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GROUP OF EXPERTS
ON ACTION AGAINST
TRAFFICKING IN HUMAN BEINGS

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of the Council of Europe Convention
on Action against Trafficking in Human Beings
by France

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Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) has been set up 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 composed of 15 independent and impartial experts coming from a variety of backgrounds, who have been selected on the basis of their professional experience in the areas covered by the Convention. The term of office of GRETA members is four years, renewable once.

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 on which the evaluation procedure is to be based and defines the most appropriate means to carry out the evaluation. GRETA adopts a questionnaire for each evaluation round which serves as the basis for the evaluation and is addressed to all parties.

The first evaluation round was launched in February 2010 and the questionnaire for this round was sent to the parties according to a timetable adopted by GRETA, which reflected the time of entry into force of the Convention for each party. GRETA organised country visits to all parties in order to collect additional information and have direct meetings with relevant actors, both governmental and non-governmental.

Following the first round of monitoring, which provided an overview of the implementation of the Convention by each party, GRETA launched the second evaluation round of the Convention on 15 May 2014. During this new evaluation round, GRETA has decided to examine the impact of legislative, policy and practical measures on the prevention of trafficking, the protection of the rights of victims of trafficking, and the prosecution of traffickers. The adoption of a human rights-based approach to action against trafficking in human beings remains at the centre of the second evaluation round. In addition, particular attention is paid to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking. The questionnaire adopted by GRETA for the second evaluation round is sent to all parties which have undergone the first evaluation round, following a timetable approved by GRETA.

GRETA's reports are based on information gathered from a variety of sources and contain recommendations intended to strengthen the implementation of the Convention by the party concerned. In its recommendations, GRETA has adopted the use of three different verbs - "urge", "consider" and "invite" - which correspond to different levels of urgency of the recommended action for bringing the party's legislation and/or practice into compliance with the Convention. GRETA uses the verb "urge" when it assesses that the country's legislation or policy are not in compliance with the Convention, or when it finds that despite the existence of legal provisions and other measures, the implementation of a obligation of the Convention is lacking. In other situations, GRETA "considers" that it is necessary to make improvements in order to fully comply with an obligation of the Convention. By "inviting" a country to pursue its efforts in a given area, GRETA acknowledges that the authorities are on the right track.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each party in a plenary session. The process of confidential dialogue with the national authorities allows the latter to submit, within two months, comments on GRETA's draft report with a view to providing additional information or correcting any possible factual errors. These comments are taken into account by GRETA when establishing its final report. The final report is adopted by GRETA in a plenary session and transmitted to the party concerned, which is invited to submit any final comments. At the expiry of the time-limit of one month GRETA's report, together with eventual comments by the party concerned, is made public and sent to the Committee of the Parties to the Convention.

I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by France took place in 2011-2013. Following the receipt of the French reply to GRETA's first questionnaire on 1 September 2011, a country evaluation visit was organised from 26 to 30 March 2012. The draft report on France was examined at GRETA's 14th meeting (25-29 June 2012) and the final report final was adopted at GRETA's 15th meeting (26-30 November 2012). Following the receipt of French authorities' comments, GRETA's final report was published on 28 January 2013.¹

2. In its first report, GRETA welcomed the steps taken to put in place a legal framework to combat human trafficking, as well as initiatives taken for vulnerable groups in countries of origin to prevent trafficking and the good international co-operation in investigation matters. However, GRETA called on the French authorities to strengthen co-ordination of anti-trafficking action amongst different competent authorities, in particular by ensuring that the interministerial structure for the fight against human trafficking has sufficient authority and means and by organising awareness-raising activities for the wider public. GRETA also urged the authorities to adopt a more global approach to trafficking by paying more attention to labour exploitation and child trafficking. Moreover, GRETA urged the authorities to create a national referral mechanism defining the role of each actor and ensuring that all competent staff regularly follows training. GRETA also urged the authorities to improve access to assistance and protection measures for all victims of human trafficking and to provide specialised assistance to child victims.

3. On the basis of GRETA's report, the Committee of the Parties to the Convention adopted a recommendation to the French authorities on 15 February 2013, requesting them to report back on the measures taken to comply with this recommendation by 15 February 2015.² The report submitted by the French authorities was considered at the 16th meeting of the Committee of the Parties (16 June 2015). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.³

4. On 9 June 2015, GRETA launched the second round of evaluation of the Convention in respect of France by sending the questionnaire for this round to the French authorities. France submitted its reply on 15 February 2016.

5. In preparing this report, GRETA used the reply to the questionnaire by the French authorities, the above-mentioned report submitted by them to the Committee of the Parties and information received from civil society. An evaluation visit to France took place from 5 to 9 September 2016 in order to hold meetings with relevant actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Ms Siobhán Mullally, 1st Vice-President of GRETA;
- Mr Frédéric Kurz, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention;
- Mr Gerald Dunn, administrator in the Secretariat of the Convention.

¹ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France, GRETA(2012)16, available at :

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631c03>

² Recommendation CP(2013)1 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France, adopted at the 10th meeting of the Committee of the Parties on 15 February 2013, available at:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631c01>

³ Available at:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168064bb03>

6. During the visit, the GRETA delegation held consultations with officials from the Interministerial task-force on combatting 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, in particular the competent national law enforcement agencies, the Ministry of Justice, the Ministry of Social Affairs and Health, the Ministry of Labour, Employment, Vocational Training and Social Dialogue, the Ministry of Foreign Affairs and International Development, the Ministry of Education, the French Office for Immigration and Integration (OFII), the French Office for the Protection of Refugees and Stateless Persons (OFPRA), the National Observatory on Delinquency and Criminal Law Responses (ONDRP), and the Biomedicine Agency. The GRETA delegation also met Ms Michèle de Sergonzac, president of the National Court of Asylum (CNDA), Ms Christine Lazergues, president of the National Consultative Committee on Human Rights (CNCDH), which acts as National Rapporteur on human trafficking, Ms Geneviève Avenard, Ombudsperson for Children, Ms Chantal Jouanno, senator and president of the Delegation for women's rights and gender equality and Ms Michèle Ramis, Ambassador of France in charge of combating transnational organised crime.

7. Furthermore, in Paris, the GRETA delegation had meetings with representatives of the Paris Municipality as well as judges and prosecutors, in particular of the Specialised Interregional Court (*juridictions interrégionales spécialisées* - JIRSs). In addition, the delegation met relevant public stakeholders in Bordeaux, Lille and Marseille. These included representatives from municipalities, prefectures, local law enforcement agencies, local child protection services as well as judges and prosecutors, including from JIRSs.

8. The GRETA delegation met separately representatives of non-governmental organisations active in combating trafficking in human beings and assisting its victims, lawyers, trade union representatives and academics. Discussions were also held with representatives of the offices of the International Organization for Migration (IOM), the United Nations Children's Fund (UNICEF) and the United Nations High Commissioner for Refugees (UNHCR) in France.

9. In the course of the visit, the GRETA delegation visited a specialised shelter for women victims of human trafficking for sexual exploitation run by the NGO AFJ in Paris, as well as the "Leydet" emergency shelter in Bordeaux and the "Jane Pannier" shelter in Marseille, both of which can accommodate victims of human trafficking.

10. In addition, the GRETA delegation went to Calais to visit the Jules Ferry Centre run by the NGO *La Vie Active*, including the provisional shelter and the shelter for women and children, and to St Omer to visit a shelter for unaccompanied boys (*La Maison du Jeune Réfugié*) run by the NGO *France Terre d'Asile*. The delegation also met representatives of the OFPRA and local child protection services, as well as prosecutors from the juvenile prosecution services of St Omer regional court.

11. The list of the national authorities, non-governmental organisations and other organisations with which the delegation held consultations is set out in the appendix to this report. GRETA is grateful for the information provided by them.

12. GRETA is grateful to the French authorities for their good co-operation and, in particular, the contact person appointed by the French authorities, Ms Elisabeth Moiron-Braud, Executive Secretary of the MIPROF, and Ms Pauline Soubie-Ninet, project officer at the MIPROF.

13. A draft version of the present report was approved by GRETA at its 27th meeting (28 November – 2 December 2016) and submitted to the French authorities for comments. The Authorities comments were received 23 February 2017 and were taken into account by GRETA during the consideration and adoption of the final report at its 28th reunion (27-31 March 2017). The final report covers the situation up to 31 March 2017; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made since the first report, the issues which require immediate action, and the other areas where further action is needed (see pages 77-85).

II. Main developments in the implementation of the Convention by France

1. Emerging trends in trafficking in human beings

14. 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 national statistics on the number of identified victims of human trafficking makes it difficult to have an overview of the situation and identify trends. The only available statistics are provided by the Central Office for the Suppression of Trafficking in Human Beings (*Office central de répression de la traite des êtres humains* - OCRTEH) and concern victims of pimping and sexual exploitation, without distinguishing victims of trafficking or covering other types of exploitation. Thus, in 2013 there were 871 adult victims of pimping and sexual exploitation (853 women and 18 men) and in 2014, 710 victims of pimping and sexual exploitation (681 women and 29 men). The majority of these victims were from Romania, followed by France, Nigeria, China, Bulgaria and Brazil.

15. As regards children, the Paris Police Unit for the Protection of Minors collects data on Paris and its surroundings according to which, in 2013, there were 58 child victims (including 31 for the purpose of forced criminality, 26 for sexual exploitation and one for domestic servitude) and, in 2014, 50 child victims (including 21 for the purpose of forced criminality and 29 of sexual exploitation). The vast majority of the victims of sexual exploitation/pimping were French girls.

16. The Ministry of Justice's Department for Statistics and Studies (SDSE), on the basis of the information system of penal decisions, estimates that, in 2014, there were 1 475 victims of human trafficking, including 167 children and, in 2015, 1 439 victims of human trafficking, including 202 children.⁴ In all likelihood, these statistical data represent only a small proportion of actual trafficking victims and do not take account of the victims who have never been identified and, consequently, never logged in the Ministry of justice database.

17. While no statistical data is available yet concerning human trafficking for the purpose of labour exploitation, according to the Central Office for Combating Illegal Labour (*Office central de lutte contre le travail illégal* - OCLTI), two main categories of persons vulnerable to serious forms of labour exploitation are identified: persons with physical and/or mental disabilities, on the one hand, and persons from certain communities or diaspora, on the other. As regards the latter, they are exploited in textile workshops, construction or other industrial sectors, as well as in domestic servitude by members of the same community/diaspora. Another trend concerns EU nationals who are exploited as part of illegal practices connected to the secondment of European workers. The Internet is increasingly used to recruit victims, as well as to propose workers for exploitation.

18. Specialised NGOs report an increase in the number of Nigerian victims of trafficking for the purpose of sexual exploitation, in particular girls younger than 15 and sometimes as young as 11.⁵ The OFPRA confirmed that this escalating tendency in 2016 was reflected in requests for international protection. They reported trends concerning Romanian children from the Roma community who are exploited in forced criminality (such as pickpocketing). Some NGOs mentioned the recruitment through Internet ads of girls from deprived neighbourhoods for the purpose of sexual services, often involving violence. Further, there are reports of Vietnamese children being trafficked via France, in order to be exploited in cannabis farms or nail bars in the United Kingdom.

⁴ The estimates include both physical persons and NGOs or family members who joined criminal proceeding against traffickers as private parties.

⁵ In 2015, 100 Nigerian girls were detected in street prostitution in Paris, of whom 25% were younger than 15.

2. Developments in the legal framework

19. There have been a number of legislative developments with ramifications for action against trafficking in human beings since GRETA's first evaluation report. The first of these was the passing of Law no. 2013-711 of 5 August 2013 amending several provisions in the area of justice to bring them in line with EU law and France's international commitments, which altered the definition of the offence of trafficking in human beings as provided for in Article 225-4-1 of the Criminal Code. The amendments made include the introduction of means as a component of the offence in the same way as the action itself and exploitation, along the lines of the recommendations made by GRETA in its first report.⁶

20. Furthermore, Law no. 2013-711 has included slavery, servitude, forced labour and the removal of organs in the different purposes of exploitation as defined in Article 225-4-1 of the Criminal Code, in line with GRETA's recommendations. Article 225-4-1 of the Criminal Code now refers expressly to child trafficking and specifies that the offence is constituted by a situation of exploitation in itself, as provided in the Convention (paragraphs 225-237).

21. In addition, Law no. 2013-711 introduced a new Article 225-4-8 into the Criminal Code making it possible to prosecute French nationals having committed acts of trafficking in human beings abroad even where the local legislation does not criminalise such acts and without there being any need for victims to lodge a complaint or for the State where the acts were committed to report them (see paragraph 280).

22. Law no. 2014-873 of 4 August 2014 for effective equality between women and men has amended Article L316-1 of the Code governing the entry and stay of foreigners and right of asylum (CESEDA) allowing, in the event of the final conviction of an individual accused of trafficking, a residence permit to be automatically issued to the foreign victim having lodged a complaint or provided testimony. Furthermore, Law no. 2016-444 of 13 April 2016 on strengthening action against prostitution and providing assistance to persons in a situation of prostitution, has also amended Article L316-1 of the CESEDA, which now stipulates that persons having lodged a complaint against an individual accused of human trafficking within the meaning of Article L214-5-1 of the Criminal Code and/or pimping within the meaning of Articles 225-4-1 to 225-4-6 and 225-5 to 225-10 of the Criminal Code or testified in criminal proceedings against such an individual are automatically granted a temporary residence permit, whereas the issuing of a residence permit was previously left to the discretion of the competent authorities. Finally, as GRETA had recommended, THB victims are exempt from taxes and stamp duties otherwise payable for the issue or renewal of residence permits pursuant to Article L316-1 of the CESEDA.

23. Where the rights of trafficking victims are concerned, the aforementioned Law no. 2016-444 of 13 April 2016 introduced a number of changes strengthening the rights of trafficking victims, irrespective of the type of exploitation, that will be specified in relevant sections of this report.

24. In addition, Law no. 2015-993 of 17 August 2015 bringing criminal procedure into line with EU law contains new provisions reinforcing the rights of victims of criminal offences (see paragraph 278).

25. Another development relates to the mandate of labour inspectors, which has been extended to include the reporting of THB offences pursuant to Article L8112-2 of the Labour Code as amended by Order no. 2016-413 of 7 April 2016 on the supervision of labour law enforcement and Law no. 2016-444 of 13 April 2016.

⁶ See GRETA's first evaluation report on France, paragraph 52

26. Following on from amendments to criminal legislation, and in line with a recommendation made by GRETA in its first report⁷, a circular of 22 January 2015 from the Minister of Justice setting out criminal law policy in the sphere of action against THB was sent to prosecutors and copied, for information, to the presidents of the different courts competent for criminal cases. The circular reiterates the need to use the classification of trafficking in human beings in criminal prosecutions in order to more effectively dismantle networks, facilitate the use of international co-operation tools (execution of international requests for judicial assistance, European arrest warrants and joint investigation teams - JITs) and make victims a central focus of anti-trafficking action. Thanks to the circular, the offence of trafficking in human beings is now more commonly applied by the judiciary. OCRTEH statistics show that, in 2015, the activities of only 17 of the 38 networks dealing in sexual exploitation dismantled in France were classified as trafficking in human beings (44.7%). For the first 10 months of the year 2016, 32 of the 55 networks dismantled were prosecuted for that offence (58%).

27. A new circular was published on 18 April 2016 to explain the different changes introduced by the aforementioned Law no. 2016-444 of 13 April 2016. GRETA nevertheless regrets that the circular perpetuates the confusion between trafficking in human beings and the smuggling of illegal migrants by stating in its introduction that "the smuggling of migrants is another form of trafficking in human beings". It notes that a factsheet entitled "trafficking in human beings: reminder of the basics and protection measures for victims", produced at a later date by the Ministry of Justice and intended for members of the judiciary, contains a section intended to draw a distinction between trafficking in human beings and migrant smuggling. GRETA further notes that the Ministry of Justice circular of 24 November 2015 on the "Situation of the Calais area – Action against organised illegal immigration and related crime" emphasises the distinction between the smuggling of illegal migrants and trafficking in human beings. According to the French authorities the legal distinctions between smuggling and trafficking was emphasised during each of the biannual meetings of the JIRs, which aim to better work against networks of illegal immigration.

28. The Minister of the Interior published a circular on 19 May 2015 defining the conditions for allowing foreign nationals who are victims of THB or pimping to stay in the country. It is addressed to prefects and reiterates that the identification of foreign THB victims lies exclusively within the competence of the police and gendarmerie services. The circular further encourages prefects to set up department co-ordination units involving all the institutional stakeholders (including police services and gendarmerie units), in conjunction with prosecutors' offices, in order to foster co-operation with NGOs with a view to protecting victims and dismantling networks.

29. Where international instruments are concerned, France ratified the Protocol to Convention no. 29 on forced labour of the International Labour Organization (ILO) on 7 June 2016.

⁷ See GRETA's first evaluation report on France, paragraph 206

3. Developments in the institutional framework

30. The French Government has set up, by decree no. 2013-7 of 3 January 2013, the Inter-ministerial group for the protection of women against violence and action against trafficking in human beings (MIPROF) under the Ministry responsible for women's rights. As its name suggests, the MIPROF has a dual mission, with Article 2 of the aforementioned decree stipulating that it must, on the one hand, drive state action to combat violence against women and, on the other hand, handle national co-ordination of action against THB. As far as its resources are concerned, Article 3 stipulates that the funding required for the functioning of the MIPROF shall be written into the budget of the Ministry responsible for protecting women's rights: the MIPROF's operating budget amounts to 30 300 euros. The MIPROF has a Secretary General and, where the THB aspect of its work is concerned, a technical advisor and a project manager. Since 11 February 2016, the MIPROF has come under the Ministry of Family Affairs, Children and Women's Rights. GRETA considers that the French authorities should set up a co-ordination body devoted to human trafficking, in order to ensure that sufficient attention is paid to all forms of exploitation and awareness raising of them and ensure that this body wields the greatest possible authority. As GRETA noted it in its first report⁸, in a number of countries, the structures which co-ordinate action against THB are not placed within a particular ministry but, rather, are directly subordinated to the Council of Ministers, or the Prime Minister; this can secure its authority and demonstrate the willingness of the authorities to ensure that such structures have a genuine inter-institutional functioning.

31. In 2014, in line with the provisions of Article 29(4) of the Convention, the mandate of national rapporteur on human trafficking was assigned to the National Consultative Committee on Human Rights (CNCDDH), in its capacity of administrative independent authority.⁹ In accordance with this mandate, the CNCDDH published its first report evaluating action against the trafficking and exploitation of human beings in France on 9 March 2016.¹⁰ GRETA welcomes the designation of the CNCDDH as independent national rapporteur on THB.

32. The MIPROF has a steering committee made up of representatives of national, local and regional authorities, representatives of administrative institutions and commissions with a consultative role (including the CNCDDH and the OFPRA). It also includes eminent specialists and, since decree no. 2016-1096 of 11 August 2016, 10 representatives of NGOs active in the sphere of violence against women and human trafficking.¹¹ Regarding trafficking, the following NGOs were selected to be represented at the steering committee: the "*Ensemble contre la traite*" (Together against trafficking) NGO collective and six NGOs (*Hors la Rue*, *Amicale du Nid*, *Comité contre l'Esclavage Moderne* (CEM), *Mouvement du Nid*, ALC and *France Terre d'Asile*). The steering committee is to meet twice a year to help define the main goals of the inter-ministerial mission's work, covering both violence against women and action against THB. A subcommittee is tasked with keeping track of the implementation of the national action plan on THB and made up solely of institutional stakeholders.¹² Finally, above-mentioned decree no. 2016-1096 established a co-ordination committee specifically for THB matters comprising the members of the steering committee involved in action against THB. Decree no. 2016-1096 provides for at least two meetings of the steering committee a year. The first meeting was held on 18 October 2016.

⁸ See GRETA's first evaluation report on France, paragraph 63

⁹ Measure 23 of the National action plan against trafficking in human beings, adopted by the Council of Ministers on 14 May 2014

¹⁰ Available in French at: www.cncddh.fr/fr/dossiers-thematiques/traite-et-exploitation

¹¹ The steering committee of the MIPROF comprises:

1° Three representatives of local and regional authorities (regions, departments, municipalities);

2° Ten representatives of voluntary-sector structures involved in the sphere of violence against women and action against trafficking in human beings, appointed by the Minister responsible for women's rights;

3° Six well-qualified eminent figures chosen for their expertise and experience, appointed by the Minister responsible for women's rights;

4° Representatives of the State or public state institutions or administrative committees with a consultative role (Directorate General of Social Cohesion; Directorate of Housing, Planning and Landscape; Directorate General of Care Provision; Directorate

33. Furthermore, several working groups have been set up since the MIPROF was created. A working group on the training of professionals in the area of trafficking in minors was set up in 2013, bringing together institutional stakeholders and NGOs and meeting two to three times a year. A sub-group has been tasked with producing a training booklet for educators. A second sub-group has been tasked with drafting a leaflet on how to tackle cases of child trafficking for general investigation services and members of the judiciary. A working group on protection tailored to child victims of THB has also been set up to prepare an experimental convention for child victims of trafficking and protection based on removing the victim from the area and placing them in the care of specialised educators (see paragraph 168). Under this convention, an ad hoc working group comprising institutional stakeholders (Paris police prefecture, juvenile prosecution service of Paris regional court, OFPRA, Ministry of Foreign Affairs and International Development, Child Welfare Services (ASE), DPJJ) and civil society (Paris bar council, *Hors la Rue* and *Bus des Femmes*) has been set up to more specifically study the question of the legal status of child victims.

34. In 2014 a working group on the training of professionals in contact with victims of trafficking in human beings for the purpose of labour exploitation was set up to prepare tools for training professionals in contact with victims of this type of trafficking, including labour inspectors. The group brings together representatives of the OCLTI, the Central Office for the Fight Against Itinerant Delinquency (*Office Central de Lutte contre la Délinquance Itinérante – OCLDI*), Directorate General of Labour, Directorate General of National Gendarmerie and Directorate General of National Police and meets about twice a year.

35. Also in 2014, a working group on protection tailored to victims of sexual exploitation, made up of institutional stakeholders and the NGO *Foyer Jorbalan* (AFJ), was set up to draft an experimental protocol creating an accommodation centre in Paris with five places for women victims of trafficking for the purpose of sexual exploitation, which has since been put into operation (see paragraph 157).

36. Another working group, co-steered by the MIPROF and the ONDRP, has been set up to improve statistical knowledge of trafficking in human beings. A sub-group on the creation of statistical indicators has met four times since 2015, and a second sub-group, made up of representatives of NGOs and tasked with mapping bodies and NGOs assisting victims on the national territory, met three times in 2016 (see paragraphs 66-67).

General of Political Affairs and Security; Directorate General of School Education; Directorate General of Labour; Directorate General of National Police; Directorate General of National Gendarmerie; Directorate of Criminal Affairs and Pardons; Inter-ministerial Committee for the Prevention of Delinquency; National Institute of Statistics and Economic Studies; Secretariat General for Immigration and Integration; OFPRA; CNCDH; High Council for equality between women and men).

¹² The Ministry of Justice's legal analysis and policy department (DACG) and Directorate of judicial youth protection services (DPJJ); the Ministry of the Interior's Police Unit for the Protection of Children in Paris, Directorate General of National Police, Directorate General of National Gendarmerie, Department for foreigners in France, OCLTI and OCRTEH; French Office for Immigration and Integration (OFII); the French Office for the Protection of Refugees and Stateless Persons (OFPRA); the Ministry of Labour's Directorate General of Labour; the Ministry of Social Affairs and Health's Directorate General of Social Cohesion; the Ministry of Foreign Affairs and International Development; the Prime Minister's secretariat for European affairs; the National observatory on delinquency and crime response.

37. Trafficking in human beings still comes under the remit of several national investigation bodies in the Ministry of the Interior, according to the form of exploitation suffered by the victim. The Central Office for the Suppression of Trafficking in Human Beings (OCRTEH) investigates in respect of sexual exploitation, the Central Office for Combating Illegal Labour (OCLTI) in respect of the suppression of trafficking in human beings for the purpose of labour exploitation, the Central Office for the Suppression of Irregular Migration and the Employment of Irregular Migrants (*Office Central pour la Répression de l'Immigration irrégulière et de l'Emploi d'Etrangers Sans Titre* - OCRIEST) for labour exploitation, but solely of people brought in via clandestine immigration channels, the OCLDI for exploitation for the purpose of committing criminal offences and the Central Office for Combating Environment- and Public Health-related Offences (*Office central de lutte contre les atteintes à l'environnement et à la santé publique* - OCLAESP) for organ removal.¹³ In 2013 the Central Office for Action against Crimes against Humanity, Genocides and War Crimes (*Office central de lutte contre les crimes contre l'humanité, les génocides et les crimes de guerre* - OCLCH) was set up. It combats sexual exploitation and slavery as crimes against humanity and war crimes.¹⁴ These central offices usually are jointly in charge of investigations with local police and gendarmerie units.

38. In addition, the ombudsperson and his deputy, the ombudsperson for children, have tackled some issues directly connected to human trafficking and have highlighted their links, in particular in a report on the fundamental rights of foreigners in France published in 2016 and a report on the situation of migrants in Calais published in 2015.¹⁵

39. The MIPROF is preparing a framework agreement that will set out the outlines of the national anti-trafficking strategy. It will be signed by public authorities, including the competent ministries (the Ministries of the Interior, Justice, Health and Social Affairs, Foreign Affairs, Labour, and National Education) and NGOs. The agreement will produce effects at local level in facilitating the creation of department-level co-ordination units, in line with the action plan. However, these co-ordinating units have not yet been set up. Whilst noting the projects recently undertaken by the MIPROF, GRETA is concerned that these measures were not implemented following publication of GRETA's first evaluation report and recommendations. GRETA considers that the different levels of co-ordination should be promptly set up.

¹³ See the descriptions in GRETA's first evaluation report, paragraph 27.

¹⁴ Decree no. 2013-987 of 5 November 2013 establishing a Central Office for Action against Crimes against Humanity, Genocides and War Crimes.

¹⁵ Available in French at:

[www.defenseurdesdroits.fr/fr/publications?type=7&field_article_date_value\[value\]&theme=&title=&page=1](http://www.defenseurdesdroits.fr/fr/publications?type=7&field_article_date_value[value]&theme=&title=&page=1)

4. National Action Plan

40. The first national action plan against trafficking in human beings (2014-2016) was adopted by the Council of Ministers on 14 May 2014 and is to be implemented until mid-May 2017. The drafting of the action plan was led by the MIPROF, in consultation with institutional and civil society stakeholders.

41. The national action plan contains 23 objectives around three pillars: (i) identifying and assisting victims of THB; (ii) dismantling trafficking networks; (iii) framing public policy on action against THB.

42. In its capacity as national co-ordination body, the MIPROF has the responsibility for the steering of national action plan measures by the partner ministries and institutions, with regard to the activities falling within their respective competence.

43. The evaluation of the first national action plan has been entrusted to the CNCDH as national rapporteur on human trafficking. In 2016 the CNCDH published a first state of play of the fight against human trafficking and exploitation in France.¹⁶

44. The first pillar of the action plan for trafficking victims includes a series of measures to reach out to victims and to help them to enjoy their rights. One of the measures foreseen is the appointment of 50 cultural mediators to facilitate prevention and detection amongst groups at risk of exploitation within different communities and in sectors identified as being at risk. Furthermore, a contact form is to be created to enable investigating services to systematically inform prefectures of "reasonable grounds" for believing that a foreign national is a victim of THB. The training of professionals in the identification and protection of victims is to be reinforced by the creation of specific tools. An awareness-raising policy must also be implemented, targeting the general public and the groups at risk. Furthermore, the action plan lays emphasis on the possibility of remaining in the country for victims who are unable to co-operate. Another important feature is the increasing of victim accommodation capacity. Where children are concerned, the action plan provides for specialised assistance for child victims of THB within the framework of child protection as well as protection measures tailored to minors who have also committed offences.

45. The second pillar focuses on the dismantling of trafficking networks, one of the objectives being to encourage prosecutors' offices to more frequently prosecute persons for this offence, through a circular encouraging the confiscation of traffickers' property. Labour inspectors' remit has already been extended to the reporting of acts of trafficking.

46. The third pillar is aimed at framing public policy on action against THB, which entails the steering and co-ordination of action by the MIPROF, the creation of a fund for victims of trafficking, the integration of people engaged in prostitution, and the creation of department-level systems for steering anti-trafficking operations.

¹⁶ Available in French at: www.cncdh.fr/fr/publications/rapport-sur-la-lutte-contre-la-traite-et-lexploitation-des-etres-humains

47. GRETA notes that a number of measures have been partly implemented, but many others have not yet been acted upon, as is also highlighted by the CNCDH in its report of March 2016, civil society and institutional stakeholders. It is commonly agreed that the main problems are a lack of adequate resources, including those available to the MIPROF, to steer and implement the national action plan's 23 measures and the fact that human trafficking has not been made a political priority, both at ministry and inter-ministerial levels. The authorities stated that a meeting of the national action plan steering committee, scheduled for March 2017 and bringing together the ministries concerned, was intended to provide an opportunity to discuss the strategies envisaged for the second national action plan and would be followed by a meeting of the co-ordination committee in April 2017 where feedback from associations at grassroots level would be discussed. GRETA considers that the French authorities should provide for an independent evaluation of the implementation of the National Action Plans, in order to measure their impact and plan future measures and policies on action against THB. GRETA would like to be kept informed on the adoption of the 2nd National Action Plan on action against THB.

5. Training of relevant professionals

48. In its first evaluation report, GRETA recommended that all concerned professionals (law enforcement agencies, judges and prosecutors, child protection services, staff working in reception centres for refugees and migrant holding centres, staff working in accommodation centres for trafficking victims, diplomatic and consular staff, healthcare professionals, social workers and labour inspectors) periodically attend training courses, in order to improve detection and identification of, and assistance for, victims.

