficking who have been assisted by NGOs in France. According to it, 1 857 victims were assisted by the 24 NGOs that replied to the survey<sup>11</sup> in 2016, 2 918 victims were assisted by 53 NGOs<sup>12</sup> in 2018, and 2 573 victims were assisted by 37 NGOs in 2019.<sup>13</sup> Some 82% of the victims were female and around 11% were children. About three-quarters of them were

<sup>4</sup> The list of the offences linked to one of the purposes of THB includes pimping, enslavement, subjection to servitude, forced labour, work and accommodation conditions contrary to human dignity, exploitation of begging and the removal of organs.

<sup>5</sup> These are victims of the offence of trafficking in human beings, as defined in Article 225-4-1 of the Criminal Code.

<sup>6</sup> According to the SSMSI, the number of victims of pimping totalled 866 in 2016, 775 in 2017, 849 in 2018, 785 in 2019 and 786 in 2020.

<sup>7</sup> The number of victims of working and accommodation conditions contrary to human dignity totalled 342 in 2016, 297 in 2017, 387 in 2018, 473 in 2019 and 307 in 2020.

<sup>8</sup> The number of victims of forced begging was 55 in 2016, 78 in 2017, 65 in 2018, 49 in 2019 and 21 in 2020.

<sup>9</sup> Between 2016 and 2020, 39 persons were victims of offences of enslavement, 16 of forced labour and 9 of subjection to servitude.

<sup>10</sup> According to NGO data, of the 1 096 victims of trafficking assisted by 26 NGOs in 2018 only 21% lodged a complaint with law enforcement agencies and/or a prosecutor. For 4% of the victims which went to the police or gendarmerie, the complaint was not registered. Of 1 125 victims assisted by 22 NGOs in 2019, 28% lodged a complaint for THB and 10% either lodged a complaint for an offence other than THB or had their complaint registered for another criminal offence. For 2% of the victims who went to a police station or a gendarmerie brigade, the complaint was not registered. [La traite des êtres humains en France : profil des victimes suivies par les ONGs en 2018](#) ; [La traite des êtres humains en France : profil des victimes suivies par les associations en 2019](#).

<sup>11</sup> [Grand angle n° 48 juin 2018 : les victimes de traite des êtres humains suivies par les associations en France en 2016](#)

<sup>12</sup> [La traite des êtres humains en France : profil des victimes suivies par les associations en 2018](#).

<sup>13</sup> [La traite des êtres humains en France : profil des victimes suivies par les associations en 2019](#).

victims of sexual exploitation (with Nigerians representing 72% of those victims on in 2016, 65% in 2018 and 34% in 2019), between 15 and 19% of them were trafficked for the purpose of forced labour, mainly in domestic work, between 4 and 7% were victims of forced criminality, and between 1 and 3% were victims of forced begging. The victims originated from over 70 different countries; approximately three-quarters were from Africa (mainly from Nigeria and Morocco and, to a lesser extent, Algeria and Tunisia), between 10 and 16% from Europe (mainly from France, Romania, Bulgaria and Albania), between 4 and 8% from Asia (mainly from Vietnam and, to a lesser extent, from the Philippines and China), and between 2 and 4% from Latin America and the Caribbean.

13. The French authorities have observed an increase over the last several years in the number of Nigerian women and girls requesting asylum in France on grounds of fears of being subjected again to trafficking for the purpose of sexual exploitation. Besides Nigerians, asylum has been claimed on such grounds by women and girls from the Ivory Coast, Guinea, the Democratic Republic of the Congo, countries from the Balkans and, more occasionally, from Russia and Ukraine. The authorities also reported the emergence, over the last three years, of asylum applications linked to trafficking for the purpose of labour exploitation, particularly from Bangladeshi nationals. Vietnamese nationals have been seeking asylum from administrative holding centres where they were placed after attempting to reach the United Kingdom, claiming they were in debt bondage and having to work in Europe to repay their debts, failing which they will suffer reprisals.

14. Another trend reported to GRETA is the decline in prostitution in public places and a sharp rise in indoor prostitution facilitated via ads posted on the web. The boom in properties available to let privately on the Internet is enabling trafficking and pimping networks to quickly find cheap accommodation and move victims from one town to another to meet demand and avoid competition. These networks are making increasing use of dating sites, social networks, and encrypted messaging systems to communicate or to match clients with individuals engaged in prostitution, including THB victims, which makes the work of law enforcement and NGOs more complex. The growth of so-called "deprived neighbourhood pimping", noted in the second evaluation of France, is increasingly spreading beyond such neighbourhoods. The victims are mostly young women and girls of French nationality.

### **III. Developments in the legal, institutional and policy framework for action against trafficking in human beings**

15. Law No. 2018-788 of 10 September 2018 for controlled immigration, an effective right to asylum and successful integration shortened the timeframes for lodging and processing asylum requests and increased the maximum duration of administrative detention from 45 to 90 days. Those amendments are likely to have adverse effects on the capacity of the authorities and NGOs to detect THB victims among asylum seekers prior to any decisions to deport them (see paragraph 205).

16. The institutional framework has remained overall unchanged since GRETA's second evaluation report. The MIPROF, created in 2013 and placed under the Ministry for Gender Equality, Diversity and Equal Opportunities, continues to co-ordinate national action against trafficking in human beings and, at the same time, to drive the State's action to combat violence against women. Regarding the part of its work related to human trafficking, two project managers were seconded to the MIPROF, respectively in autumn 2020 and at the beginning of 2021, following a prolonged period in which MIPROF's Secretary General had to handle the anti-trafficking work on her own. During the third evaluation visit, several interlocutors stressed that the MIPROF had not had enough staff or funding to fully carry out its anti-trafficking tasks.

17. The MIPROF has a Steering Committee made up of representatives of State and local authorities, institutions and administrative committees operating in an advisory capacity, specialists in the subject and 10 representatives of NGOs active in the areas of violence against women and trafficking in human beings,<sup>14</sup> who are expected to meet twice a year with a view to helping to define the main thrusts of inter-ministerial action. In 2020, owing to the COVID-19 restrictions, the Steering Committee met only once, on 3 February 2020, making it possible to broach discussion on the setting up of a National Identification and Referral Mechanism (NRM) for THB victims. The next meeting was held on 13 December 2021.

18. In its second report, GRETA called on the French authorities to set up a co-ordination body devoted solely to human trafficking, in order to ensure that sufficient attention is paid to all forms of exploitation.<sup>15</sup> The authorities have pointed out that, as far as violence against women is concerned, the MIPROF plays a limited role consisting in training of professionals and gathering, analysis and dissemination of data. According to the Secretary General of the MIPROF, the dual role played by the MIPROF makes it possible to integrate the issue of human trafficking in action plans and activities on combating violence against women. Within the MIPROF there is a subcommittee tasked with following up the implementation of the national action plan for combating THB, which is exclusively made up of institutional stakeholders and, since Decree No. 2016-1096 of 11 August 2016, a Co-ordination Committee specifically focusing on THB and comprising members of the above-mentioned Steering Committee, including experts and NGO representatives. The second national action plan against THB makes provision to extend the Co-ordination Committee's role and make it a permanent fixture by assigning it the task of monitoring the implementation of the action plan and gathering good practices from local stakeholders so that these can be promoted at national level. **GRETA considers that the French authorities should increase the human resources and funding available to the MIPROF in order to guarantee effective co-ordination of, and follow-up to, the measures taken by the public authorities to combat trafficking in human beings.**

19. As GRETA already noted in its second report,<sup>16</sup> since 2014, the role of an independent national rapporteur on THB has been fulfilled by the National Consultative Committee on Human Rights (*Commission nationale consultative des droits de l'homme* - CNCDH) in its capacity of independent administrative authority. After an initial report evaluating action against trafficking in and exploitation of human beings in France, published in March 2016,<sup>17</sup> the CNCDH adopted, in July 2017, a report on the evaluation of the first national action plan against trafficking in human beings (2014-2016),<sup>18</sup> which concluded that, of the 23 measures set out in the plan, four had been fully implemented, four had not been implemented at all, the implementation of one measure could not be evaluated, and the 14 remaining measures had been only partially implemented. The CNCDH has also adopted three opinions on THB: one dated April 2020, related to the setting up of a National Referral Mechanism for trafficking in human beings and containing 24 recommendations;<sup>19</sup> a second one adopted in October 2020, on trafficking for the purpose of labour exploitation;<sup>20</sup> and a third one adopted in April 2021, on preventing and combating prostitution and trafficking of children for the purpose of sexual exploitation.<sup>21</sup> GRETA commends the active engagement of the CNCDH, which provides an independent evaluation of the effectiveness of public anti-trafficking policies and makes recommendations aimed at remedying the shortcomings identified.

<sup>14</sup> For further details, see GRETA's second report on France, paragraph 32.

<sup>15</sup> GRETA's second report on France, paragraph 30.

<sup>16</sup> GRETA's second report on France, paragraph 31.

<sup>17</sup> <https://www.cncdh.fr/fr/publications/rapport-sur-la-lutte-contre-la-traite-et-l'exploitation-des-etres-humains>

<sup>18</sup> [https://www.cncdh.fr/sites/default/files/170706\\_evaluation\\_du\\_plan\\_de\\_lutte\\_contre\\_la\\_traite\\_des\\_etres\\_humains\\_def.pdf](https://www.cncdh.fr/sites/default/files/170706_evaluation_du_plan_de_lutte_contre_la_traite_des_etres_humains_def.pdf)

<sup>19</sup> [Opinion on the creation of a "national referral mechanism" for victims of trafficking in human beings](#), 28 April 2020.

<sup>20</sup> [Opinion on trafficking in human beings for the purpose of labour exploitation](#), 15 October 2020.

<sup>21</sup> [Opinion on the preventing and combating prostitution and trafficking for the purpose of sexual exploitation of minors](#),

15 April 2021.

20. In October 2018, the CNCDH published a statement stressing, *inter alia*, the need to adopt a new national anti-trafficking action plan backed by the means necessary for its implementation and drawn up in consultation with the specialised NGOs and trade unions.<sup>22</sup> Concerned by the delay in the adoption of the second anti-trafficking action plan and alerted by the civil society to continuing gaps in public policy to combat THB in France, GRETA organised high-level talks with the French authorities on 11-12 February 2019.<sup>23</sup>

21. The second National Action Plan against Trafficking in Human Beings,<sup>24</sup> covering the period 2019-2021, was eventually adopted in October 2019, some three years after the end of the first plan, which numerous stakeholders saw as an indication of the lack of interest of the public authorities in action against trafficking. The plan follows six strategic priorities: 1) informing and communicating to better prevent THB, 2) framing a strategy for identifying victims, 3) protecting and supporting THB victims, 4) clamping down on perpetrators, 5) co-ordinating public action against THB, and 6) stepping up co-operation at European and international levels. These strategic priorities are translated into 45 measures, including the setting up of a NRM, setting aside accommodation places for trafficking victims within the national asylum seekers reception system (see paragraph 224), the expansion of the pilot system on the protection of child victims of trafficking (see paragraphs 236 and 237), and the stepping up of training for professionals who come into contact with THB victims. Many of these measures are related to other government initiatives currently being implemented, including the National Plan to Combat Illegal Labour (2019-2021), the National Refugee Reception and Integration Strategy (2018-2021), the Strategy to Prevent and Combat Poverty (2018-2021), the National Crime Prevention Strategy (2019-2024), and the National Plan on Combating Prostitution of Minors (2021-2022).

22. In November 2019, the CNCDH adopted an opinion that was critical of the second National Action Plan,<sup>25</sup> reiterating the paramount importance of setting up a national mechanism for identifying and supporting victims of trafficking and exploitation (NRM), which should be placed at the centre of France's strategy to prevent and combat THB. In particular, it deplored the lack of indication of the budgetary funding for the measures set out in the plan and a schedule for their implementation, which, in the opinion of the CNCDH, made implementation illusory. The French authorities have stated that the funding for each measure in the Action Plan was validated at an inter-ministerial meeting on 17 January 2019 and it was decided that each ministry would finance the actions falling within its area of competence from its own budget. Furthermore, as the plan is an inter-ministerial one, it would be for the MIPROF to ensure co-ordination of the co-funding for the implementation of the plan's cross-sectoral measures. As for grants to NGOs provided for in the plan, these would be covered by Government programmes 101 (access to law and justice) and 137 (equality between women and men).

23. As pointed out throughout the present report, the efforts made in France remain largely insufficient to improve identification, protection, and support of victims of THB. **GRETA considers that the French authorities should, as a matter of priority, mobilise sufficient funding and human resources in order to effectively combat all forms of trafficking in human beings and ensure that strategic documents, such as a national action plan against trafficking in human beings, are adopted in a timely manner.**

<sup>22</sup> <https://www.cncdh.fr/fr/publications/lutte-contre-la-traite-des-etres-humains-pour-une-politique-la-hauteur-des-enjeux>

<sup>23</sup> [GRETA holds talks with the French authorities – News room \(coe.int\)](#)

<sup>24</sup> [2nd national plan of action against trafficking in human beings](#)

<sup>25</sup> [Opinion on the 2nd national plan of action against trafficking in human beings \(2019-2021\)](#), 19 November 2019.

## IV. Access to justice and effective remedies for victims of human trafficking

### 1. Introduction

24. Victims of human trafficking, by virtue of their status as victims of crime and victims of human rights violations, have the right of access to justice and effective remedies for any harm committed against them. These rights must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of parties to the Convention, irrespective of their immigration status or presence on the national territory, and notwithstanding their capacity or willingness to co-operate in any criminal investigation.

25. The right to effective remedies is a reflection of the human-rights based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of trafficking, and effectively investigate trafficking offences.<sup>26</sup>

26. According to the *Basic principles on the right to an effective remedy for victims of trafficking in persons*,<sup>27</sup> the right to an effective remedy is considered to include restitution,<sup>28</sup> compensation,<sup>29</sup> rehabilitation,<sup>30</sup> satisfaction<sup>31</sup> and guarantees of non-repetition.<sup>32</sup> All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in the victims' recovery and social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which outlines the main steps to be taken to improve access to justice, and fair treatment, restitution, compensation and social assistance for victims of crime.<sup>33</sup>

<sup>26</sup> *Rantsev v. Cyprus and Russia*, no. 25965/04, ECHR 2010. [add references]

<sup>27</sup> UN General Assembly, *Basic principles on the right to an effective remedy for victims of trafficking in persons*, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, 6 August 2014, A/69/269, available at: <https://undocs.org/A/69/269>

<sup>28</sup> Restitution includes restoration of liberty, including release of the victim from detention; enjoyment of human rights and family life, including reunification and contact with family members; safe and voluntary repatriation; temporary or permanent residence status, refugee status, complementary/subsidiary protection or third-country resettlement; recognition of the victim's legal identity and citizenship; restoration of the victim's employment; assistance and support to facilitate social integration or reintegration; return of property, such as identity and travel documents and other personal belongings.

<sup>29</sup> Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, child care or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

<sup>30</sup> Rehabilitation includes medical and psychological care, legal and social services, shelter, counselling and linguistic support, independently of the capacity or willingness of the victims to co-operate in legal proceedings.

<sup>31</sup> Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims of their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; public apologies; judicial and administrative sanction against the perpetrators.

<sup>32</sup> Guarantees of non-repetition include ensuring the effective investigation, prosecution and sanctioning of traffickers; all measures necessary to protect victims from re-trafficking; providing or strengthening training of relevant officials; strengthening the independence of the judiciary; modifying practices that cause, sustain or promote tolerance to trafficking, including gender-based discrimination and situations of conflict and post-conflict; effectively addressing the root causes of trafficking; promoting codes of conduct and ethical norms for public and private actors; protecting legal, medical and other professionals and human rights defenders who assist victims.

<sup>33</sup> United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: [https://www.unicef-irc.org/portfolios/documents/472\\_un-declaration-crime.htm](https://www.unicef-irc.org/portfolios/documents/472_un-declaration-crime.htm)



27. The Convention provides specifically for the substantive right of victims of trafficking to compensation and legal redress, as well as for a number of procedural rights necessary to ensure access to them. These include the rights to be identified as a victim of trafficking, to be granted a recovery and reflection period, as well as a residence permit (to enable a victim to remain in the country and seek access to remedies), and to receive counselling, information, legal assistance and free legal aid. Another important procedural right is provided by the non-punishment provision of the Convention (Article 26), according to which victims of human trafficking must not be subjected to penalties for their involvement in unlawful activities that they have been compelled to commit. Further, the Convention requires State Parties to enable the seizure and confiscation of the assets of traffickers, which could be used to fund State compensation schemes for victims.

28. Children need special support to access remedies, the best interests of the child being the primary consideration in all actions concerning trafficked children. The appointment of legal guardians to represent unaccompanied or separated children plays a vital role in enabling child victims of trafficking to access justice and remedies. Further, facilitating family reunification can be an important element of restitution.<sup>34</sup>

29. Civil society, such as NGOs, trade unions, diaspora organisations and employer organisations, plays a vital role in enabling victims of THB to claim compensation and other remedies.<sup>35</sup> In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons<sup>36</sup> and Justice at Last - European Action for Compensation of Victims of Crime,<sup>37</sup> which aim to enhance access to compensation for trafficked persons.

30. The private sector should also play a role in enabling access to, as well as providing, remedies to trafficked persons, in accordance with the UN 'Protect, Respect and Remedy' Framework and the United Nations Guiding Principles on Business and Human Rights.<sup>38</sup> The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate access to remedies for victims for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.<sup>39</sup> States should therefore ensure that business enterprises implicated in human trafficking are held responsible and take steps to reduce barriers that could lead to a denial of access to remedies.

31. Because human trafficking is often a transnational crime, effective international co-operation is essential for fulfilling the obligations with regard to the right to justice and effective remedies. This includes co-operation in tracing and seizing criminal assets, and in returning confiscated proceeds for the purpose of compensation.

## 2. Right to information (Articles 12 and 15)

32. Victims who are no longer under their traffickers' control generally find themselves in a position of great insecurity and vulnerability. Two common features of victims' situation are helplessness and submissiveness to the traffickers, due to fear and lack of information about how to escape their situation. Article 12, paragraph 1, sub-paragraph d, of the Convention provides that victims are to be given counselling and information, in particular as regards their legal rights and the services available to them, in a language that they understand. Further, pursuant to Article 15, paragraph 1, of the Convention, Parties must ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings, in a language they can understand.

<sup>34</sup> UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 7-8.

<sup>35</sup> OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

<sup>36</sup> <http://www.compactproject.org/>

<sup>37</sup> <http://lastradainternational.org/about-lsi/projects/justice-at-last>

<sup>38</sup> United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

<sup>39</sup> UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

33. The information that victims of trafficking must be provided with deals with essential matters, including availability of protection and assistance arrangements, the various options open to the victim, the risks they run, the requirements for legalising their presence in the Party's territory, the various possible forms of legal redress, how the criminal-law system operates (including the consequences of an investigation or trial, the length of a trial, witnesses' duties, the possibilities of obtaining compensation from persons found guilty of offences or from other persons or entities, and the chances of a judgment being fully and effectively enforced). The information and counselling should enable victims to evaluate their situation and make an informed choice from the various possibilities open to them.<sup>40</sup>

34. Many victims do not speak, or barely speak, the language of the country they have been brought to for exploitation. Ignorance of the language adds to their isolation and is one of the factors preventing them from claiming their rights. The provision of translation and interpretation, where needed, is an essential measure for guaranteeing access to rights, which is a prerequisite for access to justice. GRETA has stressed the need for ensuring the availability, quality and independence of interpreters.<sup>41</sup>

35. Article 10-2 of the French Code of Criminal Procedure (CCP) stipulates that criminal police officers must inform victims of their right to:

- obtain damages;
- join criminal proceedings as an injured party and, in such a case, be assisted by a lawyer;
- receive assistance from a public service or an officially contracted NGO providing assistance to victims;
- apply to a commission for the compensation of victims of criminal offences (*commission d'indemnisation des victimes d'infractions* - CIVI);
- benefit from the services of an interpreter and translation of information indispensable to the exercise of their rights;
- request a protection order;
- know the penalties to which the perpetrator(s) are liable;
- be accompanied at all stages of the procedure by their legal representative and a responsible adult chosen by them;
- declare their domicile at the address of a third-party;
- be issued with a medical examination certificate attesting to their state of health, drawn up at the request of the police, a prosecutor or a judge.

36. In addition, in accordance with Article R425-1 of the Code governing the entry and stay of foreigners and right of asylum (CESEDA), the police or gendarmerie services that have elements allowing them to consider that a foreigner who is a victim of trafficking or pimping is likely to co-operate with the judicial authorities, must inform them in a language that they understand, of the possibility of obtaining a residence permit and the right to work under Article L425-1 of the CESEDA, of the support, accommodation and protection measures available to them, as well as of the possibility of obtaining legal aid and benefiting from a reflection period of 30 days.<sup>42</sup>

37. In practice, after lodging a complaint each victim is issued with a form on the rights of victims of crime, indicating how they can exercise the rights mentioned in Article 10-2 of the CCP, the stages of the procedure (prosecution of the offender, utilisation of alternative procedures, closure of the case, application of protection measures) and information on the statute of limitations. This form, which is integrated in the procedure drafting software of the national police (LRPPN) and gendarmerie (LRPGN), is available only in French. A report is drawn up for any complaint made, mentioning that the form on rights has been issued to the complainant. The victim is given a receipt of the complaint and a copy of the complaint report may also be issued to the victim, at their request (Article 15-3, paragraph 2, of the CCP).

<sup>40</sup> See Explanatory Report on the Convention, paragraphs 160-162.

<sup>41</sup> See 8th General report on GRETA's activities, paragraphs 168-169.

<sup>42</sup> For a description of the legislation and practice in France regarding the reflection period, see GRETA's second report on France, paragraphs 179-184.

38. There is a standard form for reporting on interviews of victims of trafficking for the purpose of sexual exploitation. In addition to the rights of any victims of crime, it sets out the specific rights of victims of trafficking and/or pimping, such as:

- being put in contact with an NGO assisting persons engaged in prostitution;
- the possibility of being lodged at an accommodation and social reintegration centre (Article L345-1 of the Social Action and Families Code);
- the possibility, in case of an immediate need, of placement in a shelter under the national Secure Reception System (Ac.Sé);
- the right to benefit from a reflection period of 30 days;
- the right to obtain a temporary residence permit under Articles L425-1 and L425-4 (formerly L316-1 and L316-1-1) of the CESEDA;
- the right to indicate as domicile the police station or gendarmerie brigade (Article 706-57 of the CCP), the headquarters of an NGO authorised to assist victims of trafficking or their lawyer's office (Article 706-40-1 of the CCP).

39. However, as it has not been integrated in the LRPPN and LRPGN software, this form is not used by all police officers and gendarmes, despite being available on the Ministry of the Interior intranet site. This, together with the fact that the above-mentioned form on the rights of victim of crime is available only in French, limits the access of the victims of trafficking to information on their rights and relevant judicial and administrative proceedings. Moreover, NGOs working with victims of THB stressed that frontline police officers and gendarmes who are not specialised in action against trafficking do not have sufficient knowledge of the phenomenon and cannot properly inform trafficking victims of their rights. They also reported that, in practice, the right to an interpreter is not respected when complaints are lodged by victims, who are frequently told by police officers that it is up to them to come accompanied by someone who is able to interpret for them, especially when the language concerned is rarely spoken in France, or otherwise representatives of NGOs accompanying victims are requested to attend the interview in order to interpret. Law enforcement officers reported a severe shortage of interpreters to interview victims from countries such as Afghanistan, Cambodia, Vietnam, Sri Lanka and Ukraine.

40. There are provisions in the CCP stipulating that victims must be given information throughout the criminal procedure: Article 80-3, for example, states that, from the outset of a judicial investigation, the investigating judge must inform the victim of an offence that a judicial investigation is being opened, that they have the right to join criminal proceedings as an injured party, and how they may exercise that right, together with the right to be assisted by a lawyer. Under Article 706-15, any court that sentenced a perpetrator of an offence to pay damages to the complainant must inform the latter of the possibility of applying to a commission for the compensation of victims of criminal offences (CIVI). Any information must be provided in a language which the victim understands (Article 10-2).

41. Under Article 10-3 of the CCP, a victim who decides to join criminal proceedings as an injured party is entitled to assistance from an interpreter when being interviewed by the competent authorities. They are also entitled to a translation of the information that is indispensable to the exercise of their rights (Article 10-3 of the CCP), including of the receipt for their complaint (Article D594-12 of the CCP), decisions to close an investigation without further action or dismiss proceedings and decisions to convict, discharge or acquit the accused (Article D594-13 of the CCP). A list of sworn interpreters and translators is compiled for that purpose by the Court of cassation and by each appeal court and is accessible to investigators, prosecutors and judges. However, civil society actors reported that there were not always interpreters present at hearings where victims did not understand French and when there were interpreters, very often they were not sufficient in number to interpret the statements made by all the participants in the hearing. As a result, victims often have a piecemeal idea of what is going on in the trial. By way of example, in a case involving 17 victims exploited in the poultry sector,<sup>43</sup> which is currently pending before the Specialised interregional court (*juridiction interrégionale spécialisée* - JIRS) in Rennes (see paragraph 189), only one victim was able to express his views via an interpreter found by an NGO providing support to the victims.

<sup>43</sup> For details, see <https://www.pressreader.com/france/le-telegramme-quimperle/20210105/281509343812375>



NGOs also stressed that interpreters are not sensitised to the specific nature of interviewing trafficking victims, especially children, or adequately trained in the techniques of interpreting in a judicial process.<sup>44</sup>

42. Child victims of THB must be informed of their rights by a series of professionals involved in assisting them, such as the child welfare services (*Aide sociale à l'enfance* - ASE), the judicial youth protection services (*Protection judiciaire de la jeunesse* - PJJ), ad hoc administrators and court-appointed lawyers. However, not all presumed child victims of trafficking have access to these professionals (see paragraph 168) and are therefore not informed of their rights.

43. Every court has a victim assistance office, managed by NGOs providing assistance to victims and tasked with informing victims of crime of the different stages of the criminal proceedings and the follow-up to their case, and referring them to the compensation mechanism to which they may apply.

44. GRETA was informed by civil society representatives that information on procedures and victims' rights was not provided in a manner adapted to trafficking victims, taking into account that the procedures and access to remedies are cumbersome and complex in THB cases. In this regard, NGOs pointed to a crucial lack of tools (e.g. pictograms, cartoons) aimed at helping children to better understand their rights and the different stages of the criminal procedure. Very often, victims are simply pointed in the direction of NGOs specialised in victim support which provide them with information on their rights. However, there is no dedicated public funding allowing these NGOs to hire interpreters to inform victims of their rights. Nor are the NGOs allowed to have, to this end, the assistance of the interpreters contracted by the State. Moreover, there is not any provision for the state contracted interpreters to assist communication between victims and their lawyers, which is a further obstacle to victim information.

45. Although several articles of the CESEDA lay out the asylum application procedure at the border, there is no provision expressly requiring that foreigners having illegally entered in France should be informed of the right to seek asylum. According to an opinion published by the CNCDH in June 2018 about migrants at the French-Italian border,<sup>45</sup> no information is given to persons stopped at the border about the possibility of applying for asylum. As for information on the asylum procedure, it is given to persons seeking international protection at the different stages of the asylum procedure: upon pre-registration of the asylum request by the first-level reception facility (*Structure de premier accueil des demandeurs d'asile* - SPADA), managed by NGOs; when registering the asylum application at a one-stop service for asylum seekers (*Guichet unique des demandeurs d'asile* - GUDA) run by the prefecture; by the French Office for Immigration and Integration (OFII); and when submitting the asylum request file to the French Office for the Protection of Refugees and Stateless Persons (OFPRA). This information is also accessible on the websites of the institutions concerned and the NGOs running first-level reception facilities. The French authorities informed GRETA that all the information on the OFPRA website was in the process of being translated into English. This documentation includes<sup>46</sup> a Guide to asylum for unaccompanied children in France, soon to be translated into several foreign languages, including English, Arabic, Dari, Lingala and Pashto. The authorities stated that the officers tasked with reviewing asylum applications (*officiers de protection instructeurs* - OPIs) and the staff of the OFPRA are trained on THB and can provide asylum seekers claiming to be trafficking victims with information on their specific rights.

<sup>44</sup> It appears that, to be included on the lists of "approved experts" of the appeal courts, no interpreter qualifications are required; candidates are appointed by other experts, and the examination of their credentials covers at best their language skills.

<sup>45</sup> CNCDH, "[Avis sur la situation des migrants à la frontière italienne](#)" (Opinion on the situation of migrants at the Italian border), 19 June 2018.

<sup>46</sup> It includes also [Guide to procedures at the OFPRA](#), information on [request for asylum on grounds of a risk of female genital mutilation](#), information booklets for persons under international protection ([Persons with refugee status, beneficiaries of subsidiary protection and persons recognised as being stateless](#)).

46. Over 80% of the interviews carried out at the OFPRA take place with the assistance of an interpreter. The interpreters are employees of companies selected by the OFPRA through public tenders. Like OFPRA staff, they are bound by rules of professional ethics, quality and training which are laid down in a charter on interpreting.<sup>47</sup> Since 2015 they have been given training on vulnerability issues run by the OFPRA's five thematic groups of contact persons.<sup>48</sup> These training sessions also focus on the specific characteristics of THB and translation-related issues arising in interviews with presumed victims.

47. A tool was devised for OPIs in 2017, enabling them, at the end of the interview, to provide the contact details of specialised NGOs to asylum seekers identified by the OFPRA as being particularly vulnerable, including victims of trafficking, and not having appropriate social or psycho-social support.

48. The Asylum Directorate of the Ministry of the Interior has published an action plan for vulnerable persons identified among asylum seekers and refugees, including THB victims. With a view to improving the provision of information to presumed victims of THB regarding their rights, including legislation on residence permit, the plan makes provision for developing appropriate tools (printed brochures and information online or via social networks) and ensuring that applicants receive them at the different stages of the asylum procedure.

49. In addition, NGOs organise outreach work to detect potential victims and inform them of their rights and the services available. Some NGOs, such as CIMADE and Hors la Rue, have been granted funding by the Ministry of Justice's Department for Access to Law and Justice and Assistance for Victims (*Service de l'Accès au Droit et à la Justice et de l'Aide aux Victimes - SADJAV*) to finance victim information activities. Some NGOs have also devised tools for informing victims: in 2020, for example, with the help of Erasmus+ funding, ALC produced a cartoon strip in two languages (French and English) aimed at informing identified or potential victims of trafficking of their rights to specific protection tailored to their situation.<sup>49</sup>

**50. GRETA considers that the French authorities should step up their efforts to provide information to presumed and formally identified victims of THB on their rights, the services available, how to access them, and the implications of being identified as a victim of trafficking. This concerns in particular the right to a recovery and reflection period and temporary residence. The staff responsible (law enforcement officers, staff of reception centres and asylum seeker holding centres, social workers) should be trained on how to properly explain to victims their rights, taking due account of their cognitive faculties, psychological state, and age, and encouraged to co-operate closely with NGOs supporting victims of THB.**

**51. Furthermore, GRETA considers that the French authorities should take further steps to ensure the availability of qualified interpreters who are familiarised with the issue of human trafficking and interpreting for trafficking victims, especially children.**

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<sup>47</sup> [Interpreters' charter](#).

<sup>48</sup> These groups of contact persons cover five specific protection needs matching the main areas in which people are vulnerable: asylum seekers and individuals who are protected on grounds of sexual orientation and/or gender identity, unaccompanied minors, victims of torture and trauma, female victims of violence and victims of trafficking in human beings. For example, in 2019, trafficking contact persons provided training via videoconference to interpreters assisting asylum seekers interviewed at the OFPRA office located in Cayenne. For further information see chapter 6 of the [Guide to procedures at the OFPRA](#).

<sup>49</sup> Available online: [Brochure in French](#), [Brochure in English](#).

### 3. Legal assistance and free legal aid (Article 15)

52. Article 15(2) of the Convention obliges Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. As court and administrative procedures are often very complex, legal assistance is necessary for victims to be able to claim their rights. It is for each Party to decide the requirements for obtaining such free legal aid. Parties must have regard not only to Article 15(2) of the Convention, but also to Article 6 of the ECHR. Even though Article 6(3)(c) of the ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, European Court of Human Rights case-law<sup>50</sup> also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in civil matters, it is for the courts to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

53. GRETA's reports highlight the value of a lawyer being appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before the person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to take civil actions for compensation and redress.<sup>51</sup>

54. In France, the granting of legal aid to THB victims is subjected to the requirements laid down in Articles 2, 3 and 7 of Law No. 91-647 of 10 July 1991 on legal aid for victims of crime, namely: 1) the action must not appear to be manifestly inadmissible or unfounded (applicable only to a civil suit); 2) the costs covered by legal aid must not be covered by an insurance policy; 3) the applicant for legal aid must be of French nationality, a national of a Member State of the European Community or a person of foreign nationality residing habitually and legally in France; and 4) the applicant must not have sufficient financial means to uphold their rights in a court of law.

55. The requirement of habitual and legal residence in France does not apply to litigation relating to foreigners' right to stay and asylum, victims joining criminal proceedings as an injured party or children regardless of the nature of the proceedings involving them (Article 3 of Law No. 91-647). However, an adult victim illegally present in France may not receive legal aid for applying to a labour tribunal for unpaid salaries. Given the short timeframes for applying to a labour tribunal<sup>52</sup> and the waiting time for the issuance of a residence permit, which can be very lengthy in certain administrative divisions (*départements*) (see paragraph 250), GRETA is concerned that this residence requirement is likely to restrict the right for some victims to access justice, in particular for claiming compensation.

56. Regarding the means requirement, the applicant must prove, for the year 2021, that their annual income is less than 11 262 euros to be granted full legal aid and 16 890 euros to be granted partial legal aid.<sup>53</sup> Compliance with this requirement is not demanded of victims of the most serious crimes of deliberate attack against the life or integrity of a person (homicide, torture and acts of barbarism, rape), but the list does not include human trafficking or related offences. Furthermore, no proof of means is required if the person applying for legal aid is a recipient of the solidarity allowance for the elderly (*allocation de solidarité aux personnes âgées* - ASPA), earned income supplement (*revenu de solidarité active* - RSA) (Article 4 of Law No. 91-647) or an asylum seeker's allowance (*allocation pour demandeur d'asile* - ADA). Similarly, legal aid may exceptionally be granted to individuals who do not meet the means requirements if "their situation appears particularly worthy of consideration in view of the subject of the litigation or the likely costs of the trial" (Article 6 of Law No. 91-647). The granting of legal aid on the basis of this criterion is at the discretion of the President of the legal aid office. Specialised lawyers have stressed that legal aid on the basis of this criterion is often refused in cases before a labour tribunal.

<sup>50</sup> *Airey v. Ireland* judgment, 9 October 1979.

<sup>51</sup> 8th General report on GRETA's activities.

<sup>52</sup> Three years in order to be able to claim unpaid salaries and two years to contest the execution or breach of a labour contract.

<sup>53</sup> Article 3 of [Decree no. 2020-1717 of 28 December 2020 implementing Law no. 91-647 of 10 July 1991 on legal aid and aid for the involvement of a lawyer in non-court procedures](#).

57. Trafficking victims who meet the aforementioned requirements may be granted full or partial legal aid in both contentious and non-contentious cases, before any court (criminal, civil or administrative), including for applications to a commission for the compensation of victims of criminal offences (CIVI) with a view to obtaining damages, as well as for applications to labour tribunals to recover unpaid salaries (Article 10 of Law no. 91-647). Legal aid may also be granted in connection with the execution of a judicial decision or any other enforcement order on French territory (Article 10 of Law No. 91-647).

58. Victims of THB may, through legal aid if they meet the requirements, be assisted by a lawyer during the preliminary investigation phase in different situations, including when brought face to face with the presumed perpetrator (Articles 61-2 and 63-4-5 of the CCP), during a reconstitution of the offence (Article 61-3 of the CCP) and during a line-up to identify suspects (Article 61-3 of the CCP). Article 10-4 of the CCP stipulates that at "all stages of the investigation, the victim may, at their request, be assisted by their legal representative and by an adult person of their choice". GRETA was told by NGOs that this provision was restrictively interpreted by law enforcement agencies, civil society representatives being regularly refused permission to assist victims when they lodged complaints or were interviewed, on the grounds that until a formal complaint had been lodged, the investigation had not yet begun. Similarly, lawyers may be refused permission to assist victims on the grounds that this article of the law does not expressly provide for a lawyer to be present, though a lawyer would be an adult person within the meaning of Article 10-4 of the CCP. The French authorities pointed out, for their part, that the possibility of being assisted by a lawyer when lodging a complaint is afforded to the victim in practice, even if it is not expressly provided for in Article 10-4 of the CCP.

59. It was also noted that there is no provision for covering the costs of obtaining legal advice or being assisted when filling in a complaint form for the police. This means that trafficking victims will only receive appropriate legal advice and information if they are referred to specialised NGOs. The latter frequently pay ancillary costs (transport, accommodation, meals) during the investigation or court proceedings to ensure that the victim can participate in the proceedings, notably in cases that are to be tried in a different place from the victim's place of residence. These expenses are not covered by legal aid and nor are they covered by the State, notwithstanding the Circular of 22 January 2015 setting out criminal law policy in the sphere of action against THB,<sup>54</sup> which stated this possibility.

60. The granting of legal aid entitles its beneficiary to assistance from judicial auxiliaries (lawyer, enforcement bailiff, etc.) without having to pay the costs of their involvement and fees (Article 40 of Law No. 91-647). If full legal aid is granted, these expenses and the procedural costs (remuneration of experts, social investigators or mediators, etc.) are advanced by the State. The lawyers and other judicial auxiliaries are chosen by the beneficiary of the legal aid (Article 25 of Law No. 91-647). However, according to NGOs working with victims trafficked for the purpose of forced criminality, in cases of children exploited by members of their families, the lawyers are often paid by the traffickers.

61. Victims who do not meet the requirements to be granted legal aid may be supported by an NGO providing assistance to victims<sup>55</sup> or the victim assistance offices mentioned in paragraph 43, at all stages of the procedure.

62. There is neither specialisation of lawyers in support and assistance for THB victims, nor a training module on trafficking in basic or in-service training for lawyers. Nevertheless, NGOs have access to a limited network of lawyers who have specialised in THB cases. For example, the Paris Bar Association has a section comprising some 200 lawyers specialised in representing children, some of whom focus on unaccompanied children. These lawyers must have undergone relevant training and it is solely those lawyers who are assigned to represent children. GRETA was informed that a training course for lawyers, including three sessions on child trafficking, was organised in autumn 2021 in Paris.

<sup>54</sup> [Circular of 22 January 2015 setting out criminal law policy in the sphere of action against trafficking in human beings](#)

<sup>55</sup> Under Article 41, paragraph 11, of the CCP, a prosecutor may call a Ministry of Justice-approved NGO providing assistance to victims so that the victim of the offence receives assistance.

63. **GRETA urges the French authorities to take further steps to facilitate and guarantee access to justice for all THB victims, and in particular to ensure that legal assistance is provided systematically as soon as there are reasonable grounds for believing that an individual is a victim of trafficking, regardless of whether their stay is regular or not, and before they have to decide whether or not they want to co-operate with the authorities and/or make an official statement.**

64. **Furthermore, GRETA considers that the French authorities should:**

- **raise awareness among Bar Associations of the need to encourage the training and specialisation of lawyers to provide legal aid to trafficking victims, and ensure that trafficking victims are systematically assigned a specialised lawyer;**
- **revise Law No. 91-647 so that access to free legal aid for trafficking victims is not subject to means testing or a requirement of habitual and regular residence.**

#### **4. Psychological assistance (Article 12)**

65. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking deal with the trauma they have been through and achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic attention due to the violence that they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of their particular readiness for therapy conducted by an experienced clinician.<sup>56</sup> In the case of trafficked children, specialist child psychologists should be employed.