49. Where law enforcement agencies are concerned, both the national gendarmerie and national police have developed online training courses on their respective Intranet sites, intended for all their staff. However, these training courses are not compulsory and it is not possible to tell how many staff have followed them.

50. With regard to trafficking for the purpose of sexual exploitation, since 2014 the Central Office for the Suppression of Trafficking in Human Beings (OCRTEH) has organised an annual five-day training course for 25 investigators from the criminal investigation or public security police services at local level, with a focus on trafficking for the purpose of sexual exploitation, knowledge of networks with a view to dismantling them, identification of victims, care for victims (reception, content of interview reports, assistance from NGOs) with the involvement of the NGO *Bus des Femmes*, international co-operation and special investigating techniques with input from specialised investigators and an investigating judge from JIRS. The course is funded by the Ministry of the Interior. Concerning training materials, the OCRTEH has created a model hearing report for use by investigators receiving testimony from prostituted individuals who may be victims of THB. This document is available on the Intranet site of the Central Division of the Judicial Police. A "pointer" card on THB is also available on the National Police Intranet home page. It resumes the issue and also contains a sample testimony.

51. With regard to THB for the purpose of labour exploitation, the Central Office for Combating Illegal Labour (OCLTI) organises two general training courses a year, each lasting four days. One is for “junior” investigators in the area of illegal work and fraud and comprises two hours on exploitation through labour (working and accommodation conditions contrary to human dignity, remuneration bearing no relation to work carried out, forced labour, servitude and slavery) preceded by an introduction to human trafficking. The other is for more experienced investigators in the area of illegal work and fraud and includes two hours on human trafficking. These training courses are open to police and gendarmerie officers, judicial customs officials (ODJs) and judicial tax officials (OFJs), as well as labour inspectors and inspectors from the Social Security and Family Allowance Contribution Collection Office (*Union de recouvrement des cotisations de sécurité sociale et d'allocations familiales* - URSSAF). Both courses are taught by gendarmes and members of the Labour Inspectorate and the URSSAF. Since 2014, they are taught simultaneously to staff present in the room and via video-conference, enabling a total of 340 investigators a year, including in overseas departments, to benefit from it.

52. A training module on the detection of THB victims has been prepared by the Central Directorate of Border Police (*Direction centrale de la police aux frontières* - DCPAF) on the basis of teaching tools developed by Frontex. It is taught to all new police officers assigned to border policing as part of the module geared to helping them adapt to their first assignment in this role. The training for the covert internet investigators (“cyberpatrollers”) of the Central Office for combating crime linked to information and communication technologies (*Office central de lutte contre la criminalité liée aux technologies de l'information et de la communication* - OCLCTIC) includes two hours on human trafficking.

53. The National School for the Judiciary (ENM) has taught a two-and-a-half day module on THB as part of in-service training since 2010, which includes a global approach to the phenomenon and the criteria for identifying victims. Speakers include various stakeholders involved in anti-trafficking action from the relevant central offices and specialised NGOs, JIRSSs, staff from the MIPROF, as well as international experts. The training is open to judges, prosecutors and also the investigation services.¹⁷

54. Senior protection officers and staff of the French Office for the Protection of Refugees and Stateless Persons (OFPRA) are trained to identify THB-related protection needs. The courses are conducted by, among others, the referral group “THB” created in 2013 in accordance with the Action Plan for reforming the OFPRA. The initial course for new protection officers (139 in 2015-2016, 100 in 2017) includes a training session on vulnerabilities covering the issues of violence against women, human trafficking, sexual orientation and gender identity, torture, and unaccompanied minors. Work and internal guidelines on these specific protection needs are presented in the training (one and a half days in 2015-2016, one day in 2017). The guide on OFPRA procedures contains a section on catering for the special needs of people in vulnerable situations,¹⁸ among others. Further, the Directorate of criminal affairs and pardons of the Ministry of Justice organised a seminar on action against THB with the aim of awareness raising among the judiciary concerning issues related to this phenomenon. Interpreters working for OFPRA are gradually made aware of the specific protection needs of victims of THB.

¹⁷ In 2013, 32 people took the in-service training module on offer at the ENM: 5 judges, 7 prosecutors, 6 members of foreign judicial authorities (under specific agreements), 9 gendarmerie service members and 5 police officials. In 2014, 35 people took the in-service training module on offer at the ENM: 11 judges, 4 prosecutors, 9 members of foreign judicial authorities (under specific agreements), 6 gendarmerie service members and 5 police officials. In 2015, 32 people took the in-service training module on offer at the ENM: 10 judges, 8 prosecutors, 8 members of foreign judicial authorities (under specific agreements), 4 gendarmerie service members and 2 police officials. In 2016, 42 people took the in-service training module on offer at the ENM: 8 judges, 13 prosecutors, 10 members of foreign judicial authorities (under specific agreements), 5 gendarmerie service members and 6 police officials.

¹⁸ https://www.ofpra.gouv.fr/sites/default/files/atoms/files/guide_des_procedures_a_lofpra.pdf

55. The co-ordinating body of the national Secure Reception System (Ac-Sé), providing THB victims with accommodation far from the place where they were exploited, is managed by the NGO ALC (see paragraphs 148-153), which has organised six courses a year on identifying THB victims since 2011, with funding support from the Ministry of Justice and the Ministry of Family Affairs, Children and the Rights of Women. The courses are run in co-operation with partners of the Secure Reception System and/or local NGOs or institutions requesting to participate. They are aimed at operatives in the medical and welfare sectors and also representatives of the law enforcement agencies and the judiciary. In 2014 and 2015, ALC ran five information and awareness-raising sessions for representatives of regions and departments. This initiative has made it possible to develop other regional training sessions organised by department and/or regional delegates for women's rights. ALC has run 40 training sessions and trained 1 027 professionals in 23 towns or cities since 2012. The sessions are attended by representatives of investigation services, department directorates of social cohesion, NGOs, local and regional authorities and the prefectural administration.

56. In addition, in 2016 the Ministry of Justice 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) granted 7 000 euros to the NGO ALC, out of the aid for victims budget, with which to organise four multi-disciplinary training sessions on the topic of identifying and caring for THB victims (for a target audience made up of representatives of the judiciary, the law enforcement agencies and the medical and welfare sector, occasionally or regularly coming into contact with victims of trafficking), and update the training module, devise an instrument for providing information for victims. The instrument takes account of changes in legislation concerning the protection of victims, including the new right of asylum measures and those provided for in the Law of 13 April 2016 on strengthening action against prostitution. It is simply worded and produced in several language versions and two formats: a printed brochure and a video for Smartphones to reach the largest target audience possible.

57. Each year, the Women's Rights and Equality Service of the Ministry of Family Affairs, Children and Women's Rights¹⁹ organises four training courses in Paris for groups of 25 people lasting 1½ days. This programme is supplemented by training run on the ground by ALC, as mentioned above. Staff of accommodation and social reintegration centres (CHRSs) also benefit from training sessions run by the different NGOs specialising in assistance to trafficking victims. In particular, the training programmes focus on the legal framework, the different forms of exploitation, the question of debt and bondage for Nigerian and Roma women, risk assessment, victim identification interviews, victim assistance and protection measures, including in the event of voluntary repatriation, and partnerships tackling trafficking at local level. The training includes presentations, concrete case studies and workshops. The participants are familiarised with indicators and practical tools for better identifying, guiding and/or caring for victims. In 2014, the Women's Rights and Equality Service ran training for all department-level project managers and regional delegates (125 people), which was repeated in 2015. This one-day course covers the challenges posed by human trafficking and identification of, and care for, victims. It is intended to boost the skills and involvement of local and regional teams in anti-trafficking action.

¹⁹

The Women's Rights and Equality Service previously came under the Ministry of Social Affairs.

58. The initial training of labour inspectors and other control officers as currently delivered by the National Institute for Labour, Employment and Vocational Training (INTEFP) contains a module on human trafficking, involving OCLTI trainers, and modules as part of in-service training at regional level. As a follow-up to Order no. 2016-413 of 7 April 2016 on the supervision of labour law enforcement, which asked labour inspectors to report THB offences, a module on THB is to be introduced as part of their initial training with the INTEFP, in conjunction with the MIPROF. GRETA emphasises in this context that it is important to involve specialised NGOs in the implementation of this training, given their long experience of detecting and assisting victims on the ground. Practical methodological tools will be launched in 2017, with plans for a manual for labour inspectors (ILO manual adapted to the French context). A factsheet summarising new developments in legislation in the field of trafficking in human beings has already been produced for inspectors.

59. The Administrative and Consular Affairs Training Institute (IFAAC), which provides in-service training for staff assigned to work in consulates, covers human trafficking in connection with the issue of visas, particularly with regard to minors and domestic staff, the risks of document fraud and civil status registry issues, including the prevention of forced marriages. Before leaving for their posting, staff posted to countries at risk or given a "heightened state of alert" classification (such as Algeria, Bangladesh, India, Mali, Morocco, Mauritania, Niger, Pakistan and Senegal) have their attention specifically drawn to the issue of forced marriages. Where visas issued to girls working as *au pairs* are concerned, the circulars stipulate that the diplomatic post or consulate must ensure that there is a genuine intention to learn French, in order to avoid procedures being abused with a view to importing domestic staff.

60. The French authorities state that police officials working in administrative holding centres or waiting areas or in contact with foreigners illegally present on the territory do not undergo specific training in detecting trafficking victims. However, during their basic training all police staff are trained and made aware of the need to spot any tell-tale signs. With regard to the staff of child protection services (ASE), the authorities emphasised that the guide prepared by the MIPROF (see paragraph 164) was widely distributed by the "unaccompanied minors" unit in order to build awareness of the problem of trafficking and better identify and care for minor victims.

61. In addition, a number of specialised NGOs offer training, within the limits of their resources, for various professionals. One example is the NGO CCEM, which has run information sessions for front-line workers (such as hospital staff, victim assistance offices, social workers and lawyers) on identifying victims of THB for the purpose of exploitation through labour, training 91 professionals in 2015. The NGO *Amicale du Nid* ran three-day training courses at the temporary reception centre in Calais in May, July and September 2016. The *Fondation Scelles* has run training sessions on action against pimping and trafficking for the purpose of sexual exploitation for 80 members of the judiciary and police officers each year since 2011.

62. As noted in paragraph 33, the MIPROF is currently steering several working groups with a view to preparing training tools for professionals coming into contact with THB victims. The first of these, relating to child victims, is now on-line on police, gendarmerie and judiciary Intranet websites. GRETA notes these recent efforts and considers that the authorities should implement these measures without delay.

63. While noting the efforts made to train investigators, GRETA nevertheless points out that civil society stakeholders providing assistance to victims have cited numerous examples where victims had been in contact with law enforcement agencies on the ground but not identified as potential victims, including in cases involving children forced to commit crimes or engage in prostitution, despite undergoing police checks on several occasions. GRETA stresses the importance of developing training for members of law enforcement agencies, including on the ground, particularly since they alone are empowered to carry out the official identification of victims, which serves as the trigger for appropriate assistance and protection measures (see paragraph 128). Furthermore, many civil society interlocutors have emphasised that the notion of human trafficking is still insufficiently known by some judges and prosecutors, in particular the irrelevance of victims' consent to the intended exploitation (see paragraph 233) and the principle of non-punishment of victims having been compelled by traffickers to commit an offence (paragraphs 246-251).

64. GRETA considers that the French authorities should step up their efforts so that all staff concerned undergo regular training, with a view to improving the detection of possible trafficking victims, the official identification of victims and the assistance provided to them. This training should be aimed, *inter alia*, at members of law enforcement agencies, child welfare staff, labour inspectors, the staff of refugee reception centres and detention centres for irregular migrants, social workers, healthcare professionals, diplomatic and consular staff, as well as judges and prosecutors.

6. Data collection and research

65. In its first evaluation report, GRETA was concerned by the lack of official statistics specifically related to trafficking victims in the absence of inventories of trafficking victims as regards the different types of exploitation. This situation went on until 2016, with the only data collected being those of the Central Office for the Suppression of Trafficking in Human Beings (OCRTEH) concerning only to victims of trafficking for the purpose of sexual exploitation.

66. The statistics departments of the Ministry of Justice and the Ministry of the Interior have been working together since the beginning of 2015 to align data in priority areas, which include trafficking in human beings. In order to set up a statistical tool (measure 20 of the national action plan) a working group co-managed by the National Observatory of Delinquency and Criminal Law Responses (ONDRP), an independent public body, and the MIPROF, which brings together the Ministry of Justice, the Ministry of the Interior and the NGOS of the *"Ensemble contre la traite"* collective, established a set of statistical indicators for quantifying THB victims at different stages of criminal case proceedings (identification, prosecution, conviction). Some data are already available on prosecutions and convictions, as well as on recovery and reflection periods and residence permits. Other data are still not yet available though, such as data on compensation granted by criminal courts and labour tribunals.

67. This working group has mapped the bodies and NGOs providing assistance to victims and the initiatives taken by the different stakeholders in France. A questionnaire drawn up by the working group has been sent out to 58 specialised NGOs to receive statistical feedback on victims,²⁰ residence permits, co-operation and problems encountered during the period 2014-2015. The first findings are due in May 2017.

²⁰ The definition of victim used for the needs of the questionnaire distinguishes between potential victims, in cases where the NGO has not met them directly, victims spotted by the NGO but not receiving assistance from it, and victims supervised by the NGO, with no personal data included in any of these categories.

68. Noting the efforts made to obtain statistical data relating to trafficking in human beings, particularly by involving the NGOs, GRETA urges 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 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. Statistics regarding victims should allow disaggregation concerning not only sex, age, country of origin and/or destination, but also type of exploitation. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.

69. Where research work is concerned, the aforementioned mapping of bodies and NGOs assisting victims will be supplemented by qualitative and quantitative studies on the ground with regard to sites at local level. In addition, the authorities mentioned two parallel studies. The first of these will concern France, Belgium, Bulgaria and Italy, and will be a comparative study financed by the European Commission on the financial aspects of criminal organisations involved in THB. Its geographical focus would be limited to the Ile-de-France region, with a foreseen duration of two years. The second study is to focus on children who are perpetrators/victims of forced offending but the ONDRP is currently considering its feasibility.

70. The French authorities mention reports produced annually by the Central Office for the Suppression of Trafficking in Human Beings (OCRTEH) on prostitution and its exploitation in France, for in-house use within the Ministry of the Interior but forwarded to the MIPROF and to certain accredited bodies tasked with research into this form of crime. Furthermore, the Directorate General of the National Gendarmerie (DGGN) offers a subject linked to THB as a thesis subject for students at the College for national gendarmerie officers (EOGN) studying for a Masters II (2nd year of two-year master's degree) or university degree as part of their education.

71. Civil society regularly publishes reports in connection with THB in France. Examples are the studies published in 2016 by ECPAT France on child victims of trafficking in France²¹ and by the NGO *Trajectoires*, for UNICEF France, on the situation of unaccompanied children in the migrant camps in northern France.²² In addition, a Franco-German research project entitled ProsCrim and focusing on trafficking for the purpose of prostitution and the institutional response is on-going, thanks to funding from the French National Agency for Research (ANR) and its German counterpart (*Deutsche Forschungsgemeinschaft* - DFG). The Secours Catholique-Caritas France organisation has also published a report on trafficking in human beings in conflict and post-conflict situations, shedding light on the different communities of migrants in France.²³ In the same context, a study on human trafficking for the purpose of domestic work is noteworthy in that it highlights the under-reporting and lack of detection of victims of this form of exploitation.²⁴

72. GRETA considers that the French authorities should provide further support and more funding for research into human trafficking and the different types of exploitation, notably exploitation through labour and child trafficking.

²¹ « Mineurs et traite des êtres humains en France – De l'identification à la prise en charge : Quelles pratiques ? Quelles protections ? » (Minors and trafficking in human beings in France – from identification to care: practice and protection), B. Lavaud-Legendre & A. Tallon, published with the support of ECPAT France, *Chronique sociale* (2016).

²² « Ni sains, ni saufs : enquête sur les enfants non accompagnés dans le Nord de la France » ("Neither safe nor sound: survey of unaccompanied children in northern France"), O. Peyroux, A. Le Clève, E. Masson Diez, published by the NGO *Trajectoires* and UNICEF France (2016). Available in French at: https://www.unicef.fr/sites/default/files/atoms/files/ni-sains-ni-saufs_mna_france_2016_0.pdf

²³ "Trafficking in human beings in conflict and post-conflict situations", O. Peyroux, Secours catholique – Caritas France (2016). Available at: http://www.secours-catholique.org/sites/scinternet/files/publications/anglais-teh-situationsdeconflits-bd_0_0.pdf

²⁴ Available in French at: www.demandat.eu/sites/default/files/D8.11_PolicyBrief_F%20Levy%28June2016%29.pdf

III. Article-by-article findings

1. Prevention of trafficking in human beings

73. In its first evaluation report on the implementation of the Convention by France, GRETA considered that the French authorities should raise awareness of trafficking in human beings among the public at large through information campaigns and strengthen their efforts to discourage demand for services provided by persons who have been trafficked for the purposes of sexual exploitation and labour exploitation.

a. Measures to raise awareness of THB (Article 5)

74. No nationwide campaigns to raise awareness of trafficking in human beings have been conducted by the French authorities since the last evaluation, despite the fact that the National plan of action against trafficking, adopted in May 2014, provides for measures reinforcing prevention policy through information, awareness-raising and training initiatives (measure 3). Various actors, such as the *"Ensemble contre la traite"* collective and the French Senate Delegation for women's rights, advocate for trafficking in human beings to be declared a "major national cause" in order to give impetus to a large-scale drive to raise public awareness.

75. At local level, is the example of the city of Nantes which ran a poster campaign in 2012 to draw public attention to the exploitation of people caught up in prostitution. GRETA notes that Paris City Council and the CCEM launched a poster campaign under the banner of "Slave today in France" to mark the 10th European Anti-Trafficking Day in 2016, with the support of the Prime Minister, the Ministry of Foreign Affairs and International Development, the Ministry of Justice, the Ministry of Family Affairs, Children and Women's Rights and the Ile-de-France region. In Marseille, the NGO International Organisation against Modern Slavery (*Organisation internationale contre l'esclavage moderne* - OICEM) prepared a brochure to create better understanding of trafficking in human beings in 2015, with the support of the Bouches-du-Rhône department's directorate for social cohesion. The brochure provided information on the different forms of exploitation, indicators and points of contact. Also in 2015 the NGO *RUELLE* organised a photo-exhibition in Bordeaux and a conference around it featuring the THB victims assisted by the NGO.

76. GRETA notes that measures to raise awareness of THB continue to rely essentially on the NGOs which carry out initiatives on a scale commensurate with their resources, sometimes with local authority support. The *"Ensemble contre la traite"* collective published a book entitled *"Les nouveaux visages de l'esclavage"* (the new faces of slavery) put together by two journalists in 2015 to educate a broader public, for example. This collective also launched a film and an awareness-raising pedagogical tool with the support of the OFPRA on child trafficking in France in 2016 (see paragraph 90). Ad hoc awareness-raising campaigns are organised by various NGOs, such as the one run by the NGO *Mouvement du Nid* during the European football championships in France in 2016 ("It's a trick in more than one way"), in partnership with Paris municipality and the Ministry of Family Affairs, Children and Women's Rights, using posters and postcards handed out in the fan-zones.

77. Although the NGO *Amicale du Nid* ran two training sessions for supervision staff at the Jules Ferry Centre in Calais (see paragraph 61), there have been no measures to raise awareness of the risks of trafficking in human beings of migrants and asylum seekers, in Calais or other refugee camps.

78. GRETA considers that the French authorities should raise the awareness of the general public as well as of target groups of trafficking in human beings and the different types of exploitation. It considers that the authorities should organise national information and awareness-raising campaigns to this end, involving civil society and using the findings of research and impact assessments. Provision should also be made for impact studies to evaluate the effectiveness of the campaigns organised.

b. Measures to prevent THB for the purpose of labour exploitation (Article 5)

79. The National action plan against illegal labour (2013-2015) made a focal point of combating fraud involving secondment, while not expressly mentioning trafficking in human beings. During the action plan's reference period, the Law of 10 July 2014 strengthening action against unfair corporate competition and the Law of 6 August 2015 for economic growth, business activity and equal opportunities reinforced employers' obligations regarding seconded employees. Any employer established in another country wishing to second employees to France must now make a declaration of secondment, failing which they are liable to a fine of up to 500 000 euros. In addition, building owners and head contractors have been made liable in respect of the subcontracting chain (see paragraph 112). The Labour Inspectorate can also order the suspension of an international service in the event of a serious breach of key rules of labour law.

80. In view of the finding of the National action plan against illegal labour (2013-2015) that the secondment of workers may be at the origin of serious violations of fundamental workers' rights, one of the priority objectives of the current National action plan against illegal labour (2016-2018) is to detect and eradicate conditions of accommodation, remuneration and work contrary to human dignity which are inflicted on the most vulnerable workers (for example foreign nationals, people with disabilities and young people), including in situations of trafficking and/or forced labour. To achieve this objective, the plan provides for awareness-raising and measures to implement the obligation of vigilance and results laid down for building owners and head contractors where accommodation is concerned, as well as the concluding of a partnership convention on action against trafficking in human beings between employers' organisations, trade unions and chambers of commerce and industry²⁵ in conjunction with the MIPROF, as provided for in the national action plan against trafficking. This convention is currently being negotiated between the different partners.

81. In addition, the current National action plan against illegal labour emphasises training for labour inspectors for their new task of detecting trafficking situations assigned by Article L8112-2 of the Labour Code as amended by Decree no. 2016-413 of 7 April 2016 on supervision of labour law enforcement (see paragraph 134).

²⁵ The chambers of commerce and industry are state public establishments with the role of representing private-sector actors in the different areas of the economy (agriculture, handicrafts, trade and industry) and carrying out support activities such as regional development on their behalf.

82. Furthermore, the National action plan against trafficking provides for the designation of a THB contact person in each regional branch of the Labour Inspectorate, to make employers aware of the consequences of employing trafficking victims. These regional branches are the result of a recent overhaul of the Labour Inspectorate, geared to reinforcing action at local level.²⁶ This tighter network across the country should enable specialised staff to take a proactive approach, including to combat illegal work and the most serious violations of workers' fundamental rights, such as forced labour, labour exploitation and abuses of employees' vulnerability. In reply to the draft report, the authorities specified that the THB contact persons were the heads of regional labour inspectorate services and that training modules were being prepared and would soon be available to inspection staff, both during their basic training and for in-service training. Once training and awareness-raising have been carried out for staff in all regions, the contact persons will be responsible for running this network with a view to detecting situations where victims were being exploited and/or defrauded.

83. Law no. 2016-1088 of 8 August 2016 on work, modernisation of social dialogue and the safeguarding of career paths inserted Article L1262-4-5 in the Labour Code, which stipulates, *inter alia*, that, on building sites, the building owner must 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 workers, failing which they are liable to an administrative fine of up to 2 000 euros per seconded worker and up to 4 000 euros for a repeat offence within one year of the notification of the first fine, with the total amount of the fine capped at 500 000 euros (Article L1264-3 of the Labour Code). In addition, Article L8271-3 of the Labour Code enables inspection staff to be accompanied by interpreters during inspections. In the event of a failure to declare seconded staff, labour inspectors may refer the matter to the competent administrative authority, which may suspend the services provided for up to one month (Article L1263-4-1).

84. Domestic employees of foreign nationality (other than from EU and EEA states, who come under ordinary law) working for diplomatic staff must hold a long-stay visa ("*visa D carte PROMAE*") issued to them before they come to France, which will enable the Protocol department of the Ministry of Foreign Affairs to process their file with a view to issuing a "private staff"-category special residence permit. The employee is asked to come to collect, in person and after an individual interview, the "private staff"-category residence permit, which is valid for a maximum of one year. It is renewable under the same procedure as the other special cards, and is granted following another individual interview. The Protocol department emphasises the absolute obligation to leave the employee's passport and special residence permit freely at their disposal. If the work contract is terminated, the Protocol department must be notified, the "private staff" residence permit will be withdrawn, and the costs of the employee's return journey must be covered by the employer. Exceptionally, a new recruitment application for the same employee may be submitted by another employer, even from a different mission, as long as the application is made to the Protocol department within the month following the termination of the previous employment. A reminder of the requirements for bringing domestic staff into France was given to the diplomatic missions accredited in France, international organisations with their headquarters in France and permanent delegations and representations to those organisations, in a *note verbale* of 26 March 2015. The note points out that the offences of slavery, servitude and forced labour were incorporated in the Criminal Code in 2013. The French authorities have stated that there are currently 130 domestic employee application files logged with the Protocol department.

²⁶ A support and supervision unit for illegal labour issues (*unité d'appui et de contrôle sur le travail illégal* - URACTI) has been set up in each region, as well as sectoral supervision or theme-based units if these are required to support department and, where applicable, inter-department units. In addition, a national monitoring, support and supervision group (*groupe de veille, d'appui et de contrôle* - GNVAC) has been set up with the task of providing support for operations requiring special expertise, assisting services, carrying out specific checks or co-ordinating checks.

85. Where other domestic employees working for private individuals are concerned, numerous cases of domestic servitude are reported, but the scale of the problem remains unclear.²⁷ The supervising agencies, including the Labour Inspectorate, are not empowered to carry out inspection visits in private houses unless they have obtained a search warrant from the prosecutor. The institutional interlocutors have stressed that this is a complex and highly exceptional procedure, that a strong presumption of trafficking was required and, in practice, the Labour Inspectorate would be supporting an operation carried out by the investigation services. They cited the example of an operation carried out by a gendarmerie unit at the home of a Serbian national suspected of using workers who were present illegally, for which the Labour Inspectorate had only provided support.

86. GRETA considers that the French authorities should:

- guarantee that training is 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 full implementation of Decree no. 2016-413 of 7 April 2016 on supervision of labour law enforcement;
- ensure that inspections in private homes can be facilitated to prevent abuses of domestic employees and detect trafficking cases.

87. Further, GRETA invites the authorities to continue working in close co-operation with the private sector and trade unions in order to encourage corporate social responsibility on the part of companies, in accordance with the Guiding Principles on Business and Human Rights.²⁸

c. Measures to prevent trafficking in children (Article 5)

88. Identifying children at risk now forms an integral component of the basic and further training in teacher training colleges and higher education institutions and is aimed not only at primary and secondary school teachers but also heads of schools and other people working in schools, including school nurses and doctors. In reply to the draft report, the authorities said that these training courses cover different angles, such as children's rights or spotting children in danger or at risk and assessing their situation, and the approach to be taken by professionals. They must cater for the different situations that may arise (including trafficking and exploitation) and possibly place children in danger.

89. Furthermore, awareness is raised among children through presentations, particularly in schools, proposed by specialised NGOs. By way of example, the NGO CCEM has participated in raising awareness in schools of the dangers of trafficking for the purpose of labour exploitation through talks, workshops or presentations on topics related to slavery. The NGO *Amicale du Nid* carries out prevention work among young people to raise awareness of the risks of engaging in prostitution, informing them of the causes and personal consequences of recruitment for the purpose of sexual exploitation by a trafficker. The NGO IPPO received funding from the department council of Gironde to carry out such awareness-raising activities. According to the Directorate General of Social Cohesion, initiatives to raise awareness of the reality of the phenomenon of prostitution were organised for 6 932 pupils in 2015.

²⁷ "La traite des êtres humains dans le travail domestique en France, un phénomène sous-estimé" (trafficking in human beings in domestic service in France, an underestimated phenomenon) F. Levy (2016), published as part of the "Addressing demand in anti-trafficking efforts and policies (DemandAT)" project funded by the European Commission: http://www.demandat.eu/sites/default/files/D8.11_PolicyBrief_F%20Levy%28June2016%29.pdf

²⁸ Guidelines implementing the United Nations "Protect, Respect and Remedy framework", HR/PUB/11/04, United Nations, 2011, available at: www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

90. Also noteworthy is the initiative of the "*Ensemble contre la traite des êtres humains*" collective, which launched a film and a pedagogical tool for raising public awareness of trafficking in children on 6 October 2016.²⁹ This detailed collection of material contains a list of tell-tale signs for spotting children who are potentially trafficking victims, a fact or fiction section, factsheets on the different forms of exploitation and useful contacts including the free phone number 119 – "children at risk".

91. In order to provide information for services responsible for anti-trafficking efforts, the BPM has drawn up a guide in partnership with ECPAT France, updated in 2013, to raise awareness across multiple disciplines of the sexual exploitation of children.

92. Regarding the protection of unaccompanied children, who are particularly vulnerable to trafficking their placement in shelters is the responsibility of the child protection services of each department council and hinges on an assessment of their personal situation, including their vulnerability and their age. Each department has a unit responsible for collecting information giving cause for concern with regard to children (*cellule de recueil des informations préoccupantes* - CRIP) to which all information concerning a worrying situation must be reported. The unit passes on any information on situations requiring swift intervention to the "minors" section of the competent prosecutor's office in order to obtain a temporary placement order (Article 375-5 of the Civil Code). Generally speaking, the children's judge may be required to take educative assistance measures (Article 375 of the Civil Code) or order temporary placement. The CRIPs are also responsible for organising the supervision of children in danger, via the child welfare services. In addition to the aforementioned national education system staff, staff of the gendarmerie and police, the judicial youth protection services and child welfare services are under obligation to report unaccompanied children pursuant to Article L226-2-1 of the Social Action and Families Code. The issue of age assessment is analysed in paragraphs 172-173.

93. In 2013, a protocol was drawn up between the State and the Assembly of French departments in order to introduce a national system for taking young people into protection and assessing and referring them, and for ensuring the even geographical spread of care measures, since the arrivals of children tended to be concentrated in certain departments. An inter-ministerial circular on mobilising state services in support of department councils with regard to children, temporarily or definitively without the protection of their family and individuals presenting themselves as such was published on 25 January 2016. GRETA notes that the inter-ministerial circular reports substantial difficulties in providing care for unaccompanied foreign children owing to the increase in the number of persons received, which rose from an average of 400 a month in 2013-2014 to 480 a month in 2015, and also to administrative barriers encountered in procedures to obtain access to healthcare, schooling and vocational training for the young foreigners assisted by department councils.

²⁹

["#INVISIBLES, the child victims of trafficking in human beings in France"](#)

94. By way of example, in the Nord department visited by the GRETA delegation, the task of receiving and assessing children is entrusted to the assessment and protection platform (*plateforme d'évaluation et de mise à l'abri* - EMA) comprising five professionals with different training backgrounds. Unaccompanied children may come before the EMA at their own initiative for an initial interview, after which a date is set for an interview to assess their degree of vulnerability and their age, with an interpreter if required. In principle, the assessment must take place within five days but, according to certain civil society interlocutors, the waiting time may be longer. Article 5 of the decree of 17 November 2016 stipulates that "The assessor is attentive to all signs of exploitation or influence of which the asseesse may be victim. (...)". Once the assessment has been carried out, a protection measure will make it possible to place the children in a shelter. The department council currently has some 80 places spread between several shelters managed by civil society organisations. Child Welfare Agency shelters handle emergency situations, and in particular those involving all girls and boys under 14 years of age, who are systematically considered as being in a situation of vulnerability. Nevertheless, despite a recent increase in the places available, there is a shortage of places in shelters, meaning that the accommodation of these young people relies on the civil society network. A total of 591 dossiers were processed in 2015 and over 600 in the first half of 2016. A partnership arrangement is being set up between the department council, the prefecture, the public prosecutor for juvenile offences, the children's judge, the national education system and the judicial youth protection services. At the same time, the number of places available will be increased to 350 in 2017.

95. The GRETA delegation visited the Calais refugee camp, subsequently dismantled by the French authorities in October 2016. At the time of the visit, it was estimated that 863 children were at the camp. When the camp was dismantled estimates ranged to up to 1 300 children.³⁰ At that time there was a shelter for women with children with a capacity of 200 places, of which 50 or so were occupied by unaccompanied minor girls. The shelter included a prefabricated building serving as a school for the camp's children. Supervision in that shelter was provided by four female educators. In addition, the provisional reception centre, with a capacity of 1 500 places and intended for adults, ultimately housed 200 unaccompanied boys. However, supervision in the provisional reception centre was provided by only one full-time educator and another working part-time. Sheltered accommodation possibilities were chiefly in a shelter located in Saint-Omer. The centre for young refugees managed by the NGO *France Terre d'Asile* (FTDA), with a capacity of 45 places for young people over 15 years of age, plus 38 places spread between 11 flats for young people learning to become independent. Young people taken in are taught French in the shelter and then join the national education system, going to local schools. GRETA is particularly concerned that a large proportion of the children present at the camp did not have any special supervision, safe accommodation or designated guardians and that no warning system was in place to prevent unaccompanied children going missing, or to trigger urgent follow up measures. In this respect, GRETA also notes the insufficient accommodation within the social welfare services (ASE) adapted to the situation of vulnerable children in general (see also paragraph 167). However, GRETA notes that OFPRA teams, more often than not including experienced contact persons from the "Unaccompanied minors" and "Trafficking in human beings" groups were mobilised in 2015 and 2016 to provide information to the migrants present in the Calais "jungle" camp, the Grande-Synthe area and other camps located in the Nord prefecture area on the asylum procedure in France and the possibilities of being moved to shelters providing decent and appropriate conditions. This outreach work was carried out on a weekly basis in Calais and twice a month in Grande-Synthe, and a system was introduced, in collaboration with the associations operating on the ground and the state authorities, for identifying individuals who were particularly vulnerable, especially unaccompanied minors, and giving them priority access to shelter, asylum and child protection. It was reinforced by the constant presence of OFPRA teams when the southern zone of the Calais "jungle" camp was dismantled in February 2016 and again during the operation to protect vulnerable individuals at the end of October 2016, with "Unaccompanied minors" and "THB" contact persons heavily involved.

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<https://www.unicef.fr/contenu/espace-medias/enfants-de-calais-un-demantelement-et-apres>

96. GRETA is alarmed to learn that children had remained unaccompanied for several days after the Calais camp had been dismantled. In reply to the draft report, the authorities stated that, following the operations to dismantle the Calais “jungle” camp on 2 November 2016, to close the temporary shelter and the “Jules Ferry” centre, specific and exceptional arrangements were introduced for children who were unaccompanied or describing themselves as such. A total of 1 922 young people, of whom 151 were girls, were allocated between the 73 Reception and referral centres for unaccompanied minors (*Centres d'accueil et d'orientation pour mineurs isolés* - CAOMIs) located in 50 departments. These temporary shelters, created by the circular of 1 November 2016, take in unaccompanied minors for an estimated three months. The authorities stressed that the CAOMIs ensure that the minors are safe, and the facilities have round-the-clock security. They also ensure that minors are identified and their needs, particularly medical and psychological, are catered for. A multidisciplinary team consisting of social workers (specialist educators, welfare officers), psychologists and interpreters handle the tasks allocated to the CAOMIs, in some cases with the help of volunteers (for the learning of French, translation, activities or legal assistance). This is an ad hoc arrangement which is not intended to last, and referrals to welfare services are in progress. At 31 January 2017, 839 young people were accommodated in CAOMIs. The assessment of whether they are children and unaccompanied, with a view to them qualifying for child protection under ordinary law, is carried out by the council of the department in question, once the option of their being taken in by the United Kingdom has been definitively ruled out, under the rules of the new system established by the circular of 31 May 2013³¹. Age assessments conclude in more than 60% of cases that the subjects were of adult age. These adults are referred to reception and referral centres so that they can receive assistance with asylum or assisted return procedures. Those assessed as minors are referred to the child welfare services, in accordance with the law. They may also lodge an asylum request in their name, with the assistance of an ad hoc administrator designated by the General Prosecutor. Some 500 minors from CAOMIs were transferred to the United Kingdom by 7 February 2017.

97. GRETA notes however that the Human Rights Ombudsman issued a report on 20 December 2016 on the dismantling of the camp in Calais, noting that the interests of children had not been treated as a priority in that process. Noting that the situation of minors placed in CAOMIs is an exception to ordinary child protection law, it recommends that the authorities grant the young people accommodated in CAOMIs a legal, administrative or judicial status and guarantee them access to rights, education and health.³² GRETA is of the opinion that any future dismantling of refugee camps should be forestalled until all of the assistance measures for unaccompanied children provided for in the Convention are in place.

98. Besides the Calais camp, there are other refugee camps of varying size, particularly on the coastline of the English Channel, where the situation of unaccompanied children is also critical, as underlined by the recent report published by UNICEF in 2016,³³ which points out that children are at risk of multiple forms of violence and are victims of sex attacks. Among the recommendations made in its report, UNICEF calls on the authorities to create a place of onsite protection, which is secure and specific to unaccompanied children, with support enabling young people, *inter alia*, to receive all relevant information on their rights and forge a bond of trust with camp workers for the provision of psycho-social activities and the first steps towards an eventual family reunification. Another recommendation is to increase and co-ordinate rounds carried out by trained staff in all the camps to detect vulnerable children.

³¹ Assessment of whether individuals are actually children and unaccompanied by the British Home Office is governed by the rules of British law.

³² <http://www.defenseurdesdroits.fr/sites/default/files/atoms/files/rapp-demantelement-v6.pdf>

³³ “Ni sains, ni saufs : enquête sur les enfants non accompagnés dans le Nord de la France” (Neither safe nor sound: survey of unaccompanied children in northern France), O. Peyroux, A. Le Clève, E. Masson Diez, published by the NGO Trajectoires and UNICEF France (2016). Available at: https://www.unicef.fr/sites/default/files/atoms/files/ni-sains-ni-saufs_mna_france_2016_0.pdf

99. While no problems have been reported with regard to the registration of births at the civil status records office in mainland France, registering births within the deadlines set appears to be a problem at times in the departments of French Guiana³⁴ and Mayotte³⁵, resulting in insecure personal situations and hampering access to education, among other things. GRETA stresses the need to ensure that all children are registered with the civil status records office so that they are not made vulnerable to trafficking.

100. GRETA recognises the measures taken to raise awareness of trafficking in children and notes that the States parties have a positive obligation to identify potential trafficking victims, particularly children, and to ensure that a safe environment is afforded to all children in order to make them less vulnerable to trafficking, GRETA urges the French authorities to:

- ensure that unaccompanied children benefit from effective care arrangements, including accommodation, access to education and healthcare, so that they are not exposed to risks of trafficking, as well as providing them with adequate legal assistance.
- step up their efforts to prevent the trafficking of children, not only for the purpose of sexual exploitation but also for other types of exploitation, such as forced labour, forced begging or forced offending, particularly by raising awareness of such types of trafficking among the operatives potentially coming into contact with children.

d. Measures to prevent trafficking for the purpose of organ removal (article 5)

101. GRETA notes that while trafficking in human beings for the purpose of organ removal as defined by the Convention and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs³⁶ are distinct crimes, they share similar root causes, such as shortage of organs to meet demand for transplants and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and vice versa.³⁷ Among the necessary preventive measures, GRETA underlines the importance of a robust and transparent system for the removal and transplant of human organs and the need for training of health-care professionals. GRETA also stresses the importance of conducting a thorough investigation of each case where there is information or suspicion of trafficking for the purpose of organ removal, paying attention to the abuse of the vulnerability of the “donor” and ensuring that “donors” are treated as victims of trafficking in human beings. GRETA encourages France to sign and ratify the Council of Europe Convention against trafficking in human organs as this would contribute to preventing trafficking for the purpose of organ removal.

³⁴ See the report by the Human Rights League of France (Ligue des droits de l’Homme – LDH) « La carence institutionnelle dans l’établissement de l’état civil, vecteur d’atteintes à l’accès aux droits dans l’Ouest guyanais » (Institutional failings in the establishment of civil status, a barrier to access to rights in West Guiana) (2015) available at: <http://www.ldh-france.org/wp-content/uploads/2015/04/RAPPORT-DE-MISSION-final.pdf>

See also the report of the mission of the Human Rights Ombudsman on equal access to rights and public services in French Guiana: http://www.defenseurdesdroits.fr/sites/default/files/atoms/files/guyane_compte_rendu_fevrier_2015.pdf

³⁵ See the report of the Human Rights Ombudsman:

http://www.defenseurdesdroits.fr/sites/default/files/atoms/files/dde_mayotte_2015_definitif.pdf

³⁶ Opened for signature in Santiago de Compostela on 25 March 2015.

³⁷ See the joint study by the Council of Europe and the United Nations “Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs” (2009), particularly pages 55 and 56; and the thematic study by the OSCE “Trafficking in human beings for the purpose of organ removal in the OSCE region: Analysis and Finding”, OSCE Occasional Paper No. 6 (2013).

102. Following the amendments made by Law no. 2013-711 of 5 August 2013, Article 225-4-1 of the Criminal Code includes the removal of organs among the types of exploitation constituting the offence of trafficking in human beings. Obtaining an organ from someone in return for payment, in whatever form, is punishable by seven years' imprisonment and a fine of 100 000 euros (Article 511-2 of the Criminal Code, reiterated in Article L1272-1 of the Public Health Code). The same applies to acting as an intermediary in such a process or selling an organ from the body of another person. The same penalties are applicable when the organ obtained for payment comes from another country. Attempts to commit these offences are punished in the same way. The removal or attempted removal of an organ with a view to donation, without the consent of the person or authorisation in the conditions provided for in the Code, is punishable by seven years' imprisonment and a fine of 100 000 euros (Article 511-3 subparagraph 2 of the Criminal Code, reiterated in Article L1272-2 of the Public Health Code).

103. Natural persons incur an additional penalty in the form of a ban, for a maximum period of 10 years, on conducting a professional or social activity in the exercise or course of which the offence was committed. Legal persons may be declared criminally liable for the offence and incur a fine (as per Article 131-38 of the Criminal Code), and the penalties mentioned in Article 131-9 of the Criminal Code, namely a ban on conducting the professional or social activity in the exercise or course of which the offence was committed. Furthermore, the removal of organs in an establishment not having obtained the authorisation stipulated in Article L1233-1 of the Public Health Code or following the withdrawal or suspension of that authorisation is punishable by two years' imprisonment and a fine of 30 000 euros (Article 511-7 of the Criminal Code, reiterated in Article L1272-5 of the Public Health Code).

104. The OCLAESP is competent for public health violations, including offences of trafficking for the purpose of organ removal punishable under Article 225-4-1 of the Criminal Code. The OCLAESP has never had a case referred to it, alone or jointly with another body, relating to an offence of trafficking for the purpose of organ removal. It has a group of cyber patrollers to spot suspect cases on the Internet.

105. The Biomedicine Agency has the tasks of supervision, guidance, assessment and information in its fields of competence, which include the removal and transplantation of organs. The removal and transplantation of an organ entail the donor (resident in France or a foreigner travelling to France) being examined, interviewed by a committee of experts (doctor, psychologist, representative of civil society and, where children are concerned, paediatricians appointed by ministerial decree) who question the donor, and a judge examining the family link (close family and other relatives) before a decision is taken. A further safeguard relating to kidney transplants, in place since 2006, involves a questionnaire sent by the Biomedicine Agency to authorised establishments every two years to check whether people on waiting lists for kidney transplants return from abroad with a transplanted kidney. The sending of this questionnaire is also a means of raising awareness in the establishments concerned.

106. GRETA has not been informed of any special training measures for the medical staff concerned regarding trafficking for the purpose of organ removal.

107. GRETA invites the French authorities to strengthen awareness-raising measures aimed at health professionals involved in the transplantation of organs and other relevant professionals regarding trafficking for the purpose of organ removal.

e. Measures to discourage demand (Article 6)

108. The French authorities have referred to Law no. 2016-444 of 13 April 2016 on strengthening action against prostitution and providing assistance to persons engaging in prostitution which according to them will contribute to reducing demand for the services of victims of trafficking for sexual services by incorporating an offence in the Criminal Code punishing the purchase of sexual services. This offence will be punished with a fine of up to 1 500 euros and of up to 3 000 euros for a repeat offence (Article 611-1 of the Criminal Code). In addition, under the new Article 225-12-1 of the Criminal Code, a repeat offence within one year of the expiry or limitation of the first offence incurs a fine of 3 750 euros. The same article stipulates that the purchase of sexual services from a person engaging in prostitution, including on an occasional basis, if that person is a minor or has a particular vulnerability due to an illness, a disability, an impairment or a state of pregnancy, apparent or known to the offender is punishable by up to three years' imprisonment and/or a fine of up to 45 000 euros.

109. The Law of 13 April 2016 incorporates in the Criminal Code an obligation to attend a course raising awareness of action against the purchase of sexual services, which may be ordered as an ancillary measure to help prevent reoffending (Article 131-16 9°bis of the Criminal Code).

110. This law also incorporates Article L312-17-1-1 in the Education Code, stipulating that information on the realities of prostitution and the dangers of selling one's body must be dispensed in secondary schools (to children over the age of 11 years).

111. Concerns were raised by some interlocutors as to the possible impact of the criminalisation of purchase of sexual services on identification of victims of THB. GRETA emphasises that it will be important to analyse the impact of criminalising the purchase of sexual services on the identification of trafficking victims, the protection and assistance provided to them and prosecutions of traffickers. It will also be advisable to continuously assess the effects of criminalising the purchase of sexual services on the identification of victims of trafficking, the protection and assistance given to them, as well as the prosecution of traffickers. GRETA considers that the French Authorities should continuously evaluate the effects of criminalising the purchase of sexual services on the reduction of demand for services provided by victims of trafficking and more widely on the phenomenon of THB for sexual exploitation.³⁸

112. A bill on due diligence by parent companies and principal companies operating with subcontractors was adopted on 21 February 2017 on its final reading by the National Assembly. It provides for the creation of an obligation for certain companies³⁹ to introduce a vigilance plan "geared to identifying and obviating risks of violations of human rights and fundamental freedoms, serious physical harm or environmental damage or health risks resulting from its activities and those of companies under its direct or indirect control, as well as the activities of subcontractors or suppliers over which they exert decisive influence". The text also sets out the mandatory content of the vigilance plan in detail. Moreover, the company's civil liability under ordinary law will be incurred in the event of failure to fulfil the newly created obligations.

113. GRETA welcomes the efforts made in France to discourage demand and considers that the French authorities should continue to strengthen their efforts to discourage demand for services provided by persons subjected to trafficking for the purpose of any form of exploitation, in partnership with the private sector and civil society, including trade unions and employers.

³⁸ On this point, see the Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of France, 25 July 2016, paragraph 26(f) regarding the possible adverse effects of criminalising clients

³⁹ "Any company employing, upon the closure of two consecutive financial years, at least 5 000 employees within the company itself and in direct or indirect subsidiaries whose head office is in France, or at least 10 000 employees within the company itself and in direct or indirect subsidiaries whose head office is in France or abroad."

f. Social, economic and other initiatives

114. In its first report, GRETA called on the French authorities to take socio-economic measures for groups vulnerable to trafficking, be it for the purposes of sexual or labour exploitation.

115. The Directorate General of Social Cohesion has implemented a number of measures monitoring the situation of individuals engaged in prostitution. In 2015, 56 bodies carried out initiatives aimed at outreach to, reception of and assistance for prostitutes, providing support for 13 649 people in this way.

116. Local teams promoting women's rights (at the levels of regions and departments) back up action against prostitution and support measures for people working as prostitutes. The reception of and healthcare and social assistance for these people are the priority areas of this work, accounting for 75% of expenditure. A national survey (the "*Egactiv*" survey) carried out each year within the women's rights network identifies the bodies receiving funding, the nature of the initiatives carried out, the number of beneficiaries and the financial data. In 2015, 71 departments carried out initiatives to prevent and combat prostitution for a cost of around 1 670 000 euros, which made it possible to fund 138 structures, chiefly NGOs. Eight regions consumed 85% of the funding earmarked for action against prostitution in 2015.⁴⁰ Many NGOs, including IPPO and CEID in Bordeaux, the *Mouvement du Nid*, through its branch in Lille for example, the *Bus des Femmes* in Paris and the *Amicale du Nid* present in several cities, are in contact with persons engaging in prostitution on a daily basis, providing them with information and offering them support.

117. Law no. 2016-444 of 13 April 2016, on strengthening action against prostitution and providing assistance to persons engaging in prostitution, stipulates that a route out of prostitution and into society and professional life must be offered to any victim of prostitution, pimping and trafficking in human beings for the purpose of sexual exploitation. It must be defined on the basis of an assessment of health, professional and social needs, enabling victims of trafficking to find alternatives to prostitution and devised and implemented by a specialised NGO, in agreement with the person assisted (Article L121-9 of the Social Action and Families Code). In accordance with Article 7 of that law, the cost of this assistance is to be covered by the State and funded by appropriations from the Fund for the prevention of prostitution and social and professional assistance for persons engaging in prostitution.⁴¹ The authorities confirmed that this fund was exclusively for persons engaging in prostitution, including those trafficked for the purpose of prostitution, and therefore did not cover victims of other forms of exploitation.

118. The measure in the national anti-trafficking plan aimed at establishing cultural mediators has not yet been implemented owing to a lack of available resources. Local initiatives have been taken in some cases, for example in Bordeaux, where the city council employs two mediators, one of them a Bulgarian, to work in the Roma camps with a view to preventing trafficking and also to contributing to the schooling of Roma children.

119. GRETA considers that the French authorities should continue to take socio-economic measures for groups vulnerable to trafficking, for both sexual exploitation and labour exploitation, with the involvement of specialised NGOs.

⁴⁰ Île-de-France, Rhône-Alpes, Aquitaine, Provence-Alpes-Côte d'Azur, Languedoc-Roussillon, Alsace, Nord-Pas-de-Calais, Midi-Pyrénées

⁴¹ On this point, see the Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of France, 25 July 2016, paragraph 26(g) regarding the insufficient budgeted amount and the uncertainty regarding the additional resources expected from the confiscation of property of convicted traffickers to support the process for women wishing to leave prostitution.

g. Border measures (Article 7)

120. As pointed out in paragraph 52, all new police officers assigned to border policing follow a training module on the detection of THB victims. In the area of border controls, the administrative decisions relating to the situation of a person at an entry point to French territory (notably refusal to admit them, the receiving of an asylum request and measures to protect a minor) in the event of doubts over a person's identity (second-line check) lie within the remit of criminal investigation police officers. When a THB case is suspected during a second-line check, the service specialising in combating illegal immigration and trafficking channels (mobile search brigade - BMR) must be contacted immediately and comes to interview the victim and launch an investigation.

121. GRETA stresses that it is important that staff carrying out border controls, whether initial identity checks or checks run where there are doubts as to a person's identity, are familiar with the indicators for detecting signs of potential human trafficking situations and distinguish them from cases of illegal immigration. GRETA also considers it important for some of the staff to have undergone advanced practical training enabling them to provide assistance to colleagues in detecting signs of trafficking.

122. According to the French authorities, persons not admitted to the territory are usually transferred to a waiting area where they come into contact with Red Cross workers present in the waiting area as well as border police tasked with the case. Signs of trafficking may be detected at this point, in which case, along the lines of the arrangements for the second-line checks, the service specialising in combating illegal immigration and trafficking channels (BMR) is contacted immediately and comes to interview the victim and launch an investigation. However, civil society interlocutors have pointed out that, in practice, detection efforts in the waiting area are inadequate. The authorities have no statistics on the number of potential victims identified in the context of border controls, including in waiting areas.

123. While the BMR service at Roissy airport has forged links with certain airlines affected by fraudulent use of documents, nothing has been done to raise awareness among their staff, particularly airline cabin crew, and the crew of other means of transport, land- or sea-based, so that they are capable of spotting potential trafficking victims and informing the competent services.

124. The Unit for the Operational Co-ordination of Action against the Smuggling and Exploitation of Migrants (UCOLTEM) is tasked with compiling and sharing operational intelligence in the area of action against organised crime and irregular immigration in all its forms.

125. The situation regarding the issue of visas and the precautions taken against document fraud, which might conceal trafficking situations, was described in detail in GRETA's first evaluation report and remains unchanged.⁴²

126. GRETA considers that the French authorities should step up the detection of trafficking victims during border controls, in particular by:

- reinforcing training for the staff carrying out identity checks so that they are more effective in detecting signs pointing to a potential trafficking victim;
- providing border police at the airports, stations and ports concerned with units, of varying size depending on the scale of controls, comprising staff who have received advanced training in detecting trafficking victims;
- strengthening co-operation with civil society and the child protection services in the event of detection of possible child victims so that they can receive assistance as early as possible in keeping with the best interests of the child;
- developing awareness within transport companies of the detection of victims using indicators of THB.

⁴² See GRETA's first report on France, paragraphs 120-121.

2. Measures to protect and promote the rights of victims, guaranteeing gender equality

a. Identification of victims (Article 10)

127. In its first report, GRETA urged the French authorities to strengthen the multidisciplinary approach to the identification of victims by introducing a national referral mechanism defining the role to be played and the procedure to be followed by all the authorities and professionals concerned, including NGOs. It asked the authorities not to make the identification of trafficking victims conditional upon their co-operation with law enforcement agencies. GRETA also called for special care with the identification of victims among those placed in detention centres for irregular migrants.

128. According to the Minister of the Interior's circular of 19 May 2015 on conditions for allowing foreign nationals who are victims of THB or pimping to stay in the country, formal identification of potential victims falls exclusively within the remit of the police services and gendarmerie units where they believe that there are reasonable grounds to suspect that a foreigner is a victim of THB, in which case they must undertake an investigation to determine whether that individual is a trafficking victim. The circular of 19 May 2015 states that identification must be entrusted to professionals recognised for their expertise; otherwise victims might be instrumentalised by the traffickers, and residence permits could be issued to persons who are not victims of trafficking. According to GRETA, the fact that identification is in the hands of the law enforcement agencies alone places the prosecution of traffickers and the aim of avoiding abuses in the issue of residence permits to illegal migrants at the centre of the procedure, whereas the Convention gives priority to assistance and protection for victims.

129. Although specialised NGOs may be consulted by the law enforcement agencies, this is not established on a formal footing and therefore does not occur systematically. According to the NGOs, this consultation depends largely on relations of trust established with certain investigators and when those investigators leave the unit, it may no longer be the case that the NGOs' experience is taken into account. GRETA emphasises the benefits of taking the information of specialised NGOs fully into account, given their experience on the ground, their close relationship with the victims and the indicators of trafficking they have developed with a view to deciding whether there are grounds for regarding someone as a potential victim. By way of example, the CCEM, the OICEM and RUELE have devised detailed indicators for detecting victims of trafficking for various types of exploitation. It is often the case that specialised NGOs first detect possible victims and refer them to the investigation services so that they may be officially identified and gain access to suitable accommodation and specialised assistance. In addition, NGOs have emphasised the difficulty of having sworn interpreters to assist victims during interviews with the investigation services, making it less likely that they will be willing to co-operate.

130. The French authorities have pointed out that identification is not linked to the possible co-operation of victims in a prosecution. However, civil society has emphasised that, in practice, possible victims are generally expected to co-operate, more often than not by lodging a complaint or through testimony that will pave the way for the prosecution of the traffickers. This goes hand-in-hand with the fact that very few recovery and reflection periods, allowing victims to recover from their ordeal and consider the possibility of co-operating with the investigation, have been granted (see paragraph 184). GRETA made the same observation in its first report: the identification of a potential victim should not depend on whether or not they co-operate with the authorities.

131. GRETA notes that there is no formalised identification process for possible victims who are French nationals, to whom victims from an EU or EEA country are assimilated, since the circular expressly relates to the conditions for allowing trafficking victims to stay in the country. Civil society organisations have pointed out that these victims were more often than not regarded as victims of aggravated pimping or housing or working conditions contrary to human dignity, as trafficking was still frequently understood as a phenomenon that involved the crossing of a border.

132. As pointed out in the first report, the OCRTEH circulated a model interview of persons engaging in prostitution, highlighting the constituent elements of the offence of trafficking, which has been periodically updated to take account of trends in the phenomenon and the ways in which networks operate. In addition, *Note-express* no. 79 000 on the identification criteria to be used by the national gendarmerie published in 2012 has been supplemented by guidelines on the identification of victims and guides to identifying victims by form of exploitation (sexual exploitation, labour exploitation and exploitation of begging).⁴³ The manuals for identifying THB victims devised as part of the EuroTrafGuID project have been posted on the gendarmerie Intranet site, making them accessible to all gendarmes. In addition, an internal memorandum (*Note-express* no. 79000 of 5 October 2012) refers directly to these guides. However, they have not been disseminated among the police services as the police have their own documentation in the form of a guide entitled "Trafficking in human beings" produced by the national police professional documentation centre, which is regularly updated and can be downloaded from its Intranet site. Department contact persons for THB matters have been designated in each of the DDSPs, and a reminder has been given of legislative and regulatory provisions on protection of and information for THB victims (particularly with regard to the reflection period in which a person presumed to be a trafficking victim illegally present in the country can decide whether they wish to co-operate with the authorities).

133. The fact that the specialised central services can be contacted by local police services and gendarmerie units is a positive feature of the system, and NGOs have emphasised their constructive links with the OCRTEH and the OCLTI. This is, however, not enough to guarantee effective identification. The specialised central services are contacted only when local investigation services suspect a trafficking offence or associated offences which they consider complex enough to require support from those offices. Civil society has reported numerous cases where victims were not detected by law enforcement agencies on the ground, in some cases despite repeated contact. Furthermore, victims coming into police stations sometimes have requests to lodge a complaint refused. NGOs have also stated that it appeared from their contacts with law enforcement agencies that the circular of 19 May 2015 was not always known. For the proactive and effective detection and identification of potential victims, the system in place requires training on THB for as many members of the law enforcement agencies present on the ground as possible so that they are familiar with trafficking indicators, whatever the type of exploitation, or at least a network of "trafficking" contacts throughout the country, including in its overseas departments, who undergo specialised training on THB on a regular basis.

134. With regard to the role of the Labour Inspectorate, inspection staff are now competent to establish the acts constituting trafficking in human beings. At present, the involvement of labour inspectors entails the support they are required to provide to investigation services in connection with inspections of premises. These operations, however, do not usually result in the identification of trafficking victims. GRETA underlines the importance of fully involving labour inspectors in the proactive identification of victims of trafficking as part of their inspection visits.

⁴³ These guides were produced within the framework of the "EuroTrafGuID" European project and are available at: www.expertisefrance.fr/eng/Fonds-documentaire/Internet/Documents2/Expertise-France/Com-projets/EuroTrafGuID/French

135. Civil society has pointed out that the identification of men who are victims of trafficking, particularly for the purpose of labour exploitation, was made more difficult by the commonly made association between vulnerability and women, as well as the emphasis on sexual exploitation, as evidenced by the recent amendments to the legal framework regarding trafficking victims introduced by a law to combat prostitution and the fact that the co-ordination of anti-trafficking efforts is the responsibility of a structure dedicated to action against both violence against women and human trafficking.