66. The second National Action Plan notes that few professionals are trained to help with the psychological consequences of trafficking experienced by victims, and that there is little available regarding specialised counselling. To improve the psychological assistance to victims of crime, the National Resource and Resilience Centre was set up in February 2019 in Lille, with the aim of improving research into, and the treatment of, psycho-trauma and training health professionals in early detection and care. At the same time, the Ministry of Health has created 11 regional centres to treat psycho-trauma of victims of violence. As well as providing health care, they train professionals to work with victims of violence. Four more such centres are being opened. The MIPROF is to disseminate a national directory of structures specialised in psychological support for THB victims to ensure that they are referred to a suitable facility following an initial psychological assessment, to be carried out immediately after the victims are identified.

67. On leaving situations of exploitation, trafficking victims do not usually have health insurance that would allow them to seek psychological support from a private practice. Some NGOs have developed local partnerships with centres offering medical, psychological and pedagogical care or NGOs specialised in the treatment of trauma (PAV, Minkowka, Primo Levi, etc). Civil society actors, however, have indicated that there is a significant disparity in the provision of care across the country<sup>57</sup> and that NGOs offering psychological support are overstretched and do not always have the means to offer regular follow-up to the victims referred to them. Nor is it always possible to find an interpreter for victims. As for organisations specialised in assisting trafficking victims, only some of them have the resources to provide psychological support in-house by recruiting psychologists.<sup>58</sup> For example, the CCEM offers, through its psychologist, psychological support and guidance in English, French and Arabic to the victims of labour exploitation in its care, including at its emergency apartment for women victims of trafficking that GRETA visited in Paris. Other specialised NGOs (La Ruelle, AFJ, Amicale du Nid ...) also offer psychological support to victims of trafficking. Such support, however, is not sufficient to meet the growing needs of THB victims, some of whom require more specialised treatment that the NGOs are unable to provide.

<sup>56</sup> OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

<sup>57</sup> See [La prise en charge psychologique des victimes | Contre la traite des êtres humains](#)

<sup>58</sup> See [Accompagner les victimes de traite vers l'autonomie | Contre la traite des êtres humains](#)



68. **GRETA considers that the French authorities should take steps to ensure that victims of all forms of THB, including trafficking for the purpose of labour exploitation, are provided with psychological assistance to help them overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion.**

## 5. Access to work, vocational training and education (Article 12)

69. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, microbusinesses and social enterprises.<sup>59</sup> GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.<sup>60</sup>

70. Victims of trafficking holding a French residence permit are allowed to work and register with the National Employment Agency (Pôle Emploi). Once registered, they have free access to its services, such as vocational training, are entitled to social protection and can claim certain types of support, such as reimbursement of travel, accommodation, meals and childcare expenses to enable them to attend job interviews. However, victims of trafficking often face barriers in obtaining effective access to the labour market, due to factors such as the trauma of having been exploited, insufficient command of the French language, low level of education and lack of professional skills, and, on the part of prospective employers, prejudice and social stigmatisation.

71. Several NGOs support victims in their efforts to access education and employment by offering them language and occupational guidance courses. In Lyon, GRETA visited a workshop for adapting to working life (*Atelier d'Adaptation à la Vie Active* - AAVA), which offers women victims of sexual exploitation who have no access to employment the chance to earn an hourly wage. This workshop for packaging of products is run by the NGO Amicale du Nid.

72. In accordance with Decree No. 2001-576 of 3 July 2001, some accommodation and social reintegration centres (CHRSs) run AAVAs for their residents who, for a combination of social, occupational, or health-related reasons, are unable to undertake regular work, as is often the case with THB victims. This is only a temporary work solution, however, as the maximum period for which victims can participate in an AAVA is six months, unless the prefect agrees to a renewable six-month extension.<sup>61</sup>

73. Joining a programme to exit prostitution (*parcours de sortie de la prostitution et d'insertion sociale et professionnelle* - PSP) helps the beneficiaries to get their first job, albeit often a temporary one, such as hotel cleaner, which is the most common form of employment for persons in a PSP.<sup>62</sup> However, access to PSP might be challenging (see paragraph 200).

74. **GRETA considers that the French authorities should promote the social and economic inclusion of victims of THB by facilitating their access to work, vocational training and education. This should involve raising awareness among different employers and promoting micro-businesses, social enterprises and public-private partnerships, including through state-supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking.**

<sup>59</sup> Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

<sup>60</sup> 8th General report on GRETA's activities.

<sup>61</sup> Workshops for adapting to working life - [Ateliers d'Adaptation à la Vie Active \(AAVA\) - ASFAD](#)

<sup>62</sup> See [Rapport d'évaluation de la loi n° 2016-444 du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées](#) ("Evaluation report on the law of 13 April 2016 strengthening action to combat prostitution and providing assistance to persons engaged in prostitution"), December 2019, p. 68. This report refers to a study carried out in April 2019 by Amicale du Nid, which works with the vast majority of people engaged in a PSP. According to the study, 47% of those enrolled in a PSP and followed up by it were employed six months after joining the scheme.

## 6. Compensation (Article 15)

75. Article 15(3) of the Convention establishes a right of victims to compensation. The compensation is pecuniary and covers both material injury (such as the cost of medical treatment) and non-material damage (the suffering experienced). However, even though it is the trafficker who is liable to compensate the victim, in practice there is rarely full compensation whether because the trafficker has not been found, has disappeared or has declared him/herself bankrupt. Article 15(4) therefore requires that Parties take steps to guarantee compensation of victims. The means of guaranteeing compensation are left to the Parties, which are responsible for establishing the legal basis of compensation, the administrative framework and the operational arrangements for compensation schemes. In this connection, Article 15(4) suggests setting up a compensation fund or introducing measures or programmes for social assistance to, and social integration of, victims that could be funded by assets of criminal origin. Of relevance in this respect is the European Convention on the Compensation of Victims of Violent Crimes, pursuant to which when compensation is not fully available from other sources the State shall contribute to compensate those who have sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence, as well as the dependents of persons who have died as a result of such crime, even if the offender cannot be prosecuted or punished.

76. Compensation fulfils multiple purposes: payment of reparation for injury, loss or harm caused by the offender, access to justice, empowerment of victims, as well as punishment and deterrence of traffickers. As such, compensation plays a crucial role in the fight against human trafficking, not only as an instrument of restorative justice, but also by way of prevention and recognition by States of human rights violations.

77. Victims often leave the country where they were exploited at the end of the criminal proceedings. This creates obstacles to making civil claims for compensation, which in addition are associated with a number of other barriers, such as high costs, unavailability of free legal aid and victim-support services, as well as the claimant bearing the burden of proof of the amount of the damage. Therefore, state parties should consider adopting a procedure through which victims are entitled to obtain a decision on compensation by the offender as part of the criminal trial, within a reasonable time.

78. The legislation enabling THB victims to claim compensation in France has remained unchanged since GRETA's second report.<sup>63</sup> Pursuant to Article 10-2 of the CCP, a victim of THB is entitled to join criminal proceedings as an injured party and seek compensation from the perpetrator for the damages incurred in criminal proceedings. If the prosecutor decides not to bring a prosecution, the victim may initiate a civil suit against the presumed perpetrator claiming damages and/or request the investigating judge to launch an investigation (Article 85 of the CCP).

79. Compensation for victims of THB is based on the principle of full redress for all harm suffered, including non-material and material damage and bodily harm. While there are scales for calculating compensation for bodily injury, there are no evaluation criteria regarding non-material damage.

80. GRETA was informed by lawyers assisting victims that in cases of labour exploitation, non-material damage is often played down by the criminal court judge, which results in very small amounts of compensation being awarded to victims.

81. GRETA was also informed by some civil society actors that victims of trafficking for the purpose of sexual exploitation cannot claim compensation from traffickers for earnings from exploitation in prostitution because prostitution is not considered to constitute employment. However, according to the French authorities this possibility is not excluded by any law or case law. In GRETA's view, to deny victims of sexual exploitation compensation from traffickers for loss of earnings on that ground would run contrary to the object and purpose of the international instruments set up to provide effective protection to victims of all forms of human trafficking, in particular Article 15 of the Anti-Trafficking Convention.

<sup>63</sup> See GRETA's second report on France, paragraphs 207-214.

82. Furthermore, it happens that a court rules on a compensation claim without a forensic report on a trafficking victim,<sup>64</sup> whereas victims generally suffer mental trauma whose scale can only be assessed by experts. According to a report drawn up in December 2019, there are too few experts specialised in this field.<sup>65</sup>

83. A victim who has returned to his/her country of origin may claim compensation for harm suffered through a claim made before a criminal or civil court in France. Victims may have judgments and other acts forwarded to them through diplomatic channels so that they are informed of developments in the proceedings. That said, according to specialised NGOs, it is extremely rare for such victims to be awarded compensation in France and the authorities frequently reject visa applications made by them to participate in proceedings in which they had brought a civil action.<sup>66</sup>

84. The French authorities have not provided data on compensation of THB victims by the perpetrators. Civil society actors supporting trafficking victims stated that the amounts of compensation awarded varied between 10 000 and 15 000 euros for non-material damage suffered by victims who had been sexually exploited for several years. In the "Wisborn" case, relating to the sexual exploitation of Nigerian victims by a trafficking network, the traffickers were sentenced to pay 80 000 euros each to three of the victims who had joined criminal proceedings as an injured party (see paragraph 109). However, owing to the failure of the authorities to seize assets from the perpetrators, the victims had to apply to the CIVI, which at the time of writing has not yet handed down its decision. Regarding labour exploitation, in an action brought against the managers of a wine business in Champagne<sup>67</sup> the victims were awarded, in a non-final decision of 11 September 2020, between 500 and 3 000 euros for exploitation which had lasted over a year (the offence having been classified as working conditions contrary to human dignity). In another case, an Indonesian woman who was subjected to domestic servitude for one and a half years received 10 000 euros in compensation (see paragraph 113).

85. The authorities pointed out that the right of victims to compensation is covered in basic, in-service, and ad hoc training on THB given to investigators, prosecutors and judges (see paragraph 149). However, specialised NGOs pointed out that the compensation of victims is only mentioned in passing during this training and there are no specific modules on the question of compensation. Indeed, the training materials which GRETA was able to examine only briefly deal with this subject.<sup>68</sup>

86. If the perpetrator does not pay the damages they have been sentenced to pay, the victim may resort to enforcement measures and be assigned a bailiff to assist them in this process. Nevertheless, it is not uncommon for bailiffs, even when their services are covered by legal aid, to ask for advance fees to recover the amounts awarded. Anyone who is awarded damages by a final decision of a criminal court may, within two months after the decision has become final, request the Agency for the Management and Collection of Seized and Confiscated Assets (*Agence de Gestion et de Recouvrement des Avoirs Saisies et Confisqués* - AGRASC) that the amounts be paid to them as a priority from their debtor's assets which had been confiscated by a final decision (Article 706-164 of the CCP). However, the victims who apply to the AGRASC<sup>69</sup> are very few. The total amount paid out by the AGRASC since its setting up in 2011 to parties claiming damages in cases of trafficking and pimping stands at a mere 346 658 euros. In fact, enforcement is often not possible in trafficking cases as, most of the time, those convicted manage to declare themselves bankrupt.

<sup>64</sup> [Rapport d'évaluation de la loi n° 2016-444 du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées](#) ("Evaluation report on the law of 13 April 2016 strengthening action to combat prostitution and providing assistance to persons engaged in prostitution"), December 2019, p. 56.

<sup>65</sup> *Ibidem*.

<sup>66</sup> For example, on 26 June 2018 Nantes administrative court annulled such a refusal to issue a short-stay visa requested by an individual who had lodged a complaint, claiming to be a victim of THB.

<sup>67</sup> [Procès pour traite d'êtres humains en Champagne : jusqu'à 3 ans de prison ferme requis \(francebleu.fr\)](#)

<sup>68</sup> For example, the DACG Focus factsheet "Trafficking in human beings: reminder of the basics and protection arrangements for victims" and the instruction leaflet for victim correspondents.

<sup>69</sup> [Rapport d'évaluation de la loi n° 2016-444 du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées](#) ("Evaluation report on the law of 13 April 2016 strengthening action to combat prostitution and providing assistance to persons engaged in prostitution"), December 2019, p. 56.



87. Regarding state compensation, as described in GRETA's second report,<sup>70</sup> under Article 706-3 of the CCP, the victim of an offence may obtain full redress "for harm resulting from personal injury" before a commission for the compensation of victims of criminal offences (CIVI), which exist in the different regions and departments of France, even if the perpetrator is insolvent, has not been identified or has not been sentenced to pay compensation for harm suffered by the victim. A victim of French nationality may apply to the CIVI in respect of offences committed in France or abroad. A victim of another nationality may apply to the CIVI solely in respect of acts committed in France, regardless of their residence status. Information on state compensation through the CIVI are provided to victims by the police upon the lodging of a complaint by the victims (see paragraphs 35 and 37) and by the criminal court judge when a decision is handed down in a criminal case. There are no procedural costs for the victim, and it is not compulsory for them to be assisted by a lawyer, even though they may request legal aid for the purpose. However, GRETA was informed that victims applying to a CIVI following a judicial decision are occasionally refused legal aid on the grounds that they are going to receive a large sum of money.

88. An application may be made to a CIVI at any point in the procedure, once the complaint has been lodged, or even outside criminal proceedings on condition that the acts perpetrated present the material elements of a THB offence (Article 706-7 of the CCP). The procedure before a CIVI lasts around six months. While the CIVIs have the autonomy to make their own assessment of the facts in the light of criminal law, in practice, according to specialised lawyers, they tend to await the outcome of the criminal prosecution and align themselves with the conclusions as to the classification of the offence. If the acts are prosecuted as THB or offences linked to the purpose of THB (slavery, pimping, forced labour or servitude...), the victim may obtain full compensation for damages without having to prove that they had a severe incapacity as a result of the offence. However, if the acts concerned are prosecuted as other offences, such as undeclared employment, forcing a vulnerable person to provide non-remunerated work or subjecting an individual to working and accommodation and conditions contrary to human dignity, the victim must demonstrate that they have a permanent incapacity or a total work incapacity equal to or greater than one month (Article 706-3 of the CCP).

89. The amounts granted by the CIVI are paid out via the Guarantee Fund for Victims of Acts of Terrorism and Other Offences (FGTI), which can obtain reimbursement of the compensation awarded from those responsible for the damage caused through the offence (Article 706-11 of the CCP). Specialised lawyers assisting THB victims pointed out that in cases where victims are not French and the perpetrator's assets are abroad and therefore difficult to seize, CIVIs are very reluctant to cover the amounts awarded by the criminal court judge. Furthermore, the Paris Court of Appeal has established a case-law according to which it is not up to the Guarantee Fund to compensate victims for earnings from prostitution which pimps or traffickers have withheld from them. However, the CIVI can compensate victims for the loss of opportunity to have a professional activity because of the significant psychological trauma that does not allow them to work, as well as for the loss of opportunity during the period of exploitation to be able to carry out a paid activity.

90. According to information provided by the FGTI, in 2016, for seven applications made by THB victims, a total of 13 000 euros was paid out by the FGTI ; in 2017, for 17 applications, 188 810 euros were paid out; in 2018, for 13 applications, 133 857 euros were paid out; in 2019, for 26 applications, 187 639 euros were paid out; in 2020, for four applications, 322 703 euros were paid out. The main countries of origin of the applicants were Nigeria, Romania, Ivory Coast, Bulgaria, France and Morocco.

91. The compensation paid out by the FGTI is not taxable, except for amounts compensating for loss of earnings. In addition, compensation paid to victims has no impact on their access to social security benefits or other benefits.

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<sup>70</sup> GRETA's second report on France, paragraph 211.

92. If the person convicted has paid only part, or none, of the amount of compensation within two months following their final conviction and the victim has not been compensated by the CIVI, the victim may apply to the Damages Recovery Assistance Service for Criminal Offences (*Service d'Aide au Recouvrement des Victimes d'Infractions* - SARVI) of the FGTI, which disburses part of the damages awarded by the criminal court (between 1 000 and 3 000 euros) and handles the recovery of the remainder of the amount awarded from the perpetrator.

93. Any person, irrespective of their residence status, may apply to the labour tribunal, demanding the payment of unpaid wages and other allowances due to them. Under Article L8252-2 of the Labour Code, in the event of a foreigner without a work permit being employed, the employee is entitled to: 1) payment of their salary and extras corresponding to the hours of work carried out over the period under consideration; 2) a flat-rate payment equal to three months' salary in the event of a breakdown of the employment relationship; 3) the covering by the employer of the costs of sending unpaid wages to the employee's country of residence. In addition to the possibility of assistance from a lawyer assigned on legal aid, Trade Unions can take all the necessary steps on the victim's behalf without having to prove that they are mandated by the latter, unless the victim is opposed to this (Articles L8223-4 and L8255-1 of the Labour Code).

94. Specialised lawyers emphasised that the CIVIs were reluctant to cover the amounts awarded by labour tribunals in respect of recovery of unpaid wages, since they considered that these damages were not the result of "personal injury" within the meaning of Article 706-3 of the CCP (see paragraph 87).<sup>71</sup> In this context, GRETA welcomes the recent judgment of the Court of Cassation in the case of Ms U., which could facilitate future compensation of victims of trafficking for the purpose of labour exploitation as it lessens the burden of proof they have to provide. This victim's battle to get her case through various courts highlights the difficulties encountered by victims of labour exploitation in obtaining full compensation for the harm caused to them.

#### **Case of Ms U.**

Following a "kafala" adoption,<sup>72</sup> Ms U., of Moroccan origin, was illegally brought into France in August 1994 at the age of 12 years by her adoptive family. For seven years, having no residence permit, she was tasked with most of the housework in her adoptive family's home and was not allowed to attend school. She did not have a single day off and was remunerated with a meagre amount of pocket money. She slept either in an unheated room or on a mattress on the floor of the laundry and was subjected to insults and physical violence.

Seven years after her arrival in France, she fled her adoptive family's home and was put in touch with the NGO *Comité contre l'esclavage moderne* (CCEM). With social and legal assistance from the CCEM, she brought a complaint regarding the period for which she was exploited for domestic servitude. However, the investigation was filed without further action due to lack of evidence. In 2004, Ms U. and her counsel applied directly to the investigating judge and asked for further investigations to be carried out. This resulted in an in-depth investigation being carried out and numerous witness statements bearing out Ms U's claims.

In 2009, though, Versailles Criminal Court discharged the perpetrators. Following an appeal from the complainant and the public prosecutor, on 14 September 2010 Versailles Appeal Court convicted the perpetrators of forcing a vulnerable person to provide non-remunerated services (Article 225-13 of the Criminal Code) in the period July 1998-July 2001. Ms U. sued for damages and was awarded non-pecuniary damages of 10 000 euros.

On 6 May 2011, she applied to the labour tribunal in Versailles seeking pecuniary damages, corresponding to the period in which she was exploited without remuneration. Her application was initially rejected, having been deemed inadmissible by the first and second instance criminal courts due to lack of proof of the existence of an employer/salaried employee relationship covering the period of exploitation, despite the criminal conviction for failure to remunerate the work provided. Ms U. appealed to the Court of Cassation, which, on the basis of the applicable

<sup>71</sup> Specific debt recovery procedures are provided for in Articles R8252-10 and following of the Labour Code: salary debts must be paid off within 30 days by the employer, failing which the director general of the French Office for Immigration and Integration (OFII) must send a registered letter to the employer, reminding them of their obligations, and may further issue a writ of execution for the recovery of the amounts due. If the foreign employee in question has left France, those amounts are transferred by the OFII to the country they returned to.

<sup>72</sup> Form of adoption in Islamic law which does not entail a change of civil status.

international texts, recognised for the first time the right to full compensation for the damages, both pecuniary and non-pecuniary, suffered by victims of forced labour and servitude, in a judgment of 3 April 2019.<sup>73</sup> It pointed out that the existence of a salaried employment relationship depends neither on the wishes expressed by the parties, nor the name they gave to their agreement but solely on "de facto conditions in which the worker's activity is exercised", and that a worker having provided labour services in such conditions may obtain from the labour tribunal compensation for the pecuniary damage caused to them by the employer's failure to remunerate their work. Therefore, according to the judgment of the Court of Cassation, once the offences of forced labour or servitude are constituted, the victim must be wholly compensated for both pecuniary and non-pecuniary damage without having to establish the existence of a labour contract or an employer/salaried employee relationship.<sup>74</sup>

The Court of Cassation sent the case to Paris Appeal Court which, on 8 September 2020, awarded Ms U. compensation of 280 000 euros by way of pecuniary damages.

Proceedings are ongoing to seize the property of the perpetrators. The victim's lawyers have asked the CIVI to reclassify the acts committed as acts of THB so that it can cover the amount of compensation awarded (see paragraph 88).

95. While welcoming the existing legal avenues to claim compensation, GRETA is concerned that the amounts of damages awarded to THB victims by the criminal courts and the CIVIs are low and that little use is made of the seizure of perpetrators' assets, all of which impedes the effective compensation of victims.

96. **GRETA urges the French authorities to make further efforts to guarantee effective access to compensation for victims of trafficking in human beings, and in particular to:**

- **ensure that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim, is part of the criminal investigations with a view to supporting compensation claims in court;**
- **make full use of the legislation on the freezing and confiscation of assets to secure compensation to THB victims;**
- **develop specific modules on victim compensation for the initial and in-service training of lawyers, law enforcement officers, prosecutors and judges, which should include compensation for victims of labour exploitation.**

97. **Furthermore, GRETA considers that the French authorities should:**

- **introduce a procedure whereby victims can request that a decision on the recovery of unpaid salaries is taken within the framework of criminal proceedings;**
- **ensure that the amounts granted in respect of recovery of unpaid salaries can be paid in advance by the State, which subsequently reclaims them from the offender;**
- **grant residence permits to victims of THB for the duration of the judicial proceedings, including the compensation procedure, with a view to facilitating their access to compensation and damages;**
- **ensure that legal aid for applying to the commission for the compensation of victims of criminal offences (CIVI) is not denied to victims of trafficking on the grounds that they are about to receive compensation.**

<sup>73</sup> Cour Cass. Ch. Soc. 3 avril 2019, FP-PBRI, [n° 16-20.490](#)

<sup>74</sup> See [Controverses Revue Dalloz Droit du travail de septembre 2019](#)

98. **In addition, GRETA once again invites the French authorities to introduce a system for recording the compensation claimed and obtained by trafficking victims within the framework of criminal as well as labour tribunal procedures.**

## **7. Investigations, prosecutions, sanctions and measures (Articles 22, 23 and 27)**

99. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. Article 27(1) establishes that the investigation or prosecution of THB offences must not depend on victims' reports. The aim is to avoid traffickers' subjecting victims to intimidation so as to deter them from complaining to the authorities. Pursuant to Article 27(2), if the competent authority with which the complaint has been lodged decides that it does not itself have jurisdiction in the matter, then it must forward the complaint without delay to the competent authority of the Party in whose territory the offence was committed. Further, under Article 27(3), each Party shall ensure to non-governmental organisations and other associations, which aim at fighting trafficking in human beings or the protection of human rights, the possibility to assist and/or support the victim (subject to his or her consent) during criminal proceedings concerning the offence of trafficking in human beings.

100. Article 23 requires Parties to match their actions to the seriousness of the offences and lay down criminal penalties which are "effective, proportionate and dissuasive". Further, paragraph 3 of Article 23 places a general obligation on Parties to adopt appropriate legal instruments enabling them to confiscate or otherwise deprive offenders (e.g. by so called "civil" confiscation) of the instrumentalities and proceeds of human trafficking offences. As trafficking in human beings is nearly always engaged in for financial profit, measures depriving offenders of assets linked to or resulting from the offence are an effective anti-crime weapon. The confiscation of criminal assets is crucial for reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim. The identified, seized and confiscated illegal profits of trafficking should be used to compensate victims of trafficking, directly or through a victim compensation fund.

101. Further, Article 22 of the Convention requires Parties to ensure that legal persons can be held liable for human trafficking offences committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person who has a leading position within the legal person. Liability under this article may be criminal, civil or administrative.

102. Article 225-4-1 of the French CC, which punishes the offence of human trafficking, has not been amended since the second GRETA report. Most of the exploitation purposes referred to in this article constitute separate offences in the CC: pimping (Articles 225-5<sup>75</sup> to 225-12), sexual assault or abuse (Articles 222-22 to 222-33-1 and 227-21-1 to 227-28-3), enslavement (Articles 224-1 A to 224-1), subjection to forced labour or services (Article 225-14-1), subjection to servitude (Article 225-14-2), exploitation of begging (Articles 225-12-5 to 225-12-7), working and accommodation conditions contrary to human dignity (Article 225-14), forced criminality (Articles 121-7 and 227-21) and removal of organs (Articles 511-2 to 511-13).

<sup>75</sup> Pimping is defined in Article 225-5 as follows: "Pimping is the act, by any person, in whatsoever manner, of:  
1° helping, assisting or protecting the prostitution of others;  
2° making a profit out of the prostitution of others, sharing the proceeds of it or receiving income from a person engaging habitually in prostitution;  
3° hiring, training or corrupting a person with a view to prostitution or exercising on such a person pressure to practice prostitution or to continue doing so."

103. The offence of trafficking an adult is punishable by seven years' imprisonment and a fine of 150 000 euros<sup>76</sup> and that of trafficking a minor is punishable by 10 years' imprisonment and a fine of 1 500 000 euros (Article 225-4-1 of the CC). Trafficking is punishable by 10 years' imprisonment and a fine of 3 000 000 euros where it is committed in aggravating circumstances listed in Article 225-4-2, and 15 years' imprisonment and a fine of 1 500 000 euros where it is committed against a child with aggravating circumstances (Article 225-4-2, paragraph 2, of the CC); 20 years' imprisonment and a fine of 3 000 000 euros where it is committed as part of an organised gang (Article 225-4-3 of the CC); and life imprisonment and a fine of 4 500 000 euros where it is committed with the use of torture or acts of barbarity (Article 225-4-4 of the CC). Corporations that are found criminally liable for a trafficking offence (Article 225-4-6 of the CC) incur a fine of up to 750 000 euros which can be accompanied by the sentences referred to in Article 131-39 of the CC, including winding up, closure of sites of the company which were used to commit the offences, exclusion from the procedure for awarding a public procurement contract on a permanent basis or for a period of up to five years, and confiscation.

104. The procedure of "appearing after making a prior admission of guilt" (i.e. plea-bargaining procedure) under Articles 495-7 et seq. of the CCP is not applicable to crimes or misdemeanours that are punishable by a term of imprisonment exceeding five years. The offence of human trafficking and most of the offences related to it (pimping, forced labour, subjection to servitude...) are therefore excluded from the scope of plea bargaining. However, this procedure is applicable to some of the related offences.<sup>77</sup> It is offered to persons who admit the offences with which they are charged. The sentence(s) suggested by the prosecutor must be approved by a reasoned decision of the president of the court. The latter may refuse to approve it if he/she believes that "the nature of the acts, the personality of the interested party, the situation of the victim or the interests of society warrant an ordinary criminal hearing" or where the statements of the victim, who is informed of the procedure and invited to appear, "shed new light on the circumstances in which the offence was committed or the personality of its perpetrator". The victim can claim damages for the harm suffered and appeal against the decision of the president of the court. GRETA notes with satisfaction that the CCP therefore provides adequate guarantees for the protection of victims' rights through this procedure.

105. According to statistics provided by the French authorities, there has been an increase in the number of investigations and prosecutions conducted in THB cases between 2016 and 2020, despite a drop in 2020 due to the health crisis caused by the COVID-19 pandemic. The number of investigations initiated for THB was 112 in 2016, 129 in 2017, 113 in 2018, 171 in 2019 and 98 in 2020. The number of prosecutions was 57 in 2016, 75 in 2017, 95 in 2018, 150 in 2019, and 126 in 2020. By comparison with these figures, there were few convictions for THB: 26 in 2016, 19 in 2017, and 20 in 2018.<sup>78</sup> This suggests that unlike related offences such as pimping and working and accommodation conditions contrary to human dignity, the offence of THB is often requalified as another offence during criminal proceedings.

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<sup>76</sup> The CC only states a maximum sentence for each offence. In a particular case, therefore, the judge decides the applicable sentence within this maximum.

<sup>77</sup> These include subjecting a vulnerable or dependent person to unremunerated labour (punishable by five years' imprisonment under Article 225-13 of the CC) or working and accommodation conditions contrary to human dignity (punishable by five years' imprisonment under Article 225-14 of the CC), exploitation of begging (punishable by three years' imprisonment under Article 225-12-5 of the CC), and aggravated exploitation of begging (punishable by five years' imprisonment under Article 225-12-6 of the CC).

<sup>78</sup> All the data provided by the French authorities relating to convictions and sentences pronounced in 2018 are provisional.

106. The data provided by the French authorities shows that the number of investigations opened into at least one of the offences related to human trafficking was 639 in 2016 (pimping: 353, working and accommodation conditions contrary to human dignity: 204, exploitation of begging: 74, labour exploitation: 11<sup>79</sup>), 717 in 2017 (pimping: 434, working and accommodation conditions contrary to human dignity: 183, exploitation of begging: 85, labour exploitation: 19), 795 in 2018 (pimping: 474, working and accommodation conditions contrary to human dignity: 242, exploitation of begging: 65, labour exploitation: 15), 829 in 2019 (pimping: 565, working and accommodation conditions contrary to human dignity: 203, exploitation of begging: 40, labour exploitation: 22) and 700 in 2020 (pimping: 456, working and accommodation conditions contrary to human dignity: 215, exploitation of begging: 21, labour exploitation: 8). The number of prosecutions for pimping was much higher than the number of prosecutions for trafficking: 805 prosecutions were initiated for pimping in 2016, followed by 976 in 2017, 1 012 in 2018, 1 150 in 2019, and 1 048 in 2020. As for the offence of working and accommodation conditions contrary to human dignity, the number of prosecutions was 261 in 2016, 327 in 2017, 389 in 2018, 438 in 2019, and 252 in 2020.<sup>80</sup> According to information provided by the authorities, out of 7 204 persons prosecuted for trafficking and related offences between 2016 and 2020, 75% were men, 47% were French citizens and nearly a third were citizens of non-EU countries. GRETA notes an increase in the number of persons convicted of pimping and working and accommodation conditions contrary to human dignity: 460 people were convicted of pimping in 2016, 549 in 2017, and 652 in 2018. The number of persons convicted for working and accommodation conditions contrary to human dignity was 215 in 2016, 225 in 2017, and 287 in 2018.<sup>81</sup> More than a third of the persons convicted of trafficking and related offences are of French origin, followed by nationals of Romania, China, Nigeria, Bulgaria, Brazil, Algeria and Morocco.

107. No legal persons were convicted over the 2016-2018 period of THB; nine were convicted of pimping and 11 were convicted for working and accommodation conditions contrary to human dignity.

108. The data on the number of THB cases are not broken down by type of exploitation. However, GRETA has received examples of case-law concerning trafficking for the purpose of various kinds of exploitation (sexual, labour, domestic servitude, begging, forced criminality). By way of illustration, GRETA would like to refer to the following cases.

109. There have been several cases related to trafficking for the purpose of sexual exploitation by Nigerian and Romanian criminal networks. GRETA wishes to mention in greater detail the following case, which serves as an example of both good and bad practice in the handling of trafficking cases by the courts:

#### **"Wisconsin" case**

- **Trial court:** 3<sup>rd</sup> Section of Paris Assize Court
- **Case number:** 19/0052
- **Date of judgment:** 3 July 2020. Following appeals lodged by the defendants, the case is currently pending before the Court of Appeal.
- **Date of indictment:** 3 June 2019
- **Dates and duration of main hearing:** from the end of June to the beginning of July 2020 (six days).
- **Victims:** 14 victims, all Nigerian nationals. Six were children when the offences were committed. The youngest was just eight years old when she began to be exploited.

<sup>79</sup> The term "labour exploitation" corresponds to the offences of forced labour, enslavement, and subjection to servitude. For statistical purposes, the French authorities include in this group the offence of working and accommodation conditions contrary to human dignity. However, given the large number of investigations and prosecutions relating to this offence, GRETA prefers to indicate the figures for this offence separately.

<sup>80</sup> In addition, between 2014 and 2020, the authorities brought 69 prosecutions for exploitation of begging, nine for forced labour, nine for enslavement, and six for subjection to servitude.

<sup>81</sup> In addition, between 2016 and 2018, 33 persons were convicted of exploiting begging and one was convicted of subjection to servitude.

- **Defendants:** five defendants (two women and three men); one of them is currently wanted; the others were arrested in 2016 and 2017. All of them are Nigerian.
- **Charges:**
  - o Article 225-4-3 of the CC (human trafficking committed as part of an organised gang; human trafficking committed as part of an organised gang in relation to a minor)
  - o Article 225-8 of the CC (aggravated pimping committed as part of an organised gang)
  - o Article 223-10 of the CC (complicity in termination of pregnancy without the interested party's consent).
- **Form of exploitation:** The victims had been recruited in 2013 in Nigeria; before coming to France, they had to go through an oath-swearing ("juju") ritual through which they undertook to obey orders and repay their alleged debts. They were exploited for prostitution purposes for almost four years.
- **Sentences:** the defendant who had absconded was sentenced to 20 years' imprisonment; the other defendants were sentenced to 19, 15, 13 and 10 years' imprisonment respectively. Two defendants were also permanently banned from re-entering French territory under Article 225-21 of the CC.
- **Compensation:** of the 14 victims who were identified, 10 (five of whom were minors at the time of the exploitation) joined criminal proceedings as an injured party. In a judgment on civil claims delivered on 13 July 2020, Paris Assize Court ordered the defendants to pay 80 000 euros each to three of the victims. Since all of the perpetrators' assets were in Nigeria, no assets were seized. The victims therefore made a request to the CIVI to compensate them for the harm they had suffered, on which no decision has yet been taken. For the seven other victims, the Assize Court ordered an expert assessment of the physical and moral harm they had suffered. Experts have not yet delivered their reports. Five of them received 10 000 euros as an advance on the final compensation for the harm caused to them. Two of these seven victims had previously made applications to the CIVI and each obtained 5 000 euros.
- **Good practices:**
  - o The case was not tried as a misdemeanour case (see paragraph 119).
  - o The traffickers were given sentences commensurate with the gravity of the offences.
  - o The case was dealt with swiftly.
  - o The victims who joined criminal proceedings as an injured party were represented by lawyers and obtained legal aid.
  - o Some of the victims were represented by lawyers from the minors' division of the Paris Bar Association who are trained in dealing with trafficking cases.
  - o Most of the victims were supported by NGOs specialised in assisting victims of sexual exploitation throughout the criminal proceedings.
  - o All victims were treated individually and equally.
  - o The five victims who were minors at the time of the exploitation and who joined criminal proceedings as an injured party were all taken into care by the Child Protection Service (ASE) until the age of 21. They all obtained refugee status and were enrolled in school. Some of them obtained a vocational certificate (CAP) or a professional title. One acquired French nationality.
  - o As for the adult victims who joined criminal proceedings as an injured party, two obtained refugee status and one was given a residence permit under Article L 425-1 of the CESEDA. One victim who decided to participate in criminal proceedings as a witness obtained a residence permit under Article L 425-1 of the CESEDA. She was protected for some time within the Ac.Sé system.
- **Shortcomings :**
  - o The victims had to relate their experiences several times (to the assize court judges, prosecutors, police officers, during their asylum claims...). Because the perpetrators appealed, the Court of Appeal may ask the victims to appear again at the hearing. The victims who made applications to the CIVI will also have to relate their experiences again before an expert appointed by the CIVI to put a value on the harm they suffered.
  - o The victims themselves had to get mobilised and look for other victims so that many victims could be involved in the proceedings. They received no help to that end from the investigating authorities or the prosecutor's office.

110. GRETA was informed of the “*Pretty woman*” case conducted by the national gendarmerie in 2019, which led to the break-up of a trafficking network including 23 young Romanian women (including children) who had been recruited through the “lover-boy” method and exploited in France, Italy, Germany, Belgium, Spain and Greece. The case was tried from 14 to 23 June 2021 by the Criminal Court of Rennes. 14 defendants were indicted for THB, pimping and money laundering. The main perpetrator was sentenced to 10 years’ imprisonment. The other defendants were convicted to sentences between six months’ suspended imprisonment and eight years’ imprisonment. One of the defendants was acquitted. Only the main perpetrator appealed; at the time of writing, the case is pending before the Court of Appeal.

111. Regarding trafficking for the purpose of labour exploitation, GRETA would like to refer to the following case:

#### **The “Boulevard de Strasbourg hairdressers” case**

18 persons (six Ivorians, four Chinese, three Nigerians, two Malians, one Guinean, one Senegalese and one Burkinabe) aged from 19 to 46, including two men, were hired in 2013-2014 at a hairdressing salon on the Boulevard de Strasbourg in Paris. Seventeen of them did not have a residence permit. None of them had signed a contract of employment. They had all been hired having been promised remuneration consisting entirely of a percentage of the revenues generated by their work (40% for the hairdressers and 50% for the manicurists). They reportedly worked six days a week for more than 10 hours a day, had difficulty in taking leave, received only a small part or none of the amounts owed to them, and continued to work in the hope that what was owed to them would be paid soon and for fear that they would lose it if they resigned. The victims were in a very precarious situation and the majority were homeless, after having travelled through Libya and Lampedusa in Italy.

On 23 May 2014, the Labour Inspectorate carried out an inspection which brought to light numerous infringements in terms of health and safety (dirty and damp premises, lack of a ventilation system...) and the terms under which the employees had been hired. Even before the report was sent to the prosecutor’s office in October 2014, the General Confederation of Labour (*Confédération Générale du Travail* - CGT) lodged a complaint on 6 August 2014 in which it accused the hairdressing salon’s managers of THB, among other things. However, the case was prosecuted for illegal labour and infringements of the health and safety regulations. By judgment of 10 November 2016 handed down by Paris Criminal Court for Misdemeanours, the Ivorian manager of the hairdressing salon was sentenced to two years’ imprisonment, one of which was suspended, and fines. The employees who claimed damages were each awarded 1 000 euros for non-material damages. Because the offences were not classified as THB, the victims were not entitled to residence permits. In 2016, a judgment of Paris Labour Tribunal ordered the manager of the salon to pay the wage arrears that were owed to the victims.

In September 2016, the CGT issued proceedings at Paris Criminal Court for Misdemeanours against the manager of the hairdressing salon for THB, and after the case attracted strong interest from the media and figures from the arts world, the victims were granted residence permits. On 8 February 2018, Paris Criminal Court for Misdemeanours quashed the judgment of 10 November 2016 and sentenced the manager to two years’ imprisonment, one of which was suspended, and fines for THB and the other offences mentioned above, ordering him to pay 1 500 euros in compensation to each of the 18 victims who joined the criminal proceedings as injured parties.

112. Specialised NGOs have reported a rise in recent years in court cases concerning trafficking for the purpose of labour exploitation thanks to the involvement of the Labour Inspectorate and the work of the Central Office for Combating Illegal Employment (*Office central de lutte contre le travail illegal* – OCLTI). For example, in 2019, the OCLTI and the Rhône Interministerial Investigation Group (*Groupe Interministériel de Recherches du Rhône* – GIR) launched investigations for trafficking for the purpose of labour exploitation after Bulgarians working in vineyards in the Auvergne-Rhône-Alpes region complained about their working conditions. Investigations revealed the existence of a criminal organisation run by Bulgarian nationals who exploited agricultural workers by supplying them to French wine growers. The impoverished and illiterate victims signed contracts in French which they did not understand and were promised wages of 60 euros per day. The organisers of the network kept most of their wages. The money they were left with was barely enough for their return journey to Bulgaria. On 17 September 2019, operations were conducted in France and Bulgaria simultaneously. Three Bulgarian and one French



nationals were arrested and 167 victims were identified.<sup>82</sup> The four persons who were arrested were prosecuted in France for offences including trafficking for the purpose of labour exploitation, illegal employment and involvement in a criminal conspiracy. In addition to the four main perpetrators, four employers were taken into custody in 2021. 120 000 euros were seized as criminal assets. The case was being investigated at the time of writing. Following the obligation imposed by the prefecture to rehouse the employees in decent conditions, the employers broke the contracts and the victims returned to Bulgaria. In another case, by a judgement of 9 February 2021, the Toulouse Judicial Court convicted 18 Bulgarians to terms of imprisonment ranging from one to eight years for having trafficked some 30 Bulgarians for the purpose of exploitation through forced begging. The victims were recruited in Bulgaria to beg in France, with the promise of substantial earnings; once in France, the defendants took away their identity documents, illtreated them and took all the money collected. The money collected were laundered and sent by road or bank transfer to Bulgaria.