136. The law 2015-925 on the reform of the right to asylum of 29 July 2015, which transposed the provisions of EC Directive 2013/32/UE of 26 June 2013 into the CESEDA, provides for special procedural guarantees for asylum seekers who are vulnerable, including victims of trafficking. Article L.723-3 of the CESEDA provides that "... for the duration of the examination of the request, the OFPRA may put in place any particular means that it deems necessary, due to the particular situation of an asylum seeker or his/her vulnerability." Asylum seekers are referred to platforms providing reception and support for asylum seekers, managed by the service providers of the OFII, for the pre-registration of their asylum request and the booking of an interview appointment with a one-stop shop run under the competent prefecture and with the participation of representatives of the OFII, for the official registration of the request. THE OFII assesses the individual needs of each asylum seeker with a view to offering an accommodation solution in line with their vulnerability within the asylum seeker reception centres (CADAs) or by calling in specialised NGOs if the level of vulnerability demands it. When an asylum seeker indicates particular difficulties, the OFII notifies the OFPRA with a view to a decision on priority processing of the asylum request. Under Article L.723-3 of the CESEDA, the OFPRA has sole competence for assessing the fundamental vulnerabilities underlying the asylum request (including the fact of being trafficked). These first steps in the asylum process are therefore crucial, particularly the interview carried out by the OFII to assess asylum seekers' vulnerability in order to decide on the most suitable form of accommodation. However, GRETA has been informed that, at present, while the authorities state that it is in their plans, the staff of the OFII, reception and referral platforms and asylum seeker reception centres have not received any specific training on indicators for detecting trafficking victims.

137. Regarding the examination of asylum requests, since 2013 the OFPRA has considered trafficking victims as being among the vulnerable groups requiring specific care arrangements and has set up a group of 20 or so "trafficking" contact persons to facilitate the detection of THB victims going through the asylum process. The guide on procedures at the OFPRA includes a section on taking account of special needs linked, among other things, to trafficking.⁴⁴ In particular, the "trafficking" contact persons have the task of providing protection officers examining asylum requests with ad hoc assistance for individual files. In addition, the duration of the asylum request examination procedure can be adapted so that the full story can be obtained from an asylum seeker identified as particularly vulnerable, including THB victims. It is also possible to downgrade a second asylum request, which should normally be fast-tracked, to a normal procedure where there is a suspicion of trafficking and the first request was lodged under the influence of traffickers. The OFPRA pointed out that it is now more common to detect victims at the first request. In order to improve detection and also placement in shelters, the OFPRA has also forged links with specialised NGOs and the Ac.Sé national secure reception system, as well as institutional stakeholders. According to civil society, this approach has enabled protection staff to detect THB victims and then refer them either to specialised NGOs or to the Ac.Sé national system for suitable shelter placement. GRETA welcomes the fact that THB victims can be recognised within the framework of the asylum procedure and obtain subsidiary protection or refugee status, independently of any law enforcement agency decision taken pursuant to the Circular of 19 May 2015. GRETA welcomes the creation of specialised contact persons for trafficking in human beings within the OFPRA, with a view to improving detection of trafficking victims going through the asylum process.

⁴⁴ Available at: https://www.ofpra.gouv.fr/sites/default/files/atoms/files/guide_des_procedures_a_lofpra.pdf

138. In a decision of 24 March 2015,⁴⁵ the National Court of Asylum (CNDA) granted refugee status to a woman trafficking victim from Edo State in Nigeria.⁴⁶ Membership of a social group has been recognised for Nigerian women originating from Edo State in Nigeria and women from Albania, Kosovo* and Ukraine who are victims of human trafficking. According to CNDA officials, since 2015, around 40 individuals from Nigeria and around ten from Albania and Ukraine have obtained refugee status on grounds of their membership of a social group at risk of persecution linked to the fact that they have been trafficking victims. In addition, subsidiary protection was granted to a trafficking victim from Guinea and a victim from Angola on the grounds that the countries of origin could not provide protection from trafficking networks.

139. The GRETA delegation visited the migrant camp in Calais during the evaluation visit and met the NGO Vie Active which was responsible for the Jules Ferry day reception centre, the shelter for women accompanied by young children and girls and also the temporary reception centre for families and men, together with a representative of Pas-de-Calais prefecture. The camp was dismantled by the authorities in October 2016 but, according to the information received from numerous NGOs, the situation is apparently no different in the other migrant camps on French territory, notably those close to the English Channel. The OFPRA was present every week at the Jules Ferry day centre and the CAP and on rounds in the "jungle" camp to inform migrants of the asylum procedure. In addition, the OFPRA's teams were constantly on hand during the dismantling of the southern area of the "jungle" camp in Calais in February 2016 and then during the operation to move people to shelters at the end of October 2016, with "THB" and "Unaccompanied minors" contact persons heavily involved, and continued with targeted actions for those directed to CAOs. However, given the number of people on the site (estimated at over 6 000 when it was evacuated) and the tasks of a humanitarian nature having to be carried out by the limited number of staff, there was little scope in practice for detecting THB victims. Furthermore, no campaigns to detect trafficking victims were organised by the authorities, either in the makeshift migrant camp or within the framework of the Jules Ferry centre, or even when the camp was dismantled and the migrants sent to CAOs. GRETA considers it a matter of urgency to remedy these shortcomings without delay. The authorities stated that the organisations managing the CAOs set up in October 2015, to which the migrants of the Calais camp were sent after it was dismantled to begin asylum procedures, have extensive experience in dealing with migrants. GRETA nevertheless emphasises that it is crucial that the staff of the reception and referral centres are specifically made aware of trafficking indicators.

140. Civil society has provided several examples of awareness-raising among staff of administrative holding centres (CRAs) linked to local initiatives. GRETA reiterates the importance of detecting THB victims among those present in CRA, given that foreign trafficking victims are often illegally present on the territory, may not have been detected beforehand and face risks of re-victimisation if they return to their country of origin. GRETA has been informed of the case of one adult victim who was identified by an NGO in a CRA for irregular migrants in 2015.

⁴⁵ CNDA 24 March 2015 Mlle E. n° 10012810 C+ : www.cnda.fr/content/download/59742/534626/version/1/file/CNDA%2024%20mars%202015%20Mlle%20E.%20n%C2%B0%2010012810%20C%2B.pdf

⁴⁶ Another decision on this subject was handed down by the CNDA on 30 March 2017 (Mme F., n°16015058): <http://www.cnda.fr/content/download/96447/929953/version/1/file/CNDA%20GF%2030%20mars%202017%20Mme%20F.%20n%C2%B016015058%20R.pdf>

* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

141. The authorities state that the overseas department services have no specific measures for developing identification of trafficking victims. Staff assigned to combating illegal immigration and employment of foreigners without work permits (BMR, UJI, CRA, LRA) are made aware of the issue, as it could be encountered, *inter alia*, in the spheres of prostitution and illegal labour (catering, domestic service, etc.). According to the authorities, no significant phenomena in terms of THB has been observed in the sphere of national gendarmerie operations in the overseas departments and territories, in contrast to illegal immigration, which is particularly prevalent in areas such as French Guiana and Mayotte. However, there is a strong focus on this issue, through prevention and co-operation initiatives with partner administrations. Firstly, the brigades tasked with preventing juvenile offending interact with the voluntary sector and minors, as do the gendarmerie's own social workers. Furthermore, the gendarmerie sits on the operational anti-fraud committees of departments (*comités opérationnels départementaux anti-fraude* - CODAF) for the carrying out of co-ordinated inspections, including checks for illegal labour. In the area of agriculture (sugar cane, vegetable and fruit growing, etc.), these operations are intended to uncover situations involving trafficking in human beings, particularly in relation to indecent working or living conditions. In the Antilles and French Guiana, gendarmes are also made aware of the importance of spotting individuals who are forced to smuggle drugs on air flights. Generally acting under constraint or for economic reasons, these people act as drug mules, carrying cocaine capsules. Accordingly, there is more checking carried out in airport zones, although the individuals intercepted rarely give away the identity of the traffickers, usually out of fear of reprisals, and do not recognise that they are victims of trafficking for the purpose of committing offences.

142. Recalling the recommendations made in its first report, GRETA once again urges the French authorities to:

- strengthen the multidisciplinary approach to the identification of victims by introducing a national referral mechanism defining the role to be played and the procedure to be followed by all stakeholders who may come into direct contact with trafficking victims, including labour inspectors and NGOs;
- ensure that, in practice, the identification of trafficking victims is not conditional on their co-operation with law enforcement agencies.
- clarify the procedure for identifying trafficking victims who are French nationals and EU/EEA country nationals;
- take steps without delay to identify trafficking victims among the migrants living in makeshift camps, as well as those who have been sent to CAOs;
- ensure that identification efforts cover all trafficking victims, regardless of the purpose of exploitation.

143. Furthermore, GRETA considers that the French authorities should disseminate tools adapted to each type of exploitation (notably indicators) for identifying trafficking victims to all institutional stakeholders without delay, particularly to law enforcement agencies on the ground, labour inspectors, the staff of OFII and CRAs, and provide practical training in the use of those tools to improve the detection and identification of trafficking victims. To that end, the authorities should take account of the indicators developed in the framework of the EuroTraGuID project and by the specialised NGOs, drawing on their experience in the field and dealings with trafficking victims.

144. GRETA also considers that the French authorities should continue to evaluate the procedure for identification of victims of THB in the overseas departments and territories.

b. Assistance measures (Article 12)

145. In its first evaluation report, GRETA urged the French authorities to step up measures of assistance to all trafficking victims, regardless of their nationality, their willingness to co-operate with law enforcement agencies or their situation as regards the right to stay. GRETA also asked the authorities to provide sufficient resources to guarantee that all victims are effectively provided with the assistance they need.

146. Trafficking victims who engage in a procedure to regularise their stay in connection with their co-operation with prosecutions against traffickers may receive entitlement to social protection and social support provided by specialised NGOs intended to help them exercise their rights and regain their autonomy (Articles R316-6 to R316-8 of the CESEDA).

147. Victim support is provided by NGOs specialising in support for THB victims, aid for migrants or welfare support. These NGOs have signed agreements with the authorities which set objectives reiterating the obligations under Article 12 of the Convention (reception, protection, assessment, support for victims, access to information). The NGOs offer reception and support, information on victims' rights, counselling, social assistance, assistance with administrative procedures and within the framework of prosecutions. The authorities have stressed that this assistance is in no way dependent on the victim's nationality, their willingness to co-operate or their administrative situation as regards the right to stay. Decree no. 2007-1352 of 13 September 2007 stipulates that the law enforcement agencies will refer people identified as trafficking victims to specialised NGOs. However, civil society organisations stressed that referral hinged either on co-operation systems that might be established at local level but were still rare or on the links forged between the specialised NGOs and certain members of the investigation services.

148. As pointed out in the first evaluation report⁴⁷, trafficking victims may be given specific protection as far as their accommodation is concerned, making it possible to house them far away from the place where they were exploited in the framework of the Ac.Sé national secure reception system. This is a network grouping together 45 accommodation and social reintegration centres (CHRSs) and reception facilities, and 23 specialised NGOs, run on a voluntary basis and, therefore, without additional funding from the authorities. The system provides a total of 70 places. Although the national action plan provides for the reinforcement of the Ac.Sé system, by encouraging CHRSs to join it and thereby increase the number of places, this has still not yet happened and the number of places remains identical to the number available in 2012.

149. The Ac.Sé national co-ordination set-up is funded through a convention concluded by the Ministry of Justice, the Ministry of Family Affairs, Children and Women's Rights and the city of Paris with the NGO ALC. The amounts written into the pluri-annual convention setting objectives for the period 2013-2015 were 178 000 euros in 2013 and 170 000 euros in 2014 and 2015. A pluri-annual convention has been concluded between the Directorate General of Social Cohesion and the ALC association for the period 2016-2018 for the support and functioning of the Ac.Sé system: the annual grant now stands at 220 000 euros. The authorities stated that this strengthening of the Ac.Sé system was intended for the implementation of the route out of prostitution provided for in the law of 13 April 2016 and the provision of assistance for persons engaging in prostitution. In this way, the pluri-annual convention seeks to reinforce the system of providing shelter for victims of prostitution, pimping or sexual exploitation, extend the accommodation capacities of the Ac.Sé system by recruiting new members and build the expertise of the partner network through the running of a resource centre. GRETA notes that these reinforced measures are not aimed as such at trafficking victims as a whole and focus on the aspect of prostitution, with no reference being made to trafficking in human beings.

⁴⁷ See GRETA's first evaluation report on France, paragraphs 140-141.

150. In practice, assistance is provided to victims within the Ac.Sé system without any distinction made in terms of nationality or gender. It is not conditional on the victim's willingness to co-operate with the police services, nor their administrative situation as regards the right to stay. However, the majority of those referred to the Ac.Sé system had previously lodged a complaint and, from January to August 2015, they represented 60% of all those received. In general, the offer of referral to the Ac.Sé system is made either just after the lodging of a complaint or just before it as a preparatory step towards this procedure, which reassures the individual over their personal safety.

151. In 2015, Ac.Sé national system received 52 people identified as trafficking victims, including one man and 13 victims provided with support for voluntary return to their country of origin.⁴⁸ While most of the victims had been sexually exploited, the proportion of victims trafficked for the purpose of labour exploitation is said to be on the increase.

152. The Ac.Sé system provides social assistance aimed at helping victims access their rights and regain their autonomy, so the end of the assistance programme is not linked to the end of criminal proceedings but to social reintegration. The specialised NGOs have also pointed out that the support they provide is not linked to the duration of any criminal proceedings but to when victims regain their autonomy.

153. While welcoming the Ac.Sé national system, civil society organisations stressed that it was saturated, which increasingly resulted in waiting periods before certain victims could be placed in a geographically distant centre. Furthermore, the other social accommodation possibilities in emergency reception facilities and the CHRSS were also over loaded, particularly where male victims of trafficking were concerned. Female trafficking victims can also be placed in facilities for women who are victims of violence. In addition, civil society pointed out that the precarious administrative situation of some foreign victims could pose a problem in gaining access to CHRSS in certain departments where places were not allocated to individuals whose situation had not yet been regularised. All of the NGOs providing support to trafficking victims emphasised that access to accommodation enabling victims to escape the clutches of traffickers was a major challenge owing to the shortage of available places and the increased number of trafficking victims they assisted. GRETA was informed of one case where a victim accompanied by a child had remained in a situation of exploitation in order not to be out on the street with her child while waiting for emergency accommodation, obtained three months later.

154. Civil society further stressed that access to specialised assistance was in practice reserved for foreign victims having embarked upon a process of co-operation with the authorities as provided for in Article L316-1 of the CESEDA.

155. As already pointed out in the first evaluation report⁴⁹, civil society stakeholders noted that access to appropriate assistance and accommodation was problematic for victims from EU/EEA countries, particularly victims from Romania and Bulgaria who constituted the majority, providing concrete examples of cases.

156. In Marseille, the OICEM NGO provides accommodation for women trafficking victims at the Jane Pannier CHRS, which was visited by the GRETA delegation. This shelter, which has 45 places, provides accommodation and various support measures for homeless women (in particular, access to healthcare, reintegration, assistance for obtaining a residence permit or an asylum procedure). Those using the facility are referred to it through the "115" emergency telephone line and can only spend one night there at a time. The GRETA delegation also visited the Leydet emergency reception centre in Bordeaux which can provide emergency accommodation for THB victims and has a capacity of 103 places in single or double rooms.

⁴⁸ www.acse-alc.org/images/Bilan%20Ac.S%202015.pdf

⁴⁹ See GRETA's first evaluation report on France, paragraph 146.

157. During the evaluation visit, the GRETA delegation visited the first shelter entirely dedicated to women who are victims of trafficking for sexual exploitation, located in Paris and run by the NGO *Foyer Jorbalan* (AFJ). It has a capacity of 12 places for women without children, of which 11 were occupied at the time of the visit. It functions thanks to a multidisciplinary team of nine providing educative and social support, counselling, a continuous medical service and access to medical care, assistance with legalising situations, material assistance, integration workshops and therapy workshops. In 2015, 140 women received support in this way. Between January and September 2016, the shelter received 70 requests for accommodation, mostly for Nigerian victims. There has been an increase in the number of French victims and a fall in the age of victims (80% of victims under 25 years of age). The average length of stay is five months. A scheme to create a flat housing four to five women to help them in their transition towards autonomous life was under way. Funding was provided in 2015: 43% from the authorities, including the Ministry for Housing and Sustainable Environment and Paris City Council, 30% from the private sector and 10% through a "subsidised contract" whereby the State provides financial aid for staff salaries. Apparently, the share of public funding has been constantly reduced over the last several years.

158. Trafficking victims may receive asylum seeker's allowance (*allocation pour demandeurs d'asile – ADA*) (Article L744-9 of the CESEDA). The allowance, reserved for certain categories of foreign nationals, is paid by the national employment agency for 12 months and currently stands at 343.50 euros a month. However, civil society organisations pointed to diverging practices in granting the allowance, depending on the prefectures and the OFII offices responsible for the allowance, with some granting it only to victims who already hold a residence permit under Article L316-1 of the CESEDA whereas victims having had an applicant's certificate issued to them should be entitled to it too; otherwise they are entirely financially dependent on NGOs. Moreover, the asylum seeker's allowance is available only to nationals of third countries, and French and EU/EEA country victims cannot obtain it. Only victims over 25 years of age can claim the "active solidarity income" allowance (*revenue de solidarité active - RSA*), which stood at 535.17 euros in September 2016 (it is available to 18 to 25 year-olds only if they have worked for two of the last three years).

159. Access to healthcare for trafficking victims depends on whether or not they are legally present on French territory. Those illegally present on the territory for at least three months receive state medical aid for the duration of one year, subject to their resources. State medical aid entitles its recipients to 100% coverage of medical care and hospitalisation costs in the event of illness or maternity. Otherwise, the costs of emergency care will be covered. Victims with a residence permit application certificate or asylum request certificate benefit from universal sickness coverage, which covers the costs of all medical care. However, some NGOs have said that, in practice, victims sometimes run into difficulties in accessing care. The example was given of a victim who was refused state medical aid by a local sickness insurance fund on the grounds that they were unable to supply a complete copy of a valid passport, this passport having been confiscated by the traffickers.

160. Law no. 2016-444 of 13 April 2016 on strengthening action against prostitution and providing assistance to persons engaging in prostitution stipulates that trafficking victims are one of the priority groups for the allocation of social housing. Yet access to social housing still seems difficult in reality. GRETA was told of a man who was a victim of trafficking for the purpose of labour exploitation in the agricultural sector, who lodged a complaint in November 2015 and had his situation as regards the right to stay legalised but, because he was not provided with emergency accommodation, he ended up homeless despite the aforementioned law placing him in a priority group since April 2016.

161. Recalling the recommendations made in its first report, GRETA once again urges the French authorities to improve access to specialised assistance and accommodation for all trafficking victims, regardless of the form of exploitation and with no nationality requirement, including where EU/EEA country nationals are concerned, and in particular to:

- ensure that all the assistance measures provided for by legislation are guaranteed in practice; if such assistance is delegated to NGOs acting as service providers, the State has an obligation to allocate the necessary funding and guarantee the quality of services provided by the NGOs;
 - allocate adequate resources for the creation of accommodation places to provide shelter for any victim of trafficking, of either gender, through the Ac.Sé national system and the accommodation offered by specialised NGOs;
 - take all necessary steps to allow effective access to healthcare, the asylum seeker's allowance and social housing.
- c. Identification of child victims and assistance to child victims of trafficking (Articles 10 and 12)

162. In its first report, GRETA urged the French authorities to improve the identification of child victims of THB by adopting tools and a procedure geared to their particular situation and developing training for institutional actors to avoid any confusion between child victims of trafficking, particularly those belonging to vulnerable groups such as Roma or unaccompanied foreign children, and offenders or irregular migrants. Furthermore, GRETA urged the authorities to reinforce the system for assisting child victims of trafficking, with respect to both accommodation and assistance programmes in the short and longer term.

163. The same identification process is used for all trafficking victims, including children: notably, identifying potential victims under 18 years of age lies solely within the competence of law enforcement agencies (see paragraph 128). All the stakeholders agree that the number of children identified as THB victims is well below the true figure.

164. In 2016 two tools were launched to improve the identification of and support for child victims of trafficking after being devised by the working group on trafficking in minors, which brings together institutional stakeholders and civil society under the aegis of the MIPROF. An instruction leaflet on the trafficking of minors aimed at the general investigation services and members of the judiciary and featuring a number of indicators and questions to be asked in interviews has been put on-line on the police, gendarmerie and Ministry of Justice Intranet sites. The instruction leaflet was distributed to the members of the judiciary who participated in the training course on trafficking in human beings organised by the National School for the Judiciary (ENM) in November 2016 and will also be issued to those taking part in the seminar organised by the Ministry of Justice in March 2017. In addition, this leaflet, together with an investigator's handbook produced by the Paris Police Unit for the Protection of Minors, has been distributed to all prosecutors general and prosecutors in France. The instruction leaflet has also been added to the gendarmerie database containing key legal literature and forms part of the catalogue of texts for further training by distance learning. The other tool is a training booklet for social educators describing in particular the main characteristics of child trafficking victims, the influence wielded over them by traffickers, the resulting psycho-trauma and care measures for these children (accommodation, safety instructions and support). The booklet was distributed at a training course on procedures for assessing whether young people are minors and unaccompanied, held from 18 to 20 January 2017 at the INSET institute in Angers. These tools were also presented at the MIPROF colloquy on training for professionals on 25 November 2016, the first part of which focused on trafficking in minors. Over 300 professionals from the educational, judicial and medical sectors and training bodies attended this training session.

165. Article R316-10 of the CESEDA stipulates that in cases where the victim is a child, the police or gendarmerie services must notify the public prosecutor, who decides on protection measures appropriate to his or her situation. Child victims of THB are cared for within the general child protection framework, which comes under department councils and the child welfare services (ASE) within them. In an emergency, and indeed where any child is in danger, Article 375-5 of the Civil Code provides for the possibility of a temporary placement by a juvenile judge or a prosecutor (temporary placement order). Child protection measures are open equally to foreigners and French nationals.

166. GRETA was alerted by civil society stakeholders to the delays sometimes observed between the identification of a child as a trafficking victim and the temporary placement order made by the juvenile judge, leaving the child without accommodation in the meantime, unless they are sheltered by an NGO at its own expense. In addition, civil society stressed that access to a lawyer, including under the new convention on the distant placement of child victims of trafficking, did not appear to be implemented in practice.

167. GRETA is concerned that the existing arrangements within the ASE are often unsuited to the special situation of child trafficking victims, who tend to run away a few hours after their placement and have psycho-social problems linked to their exploitation that cannot be dealt with in classic structures without stable follow-up by staff trained in THB.⁵⁰ Part of the problem is that accommodation facilities for vulnerable children are filled to capacity, and unable to meet the needs of children at risk, in particular migrant and asylum seeking children. A study of 56 situations revealed placements in a wide variety of facilities, ranging from hotels to emergency shelters (often on the radar of the trafficking networks) or non-specialised child welfare shelters; the number of children running away is very high for these categories of accommodation, where it is more difficult for the children to free themselves from the influence of traffickers, but the situation appeared to be better in shelters for unaccompanied minors.⁵¹

168. In an effort to remedy the problem, the authorities have set up a system in the Parisian region, on an experimental basis, aimed at placing child victims at a considerable geographical distance from the traffickers, along the lines of what already exists for adult victims, in order to remove the minor from the sphere of influence of traffickers, who are sometimes part of the family circle. This arrangement hinges on a convention signed on 1 June 2016 by institutional stakeholders (city and department of Paris, Paris prosecutor's office, Paris regional court, Paris police prefecture, the Inter-ministerial committee for the prevention of delinquency and radicalisation, the Directorate of judicial youth protection services, the Paris Bar association and the MIPROF) and the specialised NGO *Hors-la-Rue*. In September 2016, 25 children, mainly of Nigerian origin and victims of trafficking for the purpose of sexual exploitation, benefited from this system. While welcoming the introduction of this system and calling for it to be extended to the entire country, some civil society interlocutors nevertheless pointed out that it was originally aimed at victims of trafficking for the purpose of forced criminality but, for the time being, had been used only for the placement of child victims of trafficking for the purpose of sexual exploitation.

⁵⁰ B. Lavaud-Legendre, A. Tallon, « Mineurs et traite des êtres humains en France », ECPAT, Chronique sociale (2016), pages 132-137 and 160-162.

⁵¹ Ibid., pages 166-175.

169. Child victims of trafficking for the purposes of forced criminality or forced begging are still commonly regarded as petty offenders, prosecuted and sometimes convicted and imprisoned. According to one study, 60% of the child victims of trafficking for these purposes have been prosecuted for the offences committed,⁵² despite the authorities acknowledging that repeated arrests for petty offences constitute one of the decisive criteria for identifying a case of trafficking in human beings. In the Hamidovic case of April 2013, although 11 individuals were convicted of exploiting around 70 children by forcing them to steal wallets in the Paris metro, none of those children received safe and adequate accommodation and all went missing shortly after their placement.⁵³ The law enforcement authorities made reference to an on-going case concerning children forced to steal money and belongings from tourists at the Disneyland Paris amusement park. The young victims used for theft were placed in institutions, but disappeared afterwards.

170. Where there is no proper parental authority, an ad hoc administrator must be appointed without delay (Article 706-50 of the Code of Criminal Procedure - CCP) by a prosecutor or an investigating judge designated to deal with intentional offences committed against a child, in order to protect the rights and interests of the child. The aforementioned experimental agreement stipulates that the prosecutor must seek the appointment of an ad hoc administrator as soon as a child victim is identified. Where applicable, the case may be referred to the family affairs judge competent for guardianship matters, with a view to setting up a guardianship arrangement, which is then referred to the ASE of the department council to which the child is entrusted. The judge must establish that there is a conflict of interest between the child and his or her legal representatives in order to be able to remove parental authority. Civil society stakeholders stressed the slowness of the procedure, as mentioned by GRETA in its first report. Law no. 2016-297 of 14 March 2016 on child protection stipulates the systematic appointment as a guardian, by the juvenile judge, of an ad hoc administrator, independent of the ASE and responsible for representing the child's interests in the educational assistance procedure, if these interests clash with the interests of those holding parental authority. GRETA welcomes the adoption of this provision and reiterates the need to appoint a guardian without delay to best protect the interests of child victims of trafficking who have no parental protection or whose parents are involved in their exploitation.

171. The French authorities have acknowledged that there is currently no programme or specific service for the integration or reintegration of child THB victims. Law no. 2016-297 of 14 March 2016 stipulates that an interview is to be organised one year before any child reaches the age of majority, in order to review their progress and consider how they might be supported in their transition to autonomous life. A project for gaining self-sufficiency is drawn up with those competent in the educative, social, health, housing, training, employment and resources fields to provide a global, tailored solution. However, the experimental convention recently established (see paragraph 168) does provide for socio-educational support tailored to child victims cared for under that arrangement.

⁵² Ibid. pages 121-122.

⁵³ TEMVI, « Mineurs exploités – entre vulnérabilité et illégalité » (2015)

172. Where age assessments are concerned, the medical examination of a young person claiming to be a minor must take place only where there is a persistent doubt over this claim, after carrying out a social assessment of vulnerability, as pointed out in the inter-ministerial circular of 31 May 2013. The decision to have a medical examination carried out to check a person's alleged age lies with juvenile prosecutors and judges who may take account of the conclusions of such an examination in making their decision. An examination of this kind cannot indicate an exact age; its purpose is to establish the presumption that the individual is indeed a minor or an adult, while mentioning a margin of error. A study of the use of expert medical examinations to determine whether victims are minors found that in 50% of the cases a bone age assessment was ordered, resulting in the conclusion in half the cases that the person was an adult.⁵⁴ Law no. 2016-297 of 14 March 2016 governs the use of bone assessment radiology to determine age, which is permissible only where there are no valid identity papers and where the age claimed is improbable. It may only be ordered by court decision and with the agreement of the person concerned. There must be a margin of error and the person concerned has the benefit of the doubt (Article 388 of the Civil Code). This provision rules out any examination of prepubescent development and primary and secondary sex characteristics. A number of NGOs have emphasised that a worrying number of Nigerian girls were victims of sexual exploitation without being identified by the police on the ground, partly because they claimed to be adults. In this respect, GRETA recalls the need to ensure that the age assessment of victims is carried out in compliance with the requirements of the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child⁵⁵ and that, pursuant to Article 10(3), in cases of uncertainty, the victim shall be presumed to be a child and special protection measures will be provided pending verification of his/her age.

⁵⁴ B. Lavaud-Legendre, A. Tallon, « Mineurs et traite des êtres humains en France », ECPAT, 2016, p.93.

⁵⁵ [General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin](#), Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.

173. The authorities stated that the instruction of 17 November 2016 adopted pursuant to Decree no. 2016-840 of 24 June 2016 defines the procedures for assessing unaccompanied minors who are temporarily or definitively without the protection of their family. Under Article 6 of this instruction, age assessment consists mostly of a social assessment, covering at least the person's civil status and family composition, description of the living conditions in the country of origin, explanation of the reasons for leaving the country of origin and description of the migration route taken, and living conditions since the arrival in France, and plans. Article 3 of the instruction stipulates that the social assessment is to be carried out by the department services or any public or civil society structure to which the task of assessment has been delegated by the department council. Article 5 specifies that, at each stage of the social assessment, the assessor must ensure that they compare the physical appearance of the person assessed, their behaviour, their capacity for independence and autonomy and their ability to reason and understand the questions asked, with the age they claim to be. In the absence of valid identity papers and if it is unlikely that the subject is the age they claim to be, an expert analysis of bone age may be requested by the judicial authorities if the individual has consented to it, as per Article 388 of the Civil Code. Where the legal value of bone analysis is concerned, the Law of 14 March 2016 on child protection amended Article 388 of the Civil Code, which now states that: "the conclusions of these examinations, which must specify the margin of error, cannot serve as the sole grounds for determining whether the individual in question is a minor". The conditions in which a radiological examination may be carried out to determine a person's age are strictly regulated: (i) in the absence of valid identity papers and if it is unlikely that the subject is the age they claim to be; (ii) by decision of the judicial authorities; (iii) after obtaining the consent of the individual concerned. If the medical examinations fail to determine the person's age, that person must be given the benefit of the doubt. The final paragraph of Article 388 strictly prohibits the use of examinations of pubertal development of primary and secondary sexual characteristics where there is a doubt as to whether an individual is a minor. While the law now regulates the use of certain procedures for assessing whether someone is a minor, it does not lay down any mandatory rule for determining a person's age, leaving the judge free to appreciate whether they are a minor, if their claimed age is doubted or challenged. Where doubt persists, and where possible with the assistance of an interpreter, a forensic examination may be carried out, comprising a clinical examination, a dental examination (analysis of the presence and stage of development of the third molar using Demirjian's method) and a radiological examination for the purpose of determining age as per the aforementioned conditions and reservations. Moreover, the National Agency responsible for assessment and quality of social and medico-social establishments and services (ANESM) currently operates an interdisciplinary working group tasked with drafting a recommendation on "assistance for unaccompanied minors". This recommendation, to be published in autumn 2017, will contain a section on young victims or potential young victims of trafficking.

174. GRETA finds it most worrying that, apart from an initiative carried out by *France Terre d'Asile* with funding support from the United Kingdom, no campaign has been carried out by the authorities to detect child victims of trafficking in the Calais refugee camp, despite there being regular reports of sexual exploitation of girls and boys. The same applies to the refugee camps that have not been evacuated. In line with the Minister of Justice's circular of 1 November 2016, the unaccompanied children evacuated from Calais were to be sent to CAOMIs for a period of around three months, prior to them departing for the United Kingdom or being taken into care within the child protection system under ordinary law. The circular specifies, however, that the period of stay in such centres for children bound for the United Kingdom could be limited to three to six weeks. The circular provides, where applicable, for the appointment of an ad hoc administrator. GRETA notes that while a vulnerability assessment is planned for children remaining in France, it is not the case for children wishing to go to the United Kingdom, and the circular makes no reference to trafficking in human beings. The authorities stated that the CAOMIs employed multidisciplinary teams comprising social workers, educators and psychiatrists who must be particularly alert to any signs of exploitation or trafficking. Furthermore, with the identification of vulnerabilities and victims of trafficking forming one of the criteria considered within the framework of reception by the United Kingdom (in line with the so-called Dubs amendment), the staff of the centres, working with the HCR and psychologists, have helped identify proven cases of trafficking.

175. GRETA urges the French authorities to reinforce without delay the process of identifying and assisting child victims of trafficking, in full compliance with the best interests of the child, and in particular to:

- introduce a national referral mechanism defining the role to be played and the procedure to be followed by all the authorities and professionals who may come into direct contact with child victims of trafficking, including NGOs;
- provide for the systematic appointment, as quickly as possible, of guardians for child trafficking victims to protect their interests;
- develop the offer of accommodation, with staff specifically trained in receiving victims of trafficking;
- make every possible effort to identify child trafficking victims among unaccompanied children in migrant camps or referred to CAOMIs;
- develop reinsertion programmes for child victims of THB;
- develop awareness-raising and training for all the institutional stakeholders who may come into contact with child victims of trafficking, including staff working in the refugee camps.

d. Protection of private life (Article 11)

176. The French authorities have stated that the balancing of professional confidentiality and the reporting of incidents to the authorities is governed by law. The premises of mandatory reporting or even the waiving of confidentiality are in line with the ethical obligations of professionals bound by secrecy where particularly serious acts committed against vulnerable individuals or minors, or incidents that might reoccur, are concerned. Article 40 of the CCP exempts public officials or civil servants from professional confidentiality by placing them under obligation to report to the prosecutor any crimes or misdemeanours coming to their attention in the exercise of their duties. There is also provision for the waiving of professional confidentiality in Article 226-14 of the Criminal Code, in cases where cruelty or deprivation is inflicted on minors or persons unable to protect themselves because of their age or physical or psychological state, and where a doctor brings to the knowledge of the public prosecutor, with the victim's consent (not required in the case of minors), acts of cruelty or deprivation observed in the exercise of their profession and giving them cause to believe that physical, sexual or psychological violence, of any kind, has been committed. Where a crime or misdemeanour might reoccur, a professional cannot cite professional confidentiality as a pretext for their failure to provide assistance to a person in danger, which is punishable under criminal law (Article 223-6 of the Criminal Code). Moreover, where the victim is a minor, an incident may also be reported to the prosecutor on grounds of child protection (Article L226-4 of the Code governing social welfare and families).

177. GRETA notes that there is provision for the anonymisation of data provided as statistical feedback on victims in contact with NGOs in order to protect victims' personal data (see paragraph 67).

e. Recovery and reflection period (Article 13)

178. In its first report, GRETA urged the French authorities to ensure that victims of THB are systematically informed of the possibility of benefiting from a recovery and reflection period and are effectively granted such periods; to better inform, to that end, the services competent for requesting and granting the recovery and reflection period that such a possibility exists for victims, and the need for these services to systematically make use of it; and to ensure that no termination of the recovery and reflection period is carried out on the ground that victims or potential victims have "on their own initiative renewed contact with the perpetrators" without due regard to and a thorough assessment of the individual situation of the victim or potential victim of trafficking.

179. There is provision for the granting of a 30-day “reflection period” in Article R316-2 of the Code governing the entry and stay of foreigners and right of asylum (CESEDA), with a certificate being issued by prefecture services to victims reported by police or gendarmerie units. The model for this document is appended to the circular of the minister of the Interior of 19 May 2015 on conditions for allowing foreign nationals who are victims of THB or pimping to stay in the country. No removal measures can be carried out against those issued with a certificate, and they may work without restriction. Article R316-2 of the CESEDA makes a general reference to foreigners being entitled to this reflection period, but the French authorities specified in their reply that this provision applied only to nationals of non EU States. GRETA notes that the stay of a victim from an EU country is not automatically regular as this depends on a number of conditions being met (see paragraph 198). There should therefore be no blanket exclusion of EU victims from the benefit of the recovery and reflection period and they should be offered it wherever required by the regularity of their stay in France. In this context, the French authorities referred to circular no. NOR IMIM1000116C of 10 September 2010 on the conditions governing the exercise of the right to stay of nationals of EU States, other States parties to the European Economic Area and the Swiss Confederation, and members of their family, which states that “it is imperative that European Union nationals are not in any circumstances treated less favourably than nationals of third countries subject to the provisions of ordinary law”. The case of victims of trafficking in human beings is expressly mentioned in this text.

180. The 30-day period runs from the date of issue of the certificate. While Article R316-2 of the CESEDA is silent on the issue, the circular of the minister of the Interior of 19 May 2015 specifies that this “reflection period” is not renewable. It may be shortened, either in the event of a complaint or testimony being lodged, in which case the situation of the person concerned is examined in the light of the provisions of Article L316-1 of the CESEDA on the issuing of a temporary residence permit, or because it appears that the person in question has resumed links, on their own initiative, with the perpetrators of the offences committed against them, or if their presence constitutes a threat to public order. Regarding the resumption of links with traffickers as a ground for cancelling the certificate, in line with GRETA's recommendation in its first evaluation report⁵⁶ the circular of 19 May 2015 points out that prefecture services must consider this criterion on a case-by-case basis, in close collaboration with the investigation services. Moreover, as the reflection period certificate generates rights for the person it is issued to, it may be cancelled by the prefect only after explanations have been obtained from the person concerned and their situation has been examined in-depth. The lawfulness of this decision may be challenged by the foreign national before the administrative judge. However, this general principle is not reiterated in the circular of 19 May 2015.

181. Article R316-1 of the CESEDA stipulates that it is for the police and gendarmerie services to inform the individuals they identify as potential THB victims of their rights, including a “reflection period”. A circular of the Director General of the National Gendarmerie (*Note Express* no. 79000) reminds gendarmerie units that they must inform victims, in a language understood by them, that they are entitled to a 30-day reflection period before deciding on whether to lodge a complaint or testify in an on-going judicial procedure. It instructs gendarmerie units to contact the competent prefecture services as soon as there are reasonable motives to believe that a foreign national without a residence permit could be a victim of THB, so that they can benefit from a “reflection period”; it contains a model letter of notification to prefectures. Moreover, the OCRTEH has drawn up a standard interview report form for victims of trafficking for the purpose of sexual exploitation, which includes the provisions on the “reflection period” and is supplied to the police and gendarmerie services. Where victims of trafficking for the purpose of labour exploitation are concerned, the items to be used during interviews appear in the help-sheet produced by the OCLTI.

⁵⁶ See GRETA's first evaluation report on France, paragraph 158.

182. However, as GRETA already observed in its first report, both the investigation and prefecture services appear to have only partial knowledge of the dual role of the “recovery and reflection period” within the meaning of Article 13 of the Convention. The period provided for in the CESEDA refers only to the aspect of reflection on the possibility of collaborating with the investigation in its title (“reflection period”) and, in practice, the other function of this period, which is to allow victims to recover from their trafficking ordeal and escape the clutches of traffickers, seems to be ignored, despite the fact that the circular of 19 May 2015 reiterates this. Furthermore, the “reflection period” is directly linked in the CESEDA with the possibility of being allowed to stay in the country pursuant to Article L316-1 when the victim agrees to co-operate with the investigation.⁵⁷ Furthermore, NGOs have underlined the difficulties in obtaining accommodation during the reflection period. GRETA notes with concern that, in one case, three victims of THB detected in a detention centre for irregular migrants were granted reflection periods but, owing to the lack of accommodation, were left to their own devices when they came out of the detention centre and subsequently disappeared. (see also paragraph 153).

183. According to the French authorities, the investigation and prefecture services point out that victims apply directly to the prefectures for a residence permit within the framework of the provisions of Article L316-1 of the CESEDA, in other words when they agree to co-operate with the investigation, or, exceptionally, on the basis of Article L313-14 of the CESEDA, which provides for the issue of a residence permit on humanitarian or exceptional grounds. GRETA believes that the fact that victims directly apply for a residence permit based on their decision to co-operate with the investigation tends once again to demonstrate that the emphasis is first and foremost on co-operation from the very first contact with the victim, and this includes the way in which the “reflection period” of the CESEDA is presented to them. Moreover, the granting of reflection and recovery periods is not embedded in routine procedures for dealing with possible victims of THB, and the grant is often dependant on victims themselves making a request for it.

184. The only figures available for the issue of “reflection period” certificates cover the period of January-August 2016 and indicate that 17 certificates were issued by seven prefectures. The period covered is relatively short but points to an uneven distribution across the territory, particularly as two of the seven departments have each issued five certificates (the departments of Bouches-du-Rhône and Isère).

185. Recalling the recommendations made in its first report, GRETA once again urges the French authorities:

- to ensure that trafficking victims, including EU/EEA nationals, are systematically informed of the possibility of a recovery and reflection period and that reflection and recovery periods are, in practice, granted;
- ensure that the relevant authorities are informed of the State’s positive obligation to grant recovery and reflection periods to all possible victims of THB, whether or not such a request is made by a victim.

f. Residence permits (Article 14)

186. As mentioned in paragraph 22, there have been a number of legislative amendments since GRETA's first evaluation. Article L316-1 of the CESEDA, as revised, still relates specifically to residence permits for THB victims and now provides for the automatic issue of a residence permit, renewable and allowing the holder to engage in a professional activity, to a foreign national having lodged a complaint accusing an individual of committing trafficking-related offences against them or having testified in criminal proceedings for the trafficking offence. This permit is renewable for the entire duration of criminal proceedings as long as the requirements governing its issue continue to be met. Article R316-3 of the CESEDA still states that this type of permit is valid for a minimum of six months but the circular of the Minister of the Interior of 19 May 2015 on conditions for allowing foreign nationals who are victims of THB or pimping to stay in the country specifies that the duration of the permit must be one year.

187. The French authorities have stated that the victim's co-operation with the investigation services is supposed to enable the authorities to confirm that the situation reported does involve trafficking, identify other potential victims and help to identify members of the network exploiting the victims. The foreign national must present the receipt issued when they lodged their complaint or the case reference including their testimony on trafficking- or pimping-related criminal offences. Law enforcement agencies or the judicial services having registered the complaint or testimony supply the necessary information to the prefecture services to prove that the foreign national has indeed co-operated, but the details of the case are not revealed. The victims are absolved of the obligation to present a passport attesting to legal entry to the territory and may present a consular certificate bearing a photograph if they have no passport. The circular of 19 May 2015 states that people applying for a residence permit on the basis of Article L316-1 of the CESEDA shall be issued, if their file is complete, with a certificate valid for four months, while their application is examined by the prefecture services. This certificate allows them to stay in France and engage in professional activity. In addition, a residence permit valid for 10 years is now automatically issued to victims meeting the requirements laid down in Article L316-1 in the event of a final sentence convicting the trafficker.

188. However, GRETA notes that Article L316-1 does not refer to the notion of "co-operation" but to that of "complaint" and "testimony", thus giving a narrower meaning to what is expected of victims in order to benefit from this provision. Furthermore, civil society NGOs assisting victims with their administrative formalities emphasise that, in practice, the notion of co-operation is indeed interpreted restrictively and, more often than not, the victims are expected to present proof that they have lodged a complaint for their application to be examined by the prefecture services. Some stakeholders have expressed concern that prefectures appeared sometimes to issue documentation if the complaint or testimony of a victim may be useful in supporting a prosecution for THB. In some instances, prefectures do not rely only on the lodging of a complaint of trafficking, which they should, but rather base their decision on the fact that the offence of trafficking - and not other related offences such as clandestine work - is the object of the investigation and prosecution.

189. Furthermore, civil society representatives report that practices differ considerably from one prefecture to another, owing to a poor grasp of Article L316-1 of the CESEDA. For example, depending on which prefecture is involved, applications for a residence permit under Article L316-1 may be made by letter, in person, by appointment or on a drop-in basis; a passport is in some instances required; when applications are submitted, sometimes no certificate is issued or the permit issued does not include permission to work; several certificates may be issued successively, with no explanation given as to how long it will take to process the application; when the residence permit is issued, the certificate stating the grounds on which it has been issued, entitling the holder to asylum seeker's allowance (ADA), is not systematically issued. This introduces an element of unfairness amongst victims depending on which prefecture is competent to deal with their situation.

190. The THB contact persons who are to be appointed in each prefecture as per the action plan and GRETA's recommendation in its first report⁵⁸, to foster a unified approach putting all THB victims on an equal footing where the legalisation of their situation is concerned, have been appointed in 51 prefectures out of 101 to date.

191. According to Ministry of the Interior figures, 183 temporary residence permits were issued under Article L316-1 in 2012 (of which 35 were first-time issues) as well as 18 residence permits (of which five were first-time issues); 185 temporary residence permits were issued in 2013 (of which 41 were first-time issues) as well as 14 residence permits (of which two were first-time issues); 215 temporary residence permits were issued in 2014 (of which 61 were first-time issues) as well as 14 residence permits (3 were first-time issues). The provisional data for 2015 indicated 195 temporary residence permits (of which 47 were first-time issues, a marked drop from 2014) and 24 residence permit renewals. In 2015, 83 residence permits were issued to Nigerian victims, 29 to Moroccan victims, nine to victims from the Ivory Coast, eight to Cameroonian victims, seven to Haitian victims, six to Senegalese victims, six to Albanian victims, five to Guinean victims and five to Peruvian victims. The other permits were issued to victims from 31 different countries. According to Ministry of the Interior data broken down by department for 2015, 59 of the 101 French departments issued residence permits on the basis of Article L316-1 of the CESEDA, of which 88% issued fewer than ten residence permits (45% having issued just one, and 35% between two and four) and 12% issued over 10 (two departments only, Paris and Loire-Atlantique, each issued over 20 residence permits). This suggests a considerable disparity between different areas in the issuing of residence permits, and all the more so in that around half of France's departments issued no residence permits at all on the basis of Article L316-1 in 2015. In addition, the figures given directly by the prefectures of Bouches-du-Rhône and Gironde during the evaluation visit were inferior to those given at national level.⁵⁹

192. Victims who do not co-operate with the investigation for whatever reason may be granted a residence permit on humanitarian or exceptional grounds as provided for in Article L313-14 of the CESEDA. This residence permit, which is not specific to trafficking victims, is valid for one year and allows the holder to engage in professional activity. The circular of the Minister of the Interior of 19 May 2015 states that this type of permit makes it possible to legalise residence for victims who do not co-operate out of fear of reprisals against them or members of their family and are identified as such by the investigation services. The decision to grant a residence permit provided for in Article L313-14 remains at the discretion of the prefect. Civil society stakeholders stressed that it was rare for residence permits to be granted to victims who did not co-operate, as noted in GRETA's first report. The available statistics do not show how many THB victims have been granted permits, as the figures relate to all permits issued under Article L313-14, which covers other situations as well as trafficking.

193. One concrete example was given by civil society actors where an individual, while recognised as a trafficking victim by the investigation services, was refused a residence permit under Article L313-14 by the prefecture services and only obtained one 16 months later, after the administrative court overturned the decision of the prefecture concerned. Another example was given of a prefecture having granted no residence permits for humanitarian reasons to victims of trafficking since 2013. Civil society stakeholders also stressed that this type of residence permit did not entitle the holder to the same assistance measures as the permit provided for in Article L316-1; victims were not entitled to ADA, for example.

⁵⁸ See GRETA's first evaluation report on France, paragraph 176.

⁵⁹ Bouches-du-Rhône: in 2015, 1 new residence permit and 5 renewals according to the information provided by the prefecture, but 8 such permits according to centralised data. Gironde: in 2015, no new residence permits and 16 renewals, according to information provided by the prefecture, while the data given at national level indicate of 5 new residence permits and 5 renewals.

194. Furthermore, victims who do not co-operate can, where applicable, benefit from a residence permit under Article L313-11 7 of the CESEDA, if they can provide proof of stable, strong and longstanding personal and family ties in France. There are no statistics broken down by grounds for issuing this residence permit. GRETA was told by NGOs providing assistance to victims that the latter resorted to applying for the residence permit provided for in Article L313-11 7, in view of the difficulty of being recognised as trafficking victims.

195. In addition, Law no. 2016-444 of 13 April 2016 on strengthening action against prostitution and providing assistance to persons engaging in prostitution inserted a new Article L316-1-1 in the CESEDA, which provides that temporary residence permission for a minimum duration of six months may be granted to victims of trafficking for the purpose of sexual exploitation and pimping who have opted for a route out of prostitution, irrespective of whether they co-operate with the judicial services. While welcoming this additional legalisation measure, GRETA notes that it is intended solely for victims of trafficking for the purpose of sexual exploitation through prostitution. GRETA recalls in this respect that Article 14 of the Convention does not establish any difference based on the type of exploitation, when it comes to granting residence permits to victims of THB. GRETA is of the view that the authorities should examine the possibility of extending the temporary residence authorisation to any victim engaged in a programme to exit their exploitation.

196. Trafficking victims who cannot or do not wish to lodge a complaint are often encouraged by local authorities and NGOs to apply for asylum, which will enable them to more easily regularise their presence in France in the short term and benefit from the ADA. There are no statistics showing how many trafficking victims opt for an asylum request. However, an asylum request does not rule out the possibility of being granted trafficking victim status within the asylum procedure itself (see paragraph 136). However, an NGO has underlined the difficulties met by persons who apply for asylum a second time after their first application was influenced by traffickers in that the regularity of their stay in France is not guaranteed whilst their second application is being processed. In contrast, where there is a risk that a victim would fall back in the hands of traffickers in the country where he or she had first applied for asylum, the procedure under the Dublin regulation is suspended.⁶⁰ Dublin regulation procedures have been suspended on a number of occasions in the case of Nigerian victims who were to be sent back to Italy, as there were serious risks that they would fall back in the hands of traffickers. In this respect, GRETA underlines the importance of carrying out a thorough risk assessment before applying the Dublin regulation to any THB victim (see paragraph 224).

197. GRETA welcomes the fact that, in line with what it recommended in its first report, Law no 2014-873 of 4 August 2014 for real equality between women and men provides for exemption from taxes and stamp duty on the issue and renewal of the residence permits provided for in Article L316-1 of the CESEDA (Article L311-18 of the CESEDA). However, civil society reported that the exemption had not been applied in all cases by certain prefectures which were unaware of this provision. Furthermore, GRETA regrets that the exemption does not apply to trafficking victims who do not co-operate with the investigation and apply for a residence permit under Articles L313-14 or L313-11 7 of the CESEDA, the cost of which is 608 euros.

⁶⁰ Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Dublin III Regulation).

198. Trafficking victims who are EU, European Economic Area (EEA) or Swiss nationals are rarely granted residence permits, even when they lodge a complaint. Their presence in France for more than three months is governed by criteria set out in Article L121-1 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). Trafficking victims who are EU, EEA or Swiss nationals who do not meet any of these criteria are, therefore, illegally present and risk being sent back to their country of origin. In addition, if they are unable to obtain a residence permit under Article L316-1 of the CESEDA, these victims will not be able to receive the ADA either.

199. The French authorities have stated that there was no provision in the CESEDA preventing a prefect from using their general power of discretion to issue a residence permit on the basis of Article L316-1 to a THB victim meeting the requirements. In 2015, just one victim, of Romanian origin, was issued with such a residence permit. Civil society stakeholders pointed out that it was generally difficult to obtain a residence permit for these victims. For example, an NGO reported that a prefecture systematically refused to grant residence permits based on Article L316-1 to victims from the EU. As a consequence, one victim of trafficking for the purpose of forced begging could not obtain payment of the 2 000 euros awarded to her as compensation from the traffickers, on the grounds that she could not present her Bulgarian passport and had no residence permit. GRETA notes that this places trafficking victims who are EU, EEA or Swiss nationals in a particularly vulnerable situation that should be fully taken into account.

200. Law no. 2016-274 of 7 March 2016, governing foreigners in France, created a permit lasting for a number of years which is issued to a foreign national after the first year of legal residence in France, on the basis of either a long-stay visa equivalent to a residence permit or a temporary residence permit (Article L313-17 of the CESEDA), but excluded trafficking victims holding a residence permit issued under Article L316-1.

201. With regard to the situation of child victims of trafficking, civil society stakeholders reported that, owing to child welfare professionals' poor knowledge of the legislation relating to trafficking victims' right of residence, it was sometimes the case that children reached adult age without their stay being legalised and ended up on the streets and illegally present in France, despite having been identified as THB victims. Article R316-3 of the CESEDA stipulates that children over sixteen years of age may be granted a residence permit of the type provided for in Article L316-1, if they express their desire to exercise a paid professional activity or undergo vocational training.

202. In reply to GRETA's draft report, the authorities stated that training sessions organised for all officials responsible for managing foreigners in November 2016 included a module on foreigners in situations of vulnerability. The officials of the Immigration Directorate providing this training had the opportunity to give a reminder of the provisions of the CESEDA regarding the protection afforded to THB victims and the good practices to be implemented by staff. The new arrangements for the issue of temporary residence permits mentioned in Article L. 316-1-1 of the CESEDA were also presented in detail.

203. GRETA considers that the French authorities should:

- ensure that victims of trafficking, including nationals of an EU/EEA country 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 legislation is applied consistently throughout France, in particular, by appointing a contact person in each French prefecture and by training and raising the awareness of relevant prefecture staff on all forms of trafficking in human beings.

204. Further, given the length of the judicial proceedings, GRETA invites the French authorities to consider the possibility of granting residence permits lasting for a number of years, as provided for in Article L313-17 of the Code governing the entry and stay of foreigners and right of asylum to trafficking victims holding a residence permit linked to their co-operation.

g. Compensation and legal redress (Article 15)

205. In its first evaluation report, GRETA called for improved access to compensation for trafficking victims, in particular through better information on compensation procedures for victims, in a language they understand, effective access for victims to legal aid and to Commissions for the Compensation of Victims of Criminal Offences (CIVIs) and, finally, the eligibility of all victims of THB for compensation, regardless of their nationality and whether they are legally in France. In addition, GRETA encouraged the authorities to introduce a system for recording the compensation claimed and obtained by trafficking victims, whether within the framework of judicial procedures or via CIVIs.

206. Where access to information is concerned, Article 10-2 of the CPP stipulates that criminal police officers and staff must inform any victim, *inter alia*, of their right to obtain redress for the harm caused to them through compensation or any other suitable means and to apply to CIVIs. Victims who do not speak French must be provided with an interpreter and a translation of the information indispensable for the exercise of their rights. Article R316-1 of the CESEDA states that it is the responsibility of the police and gendarmerie investigation services to inform foreign victims, in a language they understand, of the possibility of obtaining legal aid to assert their rights, as provided for in Article 10-2 of the CPP. However, civil society reported that it was frequently the case, when complaints were lodged, that the right to an interpreter was not complied with and rights were not formally read out, but were simply noted in the report of the filing of the complaint.

207. In accordance with Article 10-2 of the CPP, victims may bring a civil action with the assistance of a lawyer of their choice or a lawyer assigned, at their request, by the chairman of the bar association attached to the competent court, with the costs to be covered by the victims, unless they qualify for legal aid or have legal protection insurance, or decide to be assisted by a service provided by one or more public authorities or by an officially contracted NGO providing assistance to victims. Nevertheless, the plaintiff lodging the suit must pay a deposit of between 800 and 2 000 euros, if they are not eligible for legal aid, and this would apply to anyone not holding a residence permit, unless they manage to demonstrate that there are exceptional circumstances.

208. Article 131-21 sub-paragraph 6 of the Criminal Code now states that, for the most serious offences, which include THB, it is possible to confiscate all the convicted person's property, regardless of whether legally or illegally acquired and, as per Article 131-21 sub-paragraph 5, regardless of whether the property was linked to the offence. According to the French authorities, broadening the categories of property that may be confiscated has made it possible to seize property of higher value and grant victims of offences fuller compensation. The seizing and confiscation of movable or immovable property, in sole or joint ownership, of perpetrators of trafficking offences are more specifically provided for in Article 225-25 of the Criminal Code and form a priority thrust of judicial action against trafficking, as reiterated by the circular of the Minister of Justice setting out criminal law policy on action against trafficking in human beings, published on 22 January 2015. Anyone lodging a civil claim who obtains a final decision awarding damages and legal costs can ask the Agency for the Management and Collection of Seized and Confiscated Assets (AGRASC) to ensure that the amounts in question are paid to them as a priority out of the debtor's assets ordered to be confiscated in a final decision.

209. Pursuant to Article 706-3 of the CPP, a victim who has returned to their country of origin may claim compensation for harm suffered in proceedings before a criminal or civil court in France. However, one of the civil society stakeholders stressed that, in practice, this was complicated by the fact that, once back in their country, the victim was unable to obtain a short-stay visa in order to participate in the proceedings.

210. No information was supplied to GRETA regarding the amounts of compensation awarded to trafficking victims. Whatever the case, the civil society actors assisting victims in judicial procedures emphasised how rare it was for compensation to be awarded. One recent example reported to GRETA by civil society involved a trafficking victim who had received compensation of 13 000 euros for six years of labour exploitation.

211. Where compensation from the State is concerned, trafficking victims may obtain full redress, in accordance with the provisions of Article 706-3 of the CPP, for harm resulting from personal injury before a CIVI⁶¹. GRETA welcomes the fact that, in line with the recommendations made in its first report⁶², Law no. 2013-711 of 5 August 2013 has done away with the requirements relating to the injured party's nationality, or them being legally resident, where the offences were committed on national territory. For an application to a CIVI, the victim can contact an NGO providing assistance to victims under an agreement with the Ministry of Justice, which will inform them of their rights and the procedure for applying to a CIVI, or request the assistance of a lawyer under the legal aid system, if they fulfil the requirements.

212. The follow-up and registering of compensation granted by CIVIs are handled by the Guarantee fund for victims of acts of terrorism and other offences, which pays out compensation to victims, following decisions handed down by the CIVIs. In 2012, there were eight decisions awarding a total of 460 450 euros, while there were ten decisions awarding a total of 361 100 euros in 2013, eight decisions awarding a total of 287 900 euros in 2014 and ten decisions awarding a total of 92 568 euros in 2015.⁶³

⁶¹ See the full description in GRETA's first report on France, paragraphs 181-184.

⁶² See GRETA's first report on France, paragraph 187.

⁶³ According to the authorities, the main decisions awarding compensation from 2014 to 2016 were: a Rennes appeal court judgment of 23 April 2014 in relation to acts of trafficking for the purpose of sexual exploitation awarding compensation of 181 900 euros; a Riom appeal court judgment in relation to acts of trafficking involving indecent working/accommodation conditions awarding compensation of 83 000 euros; a Paris appeal court judgment of 2 June 2016 in relation to acts of trafficking for the purpose of sexual exploitation awarding compensation of 62 000 euros.

213. On the subject of compensation for unpaid wages, if a trafficking victim has agreed to engage in lawful activity for remuneration, in conditions that nevertheless characterise the offence of trafficking, a reclassification of their situation as an employment contract by the labour tribunal may be envisaged, opening the way for compensation of unpaid wages. As this is a civil law court, the burden of proof is on the applicant, namely the victim of trafficking, but it is difficult for victims to supply proof of what the work relationship actually entailed when the facts of the case at the origin of the application to the labour tribunal are still under criminal investigation. The procedure before the labour tribunal is suspended for the duration of the investigation and the criminal court judgment and resumes from that point. The statutes of limitation have also been cut to two years for applications seeking back-pay and three years for challenging a dismissal.

214. Law no. 2014-790 of 10 July 2014 strengthening action against unfair corporate competition introduced Article L3245-2 into the Labour Code, which stipulates that when a building owner or head contractor is notified in writing by an inspector of the partial or total non-payment of the legal or agreement-based minimum wage to an employee by their co-contractor, a direct or indirect sub-contractor or a co-contractor of a sub-contractor, they shall immediately issue a written demand to that sub-contractor or co-contractor to put an end to this situation without delay. The sub-contractor or co-contractor must then give written notification to the building owner or head contractor that the situation has been rectified. In the absence of a written reply from the sub-contractor or co-contractor within a time-limit set by decree of the Council of State, the building owner or head contractor must immediately notify the inspector. For any failure to fulfil their obligations to issue the written demand and notification mentioned in the first and third paragraphs of the article, the building owner or head contractor is held jointly responsible with the worker's employer for the payment of wages, allowances and charges due, in conditions laid down by decree in the Council of State.