113. There have been several cases relating to THB for domestic servitude. By way of illustration, GRETA would like to refer to the following two cases:

- A former Burundian minister of justice and his wife were sentenced on 26 March 2021 to two years' suspended imprisonment by a non-final judgment of Versailles Court of Appeal for exploiting a Burundian man as a servant for 10 years at their home in the Paris region. After he had arrived in France in 2008, initially for a period of three months, his passport had been taken away, and until he was discovered by law enforcement officers in 2018, he had to work 19 hours a day, seven days a week, carrying out all household and domestic tasks and looking after one of the couple's children, an adult with a disability. He slept in the cellar of the couple's house, where basic hygiene conditions were lacking. At the time of writing, proceedings for the recovery of the wages owed to him are ongoing at the Labour Tribunal. In 2007, the couple had received suspended sentences of 12 and 15 months' imprisonment in a case concerning two girls, nieces of the couple, who had come from Burundi and were exploited as servants, but were acquitted on appeal. The two girls took their case to the European Court of Human Rights, which ruled that France had failed in its efforts to combat servitude and forced labour.<sup>83</sup>
- In another case, a French couple were found guilty of trafficking, undeclared employment, employment of a foreign national without a work permit, and aiding and abetting the illegal entry, movement or residence of a foreign national. They had arranged for an Indonesian woman to come and work for them for one and a half years for a monthly wage of 250 euros, which the court found derisory for the domestic work that she did. She looked after the children, did the housework without leave and had no private space to herself in the couple's home where she was housed. The couple were sentenced by judgment of 18 January 2018 of Nanterre Criminal Court for Misdemeanours to three years' suspended imprisonment and a fine of 20 000 euros. The victim was awarded 10 000 euros in non-material damages. She also took her case to the Labour Tribunal, which ordered the couple to pay her 96 746 euros in back-pay, which was paid to the victim.

114. GRETA refer to a case concerning Romanian children who were exploited by their parents for theft on the Parisian underground. The parents took the proceeds and sent them to Romania. The children were moved between France, Romania and other European countries for the purpose of forced criminality. This case was dealt with by a Franco-Romanian joint investigation team (JIT) facilitated by EUROJUST. Co-ordinated arrests of the suspects took place in the two countries in June 2017. By judgment of 18 October 2019 of Paris Criminal Court, 20 persons, most of them parents of the child victims, were convicted of child trafficking, incitement of minors to commit offences, handling stolen goods as part of an organised gang, money laundering as part of an organised gang and involvement in a criminal conspiracy, and sentenced to terms of imprisonment ranging from four to eight years and fines of 1 500 euros. Seven children were placed in child residential institutions in Romania and enrolled in school. Ten children who were placed in shelters in France ran away and were picked up again by the network, which

<sup>82</sup> <https://prb.bg/sp/bg/news/37020-specializirana-prokuratura-gdbop-i-frenskite-147>.

<sup>83</sup> ECtHR, *C.N. and V. v. France*, application [67724/09](https://www.echr.coe.int/ViewDoc.aspx?i=67724/09), 11 October 2012.

continued to exploit them in Spain.<sup>84</sup> The French authorities indicated in their comments to GRETA's draft report that the overwhelming majority of these children were aged 13 and over, an age group for which it would be extremely difficult to enforce a placement order. The French authorities emphasised the difficulty of providing long-term protection for such children, who are sometimes conditioned from an early age and under the control of their parents, as well as the importance of placing them in secret places far from traffickers (see paragraph 244).

115. GRETA was also informed that in several cases organisers of smuggling of migrants to Great Britain by means of refrigerated lorries had been prosecuted for THB.

116. To build prosecutors' capacity to conduct effective prosecutions in organised crime cases, the law of 23 March 2019 has established the National Court for Organised Crime (JUNALCO) which gives Paris Prosecutor's Office a new means of tackling very serious crimes. The first case taken on by JUNALCO concerned 39 Vietnamese migrants who were found dead in a refrigerated lorry in Great Britain in October 2019.<sup>85</sup> In this case, 26 persons were arrested in May 2020 and charged with manslaughter, THB committed as part of an organised gang, aiding entry and residence as part of an organised gang, and involvement in a criminal conspiracy. In addition, the French authorities informed GRETA that the prosecutor's offices attached to the eight Specialised Interregional Courts (JIRSs), which were created in 2004 to deal with very complex cases of organised crime and financial crime, had appointed a contact person to lead criminal prosecution in THB cases. Thirty-one other prosecutor's offices that are likely to deal with trafficking cases have appointed contact persons for such cases. GRETA commends the appointment of contact persons for THB, which could be instrumental for more frequent use of the qualification of human trafficking and improved information sharing and co-operation between criminal justice actors and specialised NGOs. However, it should be pointed out that at the prosecutor's office attached to the JIRS of Rennes, which GRETA visited, there was no contact person for THB.

117. The data in paragraphs 105-106 shows that the difficulties highlighted in the second GRETA report<sup>86</sup> in relation to the classification of offences as THB still exist, despite the circular of 22 January 2015 from the Minister of Justice which encourages prosecutors to qualify offences as trafficking. During its meetings, the GRETA delegation observed that there is still a widespread belief among investigators, judges and prosecutors that human trafficking necessarily involves transnational networks. Some judges and prosecutors confirmed that there was indeed some misunderstanding of the offence of trafficking among criminal justice professionals, who often look for movement of persons from abroad in order to qualify a case as THB. As a result, cases of young French women and girls who are moved around the country for the purpose of prostitution, referred to as "deprived neighbourhood pimping" (see paragraph 14), are not prosecuted as THB. The qualification of THB cases as pimping may create difficulty in terms of international co-operation. The French authorities stated that requests for mutual legal assistance in criminal matters made by French judicial authorities receive positive responses from most countries when they concern trafficking and not pimping offences, because pimping is defined in a narrower way in some countries' legislation, such as Germany. The preference given by judges and prosecutors to pimping rather than trafficking is also due to the fact that both offences give victims the same rights (access to residence, benefits, housing...) and pimping is punished as severely as human trafficking,<sup>87</sup> or even more so where it is committed against a child under the age of 15.<sup>88</sup> Law No. 2021-478 of 21 April 2021 increases the sentence for pimping children under the age of 15 to 20 years'

<sup>84</sup> See the documentary on this that was broadcast in June 2020 by the Arte channel: [Trafic d'enfants: démantèlement d'un réseau européen | ARTE – YouTube](#) (in French).

<sup>85</sup> See <https://www.leparisien.fr/faits-divers/camion-de-l-horreur-un-vaste-reseau-criminel-implante-en-france-revele-par-l-enquete-04-08-2020-8363091.php>

<sup>86</sup> See paragraphs 264 to 268 of the second GRETA report on France.

<sup>87</sup> Both offences are punishable by seven years' imprisonment, 20 years where they are committed as part of an organised gang, and life imprisonment where they are committed with acts of torture and barbarity.

<sup>88</sup> The CC does not make a distinction as to the age of the minor for trafficking, but does make one for pimping: the perpetrator of a trafficking offence in respect of a minor under the age of 15 can be sentenced to up to 10 years' imprisonment and 15 years when the offence is committed with other aggravating circumstances, whereas a perpetrator of pimping in relation to a minor of the same age can be sentenced to up to 15 years' imprisonment even where the offence is not committed with other aggravating circumstances (Article 225-7-1 of the CC).

imprisonment. This amendment may further shift the balance in favour of prosecution for pimping at the expense of trafficking.

118. In its capacity as National Rapporteur on trafficking, the CNCDH has underlined that since the offence of trafficking for the purpose of labour exploitation is difficult to prosecute, prosecutors and judges tend to opt for other offences.<sup>89</sup> These include the offences of subjecting a vulnerable or dependent person to unremunerated labour or to working and accommodation conditions contrary to human dignity, undeclared employment, or employment of a foreign national without a residence permit, which are more frequently used by judges and prosecutors. Only extremely serious situations are qualified as trafficking. The other offences are not punished as severely as trafficking and can be subject to a plea-bargaining procedure. It should also be noted that, unlike the previously mentioned offences, trafficking is among the offences listed in Article 706-73 of the CCP, which makes provision for the application of the rules governing organised crime and allows the use of special investigative techniques (interception of communications, infiltration, investigations conducted under a pseudonym, etc.<sup>90</sup>). In addition, prosecution for THB enables victims who co-operate with the authorities to obtain a residence permit under Article 425-1 of the CESEDA, which gives them access to rights. Furthermore, prosecuting and convicting perpetrators for THB gives entitlement to full compensation for the harm suffered by the victim, as has been confirmed by the Court of Cassation in the "Miss U" case (paragraph 94). Lastly, as stated in paragraph 117, prosecution for the offence of trafficking makes it easier to use mutual legal assistance tools.

119. Various interlocutors drew GRETA's attention to the fact that criminal offences are prosecuted as misdemeanours in trafficking cases. In France, offences carrying a sentence of more than 10 years' imprisonment are classified as "*crimes*" (criminal offences) and such cases are brought before the Assize Court, which is made up of professional judges and a jury; cases concerning other offences are regarded as misdemeanours (*délit*) and brought before the misdemeanours court (*tribunal correctionnel*). Although cases concerning trafficking committed as part of an organised criminal group (punishable by 20 years' imprisonment), trafficking of a child committed with an aggravating circumstance (punishable by 15 years' imprisonment) and trafficking of an adult with several aggravating circumstances (punishable by 15 years' imprisonment) must normally be tried at the Assize Court, the investigating judge will often – by agreement with the accused and the party claiming damages<sup>91</sup> – leave out certain elements (such as organised criminal group or other aggravating circumstances) so that the offence can be regarded as a misdemeanour and tried at the misdemeanours court. Although trying an offence as a misdemeanour can shorten the hearing time and speed up criminal proceedings, it can also undermine the effectiveness, proportionality and deterrent effect of the criminal sentences provided for in the CC for THB, because the maximum sentence that a misdemeanours judge can pronounce will be shorter. Some of the judges and prosecutors met by GRETA underlined that prosecuting trafficking as a misdemeanour can be beneficial for the victim; unlike proceedings before a misdemeanours court, those before the Assize Court are always conducted orally as a rule, which means that victims must be cross-examined by the defence counsel. That said, as noted in paragraph 139, this may be done through video conference if the hearing may pose a serious danger to victim's life or physical integrity. GRETA notes that the State has a duty to take the measures necessary to avoid revictimisation while ensuring that the criminal justice response to trafficking is effective, proportionate and dissuasive.

120. The French authorities stated that at JIRSs the average duration of proceedings in trafficking cases is three years and six months, which exceeds that of proceedings in other large-scale organised crime cases (two years and six months).

<sup>89</sup> [Avis sur la traite des êtres humains à des fins d'exploitation économique](#) (Opinion on human trafficking for the purpose of economic exploitation), 15 October 2020, p. 8.

<sup>90</sup> For more details, see paragraphs 255 and 256 of the second GRETA report on France.

<sup>91</sup> A criminal case can only be reclassified as a misdemeanour case by agreement of the Public Prosecution Service, the accused and the party claiming damages.

121. With regard to sentences, GRETA was informed by representatives of the Directorate for Criminal Cases and Pardons (*Direction des affaires criminelles et des grâces* – DACG) at the Ministry of Justice that between 2015 and 2019, 81% of convictions for THB resulted in non-suspended prison sentences. Over this period, where the main offence of which the offender was convicted is an offence that falls under the scope of THB, the average length of the non-suspended prison sentence pronounced was 42.9 months. The average amount of the non-suspended fines pronounced for THB was 20 000 euros. The acquittal and discharge rate was around 5%. According to NGOs that support victims during judicial proceedings, the sentences do not act as a sufficient deterrent. In cases concerning trafficking for the purpose of labour exploitation in particular, they are especially short due to the requalification of the offences (see paragraph 118).

122. Pursuant to Article 225-25 of the CC, individuals and corporations found guilty of trafficking or pimping incur the additional penalty of confiscation of all or part of their assets or, subject to their rights as a *bona fide* owner, property that they have the right to dispose of freely, regardless of its nature, whether movable or immovable, or separately or jointly owned. Article 131-21 of the CC provides that property that bears no direct relation to the committing of the offence can be confiscated where the defendant cannot prove that it is of lawful origin. An alternative value confiscation can be ordered, up to the amount of the proceeds of the offence or the value of the property against or by means of which it was committed. In the event of an expedited police investigation with the prior agreement of the public prosecutor, and in the event of a preliminary police investigation by decision of a liberty and custody judge, a police officer can carry out a search on any premises to seize tangible movable property without the consent of the person in whose home it takes place (Articles 56, 76 and 94 of the CCP). To identify offenders' assets in France and abroad, investigators rely on specialised financial departments, namely the Central Office for the Prevention of Serious Financial Crime, regional intervention groups within inter-regional police departments, inter-ministerial investigation groups (GIRs), and criminal asset identification units. According to figures provided by the French authorities, in 2016-2020, 160 seizures relating to THB offences and 593 seizures relating to pimping offences were registered on average each year.

123. GRETA was informed that around half of the convictions pronounced in 2016-2018 for trafficking and related offences resulted in a sentence of confiscation. The value of the assets seized in trafficking and pimping cases was six million euros in 2017, 10 million euros in 2018, and 10 million euros in 2019. In addition to being used to compensate victims (paragraph 86), since 2019 assets confiscated in trafficking and pimping cases have been used to fund projects run by specialised NGOs. The Agency for the Management and Collection of Seized and Confiscated Assets (*Agence de gestion et de recouvrement des avoirs saisis et confisqués* – AGRASC) paid 399 327 euros to NGOs in 2019 and 1 990 961 euros in 2020 (see also paragraph 225). Thanks to the introduction of a provision in Article 706-160 of the CCP, since April 2021, the AGRASC can also make a real estate confiscated by the State in the context of criminal proceedings available to NGOs recognised as being of public utility.

124. Victims of THB can participate in criminal proceedings as an injured party, which enables them, *inter alia*, to ask questions and make comments through their lawyers, be informed regularly of developments in the proceedings, be notified of orders to remand an accused person in custody, extend custody or release an accused person, and appeal against such orders. Victims who do not participate in proceedings as injured parties can be examined as witnesses. The judges and prosecutors met during the visit mentioned difficulties in keeping in touch with victims so that they could participate in criminal proceedings. According to NGOs, the main reason why contact with victims is lost during criminal proceedings is the lack of measures in place to support them in their efforts to obtain residence permits and access to accommodation, psychological care and employment. There is also a lack of co-ordination and information sharing between the departmental social services; this means that victims who receive assistance from social workers in one department are not all aware that criminal proceedings are being conducted against offenders in another.

125. Some NGOs reported good co-operation with specialised central offices dealing with trafficking and regional authorities, while others have entered into agreements with judicial authorities to facilitate co-operation and the provision of support to victims. However, where it exists, co-operation is generally not structured or formalised and, very often, it takes place on a case-by-case basis and is developed through individual relationships forged over time. In addition, it appears that judicial and other authorities are still reluctant to co-operate with trade unions,<sup>92</sup> even though the latter play a vital role in identifying and supporting victims, especially victims of trafficking for the purpose of labour exploitation, as illustrated in the “Boulevard de Strasbourg hairdressers” case (see paragraph 111), in which the perpetrator was convicted for THB thanks to the efforts of the CGT.

126. As already explained in the second GRETA report,<sup>93</sup> in proceedings relating to the offences of trafficking, enslavement, exploitation of an enslaved person, forced labour and subjection to servitude, NGOs can exercise the rights of an injured party in criminal proceedings, with the victim’s consent.<sup>94</sup> In these cases, NGOs do not represent victims officially, but rather assert the rights of the victims as a whole. Specialised NGOs have reported difficulties in joining criminal proceedings as an injured party in cases concerning labour exploitation in which, often, none of the aforementioned offences are found to have occurred. GRETA was told of the example of the dismissal of an application to participate in criminal proceedings as injured party made by a specialised NGO on the grounds that the qualification of the case was undeclared employment. However, the NGO wished to participate in criminal proceedings precisely to dispute this qualification and assert that the acts committed could be qualified as THB.

**127. GRETA considers that the French authorities should take additional steps to ensure that cases of trafficking are investigated proactively and prosecuted effectively, leading to effective, proportionate and dissuasive sentences, and in particular:**

- **step up their efforts to ensure that trafficking offences are classified as such every time the circumstances of a case allow this, including cases of trafficking for the purpose of labour exploitation, by ensuring that the Circular on criminal law policy on action against THB is distributed more widely and, where necessary, by updating and supplementing it;**
- **develop specialisation among investigators, judges and prosecutors to deal with THB cases, not only at JIRs but also in the jurisdictions that are most exposed to the phenomenon of trafficking, including trafficking for the purpose of labour exploitation;**
- **strengthen co-operation between members of law enforcement agencies, labour inspectors, the financial police, tax authorities, trade unions and other civil society actors with a view to collecting evidence necessary for successfully investigating and prosecuting THB cases, including trafficking for the purpose of labour exploitation;**
- **harmonise sentences for pimping and trafficking in relation to children under the age of 15;**
- **extend the scope of Article 2-22 of the CCP to all offences linked to labour exploitation, such as subjecting a vulnerable or dependent person to unremunerated labour or to working and accommodation conditions contrary to human dignity, and exploitation of begging.**

<sup>92</sup> See [Avis sur la traite des êtres humains à des fins d’exploitation économique](#) (Opinion on human trafficking for the purpose of economic exploitation), 15 October 2020, p. 15.

<sup>93</sup> Second GRETA report on France, paragraph 234.

<sup>94</sup> If this NGO is recognised as serving the public interest, its action is admissible even without the victim’s consent.



## 8. Non-punishment provision (Article 26)

128. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties upon victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. As previously stressed by GRETA, the criminalisation of victims of THB not only contravenes the state's obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the state's obligation to investigate and prosecute those responsible for THB.<sup>95</sup> Furthermore, GRETA has noted that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of differential treatment, depending on the prosecutor in charge of the case.

129. French law still contains no provision enshrining the principle that trafficking victims should not be punished for engaging in illegal activities to the extent that they have been compelled to commit them, as stipulated by Article 26 of the Convention. The French authorities have once again pointed out that Article 122-2 of the CC states that "a person who has acted under the influence of a force or constraint which they could not resist is not criminally liable".

130. In the absence of a specific provision on the non-punishment of trafficking victims, GRETA urged the French authorities, in its second report, to draw up circulars for the investigation services and prosecutor's offices specifying the scope of the non-punishment provision in the case of trafficking victims. GRETA notes that, in a dispatch dated 8 February 2021, the Minister of Justice requested prosecutors to rule out criminal liability, pursuant to Article 122-2 of the CC, for minors coerced into committing an offence. However, GRETA finds the authorities' delay in sending out relevant instructions regrettable and notes that the circular from the Ministry of Justice dated 22 January 2015 regarding criminal law policy in the sphere of action against THB did not mention the principle of non-punishment.<sup>96</sup> GRETA also notes with concern that the dispatch is limited to child victims of trafficking even though the non-punishment provision should also apply to adult victims.

131. According to the French authorities, judges and prosecutors are regularly reminded of the non-punishment principle during relevant training activities. However, the examples of training materials for investigators, judges and prosecutors provided to GRETA make no mention of Article 122-2 of the CC or the non-punishment principle, although they do draw attention to the fact that child offenders may in reality be victims of trafficking.

132. Interlocutors whom the GRETA delegation met during its evaluation visit pointed out that the non-punishment principle was seldom enforced, particularly in the case of child victims of trafficking for the purposes of forced criminality or forced begging, who are being arrested and brought to court. An example was given of a pregnant 16-year-old girl who in 2019 was put in prison together with her parents, who themselves were being prosecuted for trafficking their children. According to the CNCDH, problems connected with some children's refusal to accept care because of the hold exerted by the traffickers over them have led prosecutor's offices and juvenile judges to deliver criminal sentences against children.<sup>97</sup> It seems that unaccompanied children are far more likely to be put in prison than other teenagers having committed offences; this was explained by the fact that as most of these children have not been taken into care by the child protection services (ASE), there is a greater risk that they will escape justice.<sup>98</sup> Moreover, victims of trafficking for the purpose of sexual exploitation are sometimes prosecuted, and even convicted, for recruiting other people, even though they were compelled by the traffickers to do so.

<sup>95</sup> See 2nd General Report on GRETA's activities, paragraph 58.

<sup>96</sup> See GRETA's second evaluation report on France, paragraph 247.

<sup>97</sup> See CNCDH, [Avis sur la création d'un « mécanisme national de référence » concernant les victimes de traite des êtres humains](#), (Opinion on the establishment of a "national referral mechanism" for victims of trafficking in human beings), 28 April 2020, p. 25.

<sup>98</sup> See also Charline Becker, "[Mineurs non accompagnés en prison : les victimes d'un système](#)" (Unaccompanied minors in prison: victims of a system), Observatoire international des prisons - Section française, 2 December 2019, and CNCDH, [Avis sur la privation de liberté des mineurs](#) (Opinion on deprivation of liberty for minors), 27 March 2018.

133. Civil society actors have stressed the need for better exchange of information between prosecutor's offices in different cities, since a child might be considered a perpetrator by one prosecutor's office, and therefore be convicted, but deemed a victim by another. They have added that even if a young person is identified as a victim of trafficking in one department, if he or she is arrested in another department, only the criminal record is transferred, with no reference to the probability of exploitation.

134. Furthermore, even if a person has been officially identified as a victim of trafficking and the trafficker has been convicted, the convictions for the offences that the victim was coerced into committing remain on the latter's criminal record, which could affect victims' integration into society. In their comments on the draft GRETA report, the French authorities specified that Bulletin No. 1 of the criminal record, on which all convictions are mentioned, is issued only to the judicial authorities and cannot therefore hinder the socio-professional integration of convicted persons. Bulletin No. 2, which contains certain convictions, including sexual violence against children, can only be sent to certain public authorities. If no convictions are mentioned on the bulletin, it can also be sent to public and private employers who want to recruit for posts involving children. By virtue of Article 775-1 of the CPP, the court that pronounces a conviction may expressly exclude its mention in Bulletin no. 2 either in the judgment of conviction or by a judgment rendered subsequently at the request of the convicted person. Bulletin no. 3 includes only the most serious convictions, such as convictions for crimes and misdemeanours of more than two years' unsuspended imprisonment, handed down in France or abroad. It is only issued to the holder. However, GRETA notes that an employer is legally allowed to ask an applicant or employee to produce the Bulletin no. 3 to check his or her criminal record. The presence of a conviction on a victim's criminal record may, therefore, hinder his or her access to the labour market.

135. GRETA welcomes the measures taken by the authorities through issuing the above-mentioned dispatch and reminding judges and prosecutors of the non-punishment provision during relevant training sessions. However, GRETA notes with concern that victims of trafficking, in particular children, continue to be prosecuted and jailed for offences that they were compelled to commit. **With a view to ensuring the application of the non-punishment provision, GRETA urges the French authorities to adopt a specific legal provision on the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to commit them, and/or issue instructions to investigation services and prosecutor's offices specifying the scope of the non-punishment provision, which applies not only to children but also to adults coerced into unlawful activities.**

136. **Furthermore, GRETA considers that the French authorities should:**

- **continue to take measures to ensure implementation, in practice, of the non-punishment provision, in particular by providing training for law enforcement officers, prosecutors and judges, publishing appropriate guidance and improving information exchange between judicial authorities in different departments;**<sup>99</sup>
- **adopt legislative measures allowing to remove convictions from trafficking victims' criminal records once it has been established that victims have been compelled by traffickers to commit the offences concerned.**

<sup>99</sup> See OSCE, Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking, 2013: <https://www.osce.org/secretariat/101002?download=true>. With regard to the non-punishment provision, see also ECtHR, *V.C.L. and A.N. v. the United Kingdom* (nos 77587/12 et 74603/12), 16 February 2021.

## 9. Protection of victims and witnesses (Articles 28 and 30)

137. Under Article 28 of the Convention, Parties must take the necessary measures to provide effective and appropriate protection from potential retaliation or intimidation to victims and witnesses of human trafficking, as well as to members of civil society organisations supporting victims during criminal proceedings and, where appropriate, to victims' family members. Intimidation of victims and witnesses is nearly always aimed at suppressing evidence against defendants. Effective protection can be of various types (physical protection, relocation, identity change...) and depends on the assessment of the risks that victims and witnesses run. In addition, Article 28(3) provides that a child victim shall be afforded special protection measures, taking into account the best interests of the child. Regarding the period during which the protection measures are to be provided, the Convention aims in a non-exhaustive manner at the period of investigation and of the proceedings or the period following them. The period in which protection measures have to be provided depends on the threats to the persons concerned. Moreover, because trafficking in human beings is often international and some countries are small, Article 28(5) encourages Parties to enter into agreements or arrangements with other countries so as to implement Article 28.

138. Further, Article 30 of the Convention requires Parties to adapt their judicial procedure so as to protect victims' privacy and ensure their safety, including special protection measures for child victims. While the measures provided for in Article 28 are concerned with extra-judicial protection, Article 30 addresses the procedural measures to be introduced. The following means can be used, in accordance with the European Convention on Human Rights and the case-law of the European Court of Human Rights, to achieve the objectives of Article 30: non-public hearings, audio-visual technology, recordings of testimony, and anonymous testimony.

139. The legislative provisions for measures that the law enforcement agencies and judicial authorities can take to protect trafficking victims and witnesses, as well as members of their families, were described in paragraphs 275 to 282 of GRETA's second report on France and remain unchanged. They include the possibility for victims to give evidence anonymously (Article 706-58 of the CCP) and be interviewed through video conference for the trial if the hearing may pose a serious danger to their life or physical integrity (Article 706-61 of the CCP), to ask that their identity not be mentioned during public hearings and in judgments (Article 706-62-1 of the CCP), to use a pseudonym if their life or physical integrity is seriously endangered (Article 706-63-1 of the CCP), and to request that they be examined *in camera* (Articles 306, 306-1 and 400-1 of the CCP). The need to protect the victims or witnesses may result in the placement of the perpetrator in provisional detention (Article 144 of the CCP) or under court supervision entailing a prohibition from contacting the victim or witnesses (Article 138 of the CCP).

140. Article 10-5 of the CCP provides that the victim must undergo an individualised victim assessment, aiming to adapt procedural protection measures to victims' needs in order to protect them from the risk of reprisals, intimidation and revictimisation. Following this assessment, carried out by an investigator as soon as possible after the victim lodges a complaint, the victim must be informed of the protection measures from which they may benefit. A victim support organisation called for by the prosecutor or investigating judge may be involved in this assessment.

141. For details of child protection in criminal procedures, please see the separate section below (paragraphs 164-168).

142. The national reception and protection system for trafficking victims, known as the "national secure reception system" (Ac.Sé), can be used by any competent authority to ensure that victims are housed safely by geographically distancing them from their exploiters (see paragraph 216). This system is reserved for adult victims of trafficking, who can, however, be accommodated with their children. According to the CNCDH, despite a slight increase in the number of victims of labour exploitation, some 90% of the persons protected within this system are victims of sexual exploitation.<sup>100</sup>

<sup>100</sup> CNCDH, [Avis sur la traite des êtres humains à des fins d'exploitation économique](#) (Opinion on trafficking in human beings for the purpose of labour exploitation), 15 October 2020, p. 13.



143. NGOs assisting victims of trafficking have highlighted the fact that, apart from the geographical separation offered by the Ac.Sé system, legislative provisions for protection of victims and witnesses are very seldom enforced. Few safeguards are offered to victims present in court to protect them from invective and pressure from traffickers. The Ac.Sé system is usually swamped with applications relating to sexual exploitation, especially of Nigerian women. Many victims are housed in inappropriate conditions, such as hotel rooms, ill-suited to their vulnerability and specific needs and, above all, accessible to traffickers. Moreover, specialised lawyers have reported that victims are interviewed repeatedly by a number of authorities (when the complaint is lodged, when interviewed by the investigation services, when brought face to face with the offenders, during various hearings in civil and criminal courts, as part of the asylum procedure) and stressed the need for judicial actors to improve victim interviewing practices through training on how to take victims' statements as well as on the impact of psychological trauma.

144. NGOs also deplored some juvenile court rulings terminating the placements of children when their parents were released from prison, even though the latter had been found guilty of trafficking. In cases of children compelled to commit offences, the lawyers of the families exploiting them often managed to procure, through the documents in court files, the name of the places where the children had been placed, thus making it easier for families to contact their children, make pressure on or encourage them to run away (see paragraph 234).

145. The investigators, judges and prosecutors whom the GRETA delegation met mentioned in particular the lack of co-operation with certain countries such as China and Nigeria, which made it impossible to provide effective protection for members of victims' and witnesses' families in those countries. Some judges and prosecutors stated that they preferred to bring the perpetrator face to face with the victim, even if the latter was a child, in order to determine whether the victim's evidence was credible if there was no material evidence in the case. GRETA's interviews during the visit also revealed a distrust of victims' statements among some investigators, prosecutors and judges, arising from a fear that some victims were lodging complaints solely in order to obtain a residence permit. GRETA is concerned by the practice of cross-examination of victims of THB in the presence of the traffickers, which may be intimidating and traumatising for the victims. In this respect, GRETA refers to Recommendation No. R(97) 13 of the Committee of Ministers of the Council of Europe concerning intimidation of witnesses and the rights of the defence, which establishes a set of principles and provides a list of measures which could help protect the interests both of witnesses and of the criminal justice system, while guaranteeing the defence appropriate opportunities to exercise their rights in criminal proceedings.

**146. GRETA considers that the French authorities should ensure that available protection measures are effectively applied to victims and witnesses of trafficking in order to protect them and prevent intimidation during the investigation, as well as during and after the judicial proceedings, including by avoiding cross-examination of victims of trafficking in the physical presence of the defendant, making more frequent use of audio-visual equipment to interview victims and the witness protection programme, systematically informing victims of dates of release and measures of protection put in place on release of the offender, increasing the availability of safe and secure accommodation, particularly for children, and ensuring that child victims of trafficking are not returned to the persons who have been involved in their exploitation, including their family members.**

## **10. Specialised authorities and co-ordinating bodies (Article 29)**

147. Under Article 29(1) of the Convention, Parties have to adopt the necessary measures to promote specialisation of persons or entities in anti-human-trafficking action and victim protection. Each country must have anti-trafficking specialists in sufficient numbers and endowed with appropriate resources. The staff of specialised authorities and coordinating bodies should, as far as possible, include both women and men. To combat trafficking effectively and protect its victims, it is essential that proper training is provided to relevant officials.

148. Investigations into trafficking in human beings are co-ordinated mainly by two central offices for criminal investigation in the Ministry of the Interior: the Central Office for the Suppression of Trafficking in Human Beings (OCRTEH), which specialises in combating trafficking for sexual exploitation, and the Central Office for Combating Illegal Labour (OCLTI), which has authority to deal with trafficking for labour exploitation.<sup>101</sup> When cases are referred to them by prosecutors or investigating judges,<sup>102</sup> these central offices are usually jointly in charge of investigations together with local police services and gendarmerie units: search brigades, area directorates of criminal investigation (DZPJs) and units for combating illegal labour and fraud (CELTIFs) at department level, and search units at regional level. There are specialised trafficking investigators in the DZPJs and CELTIFs who are trained by these two central offices. Representatives of some specialised investigation services whom the GRETA delegation met during the evaluation visit highlighted the fact that the services were overworked, and lamented the lack of human and financial resources for tackling trafficking networks effectively.

149. Trafficking is covered in basic and in-service training for police officers, gendarmes, judges and prosecutors. Judges and prosecutors have five days of mandatory in-service training annually. Since 2010, the National School for the Judiciary (ENM) has provided, as part of in-service training, a session on trafficking that was extended in 2018 from three to four and a half days. In addition to judges and prosecutors, it is intended for lawyers, deputy prosecutors, experts, investigators, and civil society actors.<sup>103</sup> The ENM also offers judges and prosecutors an individual five-day training course on trafficking at the OCRTEH.<sup>104</sup> In July 2019 the ENM organised a week-long interagency training course on trafficking, together with the National Criminal Investigation Training Centre (CNFPJ), the General Directorate of the National Gendarmerie (DGGN), the national training college of the Directorate for Judicial Youth Protection Services (DPJJ), the Paris Bar Association, the OCRTEH and the NGO ALC. This training was a simulation exercise in which all phases of the investigations, proceedings and assistance measures were played by actors and actresses, including Nigerian women who had been trafficked, and was based on two concrete cases of trafficking: one relating to sexual exploitation and the other to forced criminality. The main object was to improve co-operation between the various parties involved in investigation and victim protection through a cross-cutting and participatory approach to learning. It was attended by 43 professionals from various backgrounds (judges, prosecutors, investigators, lawyers, social workers). Furthermore, in March 2017, the Directorate for Criminal Affairs and Pardons (DACG) held an awareness-raising seminar on trafficking that was attended by some 40 judges and prosecutors, mainly from the JIRSs. The OCRTEH for its part continues to offer annual courses on trafficking and pimping for police and gendarmerie investigators that take place over four days in Nanterre. The French authorities have emphasised that the above-mentioned courses focus on both prosecution of traffickers and protection and referral of victims. Between April and September 2021, the NGO ECPAT France set up a series of training courses, entitled "IP-THB", on the identification and protection of child victims of trafficking, in particular trafficking for the purpose of sexual exploitation. It was financed through AGRASC funds and carried out in collaboration with the MIPROF. Through these training sessions, organised in 16 French cities, 283 professionals, including 181 professionals in socio-educational support or child protection, 71 police officers and gendarmes and 26 members of the Registry, lawyers in the Judicial Court, judges and prosecutors have been trained. Lastly, the Directorate General for Foreign Nationals in France (DGEF) has introduced a training plan for all prefecture officials responsible for issuing residence permits. One training module deals with the right of foreign nationals who are victims of trafficking to stay in the country. It took place twice during the first half of 2019 and has been resumed at the rate of two sessions a year.

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<sup>101</sup> For a description of the other central offices for criminal investigations which may be required to take action in trafficking cases, see paragraph 27 of GRETA's first evaluation report on France and paragraph 37 of GRETA's second evaluation report on France.

<sup>102</sup> The OCLTI had eight THB investigations referred in 2017, 14 in 2018, 17 in 2019 and 27 in 2020.

<sup>103</sup> It was attended by 40 participants (22 judges and prosecutors) in 2017, 31 participants (22 judges and prosecutors) in 2018 and 54 participants (27 judges and prosecutors) in 2019. Investigators and members of foreign judicial authorities also took part in this training. The 2020 session was cancelled owing to the Covid-19 health crisis, and the next session is planned for November 2021.

<sup>104</sup> The course was taken by two judges/prosecutors in 2017, two in 2018 and three in 2019.

150. An instruction leaflet focusing on the specific rights of trafficking victims was produced in June 2020 by the Directorate General of the National Police for remote training of frontline police officers. In November 2017, the Directorate General of the National Gendarmerie prepared an instruction leaflet for gendarmes whose main task is to act as the police for French armed forces deployed abroad. A training platform is also being developed by the ENM. It will be available in late 2021 and will contain learning resources, including video recordings of ENM training sessions. Measure 14 of the action plan provides for preparation of an interministerial training guide, which is being finalised. It is intended for civil servants and will contain information on victim identification and management. It will be supplemented by model interview reports for investigators.

151. While welcoming the recent training provided on trafficking, given the small proportion of investigations, prosecutions and convictions for trafficking, **GRETA considers that the French authorities should continue to promote training and specialisation in trafficking cases for investigators, judges and prosecutors (see also paragraphs 127 and 197). Training courses on trafficking should be included in regular training programmes for all the relevant categories of professional, including lawyers, labour inspectors, social workers, child protection staff, health-care professionals, diplomatic and consular staff, immigration officials, officials responsible for considering asylum applications, and national education system staff in contact with pupils and students.**

152. Moreover, while noting positively the existence of specialised anti-trafficking investigators, **GRETA considers that the French authorities should ensure that there are enough specialised investigators, trained and provided with adequate resources, to deal with trafficking cases throughout the country.**

## **11. International co-operation (Article 32)**

153. Article 32 of the Convention requires parties to co-operate to the widest extent possible to prevent and combat THB, to protect and to provide assistance to victims, and to investigate and prosecute cases of THB. International co-operation between parties to the Convention is also essential for enabling access to effective remedies for victims of trafficking. Parties must co-operate with one another "to the widest extent possible". This principle requires them to engage in extensive co-operation with one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. As regards international co-operation in criminal matters for the purposes of investigations or proceedings, the Convention neither cancels nor replaces relevant international or regional instruments<sup>105</sup> on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

154. As France's focal point for Europol and Interpol, the OCRTEH participates in various projects and sub-projects of the anti-trafficking strand of the EMPACT programme developed through Europol. It is co-leader, with Germany, of the ETUTU sub-project for combating trafficking in human beings from Nigeria in the EU. It also engages in bilateral international co-operation through exchange of operational police information and establishment of JITs. This co-operation is aimed specifically at identifying victims of exploitation and the perpetrators of offences with a view to dismantling criminal networks active on French territory and identifying and seizing the perpetrators' assets. Thus, between 2015 and 2019 some 15 JITs were set up for trafficking cases: Romania (six), Belgium (four), Bulgaria (two), Spain (one), Hungary (one) and Bosnia and Herzegovina (one). The OCLTI is also actively participating in the anti-trafficking strand of the EMPACT, in particular its labour exploitation component; the office has been leading and coordinating two weeks of actions against THB every year since 2017, as European leader or co-leader, including a week dedicated to the agricultural sector. Within the framework of the new EMPACT policy cycle (2022-2025), the OCLTI has also positioned itself as leader or co-leader on certain operational

<sup>105</sup> For example, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters and its protocols, Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member states, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

actions, which will make it possible to initiate bilateral contacts to develop capacities for coordinated cross-border controls, training and information exchange.

155. Since most traffickers and trafficking victims come from other countries and the money generated is almost all repatriated abroad, the number of JITs set up for trafficking cases seem very low compared to the 503 prosecutions conducted in trafficking cases between 2016 and 2020 (paragraph 105). Mutual legal assistance with states that are not EU members is far less developed. The French authorities stated that co-operation was gradually increasing with the Chinese authorities and had recently been successful in dismantling a Chinese network of online sexual exploitation. They further indicated that setting up, with the financial support of the EU, a joint team with Niger had made it possible to dismantle some trafficking networks, in particular networks for the sexual exploitation of women from Nigeria. By contrast, several attempts made to set up a joint team with the Nigerian authorities have all failed. In addition, no joint teams had been set up with countries from which many traffickers originated, such as Brazil, Algeria and Morocco.

156. French courts are issuing more and more European arrest warrants (EAWs) for trafficking, with the number rising over four years from 20 in 2015 (1.8% of total EAWs issued in France) to 55 in 2018 (4.2% of the total).<sup>106</sup> Classification as trafficking in human beings facilitates execution of international requests for judicial assistance, as noted in paragraph 117. Between February 2008 and September 2020, France issued 44 international requests for judicial assistance in trafficking cases, 30 of which were executed. France received 60 in this field and executed 47.

157. The French public agency for design and implementation of international technical co-operation projects (Expertise France) is the implementing partner for Phase 2 of a project to combat THB in countries round the Gulf of Guinea (2019-2023), which is being implemented in Benin, Ivory Coast, Ghana, Guinea, Nigeria and Togo with support from the EU's Emergency Trust Fund. The project has a budget of 18 million euros, of which 600 000 euros are contributed by France. In addition, France is implementing a regional co-operation strategy in South-Eastern Europe making use of the presence in the Permanent Mission of France to the United Nations Office in Vienna of a regional technical adviser responsible for action to combat trafficking and related offences. This adviser carries out co-operation projects with countries in the region and promotes technical and operational co-operation for capacity-building in these countries as well as prevention, victim protection and dismantling of trafficking networks. France also provides annual voluntary contributions to the United Nations Office on Drugs and Crime (ONUDC) for its initiatives to combat trafficking. In May 2019, France joined the Blue Heart Campaign, which seeks to raise awareness among governments, civil society and the private sector regarding action to combat trafficking. France is also the fifth largest state contributor to the United Nations Voluntary Trust Fund for Victims of Trafficking (UNVTF).

158. Furthermore, in March 2019 the French and Swedish Ministries for Foreign Affairs published a joint statement in which they announced their decision to develop a common strategy for combating human trafficking and prostitution.<sup>107</sup> Lastly, in a law on interdependent development and combating global inequality, adopted in August 2021, France pledged to take the lead in efforts to achieve the Sustainable Development Goals aimed at eradicating forced labour and ending modern slavery, human trafficking and child labour. Following the adoption of this law, on 9 November 2021, the French government launched a National Acceleration Strategy to Eliminate Child Labour, Forced Labour, Human Trafficking and

<sup>106</sup> [Evaluation de la loi du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées](#) (Evaluation report on the law of 13 April 2016 strengthening action to combat prostitution and providing assistance to persons engaged in prostitution), December 2019, p. 46. Since European investigation orders are sent directly to the foreign authorities responsible for enforcement, the central authority of the Ministry of Justice was unable to provide figures for them.

<sup>107</sup> [Lutte contre le trafic d'êtres humains et l'exploitation sexuelle - Tribune conjointe de Jean-Yves Le Drian et de son homologue Margot Wallström \(08.03.19\) - Ministère de l'Europe et des Affaires étrangères \(diplomatie.gouv.fr\)](#)

Contemporary Slavery,<sup>108</sup> which allowed to make France a leader of the Alliance 8.7, a global partnership against child labour, forced labour, human trafficking and contemporary slavery.

**159. GRETA welcomes the French authorities' active involvement in bilateral and multilateral international co-operation, and invites them to continue their efforts in this respect, including with regard to dismantling networks of online child sexual exploitation and child exploitation for the purpose of forced criminality, and protecting their victims, as well as with regard to financial investigations.**

## **12. Cross-cutting issues**

### a. gender-sensitive criminal, civil, labour and administrative proceedings

160. As noted in CEDAW General recommendation No. 33 on women's access to justice, discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men.<sup>109</sup>

161. GRETA notes that in general women encounter obstacles with respect to access to justice within and outside the legal system. Some of these obstacles are of a legal or institutional nature, while others have socio-economic and cultural grounds. The legal and institutional barriers include discriminatory or insensitive legal frameworks including legal provisions that are explicitly discriminatory; gender blind provisions that do not take into account women's social position; and gaps in legislation concerning issues that disproportionately affect women. On the socio-economic level the obstacles include lack of awareness of one's legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, and access to information. A further obstacle may be the lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts or child care.<sup>110</sup> Such obstacles, and remedies to them, are listed in a Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, as well as in the publication "Women's Access to Justice: Guide for Legal Professionals".<sup>111</sup>

162. In 2016 France adopted its first Inter-ministerial Plan for Gender Equality in the Workplace (2016-2020) and in 2017, its 5th Action Plan to Combat All Forms of Violence against Women (2017-2019). The latter contains measures to improve the legal procedure rules for women who have been victims of sexual violence, such as making it easier to lodge complaints and gather evidence of violence in the absence of a complaint.

163. Under the sixth paragraph of Article L531-17 of the CESEDA, if an asylum seeker so requests and the request is clearly based on the applicant's difficulty in disclosing all the grounds for the asylum application, including those relating to sexual violence, the interview with the French Office for the Protection of Refugees and Stateless Persons (OFPRA) is conducted, wherever possible, by an officer whose sex is specified by the applicant and in the presence of an interpreter whose sex is also specified by the applicant. Moreover, the French authorities have stated that, in practice, care is taken to ensure that law enforcement officers interviewing victims of sexual violence are of the same sex as the latter.

<sup>108</sup> [https://travail-emploi.gouv.fr/IMG/pdf/strategie\\_nationale\\_d\\_acceleration\\_pour\\_eliminer\\_le\\_travail\\_des\\_enfants\\_le\\_travail\\_force\\_la\\_traite\\_des\\_etres\\_humains\\_et\\_l\\_esclavage\\_contemporain\\_a\\_l\\_horizon\\_2030.pdf](https://travail-emploi.gouv.fr/IMG/pdf/strategie_nationale_d_acceleration_pour_eliminer_le_travail_des_enfants_le_travail_force_la_traite_des_etres_humains_et_l_esclavage_contemporain_a_l_horizon_2030.pdf)

<sup>109</sup> CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en)

<sup>110</sup> Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, page 13 available at <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>

<sup>111</sup> Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

b. child-sensitive procedures for obtaining access to justice and remedies

164. Children who have been victims of offences have special rights under criminal procedures. Article 706-50 of the CCP requires appointment of an ad hoc administrator for a child victim when the child's interests are not fully protected by his or her statutory representatives.<sup>112</sup> The ad hoc administrator is responsible for protecting the child's interests and exercising on the child's behalf the latter's rights as an injured party in criminal proceedings. They appoint a lawyer for the child victim, prepare the child for every step in the judicial proceedings and support the child through them. They must regularly inform the child about progress of the proceedings and ensure that the child properly understands what is happening.

165. Article 706-53 of the CCP provides that at every stage of the proceedings, child victims may, at their own request, be accompanied by their statutory representatives, an adult of their choice or a representative of an officially approved NGO providing assistance to victims. During the investigations, a third party can be present at interviews or cross-examinations of a child victim of trafficking if authorised by the judicial authorities: this can be a psychologist or paediatrician, a member of the child's family, an ad hoc administrator or a person appointed by the juvenile judge. The presence of this third party is intended to reassure the child and thus improve the taking of his/her statement.

166. Furthermore, to reduce the number of interviews, Article 706-52 of the CCP requires that the testimony of child victims of trafficking or pimping during the investigations should be video-recorded; the recording can be consulted in the course of criminal proceedings. Child victims can be questioned by investigators in the so-called "Mélanie rooms", specially adapted interview rooms, of which there are 231 across the country. These rooms are mostly in police stations and on the premises of local gendarmerie. They offer a soothing environment, with decoration reassuring for children and unobtrusive video equipment enabling interviews to be recorded. Some districts have interview rooms located in hospital settings: paediatric reception units for children at risk (UAPEDs). The UAPEDs enable all the necessary steps in the investigation (interviews with the child, expert opinions...) to take place in the same spot and appropriate psychological and medical care to be provided if necessary. These units are jointly funded by several ministries (Health, Justice and Interior). There are currently 64 UAPEDs and others are due to open soon.

167. Investigations of offences against children are conducted by specialised investigation services, such as the police's family protection squads. According to the French authorities, their officers are trained to interview child victims. The French authorities have added that, to date, almost 1 900 gendarmes have been trained to interview child victims and that training materials relating to child trafficking, with model interview reports for child victims, are available to all investigation services on the DACG intranet.

168. Civil society noted the lack of ad hoc administrators in some departments, which meant that they could not be appointed promptly for unaccompanied children.<sup>113</sup> Some interlocutors also reported that there were not enough "Mélanie rooms"<sup>114</sup> and that little use was made of the UAPEDs. The latter reportedly tend to be used by gendarmes and only seldom by police officers, who prefer to make use of "Mélanie rooms" in their own police stations or to interview children on premises unsuitable for the purpose. The underuse of UAPEDs was also explained by a lack of information about UAPEDs, even though the latter would be more appropriate than "Mélanie rooms" for interviewing children. According to civil society, despite the existence of training materials and the training courses on offer, police officers and gendarmes have received little training on interviewing techniques for child victims of trafficking.

<sup>112</sup> The ad hoc administrator remains in charge of protecting the child's interests until a guardianship ruling is delivered by a protection judge (*juge des contentieux de la protection*).

<sup>113</sup> See also CNCDH, [Avis sur la prévention et la lutte contre la traite à des fins d'exploitation sexuelle des mineurs](#) (Opinion on action to prevent and combat child trafficking for sexual exploitation), 15 April 2021, p. 12.

<sup>114</sup> For example, the Lyon police told GRETA that it had no Mélanie rooms. The Paris Police Unit for the Protection of Minors (BPM) added that it had one but that the dedicated trafficking unit within the BPM had not yet used it and children's interviews usually took place on BPM premises, in prison or in the shelters where the children were placed.



169. **GRETA welcomes the existence of rooms specially designed for interviewing child victims of trafficking without making them relive the trauma, and considers that the French authorities should increase the number of these rooms, ensure that they are used whenever it is necessary to interview a child, including child victims of trafficking for the purpose of forced criminality, and continue training investigators on how to conduct interviews with child victims of trafficking. In this context, GRETA refers to the guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.<sup>115</sup>**

170. **In addition, GRETA considers that the French authorities should ensure the prompt appointment of an ad hoc administrator for children whose interests are not fully protected by their statutory representatives. Ad hoc administrators appointed for child victims of trafficking must be given training on how to support them.**

c. role of businesses

171. In France, the prevention and combating of THB in business activity and supply chains is primarily done through the employer's civil and criminal liability for undeclared work or employment of foreign workers without work permits.<sup>116</sup> Further, if one of the co-contractors or subcontractors employs undeclared work or foreign workers without work permits, the client or head contractor would jointly be responsible for payment of taxes, duties, contributions, wages, allowances and any other charges due because of these violations of the Labour Code.<sup>117</sup> Moreover, Article L3245-2 of the Labour Code provides that if a client or head contractor is notified by an inspector that the statutory or negotiated minimum wage is not being paid to an employee of a co-contractor, subcontractor or subcontractor's co-contractor, the client or head contractor must order the latter to put an end to this situation without delay and immediately notify the inspector if the situation is not rectified. For any failure to fulfil these obligations, the client or head contractor is held jointly responsible with the worker's employer for the payment of wages, allowances and charges due.

172. A partnership agreement between employers' organisations, trade unions, the Ministry of Labour, the Minister of State for Gender Equality and the Fight against Discrimination, and the MIPROF on action to combat trafficking for the purpose of labour exploitation is in the process of being finalised. The aim is to obtain its adoption by all the representative organisations at national level. It seeks to prevent THB by sensitising the business community to the detection and prevention of the use of forced labour and employment of trafficking victims.

173. As indicated in GRETA's second report,<sup>118</sup> the Law of 27 March 2017 on due diligence by parent companies and head contractors requires companies employing at least 5 000 employees in France or at least 10 000 employees in France and abroad to prepare, publish, comply with and evaluate a due diligence plan to identify risks and obviate serious violations of human rights and fundamental freedoms, as well as harm to the environment and individuals' health and safety, across the company's sphere of influence, covering subsidiaries as well as subcontractors. Under Article L225-102-5 of the Commercial Code, if a company fails to comply with this obligation, it will incur liability and be required to compensate for the damage that could have been avoided by fulfilment of this obligation. According to a study produced by six NGOs in February 2019,<sup>119</sup> the initial plans published in 2018 met only partially the law's requirements, in particular regarding the identification of potential breaches, their location and the measures taken to

<sup>115</sup> Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies): <https://rm.coe.int/16804b2cf3>.

<sup>116</sup> See Article L8224-5 of the Labour Code for undeclared work and Articles L8257 to L8256-8 for employment of foreign workers without work permits.

<sup>117</sup> See Articles L8222-1 and L8222-2 of the Labour Code for undeclared work and Articles L8254-1 to L8254-4 for employment of foreign workers without work permits.

<sup>118</sup> GRETA's second evaluation report on France, paragraph 112.

<sup>119</sup> Action Aid, Les Amis de la Terre, Amnesty International, CCFD-Terre Solidaire, Collectif Éthique sur l'étiquette, Sherpa: "[Loi sur le devoir de vigilance des sociétés mères et entreprises donneuses d'ordre – année 1 : les entreprises doivent mieux faire](#)" (Law on due diligence by parent companies and head contractors. Year 1: Business must do better), February 2019.

obviate them. A report published in January 2020 by the General Council for the Economy, Industry, Energy and Technologies found that the implementation of the law was still unsatisfactory, and a government department should be made responsible for supporting the companies concerned in order to better implement the law.<sup>120</sup>

**174. GRETA considers that the French authorities should strengthen engagement with the private sector and continue their efforts to raise awareness of the important role and responsibility of businesses to prevent human trafficking in their supply chains. In this context, the French authorities must ensure that the Law on due diligence by companies is fully implemented, in particular by supporting the preparation of due diligence plans and evaluating the effects of this law on the prevention of trafficking for the purpose of labour exploitation as well as its implementation.**

**175. Furthermore, GRETA invites the French authorities to consider applying to public sector organisations an obligation of due diligence similar to that arising from the Law on due diligence by companies.**

d. measures to prevent and detect corruption

176. Trafficking in human beings can occur in various contexts. Human traffickers may form part of organised criminal groups, which frequently use corruption to circumvent the law, and money laundering to conceal their profits. Consequently, other legal instruments drawn up by the Council of Europe – particularly those intended to tackle corruption, money laundering and cybercrime – also apply to trafficking in human beings. The Council of Europe body playing the leading role in the fight against corruption is the Group of States against Corruption (GRECO). Its country reports can help remedy structural shortcomings in prevention of corruption, potentially including the field of trafficking.

177. GRETA refers to the recommendations made by GRECO in its December 2019 report on France that deals with preventing corruption and promoting integrity in central governments and law enforcement agencies.<sup>121</sup> For law enforcement agencies, GRECO recommended, among other things, that: i) a global strategy focusing on the prevention of corruption risks be adopted; ii) specific training be provided for ethics advisers/correspondents; iii) security checks relating to the integrity of members of the national police and the national gendarmerie be carried out at regular intervals; iv) the national police set up a rotation system in the sectors identified as most vulnerable to corruption risks; v) the protective regime for whistleblowers be revised in order to simplify the reporting procedure; and vi) the training of law enforcement authorities on this regime be further strengthened.

178. On 9 December 2016, France adopted Law No. 2016-1691 on transparency, the fight against corruption and modernisation of economic life, which led to the establishment of the French Anti-Corruption Agency (AFA). The primary mission of the AFA is to participate in public sector co-ordination, centralising and disseminating the information needed to ensure the consistency and effectiveness of anti-corruption policies, and promotion of integrity at national and local levels. The AFA has drawn up its first national anti-corruption plan (2020-2022), which lays down France's public policy on combating corruption. It is structured around a number of key areas: knowledge and detection of corruption; training and awareness-raising for public officials regarding issues in combating breaches of integrity; strengthening of prevention mechanisms in government departments and authorities by introducing the tools described in Article 17 of Law 2016-1691 (risk mapping, code of conduct, warning system); designation of ministerial contact persons; and improved international co-operation to combat corruption as well as more effective criminal penalties. Further, the OCLTI has included an anti-corruption component in its strategic action on trafficking routes in the framework of the new EMPACT policy cycle (2022-2025).

<sup>120</sup> CGE, [Evaluation de la mise en œuvre de la loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre](#) (Evaluation of implementation of Law 2017-399 of 27 March 2017 on due diligence by parent companies and head contractors), January 2020.

<sup>121</sup> <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/16809969fc>



179. **GRETA invites the French authorities to include measures against corruption in a THB context in the national anti-corruption strategy.**

## V. Topics specific to France

### 1. Data collection

180. In its second evaluation report, GRETA urged the French authorities to pursue their efforts to set up and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data – disaggregated by sex, age, country of origin and/or destination and type of exploitation – from all main actors on measures to protect and promote the rights of victims, as well as on the investigation, prosecution, convictions and compensation in human trafficking cases.

181. As noted in paragraph 12, since 2016 the MIPROF and ONDRP have been conducting an annual survey in partnership with the NGO collective "*Ensemble contre la traite des êtres humains*" to gather data on identified and presumed trafficking victims assisted by NGOs in France. Data are collected by sending a questionnaire to NGOs covering the numbers, backgrounds, conditions of exploitation and support of victims that NGOs have assisted each year. Four reports have been published on the basis of this information so far.<sup>122</sup> They offer only an incomplete picture of trafficking in France, since the questionnaire was not completed by all the NGOs to which it was sent, and which may have assisted victims of trafficking.<sup>123</sup>

182. In addition to these annual surveys, in October 2019 the ONDRP published a study that was the first overview of 2016 and 2017 data on human trafficking and exploitation available to French government departments (namely the Ministry of the Interior and the Ministry of Justice).<sup>124</sup> The term "exploitation" covers offences in connection with sexual exploitation (pimping and prostitution of minors and vulnerable individuals), labour exploitation (servitude, forced labour, slavery, work and accommodation conditions contrary to human dignity) and exploitation for other purposes (exploitation of begging and trafficking in human organs). The study also contains data on the individuals prosecuted for or convicted of human trafficking or exploitation. GRETA notes that data from NGOs and government departments have not been collated, which prevents the provision of an overview of exploitation and trafficking in France.

183. Following the closure in December 2020 of the National Institute for Advanced Security and Justice Studies (INHESJ), to which the ONDRP was attached, research on trafficking has been undertaken by the statistical department of the Ministry of the Interior (SSMSI). The SSMSI has taken over the co-ordination for the implementation of the two measures of the second National Action Plan, which provide for continuing and improving the collection of data provided by NGOs (Measure 8), and continuing collection, standardisation and dissemination of government statistics regarding the work of law enforcement agencies, courts, prefectures and the Labour Inspectorate (Measure 9). GRETA was informed that, concerning measure 8, the working group with partner NGOs was convened in May 2021, and that the results of the 5th edition of the annual survey would be published in December 2021. As for measure 9, in October 2021, the SSMSI published the government statistics on THB and exploitation.<sup>125</sup> In these statistics, prostitution of children or vulnerable individuals is excluded. The Action Plan also provides for

<sup>122</sup> Available (in French) at [https://renatefrance.files.wordpress.com/2017/03/doc-victimes-teh-fr-suivi-asso\\_43.pdf](https://renatefrance.files.wordpress.com/2017/03/doc-victimes-teh-fr-suivi-asso_43.pdf) (2015), [https://www.ihemi.fr/sites/default/files/publications/files/2019-12/ga\\_48.pdf](https://www.ihemi.fr/sites/default/files/publications/files/2019-12/ga_48.pdf) (2016), [La traite des êtres humains en France : profil des victimes suivies par les ONGs en 2018](#) (2018) and [La traite des êtres humains en France : profil des victimes suivies par les ONGs en 2019](#) (2019).

<sup>123</sup> For example, in 2016, out of the 73 NGOs to which the questionnaire was sent, only 24 completed it, having assisted 1 857 victims.

<sup>124</sup> [Le Grand Angle No. 52.](#)

<sup>125</sup> <https://www.interieur.gouv.fr/Interstats/Publications/Interstats-Analyse/La-traite-et-l-exploitation-des-etres-humains-depuis-2016-une-approche-par-les-donnees-administratives-Interstats-Analyse-N-36>

twice-yearly publication by the MIPROF of a newsletter to allow institutions and NGOs to monitor trafficking trends in France regularly and to promote good practice (measure 11).

184. While welcoming these initiatives, **GRETA one again urges the French authorities to pursue their efforts to develop a comprehensive system for the collection and analysis of data on measures to protect and promote the rights of trafficking victims, which should ensure the participation of all relevant actors that can contribute to the provision of data, including NGOs and other service providers, law enforcement agencies, immigration services, labour inspectorates, health-care providers, prosecution services and other stakeholders involved in identifying and recording trafficking victims, as well as in investigations and prosecutions concerning trafficking or related offences.**

## **2. Measures to prevent and combat trafficking for the purpose of labour exploitation**

185. In its second evaluation report, GRETA considered that the French authorities should guarantee that training was provided on a regular basis to all inspection staff (particularly those working for the Labour Inspectorate and the URSSAF) to ensure the proactive identification and reporting of cases of trafficking for the purpose of labour exploitation and that inspections in private homes could be facilitated to prevent abuses of domestic employees and detect trafficking cases.

186. As noted in GRETA's second report,<sup>126</sup> since 2016, in addition to offences relating to work and accommodation conditions contrary to human dignity, labour inspectors have been empowered to report offences relating to trafficking, forced labour and servitude (Article L8112-2 of the Labour Code). However, they do not have the authority to formally identify victims. The fact that a labour inspector has found a trafficking offence and drawn up a report on this basis does not give the victim access to the rights afforded to trafficking victims, since only police officers and gendarmes have the power to identify an individual as a victim of trafficking. Civil society representatives have pointed out that giving labour inspectors the authority to formally identify victims would enable the latter to regularise their stay and have access to accommodation, thus freeing themselves from dependence on their exploiters, which would make it easier to lodge complaints and give evidence against their exploiters. Inspection reports are sent to the prosecutor, who decides whether or not to start an investigation and how the offence should be classified. Since 2016, the Labour Inspectorate has carried out 126 interventions that resulted in actions related to THB (104 controls, 13 investigations, 80 written observations and 17 reports to the prosecutor).

187. Labour inspectors can carry out joint inspections with the police or gendarmerie and be accompanied by interpreters during inspections (Article L8271-3 of the Labour Code). The inspectors whom the GRETA delegation met during the visit explained that during their inspections they asked the employees present about their working conditions, pay, contracts, etc. and, with their permission, could enter their accommodation to inspect its condition. In June 2020, the Directorate for Criminal Cases and Pardons (DACG) signed a joint instruction with the Directorate General for Labour aimed at encouraging joint actions between the police, the gendarmerie, and the labour inspectorate so that they can work together on the same investigation, particularly investigations into THB cases.

188. Since 2019, contact persons for THB have been designated in Regional Directorates for Enterprises, Competition Policy, Consumer Affairs, Labour and Employment (DIRECCTEs). They are designated either by region or by department. There are 21 contact persons, who cover 60-80% of French territory. Their role, as described in the second National Action Plan against trafficking, is to help publicise and facilitate use of trafficking information and awareness-raising tools and initiatives among the business community across the country and liaise with designated contact persons in prefectures to facilitate identification of victims of labour exploitation. GRETA was informed that by Decree No. 2020-1545 of 9 December 2020, which entered into force on 1 April 2021, the DIRECCTEs had been merged with the decentralised services

<sup>126</sup> See GRETA's second evaluation report on France, paragraph 25.

of social cohesion within a new structure: the Regional Directorates for the Economy, Employment, Labour and Solidarity (DREETS or DEETS in French overseas territories). According to the French authorities, this merger had no impact on the number of THB contact persons or labour inspectors. At the end of March 2021, 1 954 labour inspectors, including 146 attached to a regional illegal work control unit, were actively present in the field, which corresponds to a ratio of one inspector per 10 000 employees.<sup>127</sup>

189. Specialised NGOs have reported an increase in court cases concerning trafficking for the purpose of labour exploitation over recent years as a result of the Labour Inspectorate's involvement and the work of the OCLTI. For example, in July 2020, labour inspectors discovered the exploitation of several employees by a company based in the department of Finistère and specialising in poultry collection. Out of 23 employees, 17 did not have work permits. They were working at night in bad conditions for haphazard pay and were housed in unsanitary flats. Nine employees lodged complaints against their employers for trafficking. The case is pending at the time of writing before the JIRS of Rennes. Six employees are being assisted by the CGT trade union and the NGO CCEM. The latter two organisations stressed that they had worked together effectively with labour inspectors in this case. GRETA had meetings with three employees assisted by the CCEM, who referred to difficulties that workers illegally present on the territory have in freeing themselves from exploitation, since if they lodge a complaint, they would lose their employment and accommodation and, as they are illegal, they would have no access to emergency accommodation. Labour inspectors have recently found two other poultry firms in the same department that were employing a total of 60 people without work permits in similar conditions. These three firms have been wound up by court order.<sup>128</sup> GRETA was informed by the French authorities that residence permits have been issued by the prefecture of Finistère for 43 employees identified as victims of trafficking.

190. During its meetings in Rennes, GRETA was also informed of a case of exploitation of workers from Madeira (Portugal) in forestry work in the Finistère department. In October 2020, following multiple serious occupational injuries, the Labour Inspectorate inspected the employees in their logging areas and found a series of violations (failure to declare working hours; housing workers in degrading conditions; employer's hold over workers not fluent in French and dependent for transport). The case was reported to the prosecutor's office in November 2020 by the Labour Inspectorate jointly with the gendarmerie. The investigation is underway at the time of writing; it concerns mainly the offence of working and accommodation conditions contrary to human dignity. As far as GRETA knows, the workers in this case have not been provided with assistance as victims of trafficking.

191. As was already the case during the second evaluation by GRETA,<sup>129</sup> labour inspectors cannot carry out inspection visits in private houses to inspect the working conditions of a domestic employee without the employer's permission unless they have obtained a search warrant from the prosecutor, for which strong prima facie evidence of an offence is required. This is a significant barrier to identification of cases of domestic servitude and prosecution of offenders. According to figures provided by NGOs for the annual surveys mentioned in paragraph 12, cases of domestic servitude account for approximately 10% of all victims assisted by NGOs (10% in 2016, 8% in 2018 and 10% in 2019). For this form of trafficking, the number of complaints dismissed is much higher than for other forms of trafficking, a fact explained mainly by the problems of obtaining evidence.<sup>130</sup> Facilitating inspection in private houses would make it possible to collect evidence more easily and tackle this form of trafficking more effectively. In this respect, **GRETA encourages the French authorities to ratify the ILO Domestic Workers Convention (No. 189).**

<sup>127</sup> This is the ratio recommended by ILO for industrialised countries. See e.g. ILO, [Committee on Employment and Social Policy, Strategies and practice for labour inspection \(2006\) GB.297/ESP/3](#), para 13.

<sup>128</sup> See <https://www.pressreader.com/france/le-telegramme-quimperle/20210105/281509343812375> (in French).

<sup>129</sup> See GRETA's second evaluation report on France, paragraph 85.

<sup>130</sup> Thus, almost a third (32%) of complaints lodged by victims of domestic servitude assisted by NGOs in 2019 were dismissed.

192. In addition to domestic settings, labour exploitation takes place in many sectors, including agriculture, the building industry, catering, commerce, hairdressing and beauty salons. According to the figures collected for the above-mentioned annual surveys, between 15% and 19% of trafficking victims supported by NGOs over the 2016-2019 period were victims of labour exploitation. They came largely from Africa (mostly North Africa) and Asia (especially Vietnam).

193. Since 2017, the OCLTI has been co-ordinating joint action days in France, with support from Europol, in which several agencies have participated (gendarmerie, police, Customs, Labour Inspectorate, URSSAF, Directorate General of Labour, National Anti-Fraud Office). From 8 to 13 April 2019, there was a joint action day across France, during which 591 checks were carried out in 769 firms in the building industry, catering, logging, agriculture and the food trade. As a result of this week of action, 90 investigations into illegal labour, 10 investigations into conditions of work and accommodation contrary to human dignity, and 5 investigations into trafficking were initiated. Through this large-scale action, 76 possible victims of trafficking were identified and 783 000 euros were seized.<sup>131</sup> In another joint action day initiative, from 14 to 20 September 2020, 861 checks were carried out in several departments, including Bouches-du-Rhône, Marne, Haute-Garonne and Mayotte.<sup>132</sup> Twenty-four European countries took part in these co-ordinated operations and a number of checks were conducted jointly in France, Belgium and Spain. Following this extensive operation with Europol support, 190 investigations were opened: 174 relating to illegal labour and 16 to what might be classified as trafficking for the purpose of labour exploitation. These checks covered the agricultural, building and transport sectors. The joint action day for which results are available took place from 31 May to 6 June 2021; the Labour Inspectorate in partnership with the gendarmerie, the police, the URSSAF, the agricultural social security fund and the regional directorate for the environment, development and housing carried out 607 joint checks involving more than 1 900 workers and almost 120 offences were recorded. The main offences detected were undeclared employment, accommodation contrary to human dignity, and remuneration unrelated to the work performed. Five sectors were particularly targeted: construction, agriculture, transport, hotel-café-restaurants and home delivery.

194. The Ministry of Labour has been organising training courses on trafficking since 2018. There are two or three training sessions a year with 12 to 15 participants each. This training is open not only to labour inspectors but also to police officers and gendarmes. In addition, the OCLTI holds two training courses a year on illegal labour, social security fraud and trafficking for the purpose of labour exploitation, for national police and gendarmerie investigators and customs staff. In 2019 the OCLTI developed a training module on THB/labour exploitation. It is included in the training course catalogue of the National Institute for Labour, Employment and Vocational Training (INTEFP), which means that it can be offered to staff in a wide range of institutions (Directorate General of Labour, URSSAF, national police force, Customs, etc.). This course lasts one and a half days and is led jointly by OCLTI investigators and Labour Inspectorate staff. Three sessions took place in 2019 and two in 2020. Furthermore, a training booklet for labour inspectors, aimed at improving identification and support of victims of trafficking for the purpose of labour exploitation was produced by the MIPROF in November 2017; it is accompanied by a victim identification grid. The OCLTI has also set up an intranet site that is available to gendarmerie investigators and includes a page devoted to action against trafficking.

195. Despite the progress of the past few years, several interlocutors reported that investigators, judges, prosecutors and labour inspection staff still lacked knowledge to tackle labour exploitation. In this respect, the second Action Plan provides for a multisource survey of labour exploitation to determine its extent and identify victims' needs and how they are met. It is also planned, as part of the partnership agreement with employers' and workers' organisations that is in the process of being finalised (paragraph 172), to prepare a practical guide for action against THB for the purpose of labour exploitation and to introduce information,

<sup>131</sup> [L'OCLTI mobilisé dans la lutte contre la traite des êtres humains \(gendinfo.fr\)](#) (The OCLTI takes action against human trafficking).

<sup>132</sup> [Travail illégal : près de 200 enquêtes ouvertes après de vastes contrôles de la gendarmerie \(sudouest.fr\)](#) (Illegal labour: some 200 investigations begun after widespread checks by the gendarmerie).

prevention and due diligence initiatives and support for employers and employees who may come across trafficking situations. **GRETA would like to be informed of progress in this field.**

196. The legal provisions for preventing labour exploitation of seconded employees were described in GRETA's second report.<sup>133</sup> They mostly consist in the obligation for employers wishing to second employees to France to make a declaration of secondment, and, for clients, to inform seconded employees, through workplace posters, of the regulations applicable to them in one of the official languages of each of the States of origin of the seconded employees. The Law of 5 September 2018 on the freedom to choose one's professional future has strengthened the legislative framework for tackling illegal labour more effectively: it gives Labour Inspectorate staff easier access to data held by third parties (power suppliers, internet or telecommunications operators, etc.), doubles the upper limit for administrative fines, requires clients and head contractors using providers seconding employees to ensure that the offending employers have paid the fines, and facilitates use of official closure in the event of illegal labour. The Anti-Fraud Act of 23 October 2018 has provided access to several tax and social security databases for all officials responsible for combating illegal labour and fraud.

197. While welcoming the above-mentioned efforts, including the involvement of labour inspectors, the large-scale joint action days co-ordinated by the OCLTI and the designation of trafficking contact persons in the DIRECCTEs, **GRETA considers that the French authorities should take further steps to prevent and combat trafficking for the purpose of labour exploitation, in particular by:**

- **stepping up proactive inspections in sectors with a high risk of trafficking, such as agriculture, the building industry, catering, hairdressing and beauty salons;**
- **strengthening efforts to prevent and detect cases of domestic servitude;**
- **encouraging greater specialisation in combating trafficking for the purpose of labour exploitation for members of law enforcement agencies, judges and prosecutors;**
- **raising awareness among the general public as well as, in a targeted manner, among migrant workers, about the risks of trafficking for the purpose of labour exploitation and of trafficking victims' rights;**
- **expanding co-operation with trade unions for prevention of trafficking for the purpose of labour exploitation.**

### **3. Measures to raise awareness of trafficking and discourage demand**

198. While occasional awareness-raising activities have been organised by some NGOs insofar as their means allow, such as the one launched in 2019 by the ALC together with the International Organization for Migration (IOM) France called "Silhouettes", the French authorities have not run any nationwide awareness-raising campaigns. All civil society actors agree on the urgent need for a large-scale national campaign on this issue to encourage the reporting of suspected cases of THB by the public<sup>134</sup> and discourage demand for services provided by victims of THB. The second Action Plan provides for the organisation of a government-led awareness-raising campaign (measure 1), which is supposed to be Internet-based, but in the view of civil society, this would not be sufficient, and a nation-wide campaign should involve different media (television, radio, social media, newspapers, posters...).

<sup>133</sup> See GRETA's second evaluation report on France, paragraphs 79 and 83.

<sup>134</sup> In fact, the need for a national campaign to make reporting easier is clearly indicated by the figures provided to GRETA by PHAROS (Platform for Harmonisation, Verification and Allocation of Reports), which handles all reports made by the general public on the Internet: of nearly 290 000 reports made in 2020, the proportion accounted for by THB and pimping is extremely small: 200 reports, including 17 for trafficking.

199. Law No. 2016-444 of 13 April 2016 on strengthening action against prostitution and providing assistance to persons engaging in prostitution makes buying sexual services a criminal offence.<sup>135</sup> According to the French authorities, this contributes to the reduction in demand for services provided by victims of trafficking for the purpose of sexual exploitation. However, some interlocutors highlighted the lack of sufficiently reliable research to provide estimates of the impact of this law in terms of reducing demand for sexual services provided by victims of trafficking, and more generally on the phenomenon of human trafficking in France. According to some NGOs, criminalising clients of prostitutes is counterproductive for the fight against THB, as clients become more reluctant to report situations of exploitation that they may observe, and persons engaged in prostitution become more dependent on intermediaries to find clients over the Internet, which exposes them to risks of exploitation. Some civil society actors have also noted that the legislation has encouraged a move away from prostitution on the streets to prostitution in hotels and flats, which hinders the detection of victims of trafficking not only by law enforcement agencies but also by NGOs, which are often the first means of exit from exploitation (see also paragraph 208).<sup>136</sup>

200. As explained in GRETA's second report,<sup>137</sup> the Law of 13 April 2016 also provides for an exit from prostitution and integration into social and professional life (*parcours de sortie de la prostitution et d'insertion sociale et professionnelle* - PSP) for victims of pimping and trafficking for the purpose of sexual exploitation. However, a report released in December 2019 by the Inspectorate General for Social Affairs, the Inspectorate General for Administration and the Inspectorate General for Justice states that a limited number of people have taken up the offer of exit from prostitution. The refusal rate was 20%, and admission to the PSP varied widely due to the lack of any instructions on the admissibility criteria. According to the report, some prefectures refuse to offer the PSP to persons who are subject to the Dublin procedure, under an obligation to leave French territory or applying for asylum, persons who have not yet completely exited prostitution, and those who have not yet begun the first steps towards integration (such as learning French as a foreign language), while for other prefectures the only requirement is to present an integration project.<sup>138</sup> NGOs have raised concerns about the lack of clear instructions and concrete incentives from the State to encourage the implementation of the Law of 13 April 2016 and the disparities and differing interpretations arising out of it, called on the authorities to take additional measures to make the PSP more attractive, and remind the competent departmental authorities that the only requirement for access to the PSP is a wish to exist prostitution.<sup>139</sup> The French authorities informed GRETA that a circular on the PSP was being prepared in order to generalise the PSP scheme and harmonise practices throughout the country, in particular by recalling the conditions of access both with regard to the cessation of prostitution activities and the asylum situation of persons.

**201. GRETA reiterates the recommendations made in its second report and considers that the French authorities should step up their efforts to raise public awareness of all forms of human trafficking, including trafficking for the purpose of labour exploitation and discourage the demand for services provided by persons who have been trafficked.**

<sup>135</sup> The offence of buying sexual services is punishable by a fine of up to 1 500 euros (Article 611-1 of the Criminal Code). The number of persons charged with this offence was 799 in 2016, 2 072 in 2017 and 1 939 in 2018. [Evaluation de la loi du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées](#) (Evaluation report on the law of 13 April 2016 strengthening action to combat prostitution and providing assistance to persons engaged in prostitution), December 2019, p. 48.

<sup>136</sup> This movement of prostitution is also indicated by the data provided by the Central Office for the Suppression of Trafficking in Human Beings (*Office central de répression de la traite des êtres humains* – OCRTEH), which shows that the percentage of victims of pimping in public places compared to the total number of identified victims of pimping was 38% in 2018, 22% in 2019, and just 9% in 2020.

<sup>137</sup> See GRETA's second evaluation report on France, paragraph 117.

<sup>138</sup> [Evaluation de la loi du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées](#) (Evaluation report on the law of 13 April 2016 strengthening action to combat prostitution and providing assistance to persons engaged in prostitution), December 2019, p. 63.

<sup>139</sup> FACT-S report: [La situation de la prostitution en France – Analyse des ONGs de terrain sur l'impact de la loi du 13 avril 2016 et recommandation pour une phase II](#) (The situation regarding prostitution in France – Analysis by front-line NGOs of the impact of the Law of 13 April 2016 and recommendation for phase II).



202. **Further, GRETA considers that the French authorities should continue to evaluate the effects of criminalising the act of buying sexual services on the identification of trafficked persons, the protection and assistance offered to them and the prosecution of traffickers. The effects of criminalising the purchase of sexual services on the reduction in demand for services provided by victims of trafficking, and, more generally, on the phenomenon of trafficking for the purpose of sexual exploitation, should be researched and evaluated on an ongoing basis.**

#### **4. Identification of victims of trafficking**

203. In its second evaluation report, GRETA urged the French authorities to strengthen the multidisciplinary approach to the identification of trafficking victims by introducing a national referral mechanism (NRM) defining the role to be played and the procedure to be followed by all the authorities concerned and to ensure that, in practice, the identification of victims was not conditional on their co-operation with law enforcement agencies.

204. France has not yet introduced a NRM for trafficking victims. As pointed out in GRETA's second report,<sup>140</sup> formal identification of victims in France falls exclusively within the remit of the police and the gendarmerie. According to the Minister of the Interior's Circular of 19 May 2015 on conditions for allowing foreign nationals who are victims of trafficking or pimping to stay in the country, these agencies must begin the identification process where they believe that there are reasonable grounds to suspect that a foreigner is a victim of trafficking. During GRETA's third evaluation visit, the investigation services met indicated that identification is not conditional on the victims' co-operation in the criminal investigation. However, according to specialised lawyers and NGOs, in practice victims are generally expected to lodge complaints or give evidence against the traffickers. At any rate, when it comes to foreign victims of trafficking, identification entitles them to a provisional residence permit only if they agree to co-operate with the authorities (see paragraph 246). As some labour inspectors and specialised NGOs have pointed out, it is common for trafficking victims, who often reside illegally, to avoid contact with law enforcement agencies for fear of detention or deportation. Moreover, as already noted in the second report,<sup>141</sup> there is still no formalised identification process for possible victims who are French nationals or nationals of an EU or EEA country.

205. Major difficulties still exist in identifying victims of trafficking in France, often caused by lack of training and awareness-raising. Apart from staff of the central offices handling trafficking cases, most members of front-line law enforcement agencies and other stakeholders coming into contact with possible victims are not familiar with the indicators for identifying trafficking victims for different types of exploitation. During the evaluation visit, examples were provided of numerous cases in which victims had not been detected despite repeated contacts with law enforcement and other stakeholders. GRETA was given the example of a person whose asylum application had been rejected and who had been put under house arrest and ordered to leave the country. An NGO contacted the border police who interviewed the person concerned several months afterwards and identified the person as a trafficking victim. However, the prefecture refused to withdraw the order to leave the country. Following an appeal against the rejection of the asylum application, the person was recognised as a refugee by the National Court of Asylum (CNDA) on grounds of being a trafficking victim and lodged a complaint against the traffickers. The NGOs stressed that in many other cases where they did not manage to act in time, victims were deported<sup>142</sup> even if they had lodged complaints against the traffickers.

<sup>140</sup> See GRETA's second evaluation report on France, paragraph 128.

<sup>141</sup> See GRETA's second evaluation report on France, paragraph 131.

<sup>142</sup> Some of these prefect's orders requiring individuals to leave the country have been set aside by administrative courts based on the trafficking complaints lodged by the individuals concerned or the evidence of trafficking provided. See, for example, Melun Administrative Court, 19 November 2020, No. 1903696; Versailles Administrative Court, 2 February 2020, No. 2000456.