215. GRETA considers that the French authorities should adopt additional measures to facilitate and guarantee access to compensation for trafficking victims, and in particular:

- ensure that trafficking victims are systematically informed, in a language they understand, of their right to claim compensation and the procedures to follow;
- ensure that labour tribunals, in first instance, and appeal courts competent for cases concerning recovery of unpaid wages, are aware of the specific characteristics of the situation of human trafficking cases and victims, through provision of tailored training courses and publication of circulars.

216. Furthermore, 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 and also labour tribunal procedures.

h. Repatriation and return of victims (Article 16)

217. In its first report, GRETA asked, *inter alia*, that the French authorities create a specific system of repatriation support for trafficking victims, with due regard for the safety and dignity of the person, preferably on a voluntary basis, and ensure that an assessment of the risks of re-trafficking specific to child victims is carried out, taking the best interests of the child into account.

218. As described in GRETA's first report⁶⁴, under Article R316-9 of the CESEDA, trafficking victims holding a residence permit under Article L316-3 of the CESEDA and wishing to return to their country of origin or to go to another country may benefit from the system of support for return funded by the French Office for Immigration and Integration (OFII), tasked with participating in all administrative actions relating to foreigners' return to and reintegration in their country of origin. Repatriation support from the OFII is also intended for foreigners illegally present in France. For all foreigners eligible for repatriation support, the OFII assists with organising their return and obtaining travel documents and covers the cost of the air ticket and of secondary transport upon arrival in the return country for the applicant and family members accompanying them, as well as their transfer to the airport of departure in France. Depending on repatriation candidates' administrative situation and the length of their stay in France, financial assistance may be allocated to them by the OFII. This financial assistance is granted to foreigners eligible for repatriation support who have been resident in France for at least three months.

219. The OFII participated, in collaboration with the IOM, in the CARE project aimed at providing support for 130 trafficking victims voluntarily returning to their country of origin from five European countries, including France, between September 2013 and February 2016. A total of 34 victims benefited from the project, but 15 wished to remain in France on grounds of safety, 13 received repatriation support and assistance in the country to which they returned, and six received repatriation support, but did not wish for any assistance on the spot; 24 of the victims were Nigerian. Within this project, a risk analysis was carried out before repatriation. IOM organised returns to the place of origin or elsewhere where applicable, devised economic reintegration projects and made provision for psycho-social support. In 2015, another co-operation project, TACT, was set up for the return of victims from France, Italy and Poland to Albania, Morocco and Ukraine. GRETA notes that, apart from these two projects, there is no specific approach to trafficking victims regarding voluntary return to their country of origin. The OFII recorded 9 requests for assistance for voluntary returns from 2013 to 2015: 6 to Niger, 1 to China, 1 to Bulgaria and 1 to Uzbekistan. All the victims were adults.

220. The French authorities have stated that, as far as Nigerian nationals are concerned, a return to their country of origin is never envisaged or proposed owing to the risks of reprisals this would expose them to. For Chinese nationals, a return is never envisaged nor proposed, as the Chinese authorities do not recognise victim status for persons having been in prostitution and there is no victim management and reintegration programme in that country.

221. Civil society stakeholders assisting trafficking victims have indicated that repatriation support is provided until arrival in the destination country but, in their experience, there was not necessarily provision for real assistance on the spot. These interlocutors expressed concerns in respect of the return of victims, in particular to Nigeria, and the risks of reprisals from traffickers.

⁶⁴ See GRETA's first report on France, paragraphs 190-195.

222. The French authorities have pointed out that procedures for assisting all child migrants to return to their country of origin remain highly exceptional. In such cases, all guarantees are established under the authority of the prosecutor of the Republic, the children's judge and the department council responsible for protecting the child in question. The following entities are mobilised for repatriations of children: the social services in the country of origin, the French embassy and those holding parental authority, at all key stages of the procedure, while the highest degree of personalisation is sought in the educative process. The authorities added that these stages covered the prevention of departures and action against organised networks. GRETA notes that a "Franco-Romanian contact group" was set up in 2011 to improve identification of and care for Romanian child victims, facilitate their return to Romania and make action to combat networks more effective. Two other groups have been created: a "Franco-Bosnian group" (2013) and a "Franco-Spanish group" for children from North Africa.⁶⁵ Furthermore, the authorities stated that in 2016 the liaison judge and the attaché responsible for regional co-operation on "children's rights" posted at the French embassy in Bucharest worked together to set up a network of French and Romanian professionals from child protection services and judicial services. A Franco-Romanian workshop was organised in Snagov, Romania on 4 and 5 July 2016 with a view to improving measures to care for children who are victims of trafficking or at risk of trafficking in human beings.

223. In addition, GRETA's attention has been drawn to a document produced by the Paris police prefecture⁶⁶ which indicates that, in 2013, Romanian children having been imprisoned and described as both perpetrators of offences and victims of networks were apparently handed over to the Romanian authorities upon their release from prison. The French authorities stated that if the minor and his/her parents agree to repatriation, the social services of the department in question make contact, via the consular section of the Romanian embassy in Paris, with the Directorate General for children's rights of the Romanian Ministry of Social Affairs, which sends a request for an investigation by the social services in the minor's place of origin. The social services must then forward their findings as soon as possible (and within 20 days at the most), together with a plan for the protection of the minor upon his/her return. Once the department council has received this information, it organises the minor's return in conjunction with the Romanian embassy in Paris and the OFII. If the minor or the parents do not consent to a return to Romania (or if it was not possible to obtain the parents' consent), a return cannot be ordered by a criminal court. In such cases the department council must refer the matter to the juvenile judge, who must obtain information on the minor's situation in order to decide what is in his or her best interests. In particular, this entails the findings of a social services investigation and guarantees that the minor will be cared for in the event of a return. However the social services investigation and minor protection plan described above are too perfunctory to meet French standards, and juvenile judges sometimes have to obtain information via regulation no. 1206/2001 on the exchange of evidence in civil law matters. Once this information has been obtained, the juvenile judge decides whether or not to order the minor's return. If the judge decides to order a return and the minor is still opposed to it, the judge must call in the public authorities to enforce the decision. According to the authorities, on average there are only five returns of unaccompanied minors to Romania each year.

⁶⁵ CNCDH, page 241.

⁶⁶ Combating crime in Paris in 2013, Press conference, Monday 3 February 2014, Police Prefecture (French only). Available at:
http://www.prefecturedepolice.interieur.gouv.fr/content/download/7129/37209/file/dp_de%C2%B4linquance.pdf

224. GRETA considers that the French authorities should:

- 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*. This requirement includes the provision of information to victims on existing support programmes and protection against re-victimisation and re-trafficking. The French authorities should take full account of the HCR guidelines on the application of the Convention relating to refugee status to victims of trafficking, and their right to seek asylum;⁶⁷
- ensure that the best interests of the child are effectively respected, protected and fulfilled, *inter alia*, through an assessment of risks and safety carried out, prior to any removal measure, by specialised bodies in co-operation with the competent contacts in the country of origin, especially for unaccompanied children; this assessment must also enable the child to properly exercise his or her right to education and measures to secure adequate care or receipt by the family or appropriate care structures (Article 16(5) of the Convention);
- continue to develop international co-operation with a view to ensuring that risks are correctly assessed and trafficking victims can return in complete safety and effectively reintegrate;
- commit to regular reviews of their return and repatriation policies to verify that they comply with Article 16 of the Convention.

⁶⁷ [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](#)

3. Substantive criminal law

a. Criminalisation of trafficking in human beings (Article 18)

225. French legislation on trafficking in human beings was amended by Law no. 2013-711 of 5 August 2013 amending several provisions in the area of justice to bring them in line with EU law and the international commitments of France. The offence of trafficking in human beings as amended still appears in Article 225-4-1 of the Criminal Code and is worded as follows:

“I. - Human trafficking is the recruitment, transport, transfer, accommodation or reception of a person for the purpose of exploitation in one of the following circumstances:

1° either by means of threat, coercion, violence or fraudulent tactics aimed at the victim, their family or a person in a habitual relationship with the victim;

2° or by a legitimate, natural or adoptive ascendant of that person or by an individual wielding authority over them or abusing the authority bestowed upon that individual by their duties;

3° or by abusing a situation of vulnerability due to the person's age, an illness, a disability, a physical or mental impairment or a state of pregnancy, apparent or known to the perpetrator;

4° in exchange for or through the offer of remuneration or any other benefit or a promise of remuneration or benefit.

The exploitation mentioned in the first sub-paragraph in the present paragraph I entails placing the victim at one's own disposal or at the disposal of a third party, who may be unidentified, with a view to allowing offences of pimping, sexual assault or abuse, slavery, forced labour or services, servitude, organ removal, exploitation of begging, working or accommodation conditions contrary to human dignity, or forcing the victim to commit a crime or misdemeanour.

Human trafficking is punishable by seven years' imprisonment and by a fine of 150,000 euros.

II. - Trafficking in human beings committed against a minor is constituted even if it is not committed in any of the circumstances provided for in 1° to 4° of paragraph I.

It is punishable by ten years' imprisonment and by a fine of 1 500 000 euros.”

226. The means, which previously constituted aggravating circumstances, are now a constituent element of the offence of trafficking in human beings. GRETA notes that the means consisting of the offer or acceptance of payment or benefits in order to obtain the consent of a person having control over another person, for the purpose of exploitation, is not among the means envisaged in the CC, but notes that the broader means of “in exchange for or through the offer of remuneration or any other benefit or a promise of remuneration or benefit” appears to cover the same areas.

227. GRETA notes that the abuse of a situation of vulnerability as provided for in sub-paragraph 3° of Article 225-4-1 of the CC gives a limitative list of situations of vulnerability while the Convention speaks of it in general terms. According to paragraph 83 of the Explanatory report to the Convention, “by abuse of a position of vulnerability is meant abuse of any situation in which the person involved has no real and acceptable alternative to submitting to the abuse. The vulnerability may be of any kind, whether physical, psychological, emotional, family-related, social or economic. The situation might, for example, involve insecurity or illegality of the victim's administrative status, economic dependence or fragile health. In short, the situation can be any state of hardship in which a human being is impelled to accept being exploited. Persons abusing such a situation flagrantly infringe human rights and violate human dignity and integrity, in a way which no one can validly renounce”.

228. GRETA also notes that, in line with the recommendation made in its first report⁶⁸, the purposes for exploitation provided for in Article 225-4-1 of the Criminal Code now include slavery and servitude, as well as forced labour or services. These purposes, which come in addition to the already existing exploitation of "living and working conditions contrary to human dignity" (defined in Article 225-14), are also identified as stand-alone offences, which define them. Article 225-14-1 of the Criminal Code defines forced labour as the act of forcing a person, through violence or threat, to carry out work without remuneration or for remuneration manifestly bearing no relation to the scale of the work carried out. Article 225-14-2 defines servitude as the act of subjecting a person whose vulnerability or dependence is obvious or known to the offender, on a habitual basis, to the offence provided for in Article 225-14-1 as an aggravated form of forced labour. Finally, a new section of the Criminal Code is devoted to slavery and the exploitation of persons who have been enslaved. Under the new Article 224-1 A of the Criminal Code, "slavery is the act of exercising one of the powers of the right of ownership over a person". Article 224-1 B criminalises the exploitation of an enslaved person as the act of "committing a sexual assault against a person whose situation of slavery is obvious or known to the offender, sequestering that person or forcing them to carry out forced labour or forced service". GRETA welcomes the clarification brought by the new provisions with regard to these purposes of exploitation in connection with the offence of trafficking in human beings enshrined in Article 225-4-1 but notes that the 22 January 2015 circular of the Minister of Justice provides no details concerning the application of these new indications of purpose, particularly in respect of the notion of "violence", which must not be limited to physical violence but must also cover psychological violence. The authorities pointed out that Article 222-14-3 of the Criminal Code stipulates that "the violence listed in the provisions of the present section shall be punished regardless of its nature, including where psychological violence is involved". Furthermore, case law has given the notion of violence an extensive interpretation, considering that the offence of violence may be constituted, irrespective of any actual physical contact with the victim, by any act or behaviour likely to cause harm to that person's physical or mental integrity characterised by emotional trauma or psychological disturbance (Court of cassation, criminal bench, 18 March 2008, no. 07-86.075).

229. Furthermore, following GRETA's recommendation in its first report⁶⁹, Article 225-4-1 as amended now provides for organ removal as a purpose of exploitation, in line with Article 4 of the Convention.

230. Forced begging and forcing a person to commit an offence had been made punishable by Article 225-4-1 of the Criminal Code following amendments introduced by Law no. 2003-239 of 18 March 2003 regarding national security. Forcing a person to commit an offence is an offence in its own right in Article 121-7 of the Criminal Code whereby "an individual who, through a gift, promise, threat, order or abuse of authority or power, causes an offence to be committed or gives circulars for it to be committed is also an accomplice". In addition, forcing children to commit a crime or misdemeanour is an offence in its own right under Article 227-21 of the Criminal Code.⁷⁰

⁶⁸ See GRETA's first report on France, paragraph 57.

⁶⁹ Ibid.

⁷⁰ Other offences relating to children: directly inciting a child to transport, possess, offer or sell narcotics (Articles 227-18-1, 222-29, 222-41 and 227-32 of the Criminal Code, L.5132-7 of the Public Health Code); use of prostitution of children (Articles 225-12-2 para.1 1°, 225-20 of the Criminal Code); theft committed by an adult with the help of a child (Articles 311-4-1, 311-1, 311-14 of the Criminal Code).

231. Forced marriage and illegal adoption are not listed among the forms of exploitation mentioned in Article 225-4-1 of the Criminal Code. The Criminal Code does not make the act of forcing a person to marry against their will an offence in its own right, but Law no. 2010-769 of 9 July 2010 makes it an aggravating circumstance for murder, acts of torture or barbarity, wounding causing death, poisoning or the administration of harmful substances, violence resulting in mutilation or permanent disability or total work incapacity. In addition, Article 222-14-4 of the Criminal Code criminalises “the act, committed with a view to compelling a person to enter into a marriage or a union with another person abroad, of using fraudulent tactics upon that person in order to persuade him or her to leave the territory of the Republic”.

232. In accordance with the Convention, Article 225-4-1 of the Criminal Code stipulates that, where children are involved, the offence of trafficking in human beings is constituted, even if none of the means provided for in that same provision are used by the trafficker. Furthermore, pursuant to Article 706-47 of the CCP, child trafficking now results in the name of the offender being placed on the national computerised judicial register of perpetrators of sexual or violent offences.

233. The amendments to the Criminal Code regarding the offence of trafficking in human beings have not introduced any reference to the irrelevance of consent of trafficking victims to the exploitation envisaged where, for adult victims, one of the listed means has been used and, for children, regardless of the circumstances, as follows from Article 4 *b.* of the Convention. According to the French authorities, the irrelevance of consent in the sphere of violation of the person is a general principle of criminal law reiterated in case law and, therefore, it was not thought necessary to mention it in relation to trafficking victims. The circular of the Minister of Justice setting out criminal law policy on action against trafficking in human beings of 22 January 2015 briefly mentions this principle. Furthermore, the case law is clear. A Paris appeal court judgment of 3 April 2012 stated that “the fact that the prostitutes were free to engage in this practice or not and the absence of violence and constraint in relations between the accused and the prostitutes have no bearing on the classification of the offences [as trafficking in human beings]”. However, civil society stakeholders have observed in a number of THB cases monitored by them that attitudes to the question of consent varied from one court to another and also according to the origin of the victims owing to certain preconceived ideas (that family traditions played a role in the case of Roma, for example, or that Chinese victims would have knowingly consented). GRETA sees benefits in stating explicitly in legislation that consent is irrelevant to determining whether the crime of human trafficking has occurred. Setting out this pivotal principle in law could facilitate its use by investigators, prosecutors and judges when dealing with cases of human trafficking and permit a more consistent approach. Indeed, consent is an important factor at different stages of human trafficking cases, for instance: if victims refuse to self-identify as they consider that they consented to exploitation; when taking a decision on whether to investigate and prosecute a case as THB where the victim apparently consented to exploitation; when deciding on the penalty for offenders where there are assertions of consent.⁷¹ Moreover, by stating explicitly in legislation that consent is irrelevant, information made available to potential victims in risk sectors would be clearer and therefore could contribute to them coming forward, knowing that their consent does not preclude their being considered as victims of human trafficking.

234. In accordance with what GRETA recommended in its first report, Law no. 2013-711 introduced into Article 2-22 of the CPP the possibility for “any NGO having been registered for at least five years at the date of the incidents, and whose statutory purpose includes action against trafficking in human beings and slavery” to exercise the rights afforded to the plaintiff in relation to offences of trafficking in human beings, enslavement, exploitation of an enslaved person, forced labour and servitude.

⁷¹ See UNODC Issue Paper, The role of “consent” in the Trafficking in Persons Protocol, Vienna, 2014. Available at: www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf

235. Regarding penalties, the offence is punishable by up to seven years' imprisonment and/or a fine of up to 150 000 euros and, if committed against children, 10 years' imprisonment and a fine of 1 500 000 euros. Under Article 225-4-3, trafficking in human beings is punishable by up to 20 years' imprisonment and/or a fine of up to 3 000 000 euros when committed by an organised group. Furthermore, Article 225-4-2 provides for a penalty of up to 10 years' imprisonment and/or a fine of up to 1 500 000 euros if the offence was committed (1) against more than one person, (2) against a person outside France or upon arrival in France, (3) if the person was brought into contact with the trafficker via an electronic communication network, (4) in circumstances directly exposing the victim to an immediate risk of death or injury likely to result in mutilation or permanent disability, (5) with the use of violence resulting in work incapacity for longer than eight days, (6) by an individual whose duties require them to participate in action against trafficking or maintaining public order, or (7) if the offence placed the victim in a grave material or psychological situation. Article 225-4-4 states that when trafficking in human beings is committed with the use of torture or barbaric acts, the penalties will be increased to life imprisonment and a fine of 4 500 000 euros. Finally, Article 225-4-7 of the Criminal Code states that attempts to commit the offence of trafficking in human beings will be punishable by the same penalties.

236. GRETA urges the French authorities to align the notion of abuse of vulnerability to that of the Convention which encompasses any abuse of vulnerability, whether physical, psychological, emotional, family-related, social or economic.⁷²

237. GRETA also considers that the French authorities should expressly state in the Criminal Code that consent on the part of a trafficking victim is irrelevant, which could improve implementation of anti-trafficking legal provisions or, at the very least, take additional steps to make investigators, prosecutors and judges aware of the importance of this principle in connection with trafficking cases.

b. Criminalisation of the use of services of a victim (Article 19)

238. Although there is no provision specifically criminalising the knowing use of the services of a trafficking victim, the French authorities have indicated that several incriminations may be retained, depending on the circumstances, to sanction the behaviour of an individual using the services resulting from the exploitation of a trafficked person. In the first place, the use of services of a victim is considered in terms of the criminalisation of trafficking in human beings, where the perpetrator is also the one who benefits from the services of the person being exploited. The incrimination of trafficking in human beings, as provided for by the Law of 5 August 2013, is sufficiently wide to allow penalties for all persons who knowingly participated in one of the stages leading to the realisation of one of the forms of exploitation. If the individual is different, the behaviour may nevertheless be viewed in terms of complicity in trafficking, when the use of the service is concomitant with the commission of the offense of trafficking.

⁷² See also UNODC Guidance Note on "abuse of a position of vulnerability" as a means of trafficking in persons in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

239. Secondly, the use of the services of a victim, knowing that he or she is a victim of trafficking, is dealt with from the point of view of exploitation offenses, when the person who benefits from the services of the exploited person is also the one who is directly responsible for the exploitation. The relevant provisions of the Criminal Code are articles 225-13 and 225-14 for conditions of work and accommodation contrary to human dignity, articles 225-14-4 to 225-14-2 for forced labour and servitude, Articles 224-1 A to 224-1 C for the enslavement and exploitation of a enslaved persons, articles 225-12-5 for the exploitation of begging, and articles 225-5 and following for pimping. Concerning the penalisation of clients of prostitution, article 225-12-1 of the Criminal Code criminalises the use of prostitution provided by children or particularly vulnerable persons (due to illness, infirmity, physical or mental handicap or pregnancy) and the new article 225-12-1 of the Penal Code include in Law No. 2016-444 of 13 April 2016 punishes recourse to prostitution with a fine. These incriminations may in some cases overlap with the use of services, in this case sexual services, provided by a trafficked person (for the purpose of sexual exploitation).

240. Finally, the use of the services of a victim, knowing that he or she is a victim of trafficking, is viewed in terms of receiving profits resulting from ⁷³ trafficking in human beings, when the individual who uses the services, is neither the perpetrator nor the direct exploiter of the victim of trafficking but nevertheless benefits from the services provided by the victim. On this count, the authorities referred to a judgment of the Court of Appeal of Chambéry rendered on 6 May 2010, convicting for receiving profits resulting from trafficking of human beings a person who had worked as a site supervisor of victims trafficked for the purpose of conditions of work and accommodation contrary to human dignity, with knowledge of these conditions, as well as another person working for the company who had subjected the victims to working conditions contrary to human dignity. The court finds that "in accordance with article 321-1 of the Penal Code, second paragraph, the offense of receiving profits presupposes that the accused has knowingly benefited, by any means, from the proceeds of the offense, in this case, the offense of trafficking in human beings". Two further judgments, from 2011 and 2012, which led to convictions for receiving profits resulting from aggravated human trafficking, may be noted.

241. In addition, money-laundering offenses (Article 324-1 of the Criminal Code) and the non-justification of resources (Articles 321-6 and 321-6-1 of the Criminal Code) can brought in the case of profit made by the user of the services of trafficked persons. As regards the latter offence, penalties are aggravated in the case of crimes or offences involving trafficking in human beings. Finally, the criminalisation of criminal association (Article 450-1 of the Criminal Code), which punishes an agreement formed for the preparation of a crime or offense, may be applied in the event of the use of services provided by victims of trafficking, in which this remedy would have been anticipated and prepared.

242. GRETA invites the French authorities to explore the possibility of criminalising the use of the services of a victim in the knowledge that that person is a victim of trafficking, in order to facilitate prosecutions and judgments of those using these services.

⁷³ The offense of receiving profits, defined and punished by Article 321-1 of the Criminal Code, provides that: "Receiving profits is the concealment, detention or transmission of a thing, or of acting as an intermediary for the purpose of transmitting it, knowing that this thing originates from a crime or an offense. Receiving profits is also, knowingly benefiting, by any means, from the proceeds of a crime or an offense. Receiving profits is punishable by five years' imprisonment and a fine of 375,000 euros".

c. Corporate liability (Article 22)

243. In accordance with Article 225-4-6 of the Criminal Code, legal persons can be declared criminally liable for a THB offence and incur a fine of up to 750 000 euros potentially supplemented by the penalties provided for in Article 131-39 of the Criminal Code, which include dissolution, prohibition to exercise professional activity, placement under judicial supervision, closure of the establishments of the company used to commit the offences in question, disqualification from public tenders either permanently or for a maximum duration of five years, prohibition, either permanently or for a maximum period of five years, to make an offer of securities to the public or to have its securities admitted for trading on a regulated market and confiscation, in the conditions and in line with the procedures provided for in Article 131-21 of the Criminal Code. In addition, Article 225-25 of the Criminal Code more specifically states that natural or legal persons convicted of trafficking offences also incur the additional penalty of the confiscation of all or part of their property, of whatever type.

244. Where the liability of legal entities in subcontracting and supply chains is concerned, there is no current provision in French criminal law in connection with THB offences. However, the obligations of vigilance and due diligence on the part of building owners and head contractors to put an end to illegal situations, reinforced by Law no. 2014-790 of 10 July 2014 strengthening action against unfair corporate competition and Law no. 2015-990 of 6 August 2015 for economic growth, business activity and equal opportunities, relate to offences involving illegal labour (hidden labour and employment of foreigners without work permits) or failure to obey labour law rules concerning the payment of the minimum wage, decent accommodation, compliance with the "hard core" of labour legislation and fulfilment of formalities regarding the secondment of workers within the framework of international services.

245. The authorities stated that, to date, there have been no convictions of a legal person for acts of trafficking in human beings on the basis of Article 225-4-6 of the Criminal Code. GRETA considers that the French authorities should continually assess the implementation of legal provisions on corporate responsibility with regard to trafficking offenses.

d. Non-punishment of THB victims (Article 26)

246. As noted in GRETA's first evaluation report, French law contains no provisions enshrining the principle that THB victims should not be punished for engaging in illegal activities when forced to do so, as stipulated by Article 26 of the Convention. The French authorities have once again pointed out that Article 122-2 of the Criminal Code expressly states that "a person who has acted under the influence of a force or constraint which they could not resist is not criminally liable".

247. GRETA notes that, while the circular of the Minister of Justice of 22 January 2015 setting out criminal law policy on action against trafficking in human beings lays emphasis on making victims the central focus of anti-trafficking measures, it does not mention the principle of non-punishment. Various civil society stakeholders have reported numerous examples of trafficking victims, including children, being imprisoned for offences committed under the influence of traffickers, as already noted in GRETA's first report (paragraph 215). Moreover, it is still frequently the case that trafficking victims illegally present in France end up in administrative holding centres without being identified.

248. Accordingly, in the absence of a specific provision on non-punishment of trafficking victims, GRETA thinks it all the more important that the principle of non-punishment of victims having engaged in illegal activities when forced to do so by the trafficker forms an integral part of the training on trafficking in human beings organised for investigation services, prosecutor's offices and judges so that they are familiar with the principle of non-punishment set forth in Article 26 of the Convention.

249. GRETA further pointed out in its first evaluation report that certain criminal offences were likely to render trafficking victims more vulnerable, as they would be forced into committing them through the very activity they were coerced into by the traffickers. Law no. 2016-444 of 13 April 2016 on strengthening action against prostitution and providing assistance to persons engaging in prostitution resulted in the repeal of the offence of soliciting provided for in the old Article 225-10-1 of the Criminal Code, which previously impacted victims of trafficking for the purpose of sexual exploitation. Furthermore, the offence of illegal street trading provided for in Article 446-1 of the Criminal Code is likely to penalise some trafficking victims.⁷⁴ Nonetheless there is also an offence of exploitation for illegal street trading, which should be retained.

250. In its 2015 report on the fight against human trafficking and exploitation, the CNCDH recommends that general circulars be issued to prosecutor's offices to take physical and/or psychological coercion into account and not prosecute victims who are potentially exempt from criminal liability.⁷⁵ GRETA adds that such circulars should be addressed to the investigation services since, at present, they alone are empowered to formally identify a person as a victim of trafficking, including when such a person is apprehended for committing an offence under the coercion of traffickers. The competent staff of holding centres should also be made aware of the principle of non-punishment, as trafficking victims end up being placed in administrative detention centres for irregular migrants because they are illegally present in France.

251. To ensure application of the non-punishment provision, GRETA once again urges the French authorities to take all appropriate measures to ensure that the possibility provided for in internal law of not imposing penalties on victims for their involvement in unlawful activities, where they have been coerced into them, be upheld in the case of trafficking victims, in accordance with Article 26 of the Convention and, to that end, draw up circulars for the investigation services and prosecutor's offices specifying the scope of the non-liability provision in the special case of trafficking victims. Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.⁷⁶

⁷⁴ Report of the CNCDH on THB and exploitation, page 73.

⁷⁵ Ibid.

⁷⁶ Available at: <http://www.osce.org/secretariat/101002?download=true>

4. Investigation, prosecution and procedural law

a. Measures to ensure effective investigation (Articles 1, 27 and 29)

252. In its first report, GRETA called on the authorities to step up their efforts to ensure that the offence of trafficking is prosecuted whenever justified by the circumstances of the case, including through specific training for or specialisation of the competent actors.

253. With regard to the agencies specialising in trafficking investigations, the OCRTEH, which has authority to deal with offences relating to the sexual exploitation of victims, currently has 12 investigators. The OCLTI, which has authority to deal with trafficking for labour exploitation, has 40 investigators. In addition, 50 units for combating illegal labour and fraud (*cellules de lutte contre le travail illégal et la fraude* - CELTIFs), created within the gendarmerie services of departments, form local relays for the OCLTI, constituting a real network of investigative services across the country. Both of these bodies are supported by local and regional departments of the national police force, such as BMRs, and also gendarmerie departments, such as search units (*unité de recherche*). Several other central offices come across cases of trafficking, such as the OCRIEST, which is competent to tackle cross-border networks of migrant traffickers, and the OCLDI, which is competent to deal with cases of trafficking involving itinerant networks. In addition, the UCOLTEM is responsible for gathering and sharing operational intelligence in relation to action against organised crime which fosters illegal immigration in all its forms (networks, illegal labour, criminal activities, exploitation). With regard to trafficking, police and gendarmerie units across the country can act jointly with central offices under the responsibility of a public prosecutor or investigating judge. It is therefore of crucial importance that regional investigation services are familiar with the offence of trafficking so that they can identify it. In Paris, the Brigade for the Suppression of Pimping (*Brigade de Répression du Proxénétisme* – BRP) and the BPM investigate trafficking offences in the course of their work. Since the criminalisation of the purchase of sexual services by the Law of 13 April 2016, the Paris public prosecutor's office has ensured that efforts to tackle trafficking and pimping networks remain a priority for the BRP.

254. Where trafficking in human beings for the purpose of organ removal is concerned, the OCLAESP has not yet observed any such cases, but remains vigilant through the information exchange network it has set up with health ministry bodies.