206. Many interlocutors drew GRETA's attention to the problems faced victims when they tried to lodge complaints: long waiting times for an appointment because the police had too much work, lack of interpreting services (paragraph 39) and refusal to accept a complaint by gendarmes or police officers, who refer victims to other bodies (BPM, OFPRA, OCRTEH, etc.), to the investigation services responsible for the place where the exploitation has occurred or, in the case of labour exploitation, to the labour tribunals. Even when victims are assisted by an NGO, it may take several months to lodge a complaint, a period during which they remain in a precarious situation, since they are not entitled to any rights until they have been formally identified. In addition, complaints reporting trafficking offences committed in another European country are apparently not registered on the grounds of lack of jurisdiction. The French authorities noted, in their comments on GRETA's draft report, that the above allegations were isolated cases. They also specified that under Article 113-1 et seq. of the CC, for a foreigner who fell victim to THB outside France to be able to lodge a complaint in France, there must be a link with French territory or protagonists of French nationality. GRETA considers that this practice is a breach of Article 27, paragraph 2, of the Convention, which requires that the competent authority to which the complaint is lodged, insofar as it does not itself have competence in this respect, shall transmit it without delay to the competent authority of the Party in the territory in which the offence was committed.

207. GRETA's interviews have shown that some police investigators are afraid of being taken advantage of by individuals claiming to be trafficking victims, especially Nigerians, who are suspected of lodging false complaints in order to have access to rights ensuing from the victim status, such as a residence permit, access to accommodation, an allowance under the programme for exiting prostitution or under the asylum procedure (see also paragraph 249). GRETA emphasises that the risk of networks exploiting procedures for asylum or status of trafficking victims does not exempt France from the obligations to identify, protect and assist victims in their physical, psychological and social recovery, enshrined in Articles 10, 12 and 28 of the Convention.

208. One barrier to identification of victims pointed out by several interlocutors during GRETA's visit is that victims of sexual exploitation are increasingly being put in contact with clients online. Law enforcement officials met by GRETA indicated that the criminalisation of the purchase of sexual services had resulted in a drastic reduction in the number of people prostituting themselves on the streets, which has made it extremely difficult for investigators to identify potential victims. In addition, victims are changing flats/hotels far more often, which makes identification even more difficult. As a result, the police are concentrating on identifying traffickers rather than victims. Thus, in September 2020, when the police dismantled a Colombian pimping and trafficking network, it was unable to contact any of the 20 or so victims that it had detected before the operation, as they had all been moved on by the traffickers. To adjust to these changes, the police are trying to establish partnerships with accommodation platforms and websites used by persons engaged in prostitution to find clients (such as sexemodel.com). The OCRTEH recently instituted a partnership with representative of Airbnb in France, as a result of which Airbnb sent all its hosts the contact details of the OCRTEH so that they could contact it if they suspected that their flats were being used for prostitution on the basis of indicators that they had received. However, the OCRTEH has stated that Airbnb is refusing to reply to requests to notify police investigators of premises let through Airbnb by known pimps or traffickers. Another barrier to identification highlighted by various interlocutors is the lack of human resources of police and gendarmerie units specialising in combating organised crime.

209. In May 2019, the French foreign minister announced that between 400 and 450 French nationals linked to the so-called "Islamic State" (IS) organisation are being detained in the refugee camps located in North-East Syria, an area controlled by the Syrian Democratic Forces (SDF), a Kurdish-majority alliance.<sup>143</sup> The latter has repeatedly called for States, including France, to repatriate their nationals. In an opinion published in September 2019,<sup>144</sup> the CNCDH drew attention of the authorities to the situation of French children detained in those camps and called on the French Government to urgently repatriate these children and the parent accompanying them to French soil. According to the CNCDH report, there are

<sup>143</sup> [France Says Around 450 IS-linked Nationals Detained in Syria | LatestLY](#)

<sup>144</sup> CNCDH, [Opinion on the French Under-age Nationals Detained in Syrian Camps](#), 24 Septembre 2019.

estimated to be 300 French children, mostly under five years of age, who are exposed to substandard living conditions and present severe physical and mental health problems. In their comments on GRETA's draft report, the French authorities stated that France was fully committed to detecting victims of THB among French nationals detained in camps in North-East Syria, in particular children, and that France was the Western European State which had repatriated the largest number of children. Since March 2019, the French authorities<sup>145</sup> have carried out repatriations of a humanitarian nature, in liaison with the SDF, of 35 children of French nationality who were particularly vulnerable, orphans or from whom the mothers had agreed to be separated. GRETA was informed by the French authorities that although children returning from North-East Syria are not identified as victims of trafficking, they are given special attention due to the trauma they had suffered. They benefit from a specific care system on arrival on French soil, described in the instruction of 23 February 2018 on the care of children returning from areas of operation of terrorist groups, which provides for double care by the Child Protection Service (ASE) and the Youth Judicial Protection. These children receive psychological support from specialised psychiatrists before being taken in by foster families. This support is provided over a period of three months, with one visit per week, and is accompanied by support for a return to school. While welcoming the efforts made by the French authorities in repatriating its nationals detained in the camps located in North-East Syria, GRETA is concerned that these efforts have so far been limited to the repatriation of children, excluding adults who were children when they had travelled or been taken to the conflict zones occupied by IS and adults who had joined IS as a result of coercion or deceit.

210. On 9 March and 1 October 2020, the MIPROF convened a working group bringing together relevant institutions, NGOs, selected experts and the CNCDH to discuss the introduction of a national identification and referral mechanism for victims of trafficking (NRM). Under the heading "Introducing an NRM", measure 16 of the second Action Plan provides for the drafting of an inter-ministerial circular containing an open-ended list of victim identification indicators in conjunction with the ministries concerned and NGOs. The NGOs that attended these meetings have expressed concern that work in this field might be confined to preparation of a list of indicators. GRETA notes that a national list of indicators, although necessary, would not be enough to ensure effective identification and referral of victims.

211. On 28 April 2020, the CNCDH published an opinion<sup>146</sup> containing 24 recommendations on introduction of an NRM in France. The opinion stressed that the NRM should put victim protection in the centre by providing for a process of double identification: preliminary and formal. Preliminary identification would consist in detection of possible victims and evaluation by trained frontline actors, including NGOs and trade unions, of the likelihood that they are trafficked. The CNCDH recommends putting preliminary identification on a formal footing by formalising participation of frontline actors through authorisation to report a presumed victim to the competent authorities with the victim's consent. Preliminary identification would trigger a care and protection protocol for presumed victims to meet their most pressing needs (housing, medical and psychological support, etc.), inform them of their rights and grant them a reflection period. The second stage, formal identification, should be broadened beyond the police and gendarmerie and disconnected from the presumed victim's co-operation in the criminal investigation. The CNCDH believes that this would facilitate prosecution of traffickers in the medium term. The CNCDH further recommends that the mechanism should have a more binding legal basis than a mere circular and be accompanied by a protocol detailing every stage of victim referral, as well as that the criteria for identification should be drawn up for each type of exploitation, match the skills of the relevant professional and take account of possible differences between adult and child victims.

212. Although several specialised NGOs organise training and awareness-raising activities on the identification of victims of THB, their number is still rather limited and does not cover all professionals concerned. To give one example, since 2011 the co-ordinating body of the Ac.Sé national secure reception system has been organising multidisciplinary training courses on identification and protection of trafficking victims for professionals in regular or occasional contact with victims or potential victims (investigation services, departmental directorates of social cohesion, NGOs, local authorities and prefecture authorities).

<sup>145</sup> [https://www.echr.coe.int/Pages/home.aspx?p=hearings&w=2438419\\_29092021&language=lang&c=fr&py=2021](https://www.echr.coe.int/Pages/home.aspx?p=hearings&w=2438419_29092021&language=lang&c=fr&py=2021)

<sup>146</sup> CNCDH, *Avis sur la création d'un « mécanisme national de référence » concernant les victimes de traite des êtres humains* (Opinion on the establishment of a 'national referral mechanism' for victims of trafficking in human beings), 28 April 2020.

These training courses are held across France and funded, amongst other sources, under an agreement binding the Ac.Sé system and the Ministry of Justice. Since 2017, 27 training courses have been held and 626 professionals trained. Furthermore, in 2019, IOM France organised an information/awareness-raising day for representatives of airline companies, the border police, security companies, institutions and NGOs working at Charles de Gaulle Airport of Paris, with the aim of facilitating identification of trafficking victims at airports. GRETA also refers to three sessions of training and awareness raising on THB held between November 2020 and April 2021 by the NGO Ruelle in co-operation with the OCLTI and funded through a grant awarded by the Council of Europe; 91 persons, mostly social workers and medical staff, attended the sessions.

**213. Recalling the recommendations made in its second report, GRETA urges the French authorities to improve the identification of trafficking victims and, in particular to:**

- **introduce an NRM defining the role to be played and the procedure to be followed by all stakeholders that may come into direct contact with victims of trafficking, taking into account the recommendations from the CNCDH;**
- **disseminate tools and indicators adapted to different types of exploitation for identifying victims of trafficking to all stakeholders on the ground who may come into contact with them, particularly members of law enforcement agencies, labour inspectors, staff of OFII and CRAs, social workers, medical staff and teachers, and provide practical training on the use of those tools to improve the detection and identification of trafficking victims;**
- **ensure that, in practice, presumed and formally identified victims of THB are granted a recovery and reflection period, in particular those who are present in the country irregularly, and that the identification of victims of trafficking is not conditional on their co-operation with law enforcement agencies;**
- **clarify the procedure for identifying victims of trafficking who are French nationals and EU/EEA country nationals;**
- **provide border police at airports, stations and ports with units comprising staff who have received advanced training in detecting victims of trafficking;**
- **develop awareness within transport companies of the detection of victims using indicators of human trafficking;**
- **facilitate lodging of complaints by potential victims, including individuals having been victims of trafficking in other European countries;**
- **set up a telephone line specifically dedicated to human trafficking.**

**214. Further, GRETA considers that the French authorities should proactively investigate any allegation of trafficking in human beings, including in cases of potential victims of trafficking recruited on national territory to join a terrorist organisation abroad, ensuring that victims of trafficking are identified as such and receive the support and assistance provided for by the Convention, and applying the non-punishment principle.**

## 5. Assistance for victims

215. In its second evaluation report, GRETA urged the French authorities to improve access to specialised assistance and housing for all victims of trafficking, regardless of the type of exploitation and their nationality.

216. As pointed out in the second report,<sup>147</sup> victims of trafficking can receive special protection which enables them to be moved away from the place of their exploitation and receive support (psychological assistance, access to treatment, administrative procedures, etc.) from trained professionals through the Ac.Sé national secure reception system. Since the second GRETA evaluation, this system has expanded its network of partners: it is currently made up of 88 partners, including 58 reception facilities, five NGOs which act as both reception facilities and specialised service providers, two combined reception and advice centres, one host family, and 22 specialised service providers. The system has a capacity of 87 places. However, the network does not cover the entire country: in the overseas territories, for example, it has not been possible to form any partnerships. Every year, around 60 new victims receive support through this system. The great majority of them have been victims of trafficking for the purpose of sexual exploitation. They are supported until they become independent. The average period for which they are accommodated within the system is one and a half years. Some partners of Ac.Sé run language classes and workshops to help victims find jobs.

217. Ac.Sé is co-ordinated by the NGO ALC. In-service training on trafficking for professionals working for the system's partner organisations is provided twice a year by the ALC. The professional training for these partners was strengthened in 2020 when the ALC held nine transnational training sessions involving 33 French, Italian, Spanish and Cypriot professionals through a European Erasmus+ project. In addition, as envisaged in the second Action Plan, in 2019 an evaluation of the social impact of the Ac.Sé system was carried out by the Institute for Higher Education in Social Work (IESTS), based in Nice. The evaluation report<sup>148</sup> highlights the benefits of this system and states that it has contributed to better identification of victims of trafficking, an improvement in their access to entitlements under general law, greater involvement of victims in their life plans, and an improvement in the skills of social actors involved in anti-trafficking work. With funding from AGRASC, the ALC made 18 additional places available in Nice and Toulon in November 2020 for victims of trafficking who are in danger locally or highly vulnerable; 12 people are being housed in them at the moment. This funding has also enabled the ALC to form a partnership with a French language training centre so that a teacher of French can run French classes four days a week through videoconferencing for victims of trafficking who are accommodated through the Ac.Sé system. Despite the increase in the number of places, civil society actors reported that there were not enough places within the Ac.Sé system to enable all victims to be accommodated away from the place of their exploitation.

218. Where there is no need for them to be moved to a different area, victims of trafficking are referred to accommodation and social reintegration centres (CHRSs), where they are generally accommodated with a wide range of people (including victims of domestic violence, people dealing with alcoholism and drug addictions, former prisoners, persons exiting prostitution...), in poor conditions and without the personalised support that victims of trafficking need. As at 31 December 2019, of approximately 150 000 places in CHRSs, 5 698 were reserved for women victims of violence. The great majority of these places are occupied by victims of domestic violence, and a small proportion are occupied by victims of trafficking. GRETA was informed by the French authorities that work had been under way since 1 January 2020 to create 1 000 new accommodation and temporary housing places for women victims of violence. In addition, 1 000 accommodation places created to meet the needs of the COVID-19 health crisis will be made permanent in 2021. This means that the number of accommodation places for women victims of violence will increase to 7 698.

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<sup>147</sup> See GRETA second evaluation report on France, paragraph 148.

<sup>148</sup> IESTS, [Evaluation de l'impact social du Dispositif Ac.Sé](#) (Evaluation of the social impact of the Ac.Sé system), 20 September 2020.

219. During the visit, GRETA met victims of trafficking who showed photos of the rooms in CHRSS where they had been sleeping on chairs for two months. They explained that they were not allowed to stay in the CHRSS during the day and had to leave in the morning and come back at around 8 pm (despite the 6 pm curfew imposed in France during GRETA's visit in February 2021 due to the COVID-19 pandemic). One victim of sexual exploitation explained that the management of the centre where she was being accommodated had asked her to leave the centre because she was pregnant.

220. Persons who are irregularly present in the country do not have access to CHRSS in some departments. GRETA held exchanges with victims of labour exploitation whose requests to be accommodated in CHRSS had been turned down for this reason. It is also difficult to find accommodation for men victims of trafficking, as well as victims who have a partner since, in principle, assistance is intended for single victims. A victim who is a mother can be accommodated at a parental centre where she will have a studio flat and childcare support for her child(ren). Although fathers of children can be accommodated there in theory, this does not happen frequently in practice. It is also possible for victims to be accommodated by a host family. The authorities mentioned a house near Paris which is specifically dedicated to accommodating mothers and children and is currently home to five young mothers and their children. Although it is not specifically for victims of trafficking, most of those who are accommodated there are Nigerian women who are victims of THB.

221. As previously pointed out in GRETA second report,<sup>149</sup> civil society actors noted that emergency accommodation facilities and CHRSS were saturated. Victims who do not find housing at these centres can be housed by NGOs, but once again, places are very limited. Specialised NGOs stated that they received very little funding from the State for their accommodation facilities. All civil society organisations that support victims of trafficking noted that access to accommodation continues to be a major challenge, which undermines victims' ability to free themselves from the control of traffickers and participate in criminal proceedings. This is particularly true of victims of trafficking for the purpose of labour exploitation, who are often present in the country irregularly and are housed by traffickers. Therefore, a victim of trafficking can end up homeless even if he or she co-operates in criminal proceedings.

222. During the evaluation visit, the GRETA delegation revisited the shelter for women victims of trafficking for the purpose of sexual exploitation run by the Association Foyer Jorbalan (AFJ) in Paris, which is one of the few specialised shelters for victims of trafficking. It has a capacity of 12 places for women with no children, seven of which were occupied at the time of the visit. In addition to this shelter, in 2017, an agreement was signed by the MIPROF, the Paris Prosecutor's Office, the prefect of the Ile-de-France region, Paris City Council and the AFJ for the provision of a flat with five places for victims of trafficking for the purpose of sexual exploitation who are involved in judicial proceedings against traffickers.

223. GRETA also visited a flat run by the CCEM which can accommodate up to five people. It is reserved for women victims of labour exploitation. At the time of the delegation's visit, three people were being accommodated there. The CCEM stated that several requests for public funding made for its emergency flat had been turned down owing to the small size of their accommodation.

224. As for victims of trafficking who seek asylum, they can be accommodated in asylum seeker reception centres (CADA). This is a generalist national system which had a capacity of just over 107 000 places as at 30 June 2020. Since 2018, 303 specialised places have been created within this system in four regions (Ile-de-France, Auvergne-Rhône-Alpes, Nouvelle Aquitaine, Provence-Alpes-Côte d'Azur) to accommodate asylum-seeking and refugee women who are victims of violence or human trafficking. CADAs which have joined this project must offer enhanced support and secure shelter. An additional sum of 13 euros per place per day is allocated to them by the State in order to fund this system. People are referred by the French Office for Immigration and Integration (OFII), in association with designated vulnerability contact persons. In addition to the administrative requirements for asylum seekers and refugees in general, persons eligible for reception in these specialised places must meet certain

<sup>149</sup> See GRETA second evaluation report on France, paragraph 153.

vulnerability criteria, i.e. cases of violence or presumed trafficking situations requiring housing in a safe shelter. These vulnerability criteria are assessed following a vulnerability interview, conducted immediately after the registration of their asylum application, or at any stage of the asylum procedure. Representatives of the OFII stated that the accommodation centres selected for this purpose are familiar with the issues of trafficking and violence and are supposed to work with specialised NGOs. At the time of the evaluation visit, of 303 available places, only 235 were occupied. In their comments on GRETA's draft report, the French authorities indicated that this under-occupation had been reduced and that 288 places were occupied in July 2021. The number of victims of trafficking occupying these places was not communicated. However, the French authorities stated that a survey had been carried out in mid-2021 to have a better understanding of the profile of persons referred to these specialised places and it appeared that many of the persons accommodated presented multiple vulnerabilities, such as being both victims of trafficking and victims of gender-based and/or sexual violence.

225. As stated in GRETA second report,<sup>150</sup> in France, victims are supported by NGOs that are specialised in welfare support or supporting victims of trafficking or helping migrants. For this reason, it is of crucial importance that specialised NGOs receive funding from the State for the victim support services that they provide. In this regard, GRETA was informed that in 2019 AGRASC paid 399 327 euros to six NGOs to help victims of pimping and trafficking to enter employment, boost training and awareness-raising for professionals in these fields, and strengthen efforts to prevent and combat child prostitution and trafficking. In 2020, it allocated 1 990 961 euros for four projects submitted by NGOs which were intended to develop the accommodation capacities of the Ac.Sé scheme, improve support for victims of pimping and trafficking in the face of the health crisis caused by the COVID-19 pandemic, and develop physical and virtual patrols to identify victims. In addition, the Ministry of Justice's Department for Access to Law and Justice and Assistance for Victims (SADJAV) has provided financial assistance to NGOs that help victims of trafficking and/or pimping, such as ALC, Amicale du Nid, CCEM, AFJ, Ruelle and Hors la rue; the total value of this assistance was 257 000 euros in 2017, 231 308 euros in 2018, 162 944 in 2019, and 217 625 euros in 2020. It is not clear what percentage of this assistance is intended to be used solely to support victims of trafficking and what percentage for combating pimping and prostitution. In any case, all of the civil society actors met by GRETA agree that the financial support from the State for NGOs that help victims of trafficking is highly insufficient.

226. The situation as regards victim's access to allowances and health care was described in the second GRETA report<sup>151</sup> and remains generally unchanged. As noted in paragraph 200, Law No. 2016-444 of 13 April 2016 provides that an exit from prostitution and integration into social and professional (PSP) life must be offered to all persons who are victims of pimping and trafficking for the purpose of sexual exploitation. A person who begins a PSP process becomes entitled to support from an approved NGO, a renewable temporary residence permit with a minimum duration of six months (Article L425-4 of the CESEDA) and permission to work, and financial assistance for social and professional integration (*insertion sociale et professionnelle* - AFIS) in the amount of 330 euros per month for a single person, plus 102 euros per each dependent. According to information provided by the Directorate General for Social Cohesion, a total of 764 persons have begun a PSP process and 420 of them have received AFIS grants.

227. GRETA welcomes the efforts made by the French authorities to improve assistance for victims of trafficking. However, GRETA is concerned that the number of accommodation places for victims of trafficking, the public funds allocated to NGOs helping victims, and the allowances received by victims are still insufficient.

<sup>150</sup> See GRETA's second evaluation report on France, paragraph 147.

<sup>151</sup> See GRETA's second evaluation report on France, paragraphs 158 and 159.



**228. GRETA urges the French authorities to take additional steps to fulfil their obligations under Article 12 of the Convention, in particular by:**

- **ensuring that victims of trafficking receive appropriate support and assistance, based on their individual needs, for as long as necessary, in order to facilitate their reintegration and recovery;**
- **ensuring that all victims of trafficking, including men, French nationals and persons who are present in the country illegally as well as victims of trafficking for the purpose of labour exploitation are provided with accommodation that is safe and suitable for their needs;**
- **providing sufficient funding to ensure that the services offered by NGOs are diverse and of high quality.**

**6. Measures to prevent trafficking of children, identify children who are victims of trafficking and assist these children**

229. In its second evaluation report, GRETA urged the French authorities to reinforce without delay the process of identifying and assisting child victims of trafficking by introducing a national referral mechanism for child victims of trafficking, providing for the systematic appointment, as quickly as possible, of guardians for them, and developing awareness-raising and training for institutional actors. GRETA also asked the authorities to develop the offer of accommodation where staff members are specially trained in dealing with children who are victims of trafficking and programmes for the reintegration of child victims of trafficking.

230. As mentioned in paragraph 11, the share of children among the victims of trafficking and other offences linked to one of the purposes of THB (pimping, enslavement, subjection to servitude, forced labour, exploitation of begging and working and accommodation conditions contrary to human dignity) increased from 17 to 27% between 2016 and 2020.<sup>152</sup> According to data provided by specialised NGOs, 203 child victims of trafficking were assisted by 37 NGOs in 2019, representing 8% of all of the victims supported by these NGOs. A total of 20% of adult victims were children when they began to be exploited.<sup>153</sup> The great majority of the children were of foreign origin: from Africa (particularly Nigeria) and Eastern Europe (especially Romania and Bulgaria) in the case of sexual exploitation; from Eastern Europe (mainly Romania) and North Africa (Algeria and Morocco) in the case of trafficking for the purpose of forced criminality; and from Africa in the case of exploitation through labour and domestic servitude.

<sup>152</sup> The number of child victims of THB and other offences linked to one of the purposes of THB was 238 (including 133 French) in 2016, 310 (including 136 French) in 2017, 313 (including 195 French) in 2018, 333 (including 211 French) in 2019 and 339 (including 255 French) in 2020.

<sup>153</sup> [La traite des êtres humains en France: profil des victimes suivies par les associations en 2019](#) (Human trafficking in France: profile of victims monitored by NGOs in 2019).



231. Over the past few years, there has been an increase in the number of girls subjected to sexual exploitation through the “lover boy” *modus operandi*. NGOs estimate that almost half of these girls, the great majority of whom are French nationals, are aged between 14 and 16; their pimps are French nationals and mostly aged between 17 and 23.<sup>154</sup> These girls generally do not consider themselves as victims of trafficking. On 15 April 2021, the CNCDH published an opinion on trafficking of children for the purpose of sexual exploitation which sets out 34 recommendations grouped under three headings: 1) improving the identification of children who are being prostituted or sexually exploited, 2) providing unconditional protection for these children, and 3) strengthening the prevention of situations and behaviours that pose a risk.<sup>155</sup> A working group to tackle prostitution of child was created in September 2020. Based on its report published in June 2021,<sup>156</sup> the French government adopted, in November 2021, the first National Plan on Combatting Prostitution of Minors. The plan contains 13 measures, including the preparation of research on prostitution of unaccompanied minors, and prostitution of minors in the French overseas territories, the conducting of an awareness-raising campaign targeting general public, the training of professionals in contact with children, the improvement of tools for the identification and reporting of minors in prostitution, the creation of a support and accommodation facility in each French department to protect child victims of sexual exploitation, designation of a judge in each court as contact person for this kind of cases, and the strengthening of the capacity of law enforcement agencies in the field of cybercrime.

232. NGOs have continued to carry out outreach work<sup>157</sup> to identify children outside protection structures and report them to the authorities. For example, every year, the NGO Hors la rue, which specialises in supporting child victims of trafficking, comes into contact between 300 and 400 times with young people who are being exploited, and organises around 50 outreach street activities per year. In 2019, it carried out an outreach work on the Paris underground, found approximately one hundred Bosnian children who were victims of forced criminality<sup>158</sup> and reported them to the child protection authorities and the prosecutor’s office for minors of Paris. As envisaged in the second Action Plan (measure 17), since the end of 2019, mixed outreach team work have been carried out in 17 departments for purposes including that of identifying and preventing situations of child exploitation (forced begging, prostitution...) and approaching families with children who are living on streets, in squats or in shanty towns in order to offer them various services. However, according to civil society, reporting a child does not necessarily lead to their immediate removal and provision of care by competent authorities, which appear to be overwhelmed by the growing numbers of requests.

233. Responsibility for providing care to children lies with the departmental offices of the Child Protection Service (ASE). According to civil society, when a child goes to an ASE office, a vulnerability assessment is carried out. However, it is carried out very quickly, as soon as the child comes in, and the circumstances do not allow the child to properly express what is happening to him or her or the authorities to establish whether the child is a potential victim of trafficking, unless the child displays obvious signs. Sometimes, this assessment merely leads to a conclusion that the child is not on his or her own without making sure that the person with whom the child is connected does not pose a danger.

<sup>154</sup> [Evaluation de la loi du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées](#) (“Evaluation report on the law of 13 April 2016 strengthening action to combat prostitution and providing assistance to persons engaged in prostitution”), December 2019, p. 75. The rapid increase in this type of prostitution is having a major impact on the number of child victims of pimping who are identified by the authorities, which was 108 in 2016, 157 in 2017, 185 in 2018, 209 in 2019 and 257 in 2020.

<sup>155</sup> CNCDH, [Avis sur la prévention et la lutte contre la traite à des fins d’exploitation sexuelle des mineurs](#) (Opinion on the prevention and combating of trafficking of children for the purpose of sexual exploitation), 15 April 2021.

<sup>156</sup> [Rapport du groupe de travail sur la prostitution des mineurs](#) (Working group’s report on tackle prostitution of children).

<sup>157</sup> Outreach work conducted by NGOs on streets or around camps in order to assist people who live there.

<sup>158</sup> The Hors la rue NGO has published a detailed guide (88 pages) concerning support for child victims of forced crime: [“Mieux accompagner les mineurs contraints à commettre des délits”](#) (Providing better support to minors who are forced to commit crime), November 2020.

234. Children in danger are generally placed in ASE reception facilities even where there is an immediate need for them to be moved to a secure location. In principle, this placement should enable them not only to be housed, but also enrolled in school and have access to healthcare. However, these facilities are not adapted to the situation of child victims of trafficking, as the staff are not trained in providing this very specific type of care. In addition, they are not secure enough, and children, especially victims of trafficking for the purpose of exploitation of forced criminality or begging, are immediately called back by traffickers, who sometimes form part of their family circle, and very often run away. Some interlocutors reported that children have been recruited for sexual exploitation at these centres. Furthermore, because ASE centres are full, children, especially boys, are sometimes accommodated at hotels where there is no educational framework or follow-up for them<sup>159</sup>, even where the child has been formally identified as a victim of trafficking and despite the risk that networks may take them back. Hotel accommodation is provided even more frequently to unaccompanied persons,<sup>160</sup> in particular to those who are awaiting an age assessment to establish whether they are children, a process that can take a long time in some departments. The Ombudsperson for Children mentioned the case of a young person whose assessment had been ongoing for one and a half years.

235. Furthermore, reaching adulthood often results in termination of care from the ASE. Although a victim aged 18 can sign a contract as a young adult (*contrat jeune-majeur*), entitling him/her to receive care up to the age of 21, some civil society interlocutors stated that foreign children who are victims of trafficking are not always offered this contract. Since no provision is made for training or integration of children who are placed in ASE centres, they generally leave the protection system without training or money when they reach adulthood, and are therefore at risk of being exploited once again.<sup>161</sup> Several civil society actors also underlined the very wide disparities between departments in terms of quality of care for children.

236. A geographical distancing system modelled on the Ac.Sé system has been implemented, on a trial basis, in order to remove children from the influence of traffickers. This system is based on an agreement signed on 1 June 2016 by institutional stakeholders (City Council and department of Paris, Paris Prosecutor's Office, Paris Regional Court, Paris police headquarters, Inter-ministerial Committee for the Prevention of Delinquency and Radicalisation, Directorate of Judicial Youth Protection Services, Paris Bar Association and MIPROF), and the NGO Hors la Rue. This system is made up of about 20 institutions including accommodation centres run by NGOs or departmental authorities and family foster care arrangements. As at 1 July 2019, this system accommodated 91 children. Although it was initially intended to accommodate child victims of all forms of exploitation it has almost exclusively benefited Nigerian children who are victims of trafficking for the purpose of sexual exploitation.

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<sup>159</sup> In this regard, see also the CNCDH Opinion [sur la prévention et la lutte contre la traite à des fins d'exploitation sexuelle des mineurs](#) (Opinion on the prevention and combating of trafficking of children for the purpose of sexual exploitation), which mentions that the child welfare services of departments are under great strain due to the considerable increase over the past few years in the number of children in danger, principally unaccompanied children (15 April 2021, p. 17). According to data provided to GRETA by the Directorate of Judicial Youth Protection Services (*Direction de la protection judiciaire de la jeunesse*, DPJJ), in 2018 and 2019, between 18 000 and 20 000 unaccompanied children arrived in France per year, while in 2017, the number of arrivals was around 15 000, and in 2016 it was around 8 000. In 2020, this figure fell to around 10 000 owing to the closure of the Italian and Spanish borders during the COVID-19 pandemic. The total number of unaccompanied children who are provided care by state departments is currently around 70 000.

<sup>160</sup> According to a report published in November 2020, 95% of the minors accommodated by the ASE in a hotel are unaccompanied children and 28% of unaccompanied children who are provided care by ASE are accommodated in a hotel. Inspectorate General for Social Affairs, [l'accueil de mineurs protégés dans des structures non autorisées ou habilitées au titre de l'aide sociale à l'enfance](#) (accommodation of the protected minors in facilities that are not authorised or approved under the child welfare system), November 2020.

<sup>161</sup> CNCDH, [Avis sur la prévention et la lutte contre la traite à des fins d'exploitation sexuelle des mineurs](#) (Opinion on the prevention and combating of trafficking of children for the purpose of sexual exploitation), 15 April 2021, pp. 15-16.

237. On 8 February 2021, the Minister of Justice sent prosecutors and inter-regional judicial youth protection directors a dispatch asking them to enter into agreements with the institutional actors concerned within their jurisdiction, on support for child victims of trafficking modelled on the above-mentioned Paris agreement. Departmental councils will have to identify institutions where children can be housed and provided with care, and NGOs which are signatories to the agreement will be able to apply for funding through the dedicated Inter-ministerial Fund for the Prevention of Delinquency (FIPD) to provide socio-educational support tailored to child victims of trafficking. The dispatch underlines the need for all professionals involved in the process to be trained on the issue of trafficking and in assisting child victims and encourages the appointment of contact persons at each court for this purpose. Children will be placed by way of a temporary placement order from the Prosecutor's Office under Article 375-5 of the Civil Code following a report received from investigation departments, the ASE or NGOs that assist victims.

238. GRETA was informed of the opening of a safe house for children near Paris which can accommodate child victims of trafficking who need to be distanced from the places where they were exploited, subject to a placement order. The children housed at this location, the address of which is kept secret from the children's legal representatives, are mostly unaccompanied foreign girls, but they also include girls from Paris who have been sexually exploited. GRETA was informed that the children placed in this house are supported by educators who are specially trained on the issue of trafficking. However, there is a significant language barrier because in this house, there are no speakers of the languages most commonly spoken by the children likely to be accommodated there. The minors section of the Paris Prosecutor's Office tried to place in a shelter in Belgium two child victims of trafficking who had been exploited in France and who were in danger of falling back into the hands of their traffickers. However, the experiment was unsuccessful because the children ran away from the officers who were taking them to Belgium.

239. A decree was published on 5 May 2021 authorising the opening of a centre to provide child victims of trafficking with educational, psychological, legal and health support. The NGO Koutcha is responsible for setting up this centre of 12 places for children and/or young adults aged 18 to 21 years (girls and boys). For the time being and for a transitional period, temporary premises will be used to accommodate six children or young adults. In the long term, children and young adults will be accommodated in two separate and adjoining living units, providing collective and individualised cares for young parents accommodated with their child.

240. There is also the AFJ shelter, already mentioned in paragraph 222, which is for women victims of trafficking in principle, but can accommodate children with the approval of a judge for children. During the 20 years for which it has existed, it has only been asked once by the judicial authorities to house a girl who was a victim of THB.

241. The second National Action Plan notes that there has been a rise over the last few years in the number of child victims of trafficking exploited for the purposes of forced criminality, begging or prostitution – a finding shared by all of those met by GRETA. Despite the greater visibility of such children on the streets and their repeated contact with law enforcement authorities, there has been little identification of child victims of THB, and few have been provided with care due to a lack of awareness of trafficking and the insufficient resources of specialised services, in particular the Family Protection Unit – (*Brigade de Protection de la Famille - BPF*), ASE, Judicial Youth Protection Department (*Protection judiciaire de la jeunesse - PJJ*). Few unaccompanied children are detected when they arrive in France, especially in airport hubs. An article published in July 2020<sup>162</sup> reveals that Vietnamese children frequently disappear without trace, either from Orly Airport in Paris or once they have been placed in reception facilities. The article states that it sometimes takes several days for airport staff to notice that unaccompanied children are present in terminals. It also highlights the excessive strain on the Seine-Saint-Denis ASE, which ought to provide care to these children but, because of understaffing, would not be able to pick them up when they leave the waiting area at the airport after making their asylum application.

<sup>162</sup> [Les enfants disparus de Roissy – Investigate Europe \(investigate-europe.eu\)](https://investigate-europe.eu/en/missing-in-france-the-plight-of-vietnamese-children-who-are-trafficked-into-europe) (Missing in France: The plight of Vietnamese children who are trafficked into Europe).

According to Europol, these children are picked up again by traffickers and enslaved in cannabis farms, nail bars or prostitution to pay off the debt owed for their journey.

242. It should be recalled that during the second evaluation visit, GRETA went to the Nord department of France, where it found serious failings in the detection of vulnerable persons, particularly isolated children, among migrants at locations on the border between France and the UK – a situation which leaves them very exposed to the influence of exploitation networks. The civil society actors met by GRETA stated that these failings persisted.<sup>163</sup> GRETA is also concerned about the situation of migrants on the border between France and Italy: reports show that little effort is made by the police to identify vulnerable persons, including victims of trafficking and unaccompanied children, even though this border is frequently used by trafficking networks to get victims across. Moreover, persons who have crossed the border without permission are frequently expelled without being identified and informed of their rights to seek asylum, and with no application of the protocol for assessing the age where an unaccompanied person claims to be a child or shows an identity document indicating that he or she is a child.<sup>164</sup> In their comments on GRETA's draft report, the French authorities informed GRETA of the publication in May 2021 of a national action plan drawn up by the Asylum Directorate of Ministry of the Interior to strengthen the care of vulnerable asylum seekers and refugees, including concrete actions, such as the reinforcement of training for all staff in the asylum chain to improve early identification and enable appropriate care for vulnerable asylum seekers and refugees, such as victims of trafficking.

243. There have not been any government-run campaigns to raise awareness of child trafficking. Although Article 18 of the Law of 13 April 2016 makes provision for awareness-raising sessions in secondary schools on the realities of prostitution and the dangers of selling one's body, they have not taken place owing to the lack of any ministerial circular on their implementation.<sup>165</sup> GRETA's interviews also revealed a lack of training to raise educational staff's awareness of trafficking and a lack of specific tools enabling them to identify vulnerable children and inform pupils about trafficking.

244. GRETA welcomes the dispatch from the Minister of Justice calling for the experimental system in Paris to be mainstreamed and the progress made in setting up a secure and safe centre for child victims of trafficking. However, GRETA is concerned about the growing trend of child trafficking in France and the inadequacy of the resources put in place to identify victims and provide care to them. **Recalling the recommendations made in its second report, GRETA once again urges the French authorities to step up their efforts to prevent and combat the trafficking of children, identify child victims of trafficking, and provide appropriate assistance to them, in particular by:**

- **Introducing specific procedures for children in the national identification and referral mechanism to be established (paragraph 213), taking into account the particular situation and needs of trafficked children, making the best interests of the child a primary consideration, involving child specialists, and defining the role to be played and the procedure to be followed by all authorities and professionals who may come into direct contact with child victims of trafficking, including NGOs;**

<sup>163</sup> This is also indicated by the reports of international organisations. For example, see [Des enfants en danger aux frontières de la France – Amnesty International France](#) (Children in danger on France's borders), 6 October 2020.

<sup>164</sup> See [France: Police Expelling Migrant Children | Human Rights Watch \(hrw.org\)](#), 5 May 2021; CNCDH, "[Avis sur la situation des migrants à la frontière italienne](#)" (Opinion on the situation of migrants at the Italian border), 19 June 2018; [Mineurs isolés: "Des pratiques contraires à la convention internationale des droits de l'enfant" | L'Humanité \(humanite.fr\)](#) (Isolated minors: "Practices contrary to the United Nations Convention on the Rights of the Child"), 12 October 2020; [The Treatment of Unaccompanied Migrant Children in the French Hautes-Alpes | HRW](#), 5 September 2019; Anafe, "[Persona non grata – Conséquences des politiques sécuritaires et migratoires à la frontière franco-italienne](#)" (Persona non grata – Consequences of security and migration policies at the France-Italy border), Observation report 2017-2018.

<sup>165</sup> Report: [Evaluation de la loi du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées](#) (Evaluation report on the law of 13 April 2016 strengthening action to combat prostitution and providing assistance to persons engaged in prostitution), December 2019, p. 27.

- **providing in-service training and tools to stakeholders (police, prosecutors, asylum and migration authorities, airport staff, service providers, educational staff, child protection authorities, NGOs) in relation to the identification of child victims of trafficking;**
- **taking measures to deal effectively with the problem of disappearance of child victims of trafficking from the Child Protection Service's reception centres, by providing them with secure accommodation and appropriate services and a sufficient number of appropriately trained supervisors;**
- **developing reintegration programmes for child victims of trafficking.**

## **7. Residence permits**

245. In its second evaluation report, GRETA considered that the French authorities should ensure that victims of trafficking, including nationals of an EU or European Economic Area (EEA) country who no longer fulfil the requirements to have their stay legalised, enjoy the right to obtain a renewable residence permit. GRETA also asked the authorities to ensure that legislation is applied consistently throughout France, in particular by immediately appointing a contact person in each French prefecture and by training and raising the awareness of relevant prefecture staff on all forms of trafficking.

246. Order No. 2020-1733 of 16 December 2020, which entered into force on 1 May 2021, amended the articles of the CESEDA that relate to access for victims of trafficking to residence permits. The content of Article L316-1 of the CESEDA, which sets out the requirements for accessing temporary residence permits for victims of trafficking, has been subsumed into Article L425-1. Under the former Article L316-1, a foreign national who made a complaint against a person whom he or she accused of committing trafficking- or pimping-related offences against him or her or who gave evidence in criminal proceedings in relation to these offences could automatically receive a temporary residence permit lasting for one year, which was automatically renewable for the duration of the criminal proceedings. However, the regulatory part of the CESEDA added an extra requirement of "severing all ties with the alleged perpetrators" of the aforementioned offences (former Article R316-3 of the CESEDA). Pursuant to the Order of 16 December 2020, this requirement has now been added to Article L425-1. Article L316-4 of the CESEDA, which provided, together with Article 314-11, that if the trafficker was finally convicted, a 10-year residence permit would automatically be issued to a victim who met the requirement of co-operating with the authorities (i.e. by making a complaint or giving evidence) and who was residing in the country legally, was replaced by Article L425-3 without substantial changes.

247. GRETA notes with satisfaction that since Law No. 2018-778 of 10 September 2018 for controlled immigration, an effective right to asylum and successful integration entered into force on 1 March 2019, victims of trafficking or pimping who gain temporary residence permits on this basis benefit from a second means of obtaining a ten-year residence permit: after five years, they can obtain a ten-year residence permit provided that they have funds equivalent to the growth-indexed minimum wage (*salaire minimum de croissance* - SMIC) and health insurance (Article 426-17 of the CESEDA) and they fulfil integration conditions provided for in Article L413-7 of the CESEDA. This enables a victim to gain a ten-year residence permit without having to wait for the trafficker to be finally convicted.

248. The figures from the Ministry of the Interior indicate that few residence permits are issued to victims of trafficking or pimping under Article L425-1 and L425-3 of the CESEDA: 226 temporary residence permits (of which 72 were first-time issues) and 40 ten-year residence permits (of which five were first-time issues) were issued in 2016; 241 temporary residence permits (of which 111 were first-time issues) and 44 ten-year residence permits (of which three were first-time issues) were issued in 2017; 221 temporary residence permits (of which 82 were first-time issues) and 54 ten-year residence permits (of which six were first-time issues) were issued in 2018; 313 temporary residence permits (of which 174 were first-time issues, a significant increase by comparison with 2018) and 41 ten-year residence permits



(of which five were first-time issues) were issued in 2019. The provisional figures for 2020 were 293 temporary residence permits (of which 133 were first-time issues) and 29 ten-year residence permits (of which four were first-time issues). In 2018 and 2020, a total of 221 residence permits (temporary residence permits and ten-year residence permits) were issued to Nigerian victims (all of whom were women, with the exception of one), 22 to Filipino victims, 15 to Malian victims, 14 to Colombian victims, 14 to Congolese victims, 12 to Tunisian victims, 10 to Moroccan victims, and 19 to Ivorian victims. The other 77 permits were issued to victims from 16 different countries.<sup>166</sup> The fact that little use is made of Article L425-1 of the CESEDA is also shown by the data from NGOs: among the victims of trafficking who were assisted by NGOs in 2019, only 26% received a temporary residence permit: 9% under Article L425-1, 9% on the basis of international protection, and 8% for other reasons.<sup>167</sup>

249. According to the CNCDH,<sup>168</sup> the fact that little use is made of Article L425-1 of the CESEDA is partly due to generalised suspicion towards victims of trafficking when they apply for a temporary residence permit. GRETA was informed that in some departments, prefectures contact law enforcement authorities in order to ask for their opinion on the accuracy of the facts outlined in the complaint or about the decision that judges and prosecutors intend to take on the complaint and either grant a residence permit or reject the application depending on the response that is received.<sup>169</sup> GRETA's interviews revealed the fear among some members of the law enforcement authorities that they are used by people who attempt to have their stay legalised by making a "false" complaint. GRETA also notes that Article L425-1 makes the granting of a residence permit conditional upon prior classification of the offence as trafficking or pimping. As a result, victims of the offences of enslavement, subjection to servitude, forced labour, exploitation of begging and working and accommodation conditions contrary to human dignity are not entitled to a residence permit on this basis, even though these offences are purposes of trafficking offences and in the case of enslavement the sentence (20 years' imprisonment) is far more severe than the sentence for trafficking.

250. Although some improvement in terms of the granting of residence permits in the wake of the "Boulevard de Strasbourg hairdressers" case (paragraph 111) has been noted in the Paris region,<sup>170</sup> civil society interlocutors stated that application of Article L425-1 of the CESEDA is not uniform throughout the country and that in some departments, obstacles continue to hinder access for victims of trafficking to residence. For example, for the purposes of proving identity, some prefectures do not accept a birth certificate and require a passport or certificate from a consulate, which are very difficult to obtain through the consulates of some countries of origin, in particular Nigeria. Depending on the department, the waiting time can be up to several months for submitting a residence permit application. Once an application has been made, in some cases no receipt is issued, or it is issued without a work permit. Moreover, some prefectures refuse to issue a residence permit application receipt until the asylum process is completed. In this regard, GRETA wishes to refer to the final report on the REST project (Resident status:

<sup>166</sup> 259 temporary residence permits linked to PSP were also issued in 2019 and at least 393 in 2020, according to the provisional data available. In 2020, 259 of these victims were Nigerians, 22 were Congolese, 20 Cameroonians, 17 Ivorians and 16 Algerians. The remaining 59 victims were from seven other countries.

<sup>167</sup> For 18% of the victims, an application for a permit was being processed and 19% of the victims were present in the country illegally. 6% of the victims were not affected by this issue and information was missing for 31% of the victims. The data for 2018 is similar. [La traite des êtres humains en France : profil des victimes suivies par les ONGs en 2019](#) (Human trafficking in France: profile of victims followed up by NGOs in 2019); [La traite des êtres humains en France : profil des victimes suivies par les ONGs en 2018](#) (Human trafficking in France: profile of victims followed up by NGOs in 2018).

<sup>168</sup> CNCDH, [Avis sur la traite des êtres humains à des fins d'exploitation économique](#) (Opinion on human trafficking for the purpose of economic exploitation), 15 October 2020, p. 10.

<sup>169</sup> However, by decision of 15 May 2018 (no. 17PA02410), Paris Administrative Court of Appeal set aside a dismissal of an application for a permit on the grounds that the person who had made the complaint about trafficking met the requirements of the former Article L316-1 until such time as the prosecutor took a decision on the complaint and the gendarme's opinion on the victim's complaint had no bearing.

<sup>170</sup> The representative of the CGT mentioned a case of trafficking of female Ukrainian workers in the cleaning sector in which temporary residence permits were granted to the victims in 2020 on the basis of a Labour Inspectorate decision and not as a result of the complaint, which marks an improvement. There have been other cases in which Paris prefecture issued temporary residence permits on the basis of a report from the Labour Inspectorate without waiting for investigations to begin: "[Bobigny : les ex-employés sans papiers régularisés temporairement](#)" (Bobigny: undocumented former employees have status regularised temporarily), *Le Parisien*, 3 April 2019; "[Racisme et exploitation chez Pinault-Gapaix : les sans-papiers des chantiers amiantés bientôt régularisés](#)" (Racism and exploitation at Pinault-Gapaix: undocumented workers on sites containing asbestos to obtain legal status soon"), *Nouvelle vie ouvrière*, 4 April 2019.

strengthening protection for victims of human trafficking), co-financed by the Council of Europe, which highlights several obstacles that prevent victims of trafficking from obtaining a residence permit in France.<sup>171</sup> At the same time, GRETA notes with satisfaction that in the Alpes-Maritimes department, some NGOs have entered into an agreement with the prefecture to facilitate the handling of the applications for a residence permit submitted by victims of violence, including trafficking, whom they support. If agreements like this are mainstreamed, this may rectify some of the aforementioned difficulties.

251. The authorities have not provided any information on the number of contact persons appointed at prefectures to deal with THB cases. The second National Action Plan states that half of prefectures have appointed such contact persons and provides that an instruction will be issued to remind prefectures of the need to appoint them and of the basis on which residence permits are issued for victims of trafficking (measure 21). At the Lyon prefecture, which GRETA visited, there was no trafficking contact person. GRETA was informed by the authorities that coverage of the entire country was aimed at by the end of 2021 through the appointment of heads of residence offices as contact persons for THB, and that a support booklet for the new contact persons, which has recently been prepared, would be distributed at the beginning of 2022. Specialised NGOs stated that the lack of a contact person at a prefecture makes it much more difficult to track the progress of residence permit applications and find out the reasons for any hold-ups.

252. Victims of trafficking, regardless of whether they co-operate with the judicial authorities or not, can apply for asylum to legalise their presence in the country. However, the number of victims of trafficking who have obtained refugee status or alternative protection based on the fact that they were victims of trafficking is unknown, because the French Office for the Protection of Refugees and Stateless Persons (OFPRA) does not compile any statistics on the reasons cited by asylum applicants. Since 2016, OFPRA's activity reports<sup>172</sup> have provided an insight into trends observed in relation to different types of vulnerability, including trafficking: the 2019 report states that, as in previous years, the majority of asylum applications made in that year related to trafficking for the purpose of sexual exploitation, and most often, they were made by women and girls from Africa, particularly Nigeria, but also Ivory Coast, Guinea and the Democratic Republic of Congo. This report and the 2018 report underline that "as has been the case for many years, asylum applications made by Nigerian applicants are abused by human trafficking networks which force their victims, sometimes through violence, to make an asylum application so that they can legalise their residence status in France in order that their exploitation can continue, in the form of debt bondage. Various documents (complaint, certificate of accommodation or follow-up by an NGO) are regularly submitted to back up their alleged distancing from the situation of exploitation."<sup>173</sup>

253. On 30 March 2017, the National Court of Asylum (CNDA) held that female Nigerian nationals, regardless of their province of origin in Nigeria, who were victims of trafficking for the purpose of sexual exploitation by a transnational trafficking network, and who had managed to remove themselves from it or had taken steps to that end, were a social group within the meaning of Article 1, A, 2 of the Geneva Convention and could obtain refugee status.<sup>174</sup> In a decision of 16 October 2019, the State Council (*Conseil d'État*) confirmed the case-law existing since March 2015, according to which Nigerian women from the state of Edo who were victims of trafficking for the purpose of sexual exploitation were a "social group" within the meaning of the Geneva Convention. However, it made the applicability of "social group" conditional upon the requirement that these women had to have removed themselves from the forced

<sup>171</sup> Johanna Schlintl and Liliana Sorrentino, "[Residence Permits, International Protection and Victims of Human Trafficking: Durable Solutions Grounded in International Law](#)", February 2021, pp. 27-31.

<sup>172</sup> These reports can be accessed at: [Rapports d'activité | OFPRA](#) (Activity reports | OFPRA).

<sup>173</sup> OFPRA's activity report of 2019, p. 52; OFPRA's activity report of 2018, p. 43.

<sup>174</sup> CNDA, combined panel, 30 March 2017, *Ms F.*, no. [16015058 R](#). In addition, the CNDA decided in April 2018 that enslavement in the applicant's country of origin can be a basis on which the right of asylum can be granted to the applicant. After pointing out that slavery practices still exist in Mauritania, the CNDA held that the fears expressed by the applicant, who had been enslaved at a very early age, over his return to Mauritania were well founded (CNDA, 10 April 2018, *M. T.* no. [17035868 C](#)). When considering two appeals from young women from Guinea and Mali who had been victims of forced and early marriage, in July 2018, the CNDA held that if forced marriage is commonly practised within a population to the point that became a social norm, young girls and women who intend to escape it constitute a social group. CNDA, 23 July 2018, *Ms E.* no. [15031912 R](#); CNDA, 23 July 2018, *Ms D.* no. [17042624 R](#).



prostitution network, going back on the case-law that had prevailed since the CNDA's decision of principle of 30 March 2017. This restrictive interpretation of the definition of "social group" considerably reduces the opportunity for victims to legalise their presence in the country through the asylum process without co-operating with the judicial authorities, because filing a complaint or giving evidence against exploiters is regarded by the authorities as important in proving distancing from the network.

254. As for trafficked persons who are nationals of the EU, the EEA and Swiss nationals, their presence in France for more than three months is governed by criteria set out in Article L233-1 of the CESEDA (in particular exercising a professional activity or having enough resources not to be a burden on the social welfare system, as well as sickness insurance, or pursuing studies or vocational training, while again having sufficient resources and sickness insurance). As stated in GRETA's second report,<sup>175</sup> if the person does not meet any of these criteria, even if they lodge a complaint, they will be in an irregular situation and risk being sent back to their country of origin.

255. **GRETA urges the French authorities to take additional measures to ensure that victims of trafficking can fully benefit from the right to obtain a residence permit, including on grounds of their personal situation, by appointing a contact person at each prefecture without further delay and training the relevant staff members at prefectures on the issue of trafficking and raising their awareness of it.**

256. **In addition, GRETA considers that the French authorities should:**

- **extend the scope of Article L425-1 of the CESEDA to offences associated with trafficking in relation to labour exploitation, including enslavement, subjection to servitude and forced labour;**
- **ensure that nationals of an EU/EEA country who are victims of trafficking but who do not fulfil the requirements to have their stay legalised, enjoy the right to obtain a renewable residence permit, in line with internal law and in compliance with Article 14 of the Convention;**
- **ensure that the repatriation of all trafficking victims is carried out with due regard for their rights, safety and dignity and preferably on a voluntary basis and in compliance with the obligation of *non-refoulement*. The French authorities should take full account of the UNHCR guidelines on the application of the Convention relating to refugee status to victims of trafficking, and their right to seek asylum,<sup>176</sup> and to GRETA's Guidance Note on the entitlement of victims of human trafficking, and persons at risk of being trafficked, to international protection.<sup>177</sup>**

<sup>175</sup> GRETA's second evaluation report on France, paragraph 198.

<sup>176</sup> [UNHCR, Guidelines on International Protection: The application of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking, HCR/GIP/06/07, 7 April 2006.](#)

<sup>177</sup> <https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>

## **Appendix 1 - List of GRETA's conclusions and proposals for action**

The position of the proposals for action in the text of the report is shown in parentheses.

### **Topics related to the third evaluation round of the Convention**

#### ***Right to information***

- GRETA considers that the French authorities should step up their efforts to provide information to presumed and formally identified victims of THB on their rights, the services available, how to access them, and the implications of being identified as a victim of trafficking. This concerns in particular the right to a recovery and reflection period and temporary residence. The staff responsible (law enforcement officers, staff of reception centres and asylum seeker holding centres, social workers, etc.) should be trained on how to properly explain to victims their rights, taking due account of their cognitive faculties, psychological state and age, and encouraged to co-operate closely with NGOs supporting victims of THB (paragraph 50);
- Furthermore, GRETA considers that the French authorities should take further steps to ensure the availability of qualified interpreters who are familiar with the issue of human trafficking and techniques to interview trafficking victims, especially children (paragraph 51).

#### ***Legal assistance and free legal aid***

- GRETA urges the French authorities to take further steps to facilitate and guarantee access to justice for all THB victims, and in particular to ensure that legal assistance is provided systematically as soon as there are reasonable grounds for believing that an individual is a victim of trafficking, regardless of whether their stay is regular or not, and before they have to decide whether or not they want to co-operate with the authorities and/or make an official statement (paragraph 63);
- GRETA considers that the French authorities should:
  - raise awareness among Bar associations of the need to encourage the training and specialisation of lawyers to provide legal aid to trafficking victims, and ensure that trafficking victims are systematically assigned a specialised lawyer;
  - revise Law no. 91-647 so that access to free legal aid for trafficking victims is not subject to means testing or a requirement of habitual and regular residence (paragraph 64).

#### ***Psychological assistance***

- GRETA considers that the French authorities should take steps to ensure that victims of all forms of THB, including trafficking for the purpose of labour exploitation, are provided with psychological assistance to help them overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion (paragraph 68).

#### ***Access to work, vocational training and education***

- GRETA considers that the French authorities should promote the social and economic inclusion of victims of THB by facilitating their access to work, vocational training and education. This should involve raising awareness among different employers and promoting micro-businesses, social enterprises and public-private partnerships, including through state-supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking (paragraph 74).

## ***Compensation***

- GRETA urges the French authorities to make further efforts to guarantee effective access to compensation for victims of trafficking in human beings, and in particular to:
  - ensure that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim, is part of the criminal investigations with a view to supporting compensation claims in court;
  - make full use of the legislation on the freezing and confiscation of assets to secure compensation to THB victims;
  - develop specific modules on victim compensation for the initial and in-service training of lawyers, law enforcement officers, prosecutors and judges, which should also cover compensation for victims of labour exploitation (paragraph 96);
- Furthermore, GRETA considers that the French authorities should:
  - introduce a procedure whereby victims can request that a decision on the recovery of unpaid salaries is taken within the framework of criminal proceedings;
  - ensure that the amounts granted in respect of recovery of unpaid salaries can be paid in advance by the State, which subsequently reclaims them from the offender;
  - grant residence permits to victims of THB for the duration of the judicial proceedings, including the compensation procedure, with a view to facilitating their access to compensation and damages. ;
  - ensure that legal aid for applying to the commission for the compensation of victims of criminal offences (CIVI) is not denied to victims of trafficking on the grounds that they are about to receive compensation (paragraph 97);
- In addition, GRETA once again invites the French authorities to introduce a system for recording the compensation claimed and obtained by trafficking victims within the framework of criminal as well as labour tribunal procedures (paragraph 98).

## ***Investigations, prosecutions, sanctions and measures***

- GRETA considers that the French authorities should take additional steps to ensure that cases of trafficking are investigated proactively and prosecuted effectively, leading to effective, proportionate and dissuasive sentences, and in particular:
  - step up their efforts to ensure that trafficking offences are classified as such every time the circumstances of a case allow this, including cases of trafficking for the purpose of labour exploitation, by ensuring that the Circular on criminal law policy on action against THB is distributed more widely and, where necessary, by updating and supplementing it;
  - develop specialisation among investigators, judges and prosecutors to deal with THB cases, not only at JIRs but also in the jurisdictions that are most exposed to the phenomenon of trafficking, including trafficking for the purpose of labour exploitation;
  - strengthening co-operation between members of law enforcement agencies, labour inspectors, financial police, tax authorities, trade unions and other civil society actors with a view to

collecting the evidence necessary for successfully investigating and prosecuting THB cases, including trafficking for the purpose of labour exploitation;

- harmonise sentences for pimping and trafficking in relation to children under the age of 15;
- extend the scope of Article 2-22 of the CCP to all offences linked to labour exploitation, such as subjecting a vulnerable or dependent person to unremunerated labour or to working and accommodation conditions contrary to human dignity, and exploitation of begging (paragraph 127).

### ***Non-punishment provision***

- With a view to ensuring the application of the non-punishment provision, GRETA urges the French authorities to adopt a specific legal provision on the non-punishment of victims of THB for their involvement in unlawful activities to the extent that they have been compelled to commit them, and/or issue instructions to investigation services and prosecutor's offices specifying the scope of the non-punishment provision, which applies not only to minors but also to adults coerced into unlawful activities (paragraph 135);
- Furthermore, GRETA considers that the French authorities should:
  - continue to take measures to ensure implementation, in practice, of the non-punishment provision, in particular by providing training for law enforcement officers, prosecutors and judges, publishing appropriate guidance and improving information exchange between judicial authorities in different departments.
  - adopt legislative measures allowing to remove convictions from trafficking victims' criminal records once it has been established that victims have been compelled by traffickers to commit the offences concerned (paragraph 136).

### ***Protection of victims and witnesses***

- GRETA considers that the French authorities should ensure that available protection measures are effectively applied to victims and witnesses of trafficking in order to protect them and prevent intimidation during the investigation, as well as during and after the judicial proceedings, including by avoiding cross-examination of victims of trafficking in the physical presence of the defendant, by making more frequent use of audio-visual equipment to interview victims and the witness protection programme, by systematically informing victims of dates of release and measures of protection put in place on release of the offender, by increasing the availability of safe and secure accommodation, particularly for children, and by ensuring that child victims of trafficking are not returned to the persons who have been involved in their exploitation, including their family members (paragraph 146).

### ***Specialised authorities and co-ordinating bodies***

- GRETA considers that the French authorities should continue to promote training and specialisation in trafficking cases for investigators, judges and prosecutors (see also paragraphs 127 and 197). Training courses on trafficking should be included in regular training programmes for all the relevant categories of professional, including lawyers, labour inspectors, social workers, child protection staff, healthcare professionals, diplomatic and consular staff, immigration officials, officials responsible for considering asylum applications, and national education system staff in contact with pupils and students (paragraph 151);

- GRETA considers that the French authorities should ensure that there are enough specialised investigators, trained and provided with adequate resources, to deal with trafficking cases throughout the country (paragraph 152).

### ***International co-operation***

- GRETA welcomes the French authorities' active involvement in bilateral and multilateral international co-operation, and invites them to continue their efforts in this respect, including with regard to dismantling networks of online child sexual exploitation and child exploitation for the purpose of forced criminality, and protecting their victims, as well as with regard to financial investigations (paragraph 159).

### ***Child-sensitive procedures for obtaining access to justice and remedies***

- GRETA welcomes the existence of rooms specially designed for interviewing child victims of trafficking without making them relive the trauma and considers that the French authorities should increase the number of these rooms, ensure that they are used whenever it is necessary to interview a child, including child victims of trafficking for the purpose of forced criminality, and continue training investigators on how to conduct interviews with child victims of trafficking. In this context, GRETA refers to the guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (paragraph 169);
- In addition, GRETA considers that the French authorities should ensure the prompt appointment of an ad hoc administrator for children whose interests are not fully protected by their statutory representatives. Ad hoc administrators appointed for child victims of trafficking must be given training on how to support them (paragraph 170).

### ***Role of businesses***

- GRETA considers that the French authorities should strengthen engagement with the private sector and continue their efforts to raise awareness of the important role and responsibility of businesses to prevent human trafficking in their supply chains. In this context, the French authorities must ensure that the Law on due diligence by companies is fully implemented, in particular by supporting the preparation of due diligence plans and evaluating the effects of this law on the prevention of trafficking for the purpose of labour exploitation as well as its implementation (paragraph 174);
- GRETA invites the French authorities to consider applying to public sector organisations an obligation of due diligence similar to that arising from the Law on due diligence by companies (paragraph 175).

### ***Measures to prevent and detect corruption***

- GRETA invites the French authorities to include measures against corruption in a THB context in the national anti-corruption strategy (paragraph 179).

## **Follow-up topics specific to France**

### ***Developments in the legal, institutional and policy framework for action against trafficking in human beings***

- GRETA considers that the French authorities must increase the human resources and funding available to the MIPROF in order to guarantee effective co-ordination of and follow-up to the measures taken by the public authorities to combat trafficking in human beings (paragraph 18).
- GRETA considers that the French authorities should, as a matter of priority, mobilise the sufficient funding and human resources necessary to effectively combat all forms of trafficking in human beings and ensure that strategic documents, such as a national action plan against trafficking in human beings, are adopted in a timely manner (paragraph 23).

### ***Data collection***

- GRETA again urges the French authorities to pursue their efforts to develop a comprehensive system for the collection and analysis of data on measures to protect and promote the rights of trafficking victims, which should ensure the participation of all relevant actors that can contribute to the provision of data, including NGOs and other service providers, law enforcement agencies, immigration services, labour inspectorates, healthcare providers, prosecution services and other stakeholders involved in identifying and recording trafficking victims as well as in investigations and prosecutions concerning trafficking or related offences (paragraph 184).

### ***Measures to prevent and combat trafficking for the purpose of labour exploitation***

- GRETA encourages the French authorities to ratify the ILO Domestic Workers Convention (No. 189) (paragraph 191).
- GRETA considers that the French authorities should take further steps to prevent and combat trafficking for the purpose of labour exploitation, in particular by:
  - stepping up proactive inspections in sectors with a high risk of trafficking, such as agriculture, the building industry, catering, hairdressing and beauty salons;
  - strengthening efforts to prevent and detect cases of domestic servitude;
  - encouraging greater specialisation in combating trafficking for the purpose of labour exploitation for members of law enforcement agencies, judges and prosecutors;
  - raising awareness among the general public as well as, in a targeted manner, among migrant workers, about the risks of trafficking for the purpose of labour exploitation and of trafficking victims' rights;
  - expanding co-operation with trade unions for prevention of trafficking for the purpose of labour exploitation (paragraph 197).

### ***Measures to raise awareness of trafficking and discourage demand***

- GRETA reiterates the recommendations made in its second report and considers that the French authorities should step up their efforts to raise public awareness of all forms of human trafficking, including trafficking for the purpose of labour exploitation and discourage the demand for services provided by persons who have been trafficked (paragraph 201);
- Further, GRETA considers that the French authorities should continue to evaluate the effects of criminalising the act of buying sexual services on the identification of trafficked persons, the protection and assistance offered to them and the prosecution of traffickers. The effects of criminalising the purchase of sexual services on the reduction in demand for services provided by victims of trafficking, and, more generally, on the phenomenon of trafficking for the purpose of sexual exploitation should also be researched and evaluated on an ongoing basis (paragraph 202).

### ***Identification of victims of trafficking***

- Recalling the recommendations made in its second report, GRETA urges the French authorities to improve the identification of trafficking victims and, in particular to:
  - introduce an NRM defining the role to be played and the procedure to be followed by all stakeholders that may come into direct contact with victims of trafficking, taking into account the recommendations from the CNCDH;
  - disseminate tools and indicators adapted to different types of exploitation for identifying victims of trafficking to all stakeholders on the ground who may come into contact with them, particularly members of law enforcement agencies, labour inspectors, staff of OFII and CRAs, social workers, medical staff and teachers, and provide practical training on the use of those tools to improve the detection and identification of trafficking victims;
  - ensure that, in practice, presumed and formally identified victims of THB are granted a recovery and reflection period, in particular those who are present in the country irregularly, and the identification of victims of trafficking is not conditional on their co-operation with law enforcement agencies;
  - clarify the procedure for identifying victims of trafficking who are French nationals and EU/EEA country nationals;
  - provide border police at airports, stations and ports with units comprising staff who have received advanced training in detecting victims of trafficking;
  - develop awareness within transport companies of the detection of victims using indicators of human trafficking;
  - facilitate lodging of complaints by potential victims, including individuals having been victims of trafficking in other European countries (paragraph 213);
  - set up a telephone line specifically dedicated to trafficking.
- GRETA considers that the French authorities should proactively investigate any allegation of trafficking in human beings, including in cases of potential victims of trafficking recruited on national territory to join a terrorist organisation abroad, ensuring that victims of trafficking are identified as such and receive the support and assistance provided for by the Convention, and applying the non-punishment principle (paragraph 214).



### ***Assistance for victims***

- GRETA urges the French authorities to take additional steps to fulfil their obligations under Article 12 of the Convention, in particular by:
  - ensuring that victims of trafficking receive appropriate support and assistance, based on their individual needs, for as long as necessary, in order to facilitate their reintegration and recovery;
  - ensuring that all victims of trafficking, including men, French nationals and persons who are present in the country illegally as well as victims of trafficking for the purpose of labour exploitation are provided with accommodation that is safe and suitable for their needs;
  - providing sufficient funding to ensure that the services offered by NGOs are diverse and of high quality (paragraph 228).

### ***Measures to prevent trafficking of children, identify children who are victims of trafficking and assist these children***

- Recalling the recommendations in its second report, GRETA once again urges the French authorities to step up their efforts to prevent and combat the trafficking of children, identify child victims of trafficking and provide appropriate assistance to them, including by:
  - introducing specific procedures for children in the national identification and referral mechanism to be established (paragraph 213), taking into account the particular situation and needs of trafficked children, making the best interests of the child a primary consideration, involving child specialists, and defining the role to be played and the procedure to be followed by all authorities and professionals who may come into direct contact with child victims of trafficking, including NGOs;
  - providing in-service training and tools to stakeholders (police, prosecutors, asylum and migration authorities, airport staff, service providers, educational staff, child protection authorities, NGOs) in relation to the identification of child victims of trafficking;
  - taking measures to deal effectively with the problem of disappearance of child victims of trafficking from the Child Protection Service's reception centres, by providing them with secure accommodation and appropriate services and a sufficient number of appropriately trained supervisors;
  - developing reintegration programmes for child victims of trafficking (paragraph 244).

### ***Residence permits***

- GRETA urges the French authorities to take additional measures to ensure that victims of trafficking can fully benefit from the right to obtain a residence permit, including on grounds of their personal situation, by appointing a contact person at each prefecture without further delay and training the relevant staff members at prefectures on the issue of trafficking and raising their awareness of it (paragraph 255);
- GRETA considers that the French authorities should:
  - extend the scope of Article L425-1 of the CESEDA to offences associated with trafficking in relation to labour exploitation, including enslavement, subjection to servitude and forced labour;

- ensure that nationals of an EU/EEA country who are victims of trafficking but who do not fulfil the requirements to have their stay legalised, enjoy the right to obtain a renewable residence permit, in line with internal law and in compliance with Article 14 of the Convention;
- ensure that the repatriation of all trafficking victims is carried out with due regard for their rights, safety and dignity and preferably on a voluntary basis and in compliance with the obligation of non-refoulement. The French authorities should take full account of the UNHCR guidelines on the application of the Convention relating to refugee status to victims of trafficking, and their right to seek asylum, and to GRETA's Guidance Note on the entitlement of victims of human trafficking, and persons at risk of being trafficked, to international protection (paragraph 256).

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## **Appendix 2 - List of public bodies and civil society actors with which GRETA held consultations**

### **Public bodies**

- Ministry of the Interior
- Ministry of Justice
- Ministry of Solidarity and Health
- Ministry of Labour, Employment and Economic Inclusion
- Ministry for Europe and Foreign Affairs
- Ministry of National Education, Youth and Sport
- Inter-ministerial Task-force on combating violence against women and human trafficking (MIPROF)
- French Office for Immigration and Integration (OFII)
- French Office for the Protection of Refugees and Stateless Persons (OFPRA)
- National Court of Asylum (CNDA)
- National Consultative Committee on Human Rights (CNCDH)
- Mr Eric Delemar, Ombudsperson for Children
- Mr Dominique Potier, Member of Parliament

#### *Paris, Lyon, Rennes*

- Police Prefecture
- Law Court
- Law enforcement agencies
- Regional Directorates for Enterprises, Competition Policy, Consumer Affairs, Labour and Employment (DIRECCTEs)

### **NGOs and other civil society organisations**

- Association Accompagnement Lieux d'Accueil Carrefour éducatif et social (ALC)
- Association Foyer Jorbalan (AFJ)
- Association OICEM (Organisation internationale contre l'esclavage moderne)
- Association RUEILLE (Relais urbain d'échanges et de lutte contre l'exploitation)
- Association CCEM (Comité contre l'esclavage moderne)
- Association MIST (Mission d'intervention et de sensibilisation contre la traite des êtres humains)
- Association STRASS (Syndicat du travail sexuel)
- Aux captifs, la libération
- Collectif « Ensemble contre la traite des êtres humains »
- Comité Protestant évangélique pour la Dignité Humaine (CPDH)
- Confédération Générale des Travailleurs (CGT)

- Amicale du Nid
- France Terre d'Asile
- Hors-la-Rue
- La Voix de l'Enfant
- Koutcha
- Mouvement du Nid
- Secours catholique – Caritas
- SOS Esclaves
- Notre Dame de Charité du Bon Pasteur
- Union des associations interculturelles de Rennes (UAIR)

## **Government's comments**

### **The following comments do not form part of GRETA's analysis concerning the situation in France**

GRETA engaged in a dialogue with the French authorities on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version.

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the French authorities on 15 December 2021 and invited them to submit any final comments. The comments of the authorities (available only in French), submitted on 31 January 2022, are reproduced hereafter.



MINISTÈRE CHARGÉ DE L'ÉGALITÉ ENTRE LES FEMMES ET LES HOMMES, DE LA DIVERSITÉ ET DE  
L'ÉGALITÉ DES CHANCES

MISSION INTERMINISTÉRIELLE POUR LA PROTECTION DES FEMMES  
CONTRE LES VIOLENCES ET LA LUTTE CONTRE LA TRAITE DES ÊTRES HUMAINS

**COMMENTAIRES FINAUX DE LA FRANCE SUR LE RAPPORT DU GRETA CONCERNANT  
LA MISE EN ŒUVRE DE LA CONVENTION DU CONSEIL DE L'EUROPE SUR LA LUTTE  
CONTRE LA TRAITE DES ÊTRES HUMAINS  
PAR LA FRANCE – TROISIÈME CYCLE D'ÉVALUATION**

La France tient à remercier la délégation du Groupe d'experts du Conseil de l'Europe sur la lutte contre la traite des êtres humains (GRETA) composée Mme Helga GAYER, présidente du GRETA, Mme Dorothea WINKLER, 1<sup>ère</sup> vice-présidente du GRETA *ad interim*, Mme Petya NESTOROVA, Secrétaire exécutive de la Convention et M. Mesut BEDIRHANOGLU, administrateur au secrétariat de la Convention, qui ont effectué la visite d'évaluation en France du 8 au 12 février 2021, dans un esprit particulièrement constructif.

La France tient également à remercier les experts pour la qualité du rapport concernant la mise en œuvre de la Convention du Conseil de l'Europe sur la lutte contre la traite des êtres humains par la France, qui permet d'offrir un regard complet sur les actions mises en place par les autorités françaises pour lutter contre ce fléau. La France souligne l'intérêt prospectif de ce type d'exercice d'évaluation des politiques publiques par des organismes internationaux et souhaite inscrire ses actions dans le domaine de la lutte contre la traite des êtres humains dans le sens des recommandations formulées par les instances internationales, et principalement le GRETA.

Conformément à la procédure du GRETA et à l'article 38 de la Convention, la France émet les commentaires finaux relatifs au rapport, présentés ci-dessous :

**Paragraphe 48**

*« La Direction de l'asile du ministère de l'Intérieur a élaboré un plan d'actions pour personnes vulnérables parmi les demandeurs d'asile et les réfugiés, dont les victimes de traite. Dans la perspective de renforcer l'information des victimes présumées de traite sur leurs droits, y compris les dispositions législatives concernant l'accès au séjour, le plan prévoit de développer des outils adaptés (brochures papier, supports d'information en ligne ou via les réseaux sociaux) et d'assurer leur diffusion aux différents points d'étapes du parcours d'asile. »*



Le ministère des Solidarités et de la Santé a contribué au plan d'action pour personnes vulnérables élaboré par le ministère de l'Intérieur, par la mise à disposition d'outils d'information sur l'accès aux droits et aux soins (feuillet d'information, livrets de santé bilingues...) dans une dizaine de langues.

### **Paragraphe 63**

*« Le GRETA exhorte les autorités françaises à prendre des mesures supplémentaires pour faciliter et garantir l'accès à la justice des victimes de la traite, et en particulier à veiller à ce qu'un avocat soit désigné dès qu'il y a des motifs raisonnables de penser qu'une personne est une victime de la traite et avant qu'elle ait à décider de coopérer ou non avec les autorités et/ou de faire ou non une déclaration officielle. »*

En complément de ses précédentes observations, le ministère de la Justice souligne le fait que la victime de traite peut bénéficier de l'assistance d'un avocat dès son audition devant les services d'enquête, y compris en tant que témoin, par les forces de l'ordre et sans préjudice de sa volonté ou non de coopérer à la procédure pénale.

Il rappelle également que le groupe de travail dédié à la définition d'un mécanisme national d'identification et d'orientation des victimes de traite des êtres humains sous pilotage de la MIPROF, auquel est associé le ministère de la Justice, est en cours mais impacté fortement par la crise sanitaire.

### **Paragraphe 64**

*« Par ailleurs, le GRETA considère que les autorités françaises devraient :*

*- veiller à ce que les barreaux encouragent la formation et la spécialisation d'avocats pour apporter une assistance juridique aux victimes de la traite, et veiller à ce que les victimes de la traite se voient systématiquement attribuer un avocat spécialisé ;*

*- réviser la loi n° 91-647 pour faire en sorte que l'accès à l'assistance juridique gratuite pour les victimes de la traite ne soit pas soumis aux conditions de ressources ou de résidence habituelle et régulière. »*

Le ministère de la Justice rappelle que la spécialisation des avocats apparaît peu pertinente dans les ressorts de petites tailles, comportant peu d'avocats et qui sont peu concernés par les dossiers de cette nature. Le dispositif spécifique de prise en charge des mineurs victimes de traite des êtres humains parisien a pleinement intégré les avocats, du barreau de Paris qui composent l'antenne « mineurs » et sont spécialisés en matière de traite. Le dispositif similaire mis en place à Marseille prévoit que l'ordre des avocats désigne, pour assister le mineur, l'un des avocats figurant sur la liste des avocats spécialement formés à la défense et à l'assistance des mineurs.

### **Paragraphe 68**

*« Le GRETA considère que les autorités françaises devraient prendre des mesures pour fournir une assistance psychologique aux victimes de toutes les formes de traite, y compris la traite à des fins d'exploitation par le travail, afin de les aider à surmonter le traumatisme qu'elles ont vécu, à se rétablir de façon durable et à se réinsérer dans la société. »*

La Délégation interministérielle d'aide aux victimes (DIAV) suit avec beaucoup d'attention les travaux du centre national de ressources et de résilience (CN2R), adossé à deux des quinze dispositifs de prise en

charge du psychotraumatisme créés suite à l'annonce présidentielle du 25 novembre 2017. Le CN2R coordonne les travaux scientifiques de ces unités et joue un rôle d'information auprès du public et des professionnels, ainsi que d'animation du réseau de ces 15 unités spécialisées en lien avec le réseau national de l'urgence médico-psychologique et les autres acteurs du soin médico-psychologique et de l'aide aux victimes. En tant que présidente de l'assemblée générale du CN2R, la déléguée interministérielle veillera à ce que ces sujets soient bien pris en compte dans les travaux du centre.

Dans le cadre des annonces issues des Assises de la santé mentale et de la psychiatrie qui se sont tenues en septembre 2021, les centres régionaux de prise en charge du psychotraumatisme seront renforcés en 2022 et 2023 pour permettre une amélioration de la prise en charge des enfants victimes de violences, la traite des êtres humains en faisant partie.

## Paragraphe 96

*« Le GRETA exhorte les autorités françaises à faire des efforts supplémentaires pour garantir aux victimes de la traite un accès effectif à l'indemnisation, et en particulier :*

- veiller à ce que l'enquête judiciaire comprenne la collecte de preuves des préjudices subis par la victime et des gains financiers tirés de son exploitation, en vue d'étayer les demandes d'indemnisation adressées au tribunal ;*
- tirer pleinement parti de la législation relative à la saisie et à la confiscation de biens pour garantir l'indemnisation des victimes de la traite ;*
- développer des modules spécifiques sur la question de l'indemnisation des victimes pour les formations initiales et continues des avocats, forces de l'ordre et magistrats, qui doivent inclure la spécificité de l'indemnisation des victimes de l'exploitation par le travail. »*

Les enquêtes judiciaires d'ampleur concernant les dossiers de traite des êtres humains comportent systématiquement un volet patrimonial. Les victimes de traite font l'objet d'examen médico-légaux dans les informations judiciaires. Ces éléments d'enquête permettent à la fois une évaluation du préjudice complète et une enquête pénale approfondie, ayant vocation à démontrer l'étendue de l'emprise des réseaux.

L'indemnisation des victimes est une priorité du ministère de la justice. Elle est devenue encore plus effective ces dernières années avec l'essor des saisies et confiscations en matière pénale. Les outils juridiques à la disposition des juridictions ont ainsi été, de manière continue, renforcés pour offrir les possibilités les plus étendues aux enquêteurs et magistrats, dont l'efficacité se trouve soutenue, sur le plan opérationnel par l'action des services d'enquête spécialisés et de l'Agence de gestion et de recouvrement des avoirs saisis et confisqués (AGRASC).

Parmi ses principales missions, l'AGRASC est notamment chargée de veiller à l'indemnisation prioritaire des parties civiles sur les biens confisqués à la personne condamnée, et notamment des victimes de traite d'êtres humains, en application de l'article 706-164 du code de procédure pénale. Elle a procédé en 2020 aux versements de plus de 15 millions d'euros aux parties civiles.

En outre, l'AGRASC vient abonder le fonds de prévention contre la prostitution et la traite des êtres humains, géré par la direction générale de la cohésion sociale et qui permet de financer un certain nombre d'actions de prévention présentées par des associations spécialisées. Près de 2 millions d'euros ont été versés à ce titre en 2020.

L'action de l'AGRASC a été renforcée par la création de deux antennes régionales, à titre expérimental, et rattachées aux cours d'appel d'Aix-en-Provence et de Lyon. Elles ont débuté leur activité le 08 mars 2021 et deux nouvelles antennes situées à Rennes et Lille devraient ouvrir au début de l'année 2022. Elles visent notamment à renforcer le rôle de l'AGRASC s'agissant de l'assistance aux juridictions, la mise en place de bonnes pratiques en matière d'identification et de traçage des biens saisis et confisqués, l'exécution des décisions de justice y afférent et la gestion de certains biens meubles confisqués. L'exercice de ces compétences au niveau local permet d'offrir aux juridictions un service de qualité et de proximité pour une gestion dynamique des scellés à visée confiscatoire, destinée à assurer un meilleur suivi des biens saisis, à réduire les coûts de gestion et à permettre un meilleur recouvrement des avoirs confisqués et donc une meilleure indemnisation des victimes.