255. The use of special investigative techniques is envisaged in cases where the offence takes an aggravated form under Articles 225-4-2 to 225-4-7 of the Criminal Code. In these situations, investigation services can make use of special investigative techniques subject to oversight by a judicial authority: surveillance of persons throughout the national territory (Article 706-80 of the CCP), infiltration (Articles 706-81 to 706-87 of the CCP), investigations conducted with the use of assumed names (Article 706-87-1 of CCP), extended search powers (Articles 706-89 to 706-94 of the CCP), intercepting, recording and transcribing correspondence sent via telecommunications (Article 706-95 of the CCP), accessing, recording, storing and transmitting computer data (Articles 706-102-1 to 706-102-9 of the CCP), recording sound and images in certain places and vehicles (Articles 706-96 to 706-102 of the CCP), and finally precautionary measures in relation to the property of a person who has been indicted (Article 706-103 of the CCP). In addition, police custody can be extended for 24 hours twice in exceptional cases (Articles 706-88 to 706-88-1 of the CCP).

256. Central offices which have authority to deal with THB offences can use cyber-infiltration. Article 19 of Law no. 2014-1353 of 13 November 2014 strengthening the provisions on counter-terrorism inserted a new article, Article 706-87-1, in the CCP to extend the investigative technique known as "cyber patrolling", which until then had only been permitted for certain crimes and offences, including trafficking offences, to all offences and crimes relating to organised crime, where they have been committed through a means of electronic communication. The new Article provides that, in order to determine that offences including aggravated trafficking have been committed (Article 706-73 of the CCP) and, where they have been committed via a means of electronic communication, gather evidence and identify the perpetrators, criminal investigation police officers or staff acting in the course of an investigation or on the basis of a request for judicial assistance can undertake the following actions, if they are posted to a specialised agency designated by order of the Minister of the Interior: 1) Participate in electronic exchanges under an assumed name; 2) Communicate via electronic exchanges with persons who may be responsible for such offences; 3) Use this same means to extract, acquire or store items of evidence and data concerning persons who may be responsible for such offences; 4) Extract, pass on in response to an explicit request, acquire or store illegal content in conditions established by decree.

257. With regard to the possibility of blocking websites used to facilitate the recruitment of victims or to distribute child pornography, Article 6-1 of Law no. 2004-575 of 21 June 2004 on confidence in the digital economy, created by Law no. 2014-1353 of 13 November 2014, allows an administrative authority to block websites which distribute images or representations of child pornography covered by Article 227-23 of the same Code. The provisions of the law were clarified by Decree no. 2015-125 of 5 February 2015. Under the current system, the Central Office for Combating Crime linked to Information and Communication Technologies (*Office central de lutte contre la criminalité liée aux technologies de l'information et de la communication* – OCLTIC) sends the host a request to remove the content. If the content is not removed within 24 hours, the administrative authority sends the list of electronic addresses of the online public communication services that are in breach of the provisions of the Criminal Code to Internet access providers so that they can block the aforementioned sites within 24 hours.

258. The Platform for the Identification of Criminal Assets (*Plateforme d'identification des avoirs criminels* – PIAC) was created in 2005 and is used to identify criminal assets. It has the power to conduct asset investigations under the supervision of a judicial authority. The PIAC also centrally collates all information concerning the detection of criminal assets throughout France and abroad. The PIAC has been designated as the Asset Recovery Office (ARO) for France by the European authorities and point of contact for various international co-operation networks dedicated to the recovery of criminal assets. This unit was deployed at local level in 2014 through the creation of criminal asset investigation groups.

259. All of the OCRTEH's investigations include financial investigations whose purposes are to estimate proceeds from the prostitution of victims, trace flows of money connected with prostitution to foreign countries and identify criminal assets. To that end, the OCRTEH is developing co-operation with countries of origin of persons engaged in prostitution and to which financial flows are channelled, in order to seize and confiscate criminal assets in those countries.

260. Investigation departments of the gendarmerie routinely initiate financial investigations into trafficking offences and a national criminal assets team has been created in order to help gendarmerie units seize criminal assets so that they can subsequently be confiscated by trial courts. Gendarmerie units conducted 125 financial investigations into offences classified as trafficking in human beings in 2012, 126 in 2013 and 189 during the first ten months of 2014. In 2014, assets and cash with a total value of 2 763 000 euros were seized in proceedings initiated by gendarmerie units in cases of trafficking for the purpose of pimping. Since 2014, the national gendarmerie has departments dedicated to providing technical support to investigators for the purpose of identifying and seizing criminal assets: the National Criminal Assets Groups (*Cellules nationales "avoirs criminels"* – CENACs) and Regional Criminal Assets Groups (*Cellules régionales "avoirs criminels"* – CERACs).

261. As an example, the judgment handed down by Paris Court of Appeal on 8 September 2015 in the Hamidovic case concerning trafficking for forced criminality (see below, paragraph 271) highlighted the importance of the financial investigations carried out, including in relation to money transfer companies and Western Union in particular. These investigations revealed that many transactions had been carried out under assumed identities and that most of the money had been sent by means of physical transportation. The total profit accrued by the Hamidovic gang was estimated at 1 296 000 euros.

262. Information is exchanged as part of police co-operation via bilateral communication through liaison officers or multilateral actions within Europol. Evidence is obtained through judicial co-operation by way of international requests for mutual judicial assistance or JITs. During investigations or judicial investigations, JIRSs or general courts regularly avail themselves of international co-operation over organised crime, including through Eurojust and JITs. In addition, the Ministry of Justice is developing technical co-operation and international mutual assistance in relation to criminal matters through its network of liaison law officers on all continents.

263. Framework memoranda of understanding in relation to JITs have been entered into with Spain, Germany, Slovenia, Romania, the Netherlands, Belgium, Bulgaria and Cyprus. These framework agreements are tools that facilitate the use of JITs by all French courts when they are negotiated and when the agreement is signed. By 5 January 2016, prosecutors and investigating judges had entered into 106 JIT agreements, six of which concerned the offence of trafficking. One of these JIT agreements is the first-ever French JIT agreement with a non-EU country, namely Bosnia and Herzegovina, and was signed in 2015. It concerns trafficking, among other things.

264. In its first report, GRETA noted that other offences which are better known to investigation services, prosecutors and judges (such as pimping or indecent working conditions) were often prosecuted instead of trafficking. On the basis of this finding, and as GRETA underlined in its first report, the circular of 22 January 2015 on criminal law policy on action against trafficking in human beings includes a reminder of the need to use the classification of trafficking and allow complementary classifications to be applied at the same time, especially the classification of trafficking and that of exploitation.

265. Although all criminal courts have jurisdiction to hear trafficking cases, the most complex cases are often referred to JIRSs in view of their specialisation in organised crime. During its visit, the GRETA delegation found that due to the lack of specialisation in trafficking among both judges and prosecutors, knowledge of the offence of trafficking varied greatly from one JIRS to the next, and as a result it was not always prosecuted, with related offences being prosecuted instead. For example, at the Marseille JIRS, no judge or prosecutor had attended the ENM training on trafficking, and in both Marseille and Bordeaux, there had been very few cases concerning trafficking over the past few years. In Paris and Lille, however, JIRSs were used to deal with trafficking, including for sexual exploitation and forced offending and criminal acts affecting children.

266. GRETA has noted the difficulty, which still exists at present, of ensuring that the classification of trafficking is applied specifically for exploitation, forced labour or servitude. Various interlocutors underlined that while the offences of undeclared work and facilitation of unauthorised residence are routinely identified as such, trafficking offences are only very rarely identified. In addition, irregular status in France and the fact that exploiters often accuse victims of committing offences against them can also explain why the offence of trafficking is not prosecuted, since victims are regarded *prima facie* as offenders. The various institutional interlocutors whom the GRETA delegation met, including investigation services and various representatives of the Public prosecutor's office, confirmed that they had had difficulties in prosecuting the offence of trafficking for the purposes of forced labour or servitude. In addition, irrespective of the type of exploitation, there is still a widespread belief amongst local law enforcement units, prosecutors and judges that trafficking necessarily involves international networks. Furthermore, some judges and prosecutors do not believe that there is anything to be gained from prosecuting the offence of trafficking rather than other offences for which the sentences are comparable. GRETA underlines in this regard that the offence of trafficking gives victims special rights and also facilitates international co-operation around a recognised definition.

267. The OCLTI analyses trends, works on prevention and punishment, shares its experience through training, and exchanges with magistrates and investigators who may have scruples about qualifying as THB certain serious situations which might be more readily sanctioned on the sole basis of working conditions contrary to human dignity. This analysis has led the OCLTI to establish a scale of severity and a typology of severe forms of labour exploitation. Based on the cases of trafficking in human beings in the broad sense which have been handled or brought to its attention in 2015 and 2016, the OCLTI has updated this scale. This approach confirms the importance of evaluating the issue of trafficking in human beings for labour exploitation with the use of this scale of severity ranging from illegal labour to exploitation of slavery, with the most serious forms including elements of the lesser ones. "Working or accommodation conditions contrary to human dignity" is the first level of severity in the serious forms of labour exploitation, followed by forced labour (article 225-14-1 of the Criminal Code), servitude (Article 225-14-2 of the Penal Code), and finally, the exploitation of an enslaved person and slavery, the latter two offenses being punished with criminal penalties. This approach makes it possible to bypass legal reticence or difficulties encountered in qualifying the offense as trafficking in human beings, which is rarely done in practice. The scale highlights the notion of serious forms of labour exploitation, which include in a criminological approach the criminal offense of trafficking in human beings and specific offenses such as pay conditions unrelated to the work performed and working or accommodation conditions contrary to human dignity. Illegal work, a less serious form of labour exploitation, appears as a tool for preventing and detecting trafficking in human beings for labour exploitation, with the OCLTI as the best-placed interlocutor for the co-ordination of this type of litigation.

268. Furthermore, GRETA would like to mention the judgment passed by the Nancy Court of Appeal on 22 July 2014⁷⁷ in support of its findings with regard to the need to train both judges and prosecutors on trafficking and, in particular, its legal definition. In this case, the person responsible for the offence of trafficking for the purpose of forcing a person to commit offences had had a thirteen-year-old girl handed over to him by her father in exchange for 120 000 euros so that he could “marry” her to his minor son and use her in his gangs of thieves. Following an investigation conducted by the search division of the Strasbourg gendarmerie, criminal proceedings for trafficking were lodged by the public prosecutor’s office and the criminal court found him guilty of trafficking of the girl, among other offences. However, Nancy Court of Appeal then acquitted the accused of trafficking on the grounds that, while immoral, the behaviour of the defendant, who had bought the girl so that he could then force her to commit burglary, was not covered by the intentions of criminalisation set out in Article 225-4-1 of the Criminal Code, which are “to eradicate the trade in human beings in order to combat slavery behaviours which are particularly destructive to human dignity and arise in a context of global economic imbalance”, and “while the financial aspects of an “arranged marriage”, even when corresponding to a cultural practice, is shocking, this specific offence, which goes beyond the case at hand, should not be trivialised”. In a judgment handed down on 16 December 2016, the Court of Cassation set the appeal court’s decision aside and found that the appeal court had not justified its decision.⁷⁸

269. In 2014, 19 investigations were carried out by the OCRTEH in relation to trafficking for sexual exploitation, and 17 investigations in 2015. Gendarmerie units detected 33 offences of trafficking in 2013, 52 in 2014 and 31 in 2015, but no indications of the type of exploitation were recorded. In 2015, separately from the offence of trafficking, they detected 65 offences of indecent working and housing conditions, one offence of forced labour, two offences of servitude, one offence of slavery, one offence of exploitation of a person who had been enslaved, 12 offences of indecent working and housing conditions, forced labour or servitude in relation to children, 12 offences of exploitation of begging (four of which related to children), eight offences of exploitation of unauthorised street peddling (one of which related to one or more children), 118 offences of inciting a minor to engage in drug trafficking or crime, and 19 offences of facilitating illegal migration involving indecent living, working or housing conditions. From these figures, however, it is not possible to ascertain the number of investigations that were initiated as several offences can be detected in a single situation. The authorities said that it was not possible to provide any details of prosecutions of trafficking, as they have been classified by type of case only since 2014; only details of the nature of cases are available.

270. The national criminal records office does not make it possible to link together convictions pronounced in the same case. It is possible however, in these specific and relatively rare cases, to assume that several convictions pronounced on the same day by the same court in relation to one or more offences related to trafficking will relate to the same case. In 2014, convictions were handed down for 246 offences of trafficking – a large increase in comparison with 2013 (153 convictions) and 2012 (23 convictions), with 91 persons convicted (as compared to 64 persons in 2013). These figures make no distinction as to the type of exploitation. However, the authorities were able to state that in 2015, 66% of convictions (i.e. 60 out of 91) were for trafficking offences combined with pimping offences. GRETA also notes that the number of convictions for pimping – an offence which is often prosecuted in practice – was 1 061 in 2014 and that the offence of indecent working and housing conditions, which often arises in cases concerning trafficking for labour exploitation, accounted for 114 convictions in 2014 – a level comparable with previous years.

271. From 2010 to 2013, in over 60% of cases, trafficking offences resulted in sentences of non-suspended or partly non-suspended imprisonment, with the non-suspended part ranging from 3 years to 4 years and 8 months. In 2014, 100% of convictions for trafficking resulted in a non-suspended or partly non-suspended prison sentence. From 2010 to 2013, fines were imposed following some convictions; the average non-suspended amount ranged from 100 000 euros in 2010 to 50 000 euros in 2013.

⁷⁷ Nancy Court of Appeal, Criminal Division, judgment of 22 July 2014.

⁷⁸ Court of Cassation, Criminal Division, judgment no. 5705 of 16 December 2015 (14-85.900).

272. With regard to forced offending, for example, in a judgment passed on 8 September 2015, the Paris Court of Appeal found T. Hamidovic guilty of acts of trafficking for the purpose of forced offending and sentenced him to six years' imprisonment and a fine of 100 000 euros. He had run a network exploiting numerous young people from Bosnia and Herzegovina who had been forced to commit theft and suffered ill-treatment at the hands of the traffickers. He transported and accommodated young people, taking them from a hotel in the Paris region to a metro station and putting them up in hotels. In another case, in a decision dated 3 April 2014, the JIRS in Rennes convicted eight individuals of trafficking in human beings for the purpose of fraudulently purchasing top-of-the-range mobile phones in France or neighbouring countries with a view to selling them off cheaply in Romania. The victims had been recruited in Romania with a verbal promise of a temporary job in France, which had not materialised. They had been taken to France by the traffickers or drivers acting on their orders and delivered to a camp where they had been accommodated in makeshift shelters in very precarious conditions. The traffickers had arranged for bank accounts to be opened for them, depositing on those accounts only the amounts needed for the mobile phone purchases.

273. GRETA considers that the French authorities should strengthen their efforts to ensure that the offence of trafficking is prosecuted whenever the circumstances of a case allow, including cases concerning trafficking for the purposes of forced labour and servitude:

- by ensuring better distribution of the circular on criminal law policy on action against trafficking in human beings, and by supplementing it, where necessary;
- by developing specialisation in trafficking among judges and prosecutors at all JIRSS.

b. Protection of witnesses and victims (Article 28)

274. In its first report, GRETA urged the French authorities to strengthen the procedural measures designed to protect victims and witnesses during and after the end of criminal proceedings, to offer special protection for child victims of trafficking, to ensure that victims are given information and assisted, and to provide police services and gendarmerie units with the human and procedural resources they need to protect victims and witnesses involved in their investigations who have received threats.

275. When interviewed, witnesses can, if permitted to do so by the national prosecutor or the investigating judge, elect domicile with the police station or gendarmerie brigade (Article 706-57 of the CCP, which provides that their address will then be added to a numbered and initialled register opened for this purpose). A circular (*Note Express* no. 79 000) issued by the Director-General of the National Gendarmerie stipulates that gendarmerie units must ask the judge presiding over the proceedings to take these measures. It is the view of GRETA that all law enforcement units should be instructed to implement the possibility of using the address of the police station or the gendarmerie brigade as domicile.

276. In certain circumstances, and with permission of the judge who takes decisions on freedom and custody, witnesses can also give evidence anonymously (Article 706-58 of the CCP, which applies to proceedings concerning offences that are punishable by at least three years' imprisonment where interviewing these persons may seriously endanger their life or physical integrity, or that of members of their family or associates). If a request is made by the indicted person or defendant for a witness who has given testimony anonymously to be brought face to face with them, this shall be done by means of a technical system which allows the witness to be interviewed remotely, and his or her voice shall be made non-identifiable (Article 706-61 of the CCP). With regard to situations where witnesses are brought face-to-face with indicted persons in general, courts shall ensure that this procedure is only resorted to in cases of absolute necessity where the victim is a minor, with the use of video-conferencing being preferred in order to prevent any direct contact between the perpetrator and the victim.

277. In addition, victims and witnesses can be protected by keeping the offender away during the pre- and post-verdict stages. Where a prosecution is brought, owing to the risk of intimidation or a repeat offence, the need to protect victims and/or witnesses may result in the perpetrator being placed in provisional detention (Article 144 of the CCP). In addition, the latter may be placed under court supervision entailing a prohibition from residing at their family home and/or contacting the victim or witnesses (Article 138 of the CCP). Such prohibitions continue through sentencing, whether by imprisonment accompanied by probation or socio-judicial supervision (Articles 131-36-2 and 132-45 of the Criminal Code). Several offences are aggravated when they are committed against a victim or witness in order to influence them or as reprisals (including the offences of murder: Article 221-4 of the Criminal Code; torture and acts of barbarity: Article 222-1 of the Criminal Code; violence: Articles 222-8, 222-10, 222-12, 222-13 of the Criminal Code).

278. Particular attention is paid to interviews of victims and procedures, including expert opinions, whose purpose is to gauge the impact of offences on them. With specific regard to child victims, interviews are to be video-recorded to avoid the child having to repeat what they have previously said during later stages of the proceedings, and may be conducted in the presence of a third party at the child's request (Articles 706-51-1 of the CCP). According to the authorities, these procedures, which are increasingly conducted by professionals who have been trained in child interviewing, tend to be carried out at specially adapted locations, such as forensic medical units. Children can also undergo medical/psychological assessments (Article 706-48 of the CCP).

279. Furthermore, the Law of 17 August 2015, which transposes Directive 2012/29/EU on the rights of victims into French law, provides for an individualised victim assessment, the aim of which is to adapt procedural protection measures to the needs of victims in order to protect them from the risk of reprisals, intimidation and revictimisation. The new Articles 10-2 to 10-5 of the CCP stipulate the rights of which victims must be informed, including procedural protection measures from which they may benefit, and protection measures which may be accorded following a personalised evaluation with the investigating authorities. According to the authorities, an analysis of the needs identified through a timely and individual victim assessment will make it possible, in addition to procedural protection measures, to adapt the assistance provided by NGOs to the needs of THB victims.

280. Law no. 2016-444 of 13 April 2016, on strengthening action against prostitution and providing assistance to persons engaged in prostitution, provides that Article 706-63-1 of the CCP gives THB victims, whose life or physical integrity is seriously endangered, rights to protection in order to guarantee their safety, including through the use of assumed identities. They can also choose administrative domicile with an NGO or lawyer.

281. The CCP has been amended in order to extend reinforced protection measures to trafficking victims who have given testimony (Article 706-40-1). Article 306 of the CCP now provides that trafficking victims are entitled to request that they be examined in criminal courts *in camera*. In addition, Article 225-24 of the Criminal Code has been amended so that the additional sentence relating to the seizure of property which was used to commit an offence or constitutes proceeds thereof in pimping cases also applies to trafficking offences.

282. In its first report, GRETA stated that the guarantees specifically applicable to children apply to victims of sexual offences (Articles 706-47 and 706-48 to 706-53 of the CCP) and was therefore concerned that there is no broader protection covering all child victims of trafficking for different forms of exploitation, including those already provided for in French law.⁷⁹ The authorities provided clarification that all the provisions of the CCP relating to “the procedure applicable to offences of a sexual nature” and “the protection of child victims” are intended to apply to procedures relating to the trafficking of children, regardless of the type of exploitation. This means that the possibility of ordering a medical treatment injunction against a person convicted of trafficking in human beings and the obligation to subject them to an expert medical assessment are provided for. The possibility for child victims of trafficking to undergo a medical and psychological expert assessment “intended to evaluate the nature and scale of the harm suffered and to establish whether it calls for appropriate treatment or care” is also provided for. Likewise, there is provision for the juvenile judge to be notified without delay of any procedure relating to a child victim of trafficking. Finally, assistance from an ad hoc administrator to represent their interests as well as assistance from a lawyer are also available to child victims of trafficking. In addition, in the instruction of 17 November 2016 on procedures for assessing unaccompanied children, it is pointed out that if an adult appears to wish to look after a child, close attention must be paid to the motives of that person, who must act solely in the interests of the child.

283. Victim support NGOs have highlighted the fact that, in practice, victims are not protected outside court premises and hearings, with the exception of the measure of allowing victims to choose domicile with an NGO. Their protection essentially consists of them being placed far away from the place where they were exploited through the Ac-Sé national system. However, in order to guarantee that they will participate in proceedings, they are sometimes accommodated in hotel rooms some 40 kilometres from where the court proceedings are on-going, which means that additional support from organisations is needed to mitigate the feeling of isolation that may arise in such a situation. Civil society has cited many examples demonstrating that victims are not informed of the progress of their case when their safety will be involved. For instance, they are not always informed when accused persons are released, despite the risks that this can pose to victims.

284. While GRETA welcomes the development of the protection measures afforded by the law to witnesses, including witnesses of trafficking, it nonetheless considers that the French authorities should:

- take the necessary steps to ensure that the protection measures for witnesses and victims of trafficking enshrined in the law are fully implemented during and, where necessary, after investigations and judicial proceedings;
- ensure that victims are informed of dates of release and measures of protection put in place on release of the offender, and other developments that may affect their safety in the course of court proceedings;
- ensure that protection is provided to child victims of trafficking regardless of the form of exploitation, adapted to the specific needs of children, and in accordance with the best interests of the child.

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See GRETA's first report on France, paragraph 234.

c. Jurisdiction (Article 31)

285. Article 225-4-8 of the Criminal Code as amended by Law no. 2013-711 of 5 August 2013 introducing various adaptation measures in the field of justice in accordance with European Union law and France's international commitments extends the applicability of French law to acts of trafficking committed by French nationals outside French territory, regardless of whether the principle of dual criminal liability applies, even if no complaint is made by the victim or their beneficiaries or if no official complaint is made by the authority in the country where the acts were committed. However, civil society organisations indicated that, in their experience, this option is rarely used and that, when it is, the cases are swiftly filed with no further action being taken. GRETA considers that the French authorities should continuously assess the effective implementation of the legal provisions relating to the jurisdiction of the State in respect of traffic offences committed abroad by French nationals.

5. International co-operation and co-operation with civil society

a. International co-operation (Articles 32 and 33)

286. The Ministry of Foreign Affairs and International Development is participating in numerous initiatives through voluntary contributions to the United Nations Office on Drugs and Crime (UNODC). The Ministry's contribution to the United Nations Trust Fund for Victims of Human Trafficking has quadrupled since the Fund was created; it contributed 100 000 euros in 2016. In 2015, it contributed 150 000 euros to the UNODC Global Programme Against Trafficking in Human Beings.

287. In 2013, the Ministry of Foreign Affairs and International Development launched the Priority Solidarity Fund (*Fonds de Solidarité Prioritaire* – FSP) "Support for action against trafficking in human beings in the States of the Gulf of Guinea" (*Appui à la lutte contre la traite des êtres humains dans les États du Golfe de Guinée*) which is targeted at Benin, Cameroon, Ghana, Nigeria and Togo and will operate until 2017. This fund has a budget of 800 000 euros. One of its aims is to boost regional co-operation, especially between judges and prosecutors. Another aim is to build the capacities of civil society organisations which assist victims of trafficking. A French technical expert has been posted to Lomé (Togo) in the framework of the implementation of the fund's objectives. For example, the Togolese authorities have been given assistance so that they can pass anti-trafficking legislation, including training for judges, prosecutors and investigation services.

288. The Ministry of Foreign Affairs still has a technical advisor on action against trafficking in South-East Europe seconded to the French permanent representation to the United Nations Office and international organisations in Vienna. He implements concrete co-operation and technical assistance actions in 11 countries in order to build the institutional and support capacities of civil society and has an annual budget of 90 000 euros. The regional centre for action against organised crime which was set up at the French embassy in Serbia has jurisdiction over 13 countries in South-East Europe, and combating trafficking is one of its priorities. Its activities include raising awareness, training and co-operation. Its budget for 2015 was 160 000 euros. A regional co-operation officer for the rights of children, who has been posted to Bucharest and whose remit covers Romania, Bulgaria and the Republic of Moldova, is also involved in the efforts of the regional advisor and the regional centre to raise awareness of trafficking in children in the region. In 2014, the amount of the financial contributions earmarked for combating trafficking in South-East Europe was 270 000 euros.

289. In addition, between 2011 and 2013, the EuroTrafGuID project implemented by *Expertise Internationale France*, which is accountable to the Ministry of Foreign Affairs and International Development, developed practical tools for identifying trafficking victims and drew up a best practice report, both of which were approved by the project's six partner countries (Bulgaria, Spain, France, Greece, Netherlands and Romania). These tools form the basis of a common and harmonised approach to the identification of potential trafficking victims, which is central to the objectives of the EuroTrafGuID project. This project was co-financed by the European Union's "Prevention of and Fight against Crime" programme and by five Member States which are participating in the project, including France.

290. The Ministry of the Interior's Directorate of International Co-operation engages in technical co-operation in the trafficking sphere with various countries. These activities include training on the phenomenon of trafficking for police officers, judges and prosecutors. For example, in 2014, 27 co-operation visits concerning trafficking were made, including study visits and donations of equipment. From 6 and 10 October 2015, 16 Romanian police officers received anti-trafficking training from an OCRTEH expert and, from 25 to 28 January 2016, there were exchanges between two experts from the BPM, two JIRS judges and their counterparts in Bosnia-Herzegovina.

291. As mentioned in paragraphs 262-263, law enforcement agencies and the public prosecutor's office have established co-operation links with their counterparts in other countries, such as with JITs in cases of transnational human trafficking. JITs were put in place for instance with Belgium, Bulgaria, Spain, Romania, Hungary, Germany, Switzerland and Bosnia and Herzegovina. The OCRTEH has also mentioned operational and strategic exchanges with Nigeria and China. By way of example, the authorities have mentioned co-operation between the prosecutor's offices of Lille and Belgian counterparts along the border (Tournai, Kortrijk, Ypres, Veurne and Bruges) in combating transborder trafficking, which includes biannual meetings. Moreover, a UK judge was seconded to the Lille JIRS to facilitate co-operation between the two countries in fighting criminal networks, including in connection with human trafficking.

292. The Directorate of Judicial Youth Protection Services (DPPJ) of the Ministry of Justice is a partner in a project run by ECRE (European Council on Refugees and Exiles) entitled "Analysis of reception, protection and integration policies for unaccompanied minors in the EU". The goal of this project is to help to improve reception standards for unaccompanied children, in particular by ensuring that the conditions of reception, in the broadest sense, meet their needs.

293. In order to facilitate the identification of child victims at European level, the MIPROF is working on a project to create a European platform in association with the Ministry of Justice with a view to better sharing of information between the relevant authorities in each Member State.

294. When it comes to children going missing, a specific warning system against kidnapping has been set up, making it possible to broadcast a public announcement for three hours on television and radio, in the press, in public places, including train and underground stations, and on the Internet. The kidnapping alert plan is an exceptional measure, triggered by the prosecutor of the Republic in close collaboration with the investigators and after consultation with the Ministry of Justice. It is governed by specific criteria, implying *inter alia* that the life or physical well-being of a child victim is in danger following a confirmed kidnapping and not merely a disappearance, even of a worrying nature.⁸⁰ The harmonised European telephone number for children going missing (116000) is operational in France since 2009. However, GRETA has noted that no warning system was triggered when children went missing from the Calais refugee camp, particularly which would involve co-operation with the UK authorities considering that many of the children in the refugee camp wanted to reach the UK (see paragraph 96). With regard to the existing procedure to facilitate family reunion for children in the UK and risk assessments to avoid trafficking risks, the French authorities stated that the decisions relating to the reception of children in the United Kingdom and, consequently, the conditions governing possible family reunion depend entirely on the British Home Office. The Home Office has deployed staff to all the CAOMIs so that children can lay claim to their ties with family members in the United Kingdom in accordance with the Dublin III Regulation. For each file, the Home Office has carried out checks into the claimed family ties, taking account of the possible risks of trafficking.

295. GRETA invites the French authorities to continue to pursue their international co-operation efforts to combat trafficking in human beings, including by facilitating family reunion for children who have been separated from their family.

b. Co-operation with civil society (Article 35)

296. In its first report, GRETA called on the French authorities to ensure that civil society is fully involved in the development, implementation and also, in the long term, evaluation of the future national action plan to combat trafficking, and to ensure that funding for NGOs which assist victims is not only adequate, but also specifically earmarked for trafficking in all its forms.

297. GRETA notes that NGOs have been consulted in the development of the national action plan to combat trafficking in human beings and that they have actively participated in awareness-raising, research and the development of identification training tools for investigation services, judges and prosecutors on the one hand, and social educators on the other hand. Specialised NGOs pursue activities to raise awareness of trafficking risks, in the absence of any national campaign conducted by the authorities, using modest resources, which depend on an ad hoc partnership basis (see paragraphs 74-77). They also participate in training, usually at their own initiative, and sometimes at the request of the authorities (see, for instance, paragraphs 56 and 61). GRETA highlights the importance of involving specialised NGOs in the development of training tools, as was done for the aforementioned child trafficking tools, and also in training courses run in order to disseminate these tools.

298. A number of NGOs consider that they have not sufficiently been involved in the shaping of anti-trafficking policies. The adoption of Decree no. 2016-1096 of 11 August 2016 has enabled five civil society representatives who work in the field of trafficking to sit on the MIPROF steering committee, which sets the priorities for its activity at two annual meetings, and on the newly-created co-ordination committee which was established to monitor the issue of trafficking specifically (see paragraph 32). GRETA welcomes this development, which it hopes will enable specialised NGOs to become more involved in discussion leading to the setting of priorities for action against THB in the light of their field experience.