Enfin, le développement effectif des saisies et confiscations et la pleine mise en œuvre des outils offerts à cette fin demeurent un objectif politique de haut-niveau. Ainsi, la désignation, depuis 2018, dans chaque parquet et chaque parquet général d'un magistrat référent saisies et confiscations pénales garantit la diffusion des bonnes pratiques au sein de la juridiction. Le référent contribue par son action à améliorer l'efficacité du dispositif de saisie des avoirs et constitue un point de contact pour l'AGRASC. L'affectation de magistrats de liaison dans plusieurs pays a également facilité le traitement des demandes d'entraide judiciaire, y compris aux fins du recouvrement d'avoirs.

La pratique de la cote patrimoniale par les services d'enquête est également systématiquement rappelée comme bonne pratique par le ministère de la justice dans les circulaires/dépêches relatives aux saisies et confiscations et notamment dans la dépêche du 26 mars 2021 relative à la vente avant jugement des biens saisis. Cette cote patrimoniale facilite la confiscation des scellés par le Tribunal correctionnel.

Par ailleurs, dans le cadre de la formation continue des magistrats, l'Ecole Nationale de la Magistrature propose plusieurs formations spécifiquement liées à la saisie et confiscation des avoirs criminels : dépistage, identification, saisie et confiscation des avoirs criminels (d'une durée de 3 jours) et criminalité financière en Europe : saisie et confiscations des biens au sein de l'UE (d'une durée de 2 jours).

Enfin, à la suite d'une coopération d'une exceptionnelle qualité entre autorités italiennes et françaises, la loi française a instauré à l'article 706-160 du Code de procédure pénale qui sur le modèle italien permet l'affectation sociale des biens confisqués, au bénéfice de victimes, notamment de proxénétisme ou de traite, en mettant à disposition des associations, des fondations reconnues d'utilité publique ou des organismes concourant aux objectifs de la politique d'aide au logement, des biens immeubles dont l'Etat est devenu propriétaire dans le cadre d'une procédure pénale. La coopération franco italienne, d'abord judiciaire, a permis l'affectation d'un appartement saisi à la mafia et situé sur le territoire français, au bénéfice de victimes qui y sont hébergées en toute sécurité. Elle s'est poursuivie par des échanges au niveau technique entre autorités françaises et italiennes autour des bonnes pratiques dans les deux systèmes judiciaires. Il s'agit donc encore, tant pour la question des avoirs criminels que pour celle de l'importance aiguë de la coopération judiciaire et juridique en la matière, de préoccupations majeures pour les autorités françaises.

## **Paragraphe 119**

*« [...] Bien que la correctionnalisation permette de réduire les délais d'audiencement et de la procédure pénale, elle peut nuire à l'effectivité, la proportionnalité et au caractère dissuasif des sanctions pénales prévues dans le CP pour la traite car le quantum maximum de la peine prononçable par le juge correctionnel sera moins élevé. Certains magistrats auditionnés par le GRETA ont souligné que la correctionnalisation de la traite peut être bénéfique à la victime ; contrairement à la procédure devant le tribunal correctionnel, celle devant la Cour d'assises est toujours orale, ce qui implique d'exposer les*

*victimes au contre-interrogatoire par l'avocat de la défense. Cela dit, comme indiqué au paragraphe 139, cela peut se faire par vidéoconférence si l'audition est susceptible de mettre la vie ou l'intégrité physique des victimes gravement en danger. Le GRETA note qu'il incombe à l'Etat de prendre des mesures nécessaires pour éviter une revictimisation tout en s'assurant que la réaction du système répressif à la traite soit effective, proportionnée et dissuasive. »*

Devant le tribunal correctionnel, les peines maximales encourues sont de dix ans d'emprisonnement ferme et peuvent même être de 20 ans en cas de récidive ; par ailleurs, il est inexact d'affirmer que les peines prononcées seront plus faibles en correctionnelle, les jugements étant rendus par des magistrats spécialisés, aguerris et rompus aux débats complexes que les dossiers TEH induisent.

### **Paragraphe 122**

*« [...] Afin d'identifier le patrimoine des auteurs d'infraction, en France comme à l'étranger, les enquêteurs s'appuient sur les services financiers spécialisés que sont l'Office central pour la répression de la grande délinquance financière, les groupes d'intervention régionaux au sein des directions interrégionales de police judiciaire, les groupes interministériels de recherches (GIR) ainsi que les cellules d'identifications des avoirs criminels [...]. »*

Les sections financières des services d'enquête non spécialisés désignés (Brigades de recherche, Sections de recherche, Police Judiciaire) peuvent également mener des investigations patrimoniales.

### **Paragraphe 124**

*« Une victime de traite peut se constituer partie civile dans la procédure pénale, ce qui lui permettra, entre autres, de poser des questions et présenter des observations par l'intermédiaire de son avocat, d'être informée régulièrement du déroulement de la procédure, d'être notifiée des ordonnances de placement ou prolongation de la détention provisoire et de la remise en liberté du prévenu et d'exercer des recours contre elles. Les victimes non-parties civiles peuvent être entendues en tant que témoins. Les magistrats rencontrés au cours de la visite ont fait part des difficultés de garder contact avec les victimes pour les faire participer à la procédure pénale. Selon les ONG, la raison principale de la disparition des victimes pendant la procédure pénale est l'insuffisance des mesures mises en place pour les accompagner dans leurs démarches d'accès au séjour, à l'hébergement, aux soins psychologiques, et à l'emploi. En outre, il y a un manque de coordination et d'échange d'information entre les services sociaux des différents départements ; ainsi, il arrive que les victimes qui sont prises en charge par des travailleurs sociaux dans des différents départements ne soient pas toutes au courant de l'existence d'une procédure pénale à l'encontre des auteurs ».*

Les victimes de TEH sont également informées des interdictions de contact avec elles dans le cadre du contrôle judiciaire ou de l'assignation à résidence sous surveillance électronique, par le juge d'instruction ou le juge des libertés et de la détention.

### **Paragraphe 127**

« Le GRETA considère que les autorités françaises devraient prendre des mesures supplémentaires pour que les cas de traite fassent l'objet d'enquêtes proactives et de poursuites efficaces aboutissant à des sanctions effectives, proportionnées et dissuasives. Elles devraient en particulier :

- intensifier leurs efforts pour que l'infraction de traite soit retenue chaque fois que les circonstances d'une affaire le permettent, notamment des affaires de traite aux fins d'exploitation par le travail, en assurant une meilleure diffusion de la circulaire de politique pénale sur la lutte contre la traite et le cas échéant en l'actualisant et complétant ;
- développer une spécialisation à la traite des enquêteurs et magistrats non seulement au sein des JIRS mais également dans les ressorts les plus exposés au phénomène de la traite, notamment la traite aux fins d'exploitation par le travail ;
- renforcer la coopération entre les membres des forces de l'ordre, les inspecteurs du travail, la police financière, les autorités fiscales, les syndicats et d'autres acteurs de la société civile afin de recueillir les éléments de preuve nécessaires pour mener avec succès les enquêtes et les poursuites, y compris en ce qui concerne les affaires de traite aux fins d'exploitation par le travail ;
- harmoniser des peines prévues pour le proxénétisme et la traite à l'égard des mineurs de moins de 15 ans ;
- étendre le champ d'application de l'article 2-22 du Code de procédure pénale à l'ensemble des infractions liées à l'exploitation par le travail, telles que la soumission d'une personne vulnérable ou dépendante à un travail non rétribué ou à des conditions de travail et d'hébergement contraires à la dignité et l'exploitation de la mendicité. ».

Le ministère de la Justice souhaite rappeler les informations complémentaires suivantes, précédemment transmises au GRETA :

### **La diffusion efficace de la politique pénale**

Depuis la circulaire du 22 janvier 2015, l'arsenal de politique pénale de la DACG en matière de lutte contre la traite s'est enrichie de plusieurs outils :

- La circulaire du 18 avril 2016 présentant les dispositions de droit pénal et de procédure pénale de la loi du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées,
- La dépêche du 8 février 2021, signée conjointement par la DACG et la DPJJ, qui invite à la mise en place d'une prise en charge spécifique des mineurs victimes de traite et d'exploitation.

La DACG a participé à l'élaboration du second plan national d'action contre la traite des êtres humains, piloté par la MIPROF, et annoncé le 18 octobre 2019, et est membre du comité de pilotage de la mise en œuvre du plan.

En 2020, par le biais du rapport annuel du ministère public, la DACG a sollicité des parquets et parquets généraux une synthèse des actions menées en matière de traite des êtres humains, avec un focus spécifique sur la cybercriminalité et le proxénétisme de cité.

En se nourrissant des échanges tant avec les juridictions que lors des travaux interministériels, et afin de lutter toujours plus efficacement contre ces menaces, la DACG envisage la publication d'une nouvelle circulaire de politique pénale consacré à la traite et au proxénétisme.

Le groupe de travail sur la prostitution des mineurs, dont les travaux ont débuté le 30 septembre 2020, a rendu son rapport le 28 juin 2021, et préconise notamment l'élaboration et la diffusion d'une telle circulaire afin que des critères soient proposés aux parquets pour la poursuite des faits de proxénétisme et de traite. La France poursuit ainsi ses efforts dans la diffusion d'une politique pénale claire, unifiée et efficace en matière de lutte contre la traite des êtres humains.

### **La spécialisation des acteurs**

A la demande de la DACG, 31 parquets ont désigné un référent traite des êtres humains, spécialement formé à cette thématique, et notamment à la prise en charge des victimes.

Une réunion de l'ensemble de ces référents sera organisée prochainement, afin de partager les bonnes pratiques, constats et difficultés rencontrés par les juridictions, et de permettre la mise en œuvre d'une politique pénale concertée, harmonisée et efficace au plan national.

La dépêche conjointe DACG/DPJJ du 8 février 2021 rappelle que le succès de la prise en charge des mineurs victimes de traite nécessite que l'ensemble des professionnels ayant vocation à intervenir en la matière soit spécifiquement formés, et souligne qu'il est opportun de désigner dans chaque juridiction, Unité éducative auprès du tribunal ou Permanence éducative auprès du tribunal, des personnes référentes ayant acquis une expertise particulière en matière de traite et une connaissance avérée du dispositif de prise en charge des mineurs.

L'AGRASC a financé en 2019 pas moins de sept projets soumis par des associations dans le cadre de demandes de financement au titre du fonds « Prévention de la prostitution », qui ont pour objets, pour certains, de former les professionnels à la prise en charge et à l'accompagnement des victimes et pour d'autres de mettre en place des dispositifs d'aide à la sortie de la prostitution ainsi qu'à l'insertion ou la réinsertion socio-professionnelle des victimes.

Enfin, une circulaire de la DACG du 18 juillet 2016 prévoit la désignation d'un référent en matière de droit pénal du travail au sein de chaque parquet. Ce dernier a vocation à traiter prioritairement les procédures en matière de droit pénal du travail et à être le point d'entrée de l'inspection du travail sur le ressort. A ce titre, il développe une politique partenariale et de spécialisation sur les sujets, dont celui de la traite aux fins d'exploitation par le travail.

### **La coopération des acteurs**

La DACG et la direction générale du travail ont établi une instruction conjointe le 23 juin 2020 visant à encourager la cosaisine entre les fonctionnaires de police ou militaires de la gendarmerie et les agents de l'inspection du travail afin qu'ils allient leurs compétences et concourent à la réalisation d'une même enquête, tout particulièrement s'agissant des enquêtes en matière de traite des êtres humains, nécessairement complexes et présentant bien souvent une sensibilité particulière.

### **La nécessité d'harmoniser les sanctions à l'encontre du proxénétisme et de la traite sur mineurs**

L'article 225-7 1° du code pénal prévoit que « *le proxénétisme est puni de dix ans d'emprisonnement et de 1 500 000 euros d'amende lorsqu'il est commis à l'égard d'un mineur* ».

L'article 225-7-1 du code pénal prévoit en outre que « le proxénétisme est puni de vingt ans de réclusion criminelle et de 3 000 000 euros d'amende lorsqu'il est commis à l'égard d'un mineur de quinze ans (disposition introduite par la loi du 21 avril 2021).

L'article 225-4-1 du code pénal prévoit que la traite des êtres humains à l'égard d'un mineur « *est punie de dix ans d'emprisonnement et de 1 500 000 euros d'amende* ».

Constatant ces disparités, le groupe de travail sur la prostitution des mineurs a préconisé, dans son rapport du 28 juin 2021, une clarification législative, avec un alignement complet des dispositifs de répression du proxénétisme et de la traite sur mineurs et de prise en charge des victimes.



## Paragraphe 129

*« En droit français, il n'existe toujours pas de disposition consacrant le principe selon lequel les victimes de traite ne devraient pas se voir imposer de sanctions pour avoir pris part à des activités illicites lorsqu'elles y ont été contraintes, comme le prévoit l'article 26 de la Convention. Les autorités françaises ont à nouveau fait valoir que l'article 122-2 du Code pénal prévoit expressément que « n'est pas pénalement responsable la personne qui a agi sous l'empire d'une force ou d'une contrainte à laquelle elle n'a pu résister ».*

L'article 26 de la Convention ne pose nullement l'obligation d'un principe de non sanction : *« Chaque Partie prévoit, conformément aux principes fondamentaux de son système juridique, la possibilité de ne pas imposer de sanctions aux victimes pour avoir pris part à des activités illicites lorsqu'elles y ont été contraintes. »*, et la législation française est parfaitement conforme au texte. Le texte de la recommandation devrait remplacer le terme « principe » par « possibilité ».

## Paragraphe 135

*« Le GRETA salue les mesures prises par les autorités, en adoptant la dépêche mentionnée ci-dessus et en rappelant le principe de non-sanction aux magistrats à l'occasion des séminaires de formation organisés en la matière. Toutefois, le GRETA est préoccupé par le fait que les victimes de la traite, en particulier les enfants, continuent d'être poursuivies et emprisonnées pour les infractions qu'elles ont été contraintes de commettre. Afin de garantir l'application de la disposition de non-sanction, le GRETA exhorte les autorités françaises à adopter une disposition juridique spécifique sur la non-sanction des victimes de la traite qui ont pris part à des activités illicites lorsqu'elles y ont été contraintes, et adresser des instructions aux services enquêteurs et aux parquets qui préciseraient la portée de la disposition de non-sanction, qui ne s'applique pas seulement aux mineurs mais aussi aux adultes ayant pris part à des activités illicites sous contrainte. »*

Le ministère de la Justice souhaite rappeler les informations complémentaires suivantes sur les paragraphes 132 à 136, précédemment communiquées au GRETA.

## Le principe de non-sanction des victimes de traite des êtres humains

Comme évoqué en commentaire du paragraphe 129, l'article 26 de la Convention de Varsovie n'impose pas la création d'une clause d'irresponsabilité pénale spécifique au bénéfice des seules victimes de TEH contraintes à commettre des délits mais exige en revanche que le droit interne autorise la possibilité de ne pas imposer de sanctions à la victime de TEH par ailleurs responsable d'un délit commis dans le cadre de la TEH.

Le principe constitutionnel d'égalité devant la loi implique que toute personne puisse voir sa responsabilité pénale engagée pour des faits incriminés (Préambule de la Constitution du 4 octobre 1958 et Art 1er, 5 et 8 de la Déclaration des droits de l'Homme et du Citoyen du 26 août 1789).

En conséquence, le législateur français n'a pas souhaité inscrire de principe général d'irresponsabilité pénale au bénéfice des victimes de traite des êtres humains, compte-tenu de la diversité des situations rencontrées. Néanmoins, outre l'existence du principe d'opportunité des poursuites, d'autres dispositions permettent de prévoir l'exonération de responsabilité de victimes contraintes à commettre des

infractions, dont les dispositions relatives à la contrainte et à la force majeure prévues à l'article 122-2 du code pénal, et celles relatives à l'état de nécessité prévues à l'article 122-7 dudit code.

Le principe d'opportunité des poursuites permet au parquet d'estimer, au vu des circonstances de commission de l'infraction, s'il apparaît utile ou non de poursuivre et le cas échéant de prévoir des peines adaptées à la gravité des faits et à la personnalité de la personne poursuivie, en conformité avec les engagements internationaux de la France, notamment l'article 26 de la Convention du Conseil de l'Europe sur la lutte contre la traite des êtres humains adoptée le 16 mai 2005 et le point 24 de la directive européenne du 13 décembre 2011 relative à la lutte contre les abus sexuels et l'exploitation sexuelle des enfants.

L'article 122-2 du code pénal est ainsi rédigé : « N'est pas pénalement responsable la personne qui a agi sous l'empire d'une force ou d'une contrainte à laquelle elle n'a pu résister ».

La jurisprudence précise notamment que la contrainte morale résultant d'une menace peut être retenue si le péril qu'elle fait craindre est imminent et qu'elle met celui qui en est l'objet dans la nécessité ou de commettre l'infraction ou de subir les violences dont il est menacé.

L'article 122-7 du même code prévoit : « N'est pas pénalement responsable la personne qui, face à un danger actuel ou imminent qui menace elle-même, autrui ou un bien, accomplit un acte nécessaire à la sauvegarde de la personne ou du bien, sauf s'il y a disproportion entre les moyens employés et la gravité de la menace »

La jurisprudence, constante, précise que, pour soit retenu l'état de nécessité, l'infraction réalisée devait seule permettre d'éviter l'évènement redouté, à l'exclusion de tout autre moyen moins périlleux pour les tiers, et que risque hypothétique de dommage, à défaut de l'infraction commise, était de nature à entraîner des conséquences plus redoutables que le péril certain et très grave auquel l'action a exposé les tiers.

Par ailleurs, depuis l'abrogation du délit de racolage par la loi du 13 avril 2016, les victimes d'exploitation sexuelle, en ce compris les mineurs, ne peuvent plus être poursuivies de ce chef. Le fait de se prostituer n'est ainsi pas une infraction en droit français.

En tout état de cause, le ministère de la Justice insiste sur la priorité qui doit être donnée à la poursuite des chefs de réseaux et aux membres ayant joué un rôle clé dans l'organisation des faits de traite tandis que les victimes doivent être principalement prises en charge sous l'angle de la protection de leurs droits et de leur sécurité.

La circulaire de politique pénale du 22 janvier 2015 sur la traite des êtres humains affirme cette directive de politique pénale. La DACG le rappelle régulièrement aux magistrats à l'occasion des séminaires de formation organisés en la matière.

La dépêche du 8 février 2021 sur la prise en charge des mineurs victimes de traite des êtres humains affirme le principe selon lequel il y a lieu de prendre en compte la qualité de victime du mineur et de privilégier la mise en œuvre de mesures éducatives appropriées par rapport à des sanctions pénales. Exemple : dans un dossier de traite des êtres humains, les mineurs contraints à commettre des délits par leurs parents ont fait l'objet de simples rappels à la loi et ont fait l'objet d'une prise en charge civile en assistance éducative.

Enfin, le ministère de la Justice rappelle qu'à l'Ecole nationale de la magistrature (ENM), la formation TEH, qui va se transformer en « TEH et proxénétisme » en 2022, et passer à cette occasion de 4 à 5 jours, évoque déjà ce principe. En outre, l'ensemble de la documentation sera accessible bientôt sur le Moodle de l'ENM, dès le début 2022, ce qui permettra d'élargir la diffusion d'informations à l'ensemble des magistrats.

## Le casier judiciaire des victimes de la traite

En conséquence, le casier judiciaire des victimes de la traite ne porte en principe pas trace de condamnations pour des faits commis sous la contrainte. Ainsi, une modification de notre législation sur ce point n'apparaît pas opportune.

Le ministère de la justice partage le constat du GRETA selon lequel les condamnations portées sur le casier judiciaire peuvent porter préjudice à l'insertion professionnelle des condamnés dans la société. Afin de permettre à une victime de faits de traite des êtres humains, reconnue coupable d'infractions commises sous la contrainte, de faciliter son insertion socio-professionnelle, des mécanismes existent déjà lui permettant de bénéficier d'un effacement des condamnations prononcées à son encontre, sans qu'il soit nécessaire de légiférer.

A titre liminaire, il convient de souligner que le bulletin n°1 (ci-après B1) du casier judiciaire n'est délivré qu'aux autorités judiciaires ([article 774 alinéa 2 du CPP](#)). Ainsi, la mention d'une condamnation sur le B1 n'est pas de nature à entraver l'insertion socio-professionnelle des condamnés dans la mesure où il ne peut être délivré à des tiers (à l'exception du directeur pénitentiaire et/ou du directeur d'insertion et de probation s'ils en font la demande).

Par ailleurs, la condamnation d'une victime pour des faits qui auraient été commis sous la contrainte suppose que le tribunal ait écarté, ou qu'il n'ait pas été débattu lors de l'audience, de la cause d'irresponsabilité pénale figurant à [l'article 122-2 du code pénal](#).

Outre l'exercice des voies de recours classiques :

- *La réhabilitation*

En dehors des cas de réhabilitation de plein droit prévus aux articles [133-12](#) à [133-17](#) du code pénal, toute personne condamnée par un tribunal français à une peine criminelle, correctionnelle ou contraventionnelle, peut être réhabilitée ([article 782 du CPP](#)).

En application des articles [769](#), [798](#) et [798-1](#) du CPP, **toute personne ayant fait l'objet d'une réhabilitation de plein droit, ou d'une réhabilitation judiciaire peut demander que cette condamnation soit retirée du casier judiciaire et ne soit plus mentionnée au bulletin n°1.**

Ainsi, une victime condamnée pour des faits qui auraient été commis sous la contrainte dans le cadre de la traite des êtres humains pourrait présenter une demande en réhabilitation judiciaire, laquelle permettrait, si le tribunal y faisait droit, l'effacement de cette mention sur le B1 de l'intéressée.

- *L'effacement des bulletins n°2 et 3 du casier judiciaire*

Dans le cadre d'une recherche d'emploi et de la nécessité de présenter un bulletin n°2 du casier judiciaire (ci-après B2) ne portant trace d'aucune condamnation, toute personne condamnée peut présenter une requête en effacement du B2 à l'autorité judiciaire ([article 775-1 du CPP](#)), sauf si elle a été condamnée pour l'une des infractions visées à [l'article 706-47 du CPP](#).

Ainsi, toute victime condamnée pour des faits qui auraient été commis sous la contrainte dans le cadre de la traite des êtres humains pourrait présenter une demande au tribunal compétent aux fins d'effacement du B2.

Il convient de souligner que le bulletin n°3 est le relevé de condamnations prononcées pour crime ou délit **lorsqu'elles ne sont pas exclues du bulletin n°2**. Cela signifie que si le tribunal a exclu – dans le jugement de condamnation ou ultérieurement – la mention au bulletin n°2, **les condamnations ne figureront pas non plus au bulletin n°3**.

Par ailleurs, comme pour le bulletin n°2, il existe une **procédure d'exclusion de mention d'une condamnation au bulletin n°3**, prévue à l'[article 777-1 du CPP](#) (qui renvoie aux conditions fixées par l'[article 775-1 du CPP](#) relatif à la procédure d'exclusion du B2).

**Ainsi, toute victime condamnée pour des faits qui auraient été commis sous la contrainte dans le cadre de la traite des êtres humains peut également présenter une requête au tribunal compétent aux fins d'exclusion de la mention de sa condamnation au Bulletin n°3.**

- *Des solutions alternatives*

D'autres mécanismes permettent à une personne condamnée de bénéficier de mesures propres à favoriser son insertion professionnelle.

### **L'amnistie**

Une loi d'amnistie pourrait avoir pour effet de supprimer, sur le casier judiciaire des victimes de la traite, les condamnations pour les faits qu'elles auraient commis sous la contrainte des trafiquants, sous réserve que les faits pour lesquels elles ont été condamnées ne soient pas exclus du champ de cette mesure. En effet, certaines infractions sont amnistiables en raison des circonstances de leur commission. Tel est le cas de certains délits commis à l'occasion de conflits du travail, de conflits relatifs à l'enseignement ou d'élections ou de délits liés à des conflits professionnels. **Une loi d'amnistie pourrait donc prévoir l'amnistie des infractions commises par une victime sous la contrainte dans un contexte de traite des êtres humains, ce qui entraînerait l'effacement de la condamnation sur le casier judiciaire en application des articles [769](#) du CPP et [133-9](#) du CP. Toutefois, l'amnistie devant demeurer une loi d'exception, il est peu probable que cette solution soit envisageable au cas d'espèce.** Par ailleurs, ce mécanisme se heurte au problème de l'identification des infractions pour lesquelles les victimes sont susceptibles d'être condamnées.

### **La grâce**

L'article 17 de la Constitution prévoit que « *le président de la République a le droit de faire grâce à titre individuel* ». **La grâce n'efface pas la condamnation qui demeure inscrite au casier judiciaire (article [769](#) du CPP), elle emporte seulement dispense d'exécuter la peine. Ainsi, la grâce ne semble pas satisfaire aux objectifs du GRETA dans la mesure où elle ne permet pas l'effacement de la condamnation sur le casier judiciaire.**

### **La demande de révision**

En application de l'article [622](#) du CPP, « *la révision d'une décision pénale définitive peut être demandée au bénéfice de toute personne reconnue coupable d'un crime ou d'un délit lorsque, après une condamnation, vient à se produire un fait nouveau ou à se révéler un élément inconnu de la juridiction au jour du procès de nature à établir l'innocence du condamné ou à faire naître un doute sur sa culpabilité* ». **Ainsi, la révision n'est admise que lorsque la culpabilité du condamné peut être remise en cause. Tel n'est pas le cas d'une victime ayant été condamnée pour des faits commis sous la contrainte.** En effet, en application de [l'article 122-2 du code pénal](#), si la responsabilité pénale d'une personne ayant agi sous l'empire d'une force ou d'une contrainte à laquelle elle n'a pas pu résister peut être écartée, sa culpabilité sera tout de même établie. **Dès lors, la demande de révision n'apparaît pas pouvoir satisfaire les recommandations du GRETA.**

- *Sur la nécessité de légiférer*

**En l'état actuel du droit, aucun fondement textuel ne permet au parquet de présenter aux services du casier judiciaire une demande d'effacement d'une condamnation d'une victime qui aurait commis des faits sous la contrainte.**

Si elle était admise, une telle requête du parquet auprès des services du casier judiciaire pourrait s'analyser comme une remise en cause du principe de l'autorité de la chose jugée, lequel s'oppose à ce qu'une décision devenue définitive soit remise en cause. Ce principe est d'ailleurs apprécié strictement par la cour de cassation qui a pu considérer que « *le principe de l'autorité qui s'attache à la chose jugée, fût-ce de manière erronée, s'oppose à ce qu'une décision de justice devenue définitive soit remise en cause (dispense d'inscription au casier judiciaire d'une infraction qui n'en est pas susceptible)* » ([Crim 28 sept 2010, n° 10-80.530](#)).

Ainsi, sans évolution législative sur ce point, il apparaît difficile de procéder à de tels effacements de condamnation.

Une modification pourrait porter sur les articles [769](#) et [R. 70 du CPP](#) (relatif à l'effacement des fiches du casier judiciaire) ou sur [l'article 778 du CPP](#) (relatif aux rectifications des mentions inscrites sur le casier judiciaire). **Toutefois, une telle modification législative n'apparaît pas opportune dans la mesure où, comme il l'a été indiqué supra, d'autres mécanismes permettent de procéder aux effacements des condamnations.** Si une telle modification législative était opérée, se poserait la question de savoir **comment déterminer si les faits pour lesquels l'intéressé a été condamné ont bien été commis sous la contrainte.** Elle se heurterait ainsi au principe de l'autorité de la chose jugée.

Par ailleurs, un point de vigilance souligné par le CJN concerne les condamnations étrangères prononcées contre des ressortissants français (ou qui le sont devenus) victimes de tels faits. Selon l'architecture juridique d'ECRIS, seules les autorités étrangères de condamnation peuvent solliciter l'effacement de telles décisions et non les autorités nationales. Une modification législative ne pourrait donc pas concerner les victimes dans cette hypothèse.

## **Paragraphe 146**

*« Le GRETA considère que les autorités françaises devraient faire en sorte que les mesures de protection disponibles soient effectivement appliquées aux victimes et aux témoins de la traite pour les protéger et pour empêcher leur intimidation pendant l'enquête et pendant et après la procédure judiciaire, y compris en évitant le contre-interrogatoire des victimes de la traite en présence physique de l'accusé, en faisant plus souvent recours aux équipements audiovisuels pour l'audition des victimes et au programme de protection des témoins, en systématiquement informant les victimes de la date de remise en liberté du prévenu et des mesures de protection mises en place en conséquence, et en développant des dispositifs d'hébergement sécurisé et sécurisant, notamment pour les enfants. »*

Le ministère de la Justice souhaite rappeler les informations suivantes concernant les mesures de protection spécifiques destinées aux victimes de la traite, précédemment transmises au GRETA :

Les victimes de traite peuvent être autorisées à témoigner de manière anonyme, à ne pas révéler leur véritable adresse en se domiciliant auprès des services d'enquête (articles 706-57 à 706-63 CPP) ou encore à faire leur déposition par visioconférence (article 706-71 CPP).

La confrontation entre la victime et le mis en examen peut se faire par l'intermédiaire d'un dispositif technique permettant l'audition à distance, par son avocat, sa voix étant alors rendue non identifiable (article 706-61 CPP). La victime qui décide de se constituer partie civile peut déclarer comme adresse celle de son avocat (article 89 alinéa 2 CPP). La victime étrangère, coopérant avec les services d'enquête et qui se trouve en danger, peut également bénéficier d'une protection policière pendant la durée de la procédure pénale.

Le recours au témoignage anonyme, sous réserve que l'audition de la personne soit susceptible de mettre gravement en danger la vie ou l'intégrité physique de cette personne, des membres de sa famille ou de ses proches, est encouragé par la circulaire du 22 janvier 2015 s'agissant des victimes de la traite.

La loi 3 juin 2016 renforçant la lutte contre le crime organisé, le terrorisme et leur financement, et améliorant l'efficacité et les garanties de la procédure pénale étend à certains témoins (ou à leurs proches) le dispositif de protection applicable aux collaborateurs de justice. Le nouvel article 706-62-2 du code de procédure pénale prévoit que ce dispositif est applicable aux témoins dans le cadre de procédures portant sur les crimes et délits aggravés de traite des êtres humains prévus par les articles 225-4-2 à 225-4-7 du code pénal et de proxénétisme prévus par les articles 225-7 et 225-12 du code pénal.

Ces témoins, dont l'audition est susceptible de mettre gravement en danger la vie ou leur intégrité physique (ou celle de leurs proches), pourront bénéficier en tant que de besoin des mesures de protection et de réinsertion et en cas de nécessité, d'une identité d'emprunt, telles que définies par l'article 706-63-1 du code de procédure pénale.

Comme dans le cadre du dispositif de protection des collaborateurs de justice, c'est la Commission nationale de protection et de réinsertion (CNPR) qui, en application des dispositions de l'article 706-63-1 du code de procédure pénale, est chargée d'examiner les demandes de mesures de protection et de se prononcer sur l'opportunité de recourir à une identité d'emprunt.

La loi du 3 juin 2016 a également permis, pour certaines infractions, le recours à la procédure du huis clos lors de l'audition d'un témoin à l'audience.

Ainsi, en vertu des dispositions des articles 306-1 et 400-1 du code de procédure pénale, la cour d'assises sans l'assistance du jury en matière criminelle et le tribunal correctionnel en matière délictuelle, peuvent ordonner le huis clos pour le temps de l'audition d'un témoin, pour le jugements des, crimes et délits aggravés de traite des êtres humains et de proxénétisme et lorsque la déposition publique du témoin est de nature à mettre gravement en danger sa vie ou son intégrité physique ou celle de ses proches.

Ces dispositions supposant l'anonymat des victimes et témoins empêchent ainsi la communication de chiffres à ce sujet.

En outre, le focus concernant les dispositifs de protection des victimes de traite des êtres humains, diffusé en juin 2018, rappelle aux juridictions qu'il est pertinent de faire application des dispositions des articles 138-1 et 144-2 du code de procédure pénale permettant l'information de la victime concernant l'interdiction faite à la personne mise en cause ou condamnée d'entrer en contact avec elle.

S'agissant plus spécifiquement des mineurs, la dépêche conjointe DACG/DPJJ du 8 février 2021 prévoit l'éloignement géographique du mineur de son lieu d'exploitation et des réseaux de traite, et son placement dans une structure composée de personnels spécifiquement formés à cette problématique.

La France a inscrit l'objectif de création d'un centre d'hébergement spécifique à l'accueil de mineurs victimes de TEH au sein de deux plans nationaux (le plan de lutte contre les violences faites aux enfants et le plan national d'action contre la traite des êtres humains). Ce centre sécurisé d'hébergement, dont l'ouverture a été préparée durant 2 ans, est destiné à accueillir des mineurs et jeunes majeurs (jusqu'à 21 ans) victimes de traite des êtres humains (TEH) et sous l'emprise de réseaux. Ce dispositif a vocation à accueillir 12 mineurs et jeunes majeurs, confiés majoritairement par l'autorité judiciaire au titre de l'assistance éducative (protection de l'enfance) et minoritairement dans le cadre pénal. Il permet aux



victimes de bénéficier d'un éloignement géographique en urgence, d'un accompagnement sécurisé sur les plans judiciaire, administratif, éducatif, sanitaire et psychologique, et d'une insertion sociale, scolaire et professionnelle. L'arrêté de création du centre a été publié le 5 mai 2021, et le centre a ouvert le 18 octobre 2021. Le centre sera dans un premier temps expérimental pour une durée de 3 ans, et pourra par la suite être reconduit. L'association Koutcha a été retenue pour devenir gestionnaire du centre.

Le ministère de la Justice ajoute que les victimes de TEH sont également informées des interdictions de contact avec elles dans le cadre du contrôle judiciaire ou de l'assignation à résidence sous surveillance électronique, par le juge d'instruction ou le juge des libertés et de la détention.

### **Paragraphe 151**

*« Tout en se félicitant des formations dispensées récemment au sujet de la traite, le GRETA considère, au regard de la faible proportion d'enquêtes, poursuites et condamnations pour traite, que les autorités françaises devraient continuer à promouvoir la formation et la spécialisation des enquêteurs et magistrats dans les affaires de traite (voir aussi paragraphe 127). Des formations sur la traite devraient être intégrées dans les programmes de formation régulière de tous les catégories professionnelles concernées, dont les avocats, les inspecteurs du travail, les travailleurs sociaux, le personnel de la protection de l'enfance, les professionnels de santé, les agents diplomatiques et consulaires, les agents des services d'immigration, les agents chargés d'examiner les demandes d'asile, et les personnels de l'éducation nationale en contact avec des élèves et étudiants. »*

Comme indiqué au paragraphe 45, l'Ofpra rappelle que les officiers de protection instructeurs chargés d'examiner les demandes d'asile, ainsi que les autres agents de l'Ofpra, sont formés (formation continue) aux spécificités de la traite des êtres humains sous ses différentes formes.

### **Paragraphe 155**

*« Dans la mesure où la majorité des auteurs et victimes de la traite sont originaires d'autres pays et l'argent généré par elle est presque intégralement rapatrié à l'étranger, le nombre d'ECE constituée dans des affaires de traite apparaît très faible au regard des 503 poursuites engagées dans ces affaires entre 2016 et 2020 (paragraphe 105). L'entraide juridique avec les Etats non-membres de l'UE est bien moins développée. Les autorités françaises ont indiqué que la coopération se développe progressivement avec les autorités chinoises et a récemment rencontré un succès dans le cadre du démantèlement d'un réseau chinois d'exploitation sexuelle par internet. Elles ont également indiqué que la constitution, avec le soutien financier de l'UE, d'une équipe conjointe d'investigation (ECI) avec le Niger, a permis le démantèlement de quelques filières de traite, notamment de filières d'exploitation sexuelle de femmes en provenance du Nigéria. La constitution d'une équipe conjointe avec les autorités nigérianes demeure, en revanche, infructueuse malgré de nombreuses tentatives. En outre, aucune équipe conjointe n'a été constituée avec certains pays dont nombreux auteurs de l'infraction de la traite sont originaires tels que le Brésil, l'Algérie, et le Maroc ».*

S'appuyant sur l'expérience concluante de la 1ère Équipe Commune d'Investigation (ECI) consacrée à la migration irrégulière et mise en place à l'initiative conjointe de la France et de l'Espagne en 2016 au Niger, le ministère de l'Intérieur français s'est engagé depuis dans la promotion, sur financements européens, de Partenariats Opérationnels Conjoints (POC) (Sénégal, Côte d'Ivoire, Guinée, Mali). En outre, un POC réseau (également au Sénégal) a pour objectif principal d'assurer la coordination des informations et de

l'action des différents POC et d'en asseoir ainsi l'efficacité à l'échelon régional. Les POC, plus axés sur l'accompagnement d'unités, se situent entre les projets structurant de réforme des secteurs de sécurité (RSS) et l'équipe conjointe d'investigation (ECI Niger). Il s'agit d'outils de coopération flexibles entre un ou plusieurs Etats membres de l'UE et un Etat tiers dans la lutte contre les activités de réseaux criminels impliqués dans le trafic de migrants et la traite des êtres humains. Au regard des résultats opérationnels des POC et ECI dans la lutte contre les activités de réseaux criminels impliqués dans le trafic de migrants et la traite des êtres humains, les discussions sont engagées avec les délégations de l'UE dans les pays tiers pour garantir le financement et la mise en œuvre de phases 2, de certains projets se terminant fin 2022.

### **Paragraphe 157**

*« L'Agence française de conception et de mise en œuvre de projets internationaux de coopération technique (Expertise France) assure la phase 2 du projet « appui à la lutte contre la traite des êtres humains dans les pays du Golfe du Guinée » (2019-2023) qui est mis en œuvre au Bénin, au Ghana, en Guinée, au Togo, au Nigéria et en Côte d'Ivoire dans le cadre du Fonds fiduciaire d'urgence (FFU) de l'UE. Le projet a un budget de 18 millions d'euros dont 600 000 euros proviennent d'une contribution de la France. Par ailleurs, la France met en œuvre une stratégie de coopération régionale en Europe du Sud-Est qui s'appuie sur la présence d'un poste de conseiller technique régional en charge de la lutte contre la traite et criminalité connexe au sein de la Représentation permanente de la France auprès de l'Office des Nations unies à Vienne. Ce conseiller met en œuvre des actions de coopération avec les pays de cette région et développe la coopération technique et opérationnelle afin de favoriser le renforcement des capacités de ces pays, la prévention, la protection de victimes et le démantèlement des réseaux de traite. En outre, la France fournit chaque année des contributions volontaires à l'Office des Nations Unies contre la drogue et le crime (ONUDC) pour ses actions contre la traite. En mai 2019, elle a rallié la campagne « Cœur Bleu » qui vise à sensibiliser les Etats, la société civile et le secteur privé à la lutte contre la traite. Elle est également le 5ème pays contributeur au fonds pour les contributions volontaires des Nations Unies en aide aux victimes de la traite des êtres humains (UNVTF). »*

### **Paragraphe 158**

*« Par ailleurs, en mars 2019 les ministères des Affaires étrangères français et suédois ont publié une déclaration commune dans laquelle ils annoncent avoir décidé d'élaborer une stratégie dans le but de combattre la traite des êtres humains et la prostitution<sup>107</sup>. Enfin, dans une loi de programmation relatif au développement solidaire et à la lutte contre les inégalités mondiales, qui a été adopté en août 2021, la France s'engage à devenir un pays pionnier à l'avant-garde des efforts pour atteindre l'objectif de développement durable visant à l'éradication du travail forcé, de l'esclavage moderne, de la traite des êtres humains et du travail des enfants. Suite à l'adoption de cette loi, le gouvernement français a lancé, le 9 novembre 2021, une Stratégie nationale d'accélération pour éliminer le travail des enfants, le travail forcé, la traite des êtres humains et l'esclavage contemporain<sup>108</sup>, qui a permis de faire de la France un pays pionnier de l'Alliance 8.7, un partenariat mondial contre le travail des enfants, le travail forcé, la traite des êtres humains et l'esclavage contemporain. »*

La France s'est fortement mobilisée sur ce sujet, à l'occasion du 14e Congrès des Nations Unies pour la prévention du crime et la justice pénale, qui s'est tenu à Kyoto, du 7 au 12 mars 2021. Elle a ainsi œuvré pour que le renforcement des mesures visant à prévenir et lutter contre les abus et l'exploitation

sexuelle des enfants en ligne et hors-ligne figure parmi les priorités de la déclaration politique finale endossée par l'ensemble des participants du Congrès (cf. paragraphe 86 de la Déclaration dite de Kyoto). Cette mobilisation s'inscrit dans la continuité de son action, notamment lors de la 27ème session de la Commission pour la prévention du crime et la justice pénale en mai 2018, où la France avait coparrainé - aux côtés des Philippines, de l'Andorre, de la Roumanie et de Saint-Martin - une résolution sur l'amélioration de la protection des enfants contre la traite des êtres humains notamment en luttant contre l'utilisation abusive des technologies de l'information et de la communication à des fins criminelles. La France a également initié en 2021 les démarches lui permettant d'acquérir le statut de « pays pionnier » au sein de l'Alliance 8.7, partenariat mondial contre le travail des enfants, le travail forcé, la traite des êtres humains et les formes contemporaines de l'esclavage.

Dans le cadre de notre coopération technique en Europe du Sud-Est, nous avons également organisé, en collaboration avec la section sur la traite des êtres humains et le trafic de migrants de l'ONUDC, cinq ateliers régionaux d'experts, dont deux portaient sur la dimension cyber du phénomène de i) la traite des êtres humains aux fins d'exploitation par le travail, en particulier des enfants et ii) la traite des enfants, en particulier aux fins de criminalité forcée. Ces ateliers s'inscrivent dans la continuité des priorités identifiées pour la programmation interministérielle de l'année 2021 des activités de coopération technique sur la traite des êtres humains en Europe du Sud-Est, coordonnées par le chargé de mission « lutte contre la traite des êtres humains et criminalité connexe » au sein de la Représentation permanente de la France auprès de l'Office des Nations unies à Vienne.

Les activités de cette programmation ont été élaborées afin d'assurer un impact concret et mesurable des actions de coopération technique développées avec l'Albanie, la Bosnie-Herzégovine, la Bulgarie, la Croatie, la Grèce, le Kosovo, la Macédoine du Nord, la Moldavie, le Monténégro, la Roumanie et la Serbie, dans l'objectif de répondre aux préoccupations des acteurs institutionnels de la traite en France et en Europe du Sud-Est, de renforcer la coopération opérationnelle sur cette thématique et de mieux protéger et assister les victimes dans le respect de leurs droits fondamentaux.

Enfin, la **stratégie nationale** vise à accélérer et à accentuer encore davantage les actions en faveur de l'éradication du travail forcé, de la traite des êtres humains et du travail des enfants. Elle tire sa force de son processus de co-construction, associant les réseaux d'entreprise, les partenaires sociaux, les organisations internationales et européennes, et les associations et ONG.

En effet, pendant plus de 6 mois, 5 groupes de travail, regroupés par types d'acteurs, ont menés des travaux parallèles qui ont aboutis à 5 cahiers de contributions réunissant leurs analyses et propositions d'actions. Ensuite, avec ces 5 groupes, un travail inclusif de partage et de croisement des informations, d'échanges et de synthèse a été mené pour aboutir à cette Stratégie Nationale. »

Sur le fond, la stratégie répond à plusieurs domaines prioritaires identifiés par le Greta dans son rapport, notamment :

- En matière de prévention, la stratégie prévoit que dans le cadre de la vigilance à exercer par les différents acteurs, soit créé un centre de ressources virtuelle mettant à disposition des parties prenantes méthodologie, information et outils relatifs aux risques de prévalence de la traite
- Dans le domaine de l'identification des victimes, la stratégie prévoit d'améliorer le repérage des enfants victimes de traite des êtres humains en sensibilisant les professionnels en contact avec les mineurs (école, personnels intervenant dans le champ de la protection de l'enfance, personnels de santé, etc.)
- En matière de formation des professionnels, une des mesures de la stratégie prévoit la production de contenus de formation couvrant la cible 8.7 dans son intégralité en associant les experts associatifs, les

experts de l'OIT, le réseau de journalistes rattachés à l'Alliance 8.7, l'École nationale de la Magistrature, l'Institut national du travail, de l'emploi et de la formation professionnelle (INTEFP), les services ministériels compétents, notamment l'inspection du travail et l'ensemble des structures concernées

- La stratégie prévoit des campagnes d'information et de sensibilisation auprès du grand public, des jeunes et des consommateurs.

L'intégralité de la stratégie peut être consultée ici : [https://travail-emploi.gouv.fr/IMG/pdf/strategie\\_nationale\\_d\\_acceleration\\_pour\\_eliminer\\_le\\_travail\\_des\\_enfants\\_le\\_travail\\_force\\_la\\_traite\\_des\\_etres\\_humains\\_et\\_l\\_esclavage\\_contemporain\\_a\\_l\\_horizon\\_2030.pdf](https://travail-emploi.gouv.fr/IMG/pdf/strategie_nationale_d_acceleration_pour_eliminer_le_travail_des_enfants_le_travail_force_la_traite_des_etres_humains_et_l_esclavage_contemporain_a_l_horizon_2030.pdf)

### **Paragraphe 159**

*« Le GRETA salue la participation des autorités françaises à la coopération internationale multilatérale et bilatérale ; il invite les autorités françaises à poursuivre leurs efforts à cet égard, notamment en ce qui concerne le démantèlement des réseaux d'exploitation sexuelle des enfants par internet et des réseaux d'exploitation des enfants à des fins de la criminalité forcée, et la protection de leurs victimes ainsi que s'agissant des investigations financières. »*

En complément de ses précédentes observations, le ministère de la Justice rappelle les informations suivantes :

#### **La coopération internationale au service du démantèlement des réseaux d'exploitation**

La France entend poursuivre sa participation aux instances de coopération en matière de lutte contre la traite des êtres humains.

A cet égard, la France a réalisé les démarches lui permettant d'acquérir le statut de pays pionnier au sein de l'Alliance 8.7, partenariat mondial contre le travail des enfants, le travail forcé, la traite des êtres humains et les formes contemporaines de l'esclavage.

#### **Une attention toute particulière portée à la lutte contre le cyberproxénétisme**

Constatant l'essor des réseaux d'exploitation sexuelle des enfants via les réseaux de communications électroniques, la France a souhaité développer les moyens de lutte contre ce phénomène.

Ces moyens sont en premier lieu procéduraires : l'enquête sous pseudonyme, prévue par l'article 230-46 du code de procédure pénale, permet aux officiers ou agents de police judiciaire, « aux seules fins de constater les crimes et les délits punis d'une peine d'emprisonnement commis par la voie des communications électroniques, et lorsque les nécessités de l'enquête ou de l'instruction le justifient », de « participer à des échanges électroniques, y compris avec les personnes susceptibles d'être les auteurs de ces infractions ; d'extraire ou conserver par ce moyen les données sur les personnes susceptibles d'être les auteurs de ces infractions et tout élément de preuve, et, après autorisation du procureur de la République ou du juge d'instruction saisi des faits, acquérir tout contenu, produit, substance, prélèvement ou service, y compris illicite, ou transmettre en réponse à une demande expresse des contenus illicites ».

Cette technique d'enquête apparaît particulièrement utile et adaptée aux dossiers visant au démantèlement de réseaux d'exploitation sexuelle via internet.

En outre, l'accent est porté sur la spécialisation des acteurs judiciaires en la matière, des référents « cybercriminalité » ayant été désigné dans les juridictions concernées, et notamment dans les JIRS.

Enfin, l'offre de formation de l'École Nationale de la Magistrature s'est également développée en ce sens. Un partenariat a notamment été développé avec l'université de Montpellier I, permettant l'accès aux magistrats à un Diplôme Universitaire en cybercriminalité dans le cadre de leur formation continue. Cette

thématique est par ailleurs abordée dans les formations susmentionnées et fait l'objet de séquences dédiées (une demi-journée dans la formation de lutte contre le proxénétisme).

### **Paragraphe 166**

*« Par ailleurs, l'article 706-52 du CPP impose, afin de réduire le nombre d'auditions, de procéder au cours de l'enquête et de l'information à l'enregistrement audiovisuel de l'audition des enfants victimes de la traite ou du proxénétisme, qui peut être consulté au cours de la procédure pénale. Les enfants victimes peuvent être entendus par des enquêteurs dans des salles spécialement aménagées au recueil de leur parole, dites « salles Mélanie » ; il y en a 231 sur l'ensemble du territoire national. Ces salles sont, pour la majorité d'entre elles, hébergées au sein des brigades de recherches et des brigades territoriales pour la gendarmerie et au sein des commissariats de sécurité publique pour la police. Les salles Mélanie constituent un environnement apaisant, avec une décoration enfantine rassurante et un équipement vidéo non intrusif permettant l'enregistrement audiovisuel des auditions. Certains ressorts bénéficient de salles d'audition situées en milieu hospitalier au sein d'un service pédiatrique : Unités d'accueil pédiatriques enfants en danger (UAPED). Les UAPED permettent la réalisation de tous les actes d'enquête nécessaires (audition de l'enfant, expertises, etc.) en une même unité de lieu, tout en garantissant une prise en charge médicale et psychologique adaptée si besoin est. Ces unités sont co-financées par les différents ministères (ministères de la Santé, de la Justice, de l'Intérieur). Il y a actuellement 64 UAPED et d'autres sont en cours d'ouverture. »*

Le ministère des Solidarités et de la Santé souhaite apporter les précisions suivantes sur les Unités d'accueil pédiatriques enfants en danger (UAPED), en réponse aux paragraphes 166, 168 et 169 : les unités d'accueil pédiatrique enfant en danger regroupent, dans les services de soins pédiatriques ou pédopsychiatriques des centres hospitaliers, des ressources soignantes spécialisées en santé de l'enfant et de l'adolescent et une salle d'audition adaptée. Elles ont pour objet d'offrir, dans un lieu unique et adapté, avec du personnel formé :

- Un accueil du mineur victime ;
- La possibilité de soins et de protection adaptés ;
- Une prise en charge globale : médico-psychologique, médico-légale et judiciaire ;
- La possibilité d'une audition dans des locaux adaptés par les services d'enquête ;

Pour tout mineur victime avérée de violences ou supposé victime.

Le Plan de lutte contre les violences faites aux enfants 2020-2022 permet la généralisation de ces unités sur l'ensemble du territoire, à hauteur d'une UAPED minimum par département, au moyen de crédits dédiés issus de crédits d'Etat et de crédits de l'Assurance maladie, le ministère des solidarités et de la santé étant ainsi désormais le principal financeur de ces unités. Une instruction en ce sens a été diffusée aux Agences régionales de santé (ARS) ainsi qu'une dépêche du ministère de la justice aux Parquets en fin d'année 2021, dans l'objectif d'assurer le déploiement de ces unités et leur bonne utilisation conformément au nouveau cahier des charges de ces unités élaboré en 2021. Le pilotage national de ces unités est porté conjointement par le ministère des solidarités et de la santé et le ministère de la justice.

Sur les paragraphes 168 et 169, au terme desquels le GRETA salue l'existence de salles d'audition spécialisées et considère que leur nombre devrait être augmenté, il convient de préciser que la généralisation

des unités d'accueil pédiatrique enfance en danger (UAPED) à l'ensemble du territoire (au moins 1 UAPED par département) à l'horizon 2022 est prévue par le plan 2020-2022 de mobilisation contre les violences faites aux enfants.

A cette fin, par une dépêche du 5 novembre 2021 relative à la généralisation à l'ensemble du territoire des UAPED, les procureurs généraux et procureurs de la République des ressorts qui n'en étaient pas encore dotés ont été invités à se rapprocher des établissements de santé pour conclure des conventions permettant la mise en place de ces unités. A cette fin, un modèle de protocole a été diffusé. Il a été élaboré conjointement, dans le cadre d'un groupe de travail piloté par les ministères de la Justice et des Solidarités et de la Santé, auquel ont été associés des représentants du ministère de l'Intérieur, du secteur associatif, ainsi que des professionnels de santé.

### **Paragraphe 170**

*« En outre, le GRETA considère que les autorités françaises devraient assurer la désignation immédiate d'un administrateur ad hoc pour les enfants dont la protection des intérêts n'est pas complètement assurée par leurs représentants légaux. Les administrateurs désignés aux enfants victimes de la traite doivent être formés à leur accompagnement. »*

Les observations du GRETA rejoignent pleinement les préconisations du groupe de travail interministériel et pluridisciplinaire sur la prostitution des mineurs présidé par Catherine Champrenault, ancienne Procureure générale près la cour d'appel de Paris, mis en place par le secrétaire d'Etat en charge des familles et de l'enfance, quant à l'importance pour les victimes mineures de la désignation d'un administrateur ad hoc, représentant provisoire du mineur, qui assure l'information pédagogique de ce dernier et la protection de ses intérêts dans les procédures judiciaires. En matière de TEH, l'administrateur ad hoc est à même d'assurer un lien particulièrement important entre les différents intervenants autour du mineur victime.

### **Paragraphe 191**

*« Le GRETA encourage les autorités françaises à ratifier la Convention n°189 de l'OIT sur les travailleuses et travailleurs domestiques. »*

La France considère que la ratification de conventions internationales est un outil indispensable à la promotion et à l'application des droits de l'Homme. La France est d'ailleurs partie à la Convention n° 97 de l'OIT sur les travailleurs migrants.

La Convention 189 sur les travailleuses et travailleurs domestiques adoptée lors de la conférence internationale du travail de juin 2011, et entrée en vigueur le 5 septembre 2013, a fait l'objet d'un examen attentif. Il ressort de cet examen que la ratification de la convention pose problème au regard du droit français. En effet, la Convention 189 de l'OIT ne fait pas la distinction entre les travailleurs migrants en situation régulière et les travailleurs migrants en situation irrégulière. Or la France considère en effet qu'il s'agit de deux situations de fait totalement différentes.

A ce titre, elle applique deux systèmes de protection distincts : d'une part, les personnes en situation régulière disposent d'une protection nationale similaire à celle prévue par la Convention, ainsi les dispositions internes du droit français sont déjà protectrices des droits des travailleurs migrants ; d'autre part, les droits fondamentaux des travailleurs migrants en situation irrégulière sont garantis au titre de la

Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales et des autres instruments internationaux de protection des droits de l'Homme auxquels la France est partie.

Par ailleurs, la ratification de la Convention 189 aurait des conséquences importantes s'agissant du statut conventionnel des travailleurs domestiques, eu égard au principe d'égalité de traitement contenu dans la convention. En effet, le secteur des services à la personne repose essentiellement sur des bases conventionnelles qui comportent des dispositions spécifiques, notamment s'agissant du décompte du temps de travail, au regard du droit commun. Les partenaires sociaux signataires des conventions ont pris en compte les spécificités des métiers et ont élaboré des règles assurant un équilibre entre protection des salariés et besoins des particuliers employeurs. Toute modification de ces équilibres trouvés par les partenaires sociaux induirait un impact sur le coût du travail et comporterait notamment un risque de substitution des emplois par le recours au travail dissimulé.

### **Paragraphe 192**

*« En dehors du cadre domestique, l'exploitation par le travail a lieu dans de nombreux secteurs d'activité parmi lesquels l'agriculture, le bâtiment, la restauration, le commerce, ou encore les salons de beauté et de coiffure. Selon les données collectées dans le cadre des enquêtes annuelles susmentionnées, entre 15 et 19 % des victimes de la traite accompagnées par des associations pendant la période 2016-2019 étaient celles d'exploitation par le travail. Les victimes sont majoritairement originaires d'Afrique (principalement d'Afrique du Nord) et dans le moindre de mesure d'Asie (surtout Vietnam). »*

Le ministère de l'Intérieur précise que le pourcentage cité des victimes d'exploitation par le travail accompagnées par les associations inclut l'exploitation domestique.

### **Paragraphe 199**

*Note de bas de page n°135 : « Cette infraction de recours à la prostitution est punie d'une amende d'un montant allant jusqu'à 1 500 euros (article 611-1 du CP). Le nombre de personnes mises en cause pour cette infraction s'élevait à 799 en 2016, 2 072 en 2017 et 1 939 en 2018. Evaluation de la loi du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées, décembre 2019, p. 48 ».*

Il convient de préciser que la récidive de la contravention d'achat d'acte sexuel devient un délit réprimé par l'article 225-12-1 du Code pénal. L'alinéa 1 prévoit en effet une peine de 3750€ d'amende.

Par ailleurs, cette infraction est toujours un délit, aux termes de l'alinéa 2 de ce même article, si elle est commise à l'encontre d'un mineur ou d'une personne vulnérable (5 ans d'emprisonnement et 75.000€ d'amende encourus).

### **Paragraphe 208**

*« Un obstacle à l'identification des victimes souligné par plusieurs interlocuteurs au cours de la visite du GRETA est la dématérialisation grandissante de la mise en contact de victimes d'exploitation sexuelle avec les clients. Les membres des forces de l'ordre rencontrés par le GRETA ont précisé que la criminalisation de l'achat d'acte sexuel a eu pour conséquence de réduire drastiquement le nombre de personnes se prostituant sur voie publique, ce qui a rendu l'identification de victimes potentielles par des enquêteurs*



*extrêmement difficile. De plus, les victimes changent d'appartements/hôtels beaucoup plus fréquemment, ce qui complique encore plus leur identification. Par conséquent, l'effort de la police est concentré sur l'identification d'auteurs plutôt que les victimes. Ainsi, en septembre 2020, lorsque la police a démantelé un réseau colombien de proxénétisme et de traite, sur une vingtaine de victimes qu'elle avait détectée avant l'opération, la police n'a pu prendre contact avec aucune d'elles, qui ont toutes été déplacées par les trafiquants. Pour pouvoir s'adapter à ces changements, la police tente d'établir de partenariat avec des plateformes de logements, et des sites internet qui sont susceptibles d'être utilisés par les personnes se livrant à la prostitution pour trouver des clients (comme sexemodel). L'OCRTEH a récemment entamé un partenariat avec le représentant d'Airbnb en France, grâce auquel Airbnb a diffusé à tous les bailleurs les coordonnées de l'OCRTEH de façon que s'ils soupçonnent qu'il y a des activités prostitutionnelles dans leurs appartements à partir des indices qui leur ont été communiqués ils puissent contacter l'OCRTEH. Toutefois, l'OCRTEH a indiqué que Airbnb refuse de répondre aux réquisitions pour informer les enquêteurs de police des lieux loués sur Airbnb par des proxénètes ou trafiquants identifiés. Un autre obstacle à l'identification mis en exergue par divers interlocuteurs est l'insuffisance des ressources humaines des brigades de police et gendarmerie spécialisées dans la lutte contre le crime organisé ».*

Il est indiqué que l'OCRTEH a signalé le refus d'Airbnb de répondre aux réquisitions. Il est à préciser que ce problème ne concerne pas que la société Airbnb mais également la société Booking. Les deux sociétés avancent des raisons juridiques pour ne pas pouvoir répondre de manière systématique et diligente: la loi RGPD leur interdirait de transmettre ces données personnelles, hébergées hors de France, si la requête n'est pas émise dans le cadre d'une demande d'enquête européenne (de magistrat français à magistrat du pays où les données sont hébergées). Il est impossible d'émettre une DEE pour chaque réquisition, les victimes étant extrêmement mobiles, les réquisitions nombreuses, et les éléments devant être transmis en temps réel afin de pouvoir donner lieu à des surveillances efficaces.

### **Paragraphe 209**

*« En mai 2019, le ministre français des Affaires étrangères a annoncé qu'entre 400 et 450 ressortissants français affiliés au groupe « État islamique » (EI) sont détenus dans les camps de réfugiés situés dans le nord-est de la Syrie, une zone contrôlée par les Forces démocratiques syriennes (FDS), une alliance à majorité kurde. Le FDS a demandé à plusieurs reprises aux États, dont la France, de rapatrier leurs ressortissants. Dans un avis publié en septembre 2019, la CNCDH a attiré l'attention des autorités sur la situation des enfants français détenus dans ces camps et a appelé le gouvernement français à procéder au retour sur le sol français, dans les plus brefs délais, de ces enfants et du parent présent auprès d'eux. Selon le rapport de la CNCDH, il y aurait 300 enfants français, âgés pour la plupart de moins de cinq ans, particulièrement exposés aux conditions de vie insalubres et présentant de sévères problèmes de santé physique et mentale. Dans leurs commentaires sur le projet de rapport du GRETA, les autorités françaises ont précisé que la France était pleinement engagée dans la détection de victimes de la traite des êtres humains parmi les ressortissants français détenus dans les camps au nord-est de la Syrie, en particulier les enfants, et qu'elle était l'Etat d'Europe occidentale qui avait procédé au plus grand nombre de rapatriements de mineurs : depuis mars 2019, les autorités françaises<sup>178</sup> ont procédé à des rapatriements de nature humanitaire, avec la coopération des FDS, de 35 enfants de nationalité française, particulièrement vulnérables, orphelins ou dont les mères ont accepté de se séparer. Le GRETA a été informé par les autorités françaises que si les enfants de retour du nord-est de la Syrie ne sont pas identifiés*

<sup>178</sup> [https://www.echr.coe.int/Pages/home.aspx?p=hearings&w=2438419\\_29092021&language=lang&c=fr&py=2021](https://www.echr.coe.int/Pages/home.aspx?p=hearings&w=2438419_29092021&language=lang&c=fr&py=2021)

*comme des victimes de traite, une attention particulière leur est accordée en raison des traumatismes subis. Ils bénéficient à leur arrivée sur le sol français d'un dispositif spécifique de prise en charge prévu par l'instruction du 23 février 2018 relative à la prise en charge des mineurs à leur retour de zone d'opérations de groupements terroristes qui prévoit une double prise en charge par l'Aide Sociale à l'Enfance et la Protection Judiciaire de la Jeunesse. Ces enfants reçoivent un soutien psychologique par des psychiatres spécialisés avant d'être pris en charge par des familles d'accueil. Ce soutien est réalisé sur une durée de trois mois à raison d'une visite par semaine et est assorti d'un accompagnement à un retour à la scolarité. Tout en saluant les efforts déployés par les autorités françaises pour rapatrier ses ressortissants détenus dans les camps situés au nord-est de la Syrie, le GRETA est préoccupé par le fait que ces efforts se sont jusqu'à présent limités au rapatriement des enfants, excluant ainsi les adultes qui étaient encore des enfants lorsqu'ils ont voyagé ou ont été emmenés dans les zones de conflit occupées par l'EI et les adultes qui ont rejoint l'EI à la suite d'une coercition ou d'une tromperie. »*

Il peut être souligné que le gouvernement français a fait le choix de ne pas mener de politique active de rapatriement de ses ressortissants majeurs, compte tenu de la menace terroriste engendrée par ces individus de retour sur le sol français, et compte tenu du fait que leur sort reste dépendant de l'action et des intentions judiciaires souveraines des gouvernements ou groupes qui les détiennent.

Les personnes adultes, hommes et femmes, qui se retrouvent détenus ou retenus dans les camps de réfugiés et de déplacés du Nord-Est syrien ont pris la décision de rejoindre Daech et de se battre dans une zone de guerre.

Il convient, dans ce contexte, d'assurer la lutte contre l'impunité des crimes commis par les combattants de Daech qui doivent être jugés au plus près des lieux où ils ont perpétré leurs crimes. C'est à la fois une question de sécurité et un devoir de justice à l'égard des victimes. À la différence de leurs parents, les enfants n'ont pas choisi de rejoindre l'Irak et la Syrie. Ils n'ont pas choisi de rejoindre la cause d'une organisation terroriste. C'est la raison pour laquelle le Gouvernement a considéré que les mineurs devaient être rapatriés à chaque fois que les conditions le permettaient. Ces enfants ont été remis aux autorités judiciaires françaises, et font désormais l'objet d'un suivi médical particulier et d'une prise en charge par les services sociaux. La France est le pays européen qui, avec l'Allemagne a rapatrié le plus grand nombre d'enfants mineurs, mais ces opérations sont complexes et dangereuses, la France n'exerçant aucun contrôle effectif sur le territoire du Nord-Est syrien.

La situation actuelle rend très difficiles de telles opérations de rapatriement, mais la détermination et les efforts de la France restent intacts. S'il y a des opportunités de rapatriement des enfants mineurs, le Gouvernement les saisit.

Il convient de préciser que le placement de l'enfant (éventuellement dans une famille d'accueil) via une ordonnance de placement provisoire, et le bilan somatique et médico-psychologique, sont en réalité concomitants à l'arrivée de l'enfant sur le sol français. Dans les 8 jours suivants leur arrivée, le parquet doit saisir le juge des enfants qui devra tenir une première audience dans les 15 jours suivants sa saisine. Le juge des enfants ordonne généralement une mesure d'investigation judiciaire éducative pour étudier le parcours de l'enfant et son histoire familiale. A ce jour, il n'a pas été constaté que les enfants rapatriés auraient été victimes de traite.

L'instruction du 23 février 2018 relative à la prise en charge des mineurs à leur retour de zone d'opérations de groupements terroristes prévoit ainsi un dispositif spécifique de prise en charge pour ces mineurs. Il prévoit ainsi un bilan médico-psychologique complet consistant en une évaluation somatique et

pédopsychiatrique et des recommandations de prise en charge et de suivi, notamment psychothérapeutique, adapté aux besoins et à l'âge de l'enfant. Ce bilan s'établit en général sur une durée de 3 mois environ. Ce protocole a été complété par l'instruction SG/Pôle Santé ARS/DGOS/R4/DGCS/2021/55 du 9 mars 2021 relative au suivi sanitaire dans la durée des mineurs de retour de zone d'opérations de groupements terroristes, qui précise les conditions de suivi sanitaire au long cours, c'est-à-dire au-delà des 3 premiers mois, pour ces mineurs. Ainsi, le suivi somatique et médico-psychologique n'est pas limité dans le temps mais garanti pendant toute la durée de la mesure d'assistance éducative en milieu ouvert (AEMO).

### **Paragraphe 213**

*« Rappelant les recommandations faites dans son deuxième rapport, le GRETA exhorte les autorités françaises à améliorer l'identification des victimes de la traite, et notamment à :*

- instaurer un mécanisme national d'identification et d'orientation qui définisse le rôle à jouer et la procédure à suivre par l'ensemble des acteurs qui peuvent être amenés à avoir des contacts directs avec des victimes de la traite, en prenant en considération les recommandations de la Commission nationale consultative des droits de l'homme ;*
- diffuser des outils et indicateurs pour l'identification des victimes de la traite à l'ensemble des acteurs de terrain pouvant entrer en contact avec des victimes de la traite, en particulier les membres des forces de l'ordre, les inspecteurs du travail, les personnels de l'OFII et des centres de rétention administrative, les travailleurs sociaux, le personnel médical, les enseignants, adaptés à chaque type d'exploitation, et assurer une formation pratique à leur utilisation afin d'améliorer la détection et l'identification des victimes de traite ;*
- s'assurer qu'en pratique les victimes présumées et les victimes identifiées de la traite, en particulier celles qui sont présentes dans le pays de manière irrégulière, bénéficient d'un délai de rétablissement et de réflexion et l'identification des victimes de traite ne repose pas sur leur coopération avec les forces de l'ordre ;*
- clarifier la procédure d'identification des victimes de traite de nationalité française et ressortissantes de l'UE/EEE ;*
- équiper la police aux frontières dans les aéroports, gares et ports d'unités composées de personnes ayant reçu une formation avancée à la détection de victime de traite ;*
- développer la sensibilisation des compagnies de transports à la détection de victimes à l'aide d'indicateurs de traite ;*
- faciliter le dépôt de plainte par des victimes potentielles, y compris des personnes ayant été victimes de la traite dans un autre pays européen ;*
- mettre en place une ligne téléphonique spécifiquement dédiée à la traite. »*

La Délégation interministérielle d'aide aux victimes (DIAV) est associée aux travaux prioritaires en France visant à répondre à l'exigence d'identification des victimes de traite, préalable à leur protection et à leur accompagnement. Elle partage pleinement les nécessités mises en évidence dans la cadre du groupe de travail s'agissant de l'établissement de critères objectifs, qui doivent être accompagnées d'un travail de formation des acteurs. Ce travail de formation est au cœur des réflexions de la DIAV, notamment en lien étroit avec les instances représentatives de la profession d'avocat (Conseil national des barreaux, barreau de Paris...), autour de leur spécialisation.

## Paragraphe 225

« Comme relevé dans le deuxième rapport du GRETA, en France l'accompagnement des victimes est assuré par les associations spécialisées dans le soutien aux victimes de la traite, dans l'aide aux migrants ou dans l'action sociale. Il est donc crucial que les associations spécialisées soient financées par l'Etat pour leurs services de soutien aux victimes. A cet égard, le GRETA a été informé qu'en 2019 l'AGRASC a versé 399 327 euros à six associations pour favoriser l'insertion professionnelle des victimes du proxénétisme et de la traite, renforcer la formation et la sensibilisation des professionnels dans ces domaines et renforcer la prévention et la lutte contre la prostitution des enfants et la traite. En 2020, il a alloué 1 990 961 euros pour quatre projets présentés par des associations qui visaient à développer des capacités d'hébergement du dispositif Ac.Sé, à améliorer l'accompagnement des victimes du proxénétisme et de la traite face aux défis de la crise sanitaire due à la pandémie liée au Covid-19, et à développer les maraudes présentes et dématérialisées pour détecter les victimes. En outre, le SADJAV du ministère de la Justice a apporté une aide financière à des associations d'aide aux victimes de la traite et/ou du proxénétisme, telles que ALC, Amicale du Nid, CCEM, AFJ, Association Ruelle et Association Hors-la-rue : le montant total de cet aide était 257 000 euros en 2017, 231 308 euros en 2018, 162 944 en 2019 et 217 625 euros en 2020. Il n'est pas clair quel pourcentage de ces aides est destiné uniquement à l'accompagnement des victimes de la traite et quel pourcentage à la lutte contre le proxénétisme et la prostitution. En tous cas l'ensemble des acteurs de la société civile rencontrés par le GRETA s'accordent sur le fait que le soutien financier de l'Etat aux associations d'aide aux victimes de la traite est très insuffisant ».

De 2011 à 2021, le montant des subventions accordées sur le budget de l'aide aux victimes du programme 101 pour accompagner les victimes de traite des êtres humains a progressé de **351,43%**. En 2021, le montant total versé a été de 194 115€. **54% de ce montant a été consacré exclusivement à l'accompagnement des victimes de traite des êtres humains.** 46% de cette somme a servi à accompagner, par le biais des financements accordés par les cours d'appel, des victimes de la prostitution, du proxénétisme et de la traite des êtres humains à des fins d'exploitation sexuelle.

**Au niveau du BOP central, l'intégralité des subventions versées est destinée exclusivement à l'accompagnement des victimes de traite des êtres humains,** suite à une décision prise en RIM début 2019 au terme de laquelle le programme 101 ne finance plus les associations qui prennent en charge les victimes majeures d'exploitation sexuelle, cet accompagnement devant être pris en charge par le programme 137 « Égalité entre les femmes et les hommes ».

Il convient de rappeler en outre, que **comme toute victime d'infractions, les victimes de TEH ont droit à un accompagnement par une association d'aide aux victimes non spécialisées, en vue d'une prise en charge pluridisciplinaires et gratuite, juridique, psychologique et sociale.**

## Paragraphe 236

« Un dispositif d'éloignement géographique sur le modèle du dispositif Ac.Sé a été mis en place, à titre expérimental, afin d'extraire l'enfant du champ d'influence des trafiquants. Ce dispositif repose sur une convention signée le 1er juin 2016 par des acteurs institutionnels (mairie et département de Paris, parquet de Paris, tribunal de grande instance de Paris, préfecture de police de Paris, comité interministériel de prévention de la délinquance et de la radicalisation, direction de la protection judiciaire de la jeunesse, ordre des avocats de Paris et MIPROF) et l'ONG spécialisée Hors-la-Rue. Le réseau des structures d'accueil adhérentes du dispositif parisien est constitué d'une vingtaine d'établissements répartis entre

*foyers (gérés par des associations ou les départements) et dispositifs d'accueil familiaux. Ce dispositif a permis au 1er juillet 2019 l'accompagnement de 91 enfants. Bien qu'il ait été conçu initialement pour accueillir les victimes mineures de toutes formes d'exploitation confondues, il a en réalité bénéficié quasi exclusivement aux mineures nigérianes victimes de la traite à des fins d'exploitation sexuelle. »*

L'Ofpra est partie prenante à la convention expérimentale parisienne suite à un avenant ultérieur.

#### **Paragraphe 244**

*« Le GRETA salue la dépêche du garde des Sceaux appelant à la généralisation du dispositif expérimental parisien et les progrès accomplis dans la création du centre sécurisé et sécurisant pour enfants victimes de la traite. Toutefois, le GRETA est préoccupé par la tendance croissante de la traite des enfants en France et l'insuffisance des moyens mis en place pour détecter et prendre en charge les victimes. En reprenant les recommandations de son deuxième rapport, le GRETA exhorte à nouveau les autorités françaises à intensifier leurs efforts visant à prévenir et combattre la traite des enfants, à identifier les enfants victimes de la traite et à leur fournir une assistance adéquate, et en particulier à :*

*- introduire des procédures spécifiques concernant les enfants dans le mécanisme national d'identification et d'orientation à mettre en place (paragraphe 213), qui tienne compte de la situation et des besoins particuliers des enfants victimes de la traite, qui fasse de l'intérêt supérieur de l'enfant une considération primordiale, auquel soient associés des spécialistes de l'enfance, et qui définisse le rôle à jouer et la procédure à suivre par l'ensemble des autorités et des professionnels qui peuvent être amenés à avoir des contacts directs avec des enfants victimes de la traite, y compris les ONG ;*

*- dispenser une formation continue et fournir des outils aux parties prenantes (police, procureurs, autorités responsables de l'asile et des migrations, personnels des aéroports, prestataires de services, personnels éducatifs, autorités de protection de l'enfance, ONG, etc.) en ce qui concerne l'identification des enfants victimes de la traite ;*

*- prendre des mesures pour traiter efficacement le problème de la disparition d'enfants victimes de la traite des centres d'accueil, en leur assurant un hébergement sécurisé et de services adaptés et un nombre suffisant de surveillants dûment formés ;*

*- développer des programmes de réinsertion des enfants victimes de la traite. »*

Comme indiqué aux paragraphes 45 et 151, les agents de l'Ofpra notamment les officiers de protection instructeurs sont formés aux spécificités de la traite, notamment la traite des mineurs. Par ailleurs, l'Ofpra est partie prenante à la convention expérimentale parisienne relative à la protection des mineurs victimes de la traite. L'Ofpra met par ailleurs en œuvre ses obligations de signalement au procureur de la République, en application de l'article 40 du Code de procédure pénale, et aux autorités compétentes en matière d'enfance en danger ou risquant de l'être au sens de l'article 375 du Code civil, qui peuvent concerner des mineurs victimes de traite en demande d'asile ou bénéficiaires d'une protection internationale. Enfin, dans le cadre du Plan vulnérabilités publié en mai 2021 sous l'égide du ministère de l'Intérieur, à l'élaboration et à la mise en œuvre duquel l'Ofpra a participé et participe, outre les formations mentionnées au paragraphe 242, il convient de mentionner la possibilité pour l'Ofpra de signaler à l'OFII, dans le respect de la confidentialité de la demande d'asile, des situations de vulnérabilité liées aux motifs des demandes d'asile, y compris la traite des êtres humains, nécessitant une réévaluation des conditions matérielle de l'accueil des demandeurs, notamment vers un hébergement sécurisant.

En complément des précédentes observations communiquées au paragraphe 213, le ministère de la Justice tient à faire état de la création d'un groupe de travail ayant pour but d'élaborer, à destination des associations d'aide aux victimes agréées, un référentiel des pratiques concernant la réalisation des évaluations approfondies des victimes (EVVI). La problématique des victimes de TEH sera abordée de manière spécifique, en vue de mieux les identifier et de mieux cibler les mesures de protection adéquates. Ce travail sera mené avec la collaboration de la MIPROF, des associations, et du ministre de l'intérieur. Une diffusion est envisagée pour la fin 2022.

A l'image de Paris, un dispositif expérimental visant à protéger les mineurs victimes de traite des êtres humains a été mis en place et un protocole signé à cette fin le 16 décembre 2021 par la juridiction de Marseille.

*Voir également les commentaires sur la protection des victimes mineures au paragraphe 146*

### **Paragraphe 253**

*« En effet, le 30 mars 2017, la Cour Nationale du Droit d'Asile (CNDA) a considéré que les ressortissantes nigérianes, quelle que soit leur province d'origine, victimes de la traite à des fins d'exploitation sexuelle par un réseau transnational de traite, qui sont parvenues à s'en extraire ou ayant entamé des démarches en ce sens, constituaient un groupe social au sens de l'article 1er, A, 2 de la Convention de Genève et pouvaient bénéficier du statut de réfugiée<sup>173</sup>. Le Conseil d'État, quant à lui, a confirmé, par une décision du 16 octobre 2019, la jurisprudence constante depuis mars 2015, selon laquelle les femmes nigérianes originaires de l'État d'Edo victimes de la traite à des fins d'exploitation sexuelle constituaient un « groupe social » au sens de la Convention de Genève. Il a toutefois restreint l'applicabilité de « groupe social » à la condition que ces femmes soient effectivement parvenues à s'extraire du réseau de prostitution forcée revenant sur la jurisprudence ayant prévalu depuis la décision de principe de la CNDA du 30 mars 2017. Cette appréhension limitative de la définition du groupe social réduit considérablement la chance pour les victimes de régulariser leur séjour par le biais de la procédure d'asile sans coopérer avec les autorités judiciaires car le dépôt de plainte ou le témoignage contre les exploiters est considéré par des autorités comme un élément important pour prouver la distanciation avec le réseau. »*

Pour l'Ofpra, le dépôt de plainte ou le témoignage contre les exploiters, s'il est un élément important, parmi d'autres, n'est pas un prérequis à l'examen de la demande d'asile de la victime de traite concernée. Il n'est pas un prérequis à l'octroi d'une protection internationale.

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Enfin, la Délégation interministérielle d'aide aux victimes (DIAV) souhaite apporter le complément d'informations suivant sur les Comités locaux d'aide aux victimes (CLAV) :

Compte tenu de la disparité territoriale existante, le projet de dédier des comités locaux d'aide aux victimes de la traite des êtres humains initialement retenu dans le plan d'action de la MIPROF, a été revu afin de laisser aux territoires une souplesse suffisante leur permettant d'initier des CLAV thématiques par le prisme d'une catégorie de victimes (mineures) ou d'une thématique victimaire (exploitation et traite, violences sexuelles...) en fonction de leurs besoins et ressources propres.

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De plus, des CLAV en format restreint à visée opérationnelle doivent également être organisés de façon à être au plus près des préoccupations locales et de favoriser les échanges fructueux entre les partenaires concernés.

La délégation mène des travaux, au sein du ministère de la justice, à l'élaboration d'outils qui seraient proposés aux services territoriaux afin de soutenir leur mobilisation afin de réunir des CLAV dédiés aux victimes mineures.

Ces instances visent notamment à identifier et mettre en valeur les bonnes pratiques développées dans les territoires autour de l'identification, de la mise à l'abri des victimes de TEH, de la prévention, et du démantèlement des réseaux (par exemple logement, parcours de sortie de la prostitution en termes de convention partenariales). Ils ont vocation à associer toute personne ressource susceptible d'apporter un éclairage (élu local, association spécialisée...). Les référents TEH désignés au sein des préfetures et des juridictions interrégionales spécialisées seront naturellement partie prenante./.