⁸⁰ www.alerte-enlevement.gouv.fr/art_pix/1_convention_ae_20100420.pdf ;
www.textes.justice.gouv.fr/art_pix/JUSD1508210C.pdf

299. Local initiatives to foster co-operation between the authorities and NGOs are sometimes set up, but their work relies mainly on NGOs. In Bordeaux, a partnership agreement between the prefecture, the prosecutor's office, the investigation services and a specialised organisation, IPPO, was set up in 2012 and specifies the role of each partner in facilitating consultation and co-ordination activity. However, since the change of prefect, this agreement has been inactive. In January 2016, the OICEM held a co-ordination meeting in Marseille to which the OCLTI, the local investigation services, the MIPROF, hospitals, the departmental delegate for women's rights and equality and the prefecture, which was not represented, were invited. This meeting was followed by the creation of a trafficking sub-committee under the auspices of the department committee on violence against women.

300. However, the implementation of the experimental system for the geographical relocation of children is a positive example of close co-operation between a specialised NGO, *Hors-la-Rue*, and the various competent institutional partners, including the MIPROF, the Paris prosecutor's office, the children's judge, as well as the prefecture and City Council of Paris (see paragraph 168).

301. With regard to funding for specialised NGOs, the civil society stakeholders all underlined that it was inadequate for what was expected of them in terms of awareness-raising activities and particularly support and accommodation for trafficking victims – responsibilities wholly delegated to them. The fact that emergency accommodation is over loaded forces NGOs to accommodate the most vulnerable victims at their own expense when they do not have any available accommodation themselves. The number of places within the Ac-Sé national system has not seen any increase and is, in any case, reliant on volunteer work done by CHRSS and specialised NGOs, which do not receive any funding for these places. Furthermore, the fact that funding for specialised NGOs is renewable on an annual basis poses problems for the continuity of their activities. At national level, the support provided by the Directorate General of Social Cohesion has been formally confirmed in three-year agreements for the 2013-2015 period with the *Mouvement du nid*, *Amicale du nid*, CCEM and ALC, for a total amount of 345 000 euros in 2015.

302. NGOs based outside Paris are experiencing major difficulties in funding their activities, and none of them has received the aforementioned funding (with the exception of ALC in its capacity as co-ordinator of the Ac-Sé national system). For example, GRETA was informed that the NGO OICEM, which is based in Marseille and supports victims of all forms of trafficking (in 2016, it dealt with 186 reports from all over France, almost half of which concerned domestic servitude), received only limited funding from the Bouches-du-Rhône department and Marseilles City Council (which provided a flat to accommodate victims) and had to resort to funding raised primarily through projects and donations. As a result, the salaries of the five persons working for the organisation were not guaranteed. In Bordeaux, RUELLE (an organisation which supports approximately 30 new victims of trafficking for all forms of exploitation each year) pointed out that there is no local funding earmarked for THB, and that it does not meet the criteria to receive funding from the Gironde department under the anti-prostitution programme.

303. GRETA considers that the French authorities should provide adequate and sustained financial support to NGOs specialised in combating trafficking throughout the country, which is earmarked for trafficking regardless of the form of exploitation (see also paragraph 161).

304. GRETA also considers that the French authorities should pursue and step up the efforts they have initiated to involve specialised NGOs, including those based in the regions, more closely in both the shaping of public policy on action against trafficking for all forms of exploitation and the implementation of that policy.

IV. Conclusions

305. Since the adoption of GRETA's first report on France in 2012, progress has been made in a number of areas.

306. The French authorities have amended the provisions criminalising trafficking in human beings to include the element of "means" as a component of the offence and to expand the list of forms of exploitation by including slavery, servitude, forced labour and the removal of organs, in line with the recommendations made by GRETA in its first report. Further legislative changes have been adopted to strengthen the rights of victims of trafficking and expand the mandate on labour inspectors to deal with trafficking cases.

307. Progress has also been made when it comes to the co-ordination of anti-trafficking action, with the setting up of the MIPROF and its steering committee made up of representatives of the national, local and regional authorities, as well as NGOs. Moreover, GRETA welcomes the designation of the CNCDH as independent National Rapporteur on trafficking in human beings.

308. Another positive development is the adoption of the first National Action Plan against trafficking in human beings in May 2014, which was drafted by the MIPROF in consultation with institutional and civil society stakeholders.

309. Efforts have also been made to provide training to relevant professionals and to expand the categories of staff targeted. The MIPROF has set up working groups, with a view to preparing training tools for professionals coming into contact with victims of trafficking.

310. Moreover, steps have been taken to combat trafficking for the purpose of labour exploitation, through the adoption of legislation reinforcing employers' obligations regarding seconded employees and the National Action Plan against Illegal Labour.

311. GRETA welcomes the creation of specialised contact persons for THB within the OFPRA, with a view to improving the detection of trafficking victims among asylum seekers. This approach has enabled protection staff to detect victims and refer them either to specialised NGOs or to the Ac.Sé national system for suitable shelter placement.

312. Furthermore, GRETA welcomes the adoption of a new provision for the appointment of a guardian or an ad hoc administrator who is independent of the child welfare services and responsible for representing the child's interests. Other positive developments are the preparation of an instruction leaflet on child trafficking aimed at the general investigation services and members of the judiciary and a training booklet for social educators describing the main characteristics of child trafficking victims.

313. Some improvement has been made in the area of compensation for victims of trafficking. GRETA welcomes the fact that, in line with the recommendations made in its first report, the legislation related to State compensation has been amended, enabling victims of trafficking to claim compensation regardless of their nationality or residence status when the offences were committed on French territory.

314. GRETA also commends the efforts made by France in the area of international co-operation, both when it comes to law enforcement co-operation and supporting technical co-operation projects in various countries.

315. However, despite the progress achieved, some issues continue to give rise to concern. In this report, GRETA requests that the French authorities take further action in a number of areas. The position of the recommendations in the text of the report is shown in parentheses.

Issues for immediate action

- Noting the efforts made to obtain statistical data relating to trafficking in human beings, particularly by involving the NGOs, GRETA urges 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 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. Statistics regarding victims should allow disaggregation concerning not only sex, age, country of origin and/or destination, but also type of exploitation. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection (paragraph 68);
- GRETA recognises the measures taken to raise awareness of trafficking in children and notes that the States parties have a positive obligation to identify potential trafficking victims, particularly children, and to ensure that a safe environment is afforded to all children in order to make them less vulnerable to trafficking, GRETA urges the French authorities to:
 - ensure that unaccompanied children benefit from effective care arrangements, including accommodation, access to education and healthcare, so that they are not exposed to risks of trafficking, as well as providing them with adequate legal assistance;
 - step up their efforts to prevent the trafficking of children, not only for the purpose of sexual exploitation but also for other types of exploitation, such as forced labour, forced begging or forced offending, particularly by raising awareness of such types of trafficking among the operatives potentially coming into contact with children (paragraph 100);
- Recalling the recommendations made in its first report, GRETA once again urges the French authorities to:
 - strengthen the multidisciplinary approach to the identification of victims by introducing a national referral mechanism defining the role to be played and the procedure to be followed by all stakeholders who may come into direct contact with trafficking victims, including labour inspectors and NGOs;
 - ensure that, in practice, the identification of trafficking victims is not conditional on their co-operation with law enforcement agencies.
 - clarify the procedure for identifying trafficking victims who are French nationals and EU/EEA country nationals;
 - take steps without delay to identify trafficking victims among the migrants living in makeshift camps, as well as those who have been sent to accommodation centres (CAO);
 - ensure that identification efforts cover all trafficking victims, regardless of the purpose of exploitation (paragraph 142);

- Recalling the recommendations made in its first report, GRETA once again urges the French authorities to improve access to specialised assistance and accommodation for all trafficking victims, regardless of the form of exploitation and with no nationality requirement, including where EU/EEA country nationals are concerned, and in particular to:
 - ensure that all the assistance measures provided for by legislation are guaranteed in practice; if such assistance is delegated to NGOs acting as service providers, the State has an obligation to allocate the necessary funding and guarantee the quality of services provided by the NGOs;
 - allocate adequate resources for the creation of accommodation places to provide shelter for any victim of trafficking, of either gender, through the Ac.Sé national system and the accommodation offered by specialised NGOs;
 - take all necessary steps to allow effective access to healthcare, the asylum seeker's allowance and social housing (paragraph 161);
- GRETA urges the French authorities to reinforce without delay the process of identifying and assisting child victims of trafficking, in full compliance with the best interests of the child, and in particular to:
 - introduce a national referral mechanism defining the role to be played and the procedure to be followed by all the authorities and professionals who may come into direct contact with child victims of trafficking, including NGOs;
 - provide for the systematic appointment, as quickly as possible, of guardians for child trafficking victims to protect their interests;
 - develop the offer of accommodation, with staff specifically trained in receiving victims of trafficking;
 - make every possible effort to identify child trafficking victims among unaccompanied children in migrant camps and accommodation centres for unaccompanied children (CAOMI);
 - develop reinsertion programmes for child victims of THB;
 - develop awareness-raising and training for all institutional stakeholders who may come into contact with child victims of trafficking, including staff working in the refugee camps (paragraph 175);
- Recalling the recommendations made in its first report, GRETA once again urges the French authorities:
 - to ensure that trafficking victims, including EU/EEA nationals, are systematically informed of the possibility of a recovery and reflection period and that reflection and recovery periods are, in practice, granted;
 - ensure that the relevant authorities are informed of the State's positive obligation to grant recovery and reflection periods to all possible victims of THB, whether or not such a request is made by a victim (paragraph 185);

- GRETA urges the French authorities to align the notion of abuse of vulnerability to that of the Convention which encompasses any abuse of vulnerability, whether physical, psychological, emotional, family-related, social or economic (paragraph 236);
- To ensure application of the non-punishment provision, GRETA once again urges the French authorities to take all appropriate measures to ensure that the possibility provided for in internal law of not imposing penalties on victims for their involvement in unlawful activities, where they have been coerced into them, be upheld in the case of trafficking victims, in accordance with Article 26 of the Convention and, to that end, draw up circulars for the investigation services and prosecutor's offices specifying the scope of the non-liability provision in the special case of trafficking victims (paragraph 251).

Further conclusions

- GRETA considers that the French authorities should set up a co-ordination body devoted to human trafficking, in order to ensure that sufficient attention is paid to all forms of exploitation and awareness raising of them and ensure that this body wields the greatest possible authority (paragraph 30);
- GRETA considers that the different levels of co-ordination should be promptly set up (paragraph 39);
- GRETA considers that the French authorities should provide for an independent evaluation of the implementation of the National Action Plans, in order to measure their impact and plan future measures and policies on action against THB. GRETA would like to be kept informed on the adoption of the Second National Action Plan on action against THB (paragraph 47);
- GRETA notes the recent efforts to reinforce training and considers that the authorities should implement these measures without delay (paragraph 62);
- GRETA considers that the French authorities should step up their efforts so that all staff concerned undergo regular training, with a view to improving the detection of possible trafficking victims, the official identification of victims and the assistance provided to them. This training should be aimed, inter alia, at members of law enforcement agencies, child welfare staff, labour inspectors, the staff of refugee reception centres and detention centres for irregular migrants, social workers, healthcare professionals, diplomatic and consular staff, as well as judges and prosecutors (paragraph 64);
- GRETA considers that the French authorities should provide further support and more funding for research into human trafficking and the different types of exploitation, notably exploitation through labour and child trafficking (paragraph 72);
- GRETA considers that the French authorities should raise the awareness of the general public as well as of target groups of trafficking in human beings and the different types of exploitation. It considers that the authorities should organise national information and awareness-raising campaigns to this end, involving civil society and using the findings of research and impact assessments. Provision should also be made for impact studies to evaluate the effectiveness of the campaigns organised (paragraph 78);
- GRETA considers that the French authorities should:
 - guarantee that training is 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 full implementation of Decree no. 2016-413 of 7 April 2016 on supervision of labour law enforcement;

- ensure that inspections in private homes can be facilitated to prevent abuses of domestic employees and detect trafficking cases (paragraph 86);
- GRETA invites the authorities to continue working in close co-operation with the private sector and trade unions in order to encourage corporate social responsibility on the part of companies, in accordance with the Guiding Principles on Business and Human Rights (paragraph 87);
- GRETA is of the opinion that any future dismantling of refugee camps should be forestalled until all of the assistance measures for unaccompanied children provided for in the Convention are in place (paragraph 97);
- GRETA encourages France to sign and ratify the Council of Europe Convention against trafficking in human organs as this would contribute to preventing trafficking for the purpose of organ removal (paragraph 101);
- GRETA invites the French authorities to strengthen awareness-raising measures aimed at health professionals involved in the transplantation of organs and other relevant professionals regarding trafficking for the purpose of organ removal (paragraph 107);
- GRETA considers that the French authorities should continuously evaluate the effects of criminalising the purchase of sexual services on the reduction of demand for services provided by victims of trafficking and more widely on the phenomenon of THB for sexual exploitation (paragraph 111);
- GRETA considers that the French authorities should continue to strengthen their efforts to discourage demand for services provided by persons subjected to trafficking for the purpose of any form of exploitation, in partnership with the private sector and civil society, including trade unions and employers (paragraph 113);
- GRETA considers that the French authorities should continue to take socio-economic measures for groups vulnerable to trafficking, for both sexual exploitation and labour exploitation, with the involvement of specialised NGOs (paragraph 119);
- GRETA considers that the French authorities should step up the detection of trafficking victims during border controls, in particular by:
 - reinforcing training for the staff carrying out identity checks so that they are more effective in detecting signs pointing to a potential trafficking victim;
 - providing border police at the airports, stations and ports concerned with units, of varying size depending on the scale of controls, comprising staff who have received advanced training in detecting trafficking victims;
 - strengthening co-operation with civil society and the child protection services in the event of detection of potential victims so that those potential victims receive suitable assistance as early as possible and in keeping with the best interests of the child;
 - developing awareness within transport companies of the detection of victims using indicators of THB (paragraph 126);
- GRETA considers that the French authorities should disseminate tools adapted to each type of exploitation (notably indicators) for identifying trafficking victims to all institutional stakeholders without delay, particularly to law enforcement agencies on the ground, labour inspectors, the staff of OFII and CRAs, and provide practical training in the use of those tools to improve the detection and identification of trafficking victims. To that end, the authorities should take account of the indicators developed in the framework of the EuroTraGuID project and by the specialised NGOs, drawing on their experience in the field and dealings with trafficking victims (paragraph 143);
- GRETA considers that the French authorities should continue to evaluate the procedure for identification of victims of THB in the overseas departments and territories (paragraph 144);

- GRETA considers that the French authorities should:
 - ensure that victims of trafficking, including nationals of an EU/EEA country 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 legislation is applied consistently throughout France, in particular, by appointing a contact person in each French prefecture and by training and raising the awareness of relevant prefecture staff on all forms of trafficking in human beings (paragraph 203);
- Given the length of the judicial proceedings, GRETA invites the French authorities to consider the possibility of granting residence permits lasting for a number of years, as provided for in Article L313-17 of the Code governing the entry and stay of foreigners and right of asylum to trafficking victims holding a residence permit linked to their co-operation (paragraph 204);
- GRETA considers that the French authorities should adopt additional measures to facilitate and guarantee access to compensation for trafficking victims, and in particular:
 - ensure that trafficking victims are systematically informed, in a language they understand, of their right to claim compensation and the procedures to follow;
 - ensure that labour tribunals, in first instance, and appeal courts competent for cases concerning recovery of unpaid wages, are aware of the specific characteristics of the situation of human trafficking cases and victims, through provision of tailored training courses and publication of circulars (paragraph 215);
- 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 and also labour tribunal procedures (paragraph 216);
- GRETA considers that the French authorities should:
 - 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*. This requirement includes the provision of information to victims on existing support programmes and protection against re-victimisation and re-trafficking. The French authorities should take full account of the HCR guidelines on the application of the Convention relating to refugee status to victims of trafficking, and their right to seek asylum;
 - ensure that the best interests of the child are effectively respected, protected and fulfilled, *inter alia*, through an assessment of risks and safety carried out, prior to any removal measure, by specialised bodies in co-operation with the competent contacts in the country of origin, especially for unaccompanied children; this assessment must also enable the child to properly exercise his or her right to education and measures to secure adequate care or receipt by the family or appropriate care structures (Article 16(5) of the Convention);
 - continue to develop international co-operation with a view to ensuring that risks are correctly assessed and trafficking victims can return in complete safety and effectively reintegrate;
 - commit to regular reviews of their return and repatriation policies to verify that they comply with Article 16 of the Convention (paragraph 224);

- GRETA considers that the French authorities should expressly state in the Criminal Code that consent on the part of a trafficking victim is irrelevant, which could improve implementation of anti-trafficking legal provisions or, at the very least, take additional steps to make investigators, prosecutors and judges aware of the importance of this principle in connection with trafficking cases (paragraph 237);
- GRETA invites the French authorities to explore the possibility of criminalising the use of the services of a victim in the knowledge that that person is a victim of trafficking, in order to facilitate prosecutions and judgments of those using these services (paragraph 242);
- GRETA considers that the French authorities should continually assess the implementation of legal provisions on corporate responsibility with regard to trafficking offenses (paragraph 245);
- GRETA considers that the French authorities should strengthen their efforts to ensure that the offence of trafficking is prosecuted whenever the circumstances of a case allow, including cases concerning trafficking for the purposes of forced labour and servitude:
 - by ensuring better distribution of the circular on criminal law policy on action against trafficking in human beings, and by supplementing it, where necessary;
 - by developing specialisation in trafficking among judges and prosecutors at all JIRSS (paragraph 273);
- GRETA considers that the French authorities should:
 - take the necessary steps to ensure that the protection measures for witnesses and victims of trafficking enshrined in the law are fully implemented during and, where necessary, after investigations and judicial proceedings;
 - ensure that victims are informed of dates of release and measures of protection put in place on release of the offender, and other developments that may affect their safety in the course of court proceedings;
 - ensure that protection is provided to child victims of trafficking regardless of the form of exploitation, adapted to the specific needs of children, and in accordance with the best interests of the child (paragraph 284);
- GRETA considers that the French authorities should continuously assess the effective implementation of the legal provisions relating to the jurisdiction of the State in respect of traffic offences committed abroad by French nationals (paragraph 285);
- GRETA invites the French authorities to continue to pursue their international co-operation efforts to combat trafficking in human beings, including by facilitating family reunion for children who have been separated from their family (paragraph 295);
- GRETA considers that the French authorities should provide adequate and sustained financial support to NGOs specialised in combating trafficking throughout the country, which is earmarked for trafficking regardless of the form of exploitation (paragraph 303);
- GRETA considers that the French authorities should pursue and step up the efforts they have initiated to involve specialised NGOs, including those based in the regions, more closely in both the shaping of public policy on action against trafficking for all forms of exploitation and the implementation of that policy (paragraph 304).

Appendix

List of public bodies, intergovernmental organisations, non-governmental organisations and other civil society actors with which GRETA held consultations

Public bodies

- Ministry of Justice
- Ministry of the Interior
- Ministry of Foreign Affairs and International Development
- Ministry of National Education, Higher Education and Research
- Ministry of Families, Childhood and Women's Rights
- Ministry of Social Affairs and Health
- Ministry of Labour, Employment, Vocational Training and Social Dialogue
- Interministerial task-force on combatting violence against women and human trafficking (MIPROF)
- French Office for the Protection of Refugees and Stateless Persons (OFPRA)
- National Court of Asylum (CNDA)
- Ombudsperson for Children
- National Consultative Committee on Human Rights (CNCDH)
- French Office for Immigration and Integration (OFII)
- National Observatory on Delinquency and Criminal Law Responses (ONDRP)
- Biomedicine Agency
- Senators/members of the Senate Delegation for Women's Rights and Gender Equality

Paris

- Paris Municipality
- Paris Regional Court
- Paris Public Prosecutor's Office
- Specialised Interregional Court (JIRS)

Bordeaux

- Bordeaux Municipality
- Gironde Prefecture
- Gironde Departmental Council
- Bordeaux Regional Court
- Bordeaux Public Prosecutor's Office
- Specialised Interregional Court (JIRS)

Marseilles

- Bouches-du-Rhône Prefecture
- Bouches-du-Rhône Departmental Council
- Marseilles Regional Court
- Marseilles Public Prosecutor's Office
- Specialised Interregional Court (JIRS)

Lille

- Nord Prefecture
- Territorial Direction of the Lille Metropolis
- Lille Regional Court
- Lille Public Prosecutor's Office
- Specialised Interregional Court (JIRS)

Calais

- Pas-de-Calais Departmental Council
- Saint-Omer Public Prosecutor's Office

Intergovernmental organisations

- Office of the United Nations High Commissioner for Refugees (HCR)
- International Organization for Migration (OIM) France
- UNICEF France

NGOs and other civil society organisations

- Amicale du Nid
- Association Accompagnement Lieux d'Accueil Carrefour éducatif et social (ALC)
- Association CEID
- Association Foyer Jorbalan (AFJ)
- Association IPPO (Information Prévention Proximité Orientation)
- Association OICEM (Organisation internationale contre l'esclavage moderne)
- Association RUELE (Relais urbain d'échanges et de lutte contre l'exploitation)
- Aux captifs, la libération
- CIMADE (Comité inter-mouvements auprès des évacués)
- Collectif « Ensemble contre la traite des êtres humains »
- Comité contre l'esclavage moderne (CCEM)
- Confédération Générale des Travailleurs (CGT)
- ECPAT-France
- Fondation Scelles
- Forum réfugiés
- France Terre d'Asile
- Hors-la-Rue
- Les amis du Bus des femmes
- Mouvement du Nid
- Secours catholique - Caritas
- Vie active

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 24 May 2017 and invited them to submit any final comments. The comments of the French authorities (available only in French), submitted on 28 June 2017, are reproduced hereafter.



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

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 de Mme Siobhán Mullally, 1^{ère} vice-présidente, M. Frédéric Kurz, membre du GRETA, ainsi que Mme Petya Nestorova, Secrétaire Exécutive au secrétariat de la Convention du Conseil de l'Europe sur la lutte contre la traite des êtres humains et M. Gerald Dunn, administrateur au secrétariat, qui ont effectué la visite d'évaluation en France du 5 au 9 septembre 2016, 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 (TEH) 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 59

« L'Institut de formation aux affaires administratives et consulaires (IFAAC), qui assure la formation continue des agents appelés à servir dans les consulats, aborde la traite en lien avec la délivrance de visas, notamment pour les mineurs et le personnel domestique, les risques de fraude documentaire et les modules sur l'état civil, notamment la prévention des mariages forcés. Avant leur départ, les agents nommés dans les pays exposés et classés en « vigilance renforcée » (Algérie, Bangladesh, Inde, Mali, Maroc, Mauritanie, Niger, Pakistan et Sénégal) sont spécifiquement sensibilisés sur la question des mariages forcés. S'agissant des visas délivrés en faveur des jeunes filles au pair, les instructions prévoient que le poste diplomatique ou consulaire doit s'assurer de l'existence d'un projet d'apprentissage du français afin d'éviter que la procédure ne soit détournée au profit d'une importation de personnel domestique. »

Par ailleurs, lorsqu'ils sont affectés à l'étranger, les agents disposent de fiches réflexes sur « la détection des mariages forcés » ou « l'accueil et l'accompagnement des victimes d'un mariage forcé ». Ils peuvent également consulter l'annuaire international des structures d'accueil des victimes de violence élaboré par le Ministère de l'Europe et des Affaires étrangères (MEAE). Enfin, une campagne d'information à destination des potentielles victimes est consultable sur le site public du MEAE⁸¹. Un numéro vert et une adresse mail, disponibles dans cette rubrique, sont spécialement dédiés aux victimes.

Paragraphe 64

« Le GRETA considère que les autorités françaises devraient accentuer leurs efforts de formation afin que tous les personnels concernés suivent périodiquement des formations, de façon à améliorer la détection des victimes potentielles de la traite, l'identification officielle des victimes et l'aide qui leur est apportée. Ces formations devraient être notamment destinées aux membres des forces de l'ordre, aux personnels de l'aide sociale à l'enfance, aux inspecteurs du travail, aux personnels des centres d'accueil des réfugiés et des centres de rétention administrative pour migrants en situation irrégulière, aux travailleurs sociaux, aux professionnels de santé, au personnel diplomatique et consulaire ainsi qu'aux juges et procureurs. »

Concernant la formation des personnels de la protection judiciaire de la jeunesse sur la question de la TEH, la direction de la protection judiciaire de la jeunesse (DPJJ) du ministère de la justice souhaite préciser que ces derniers ont accès à l'offre dédiée du catalogue de l'ENM à hauteur de 5 places ; les offres dédiées spécifiquement à la TEH n'existent pas encore à l'ENPJJ, mais il existe quelques offres tout à fait connexes à ce sujet comme la prostitution des mineurs qui fait l'objet d'une session de deux jours au Pôle territorial de formation du Sud Est. Le thème de la TEH est également intégré à la session de formation continue de 3 jours sur l'accompagnement des mineurs non accompagnés déployé en 2018, s'inscrivant dans le plan national de formation 2018 et le programme de formation qui sera adopté en déclinaison.

Paragraphe 73

« Le GRETA considère que les autorités françaises devraient davantage soutenir et financer la recherche sur la traite des êtres humains et les différents types d'exploitation, notamment l'exploitation par le travail et la traite des enfants. »

En complément des éléments développés dans le rapport, la division « études, analyses et instruments de coopération » de la Direction de la Coopération Internationale du Ministère de l'Intérieur réalise des notes de synthèse régulières sur les phénomènes liées à la traite des personnes, à partir des informations fournies par les attachées de sécurité intérieure, telle que l'implantation des groupes cultistes Nigériens en France. La DCI a également réalisé une étude sur la traite des mineurs à des fins d'exploitation sexuelle sur l'ensemble des pays avec lesquels elle coopère.

Paragraphe 87

« En outre, le GRETA invite les autorités françaises à continuer à travailler en étroite coopération avec le secteur privé et les syndicats afin de promouvoir la responsabilité sociale des entreprises, conformément aux Principes directeurs relatifs aux entreprises et aux droits de l'homme. »

⁸¹ <http://www.diplomatie.gouv.fr/fr/conseils-aux-voyageurs/infos-pratiques/assistance-aux-francais/mariages-forces/>

Issu des travaux d'un groupe interministériel, le Plan national d'action pour la mise en œuvre des principes directeurs des Nations unies relatifs aux droits de l'Homme et aux entreprises a été adoptée le 27 avril 2017. Il s'appuie sur les recommandations formulées par la CNCDH en 2013, nommée rapporteure de ce plan, ainsi que sur les travaux de la Plateforme nationale pour la Responsabilité sociétale des entreprises⁸² en 2016.

⁸² Elle est composée de représentants des entreprises, des salariés, des associations et ONG et des représentants des pouvoirs publics, plus d'informations : <http://www.strategie.gouv.fr/actualites/presentation-de-plateforme-rse-0>

Paragraphe 100

« Le GRETA reconnaît les mesures prises pour sensibiliser à la traite des enfants. Notant que les États parties ont l'obligation positive de veiller à ce qu'un environnement protecteur soit fourni à tous les enfants afin de réduire la vulnérabilité à la traite, le GRETA exhorte les autorités françaises à :

- veiller à ce que les enfants non accompagnés bénéficient d'une prise en charge effective, incluant un hébergement, un accès à l'éducation et à la santé afin qu'ils ne soient pas exposés aux risques de traite ainsi qu'un accompagnement juridique adéquat ;*
- intensifier leurs efforts de prévention de la traite des enfants non seulement aux fins d'exploitation sexuelle mais aussi d'autres types d'exploitation, comme le travail forcé, la mendicité forcée, ou la criminalité forcée, notamment en sensibilisant les acteurs pouvant être en contact avec des enfants de ce type de traite. »*

Comme cela a été mentionné au paragraphe 94, l'évaluateur doit prendre en compte toute forme de traite, et non pas uniquement celle de l'exploitation sexuelle ; d'autre part les mineurs non accompagnés (MNA) bénéficient d'une prise en charge pour satisfaire leurs besoins en hébergement dans le cadre de la mise à l'abri jusqu'à l'achèvement de l'évaluation ; enfin, les éducateurs ont été sensibilisés à cette détection via la diffusion du guide élaboré par la MIPROF qui est un outil de formation à destination de ces professionnels.

Paragraphe 158

« Les victimes de traite peuvent bénéficier de l'allocation pour demandeur d'asile (ADA) (article L. 744-9 du CESEDA). Cette allocation, réservée à certaines catégories de ressortissants étrangers, est versée par l'agence pôle emploi pendant 12 mois et s'élève actuellement à 343,50 euros/mois. Cependant, les intervenants de la société civile ont souligné des pratiques divergentes quant à l'octroi suivant les préfectures et les bureaux de l'OFII chargés de l'ADA en ce que certains la réserverait aux seules victimes déjà titulaires d'un titre de séjour aux termes de l'article L. 316-1 du CESEDA alors que les victimes détenant un récépissé devraient y avoir droit, sans quoi elles sont entièrement dépendantes financièrement des associations. De plus, l'ADA n'est ouverte qu'aux ressortissants de pays tiers, et les victimes françaises et de l'UE/EEE n'y ont pas accès. Seules les victimes de plus de 25 ans peuvent le cas échéant prétendre au revenu de solidarité active (RSA), qui était égal à 535,17 euros en septembre 2016 (le RSA n'étant ouvert aux personnes de 18 à 25 ans que pour autant qu'elles aient travaillé deux ans au cours des trois dernières années). »

Toute personne en situation de vulnérabilité peut bénéficier sur le territoire de l'accès aux soins et de l'hébergement d'urgence, dispositifs de droit commun. Les étrangers en situation irrégulière ne sont pas exclus de ce dispositif.

L'article L. 744-10 du CESEDA prévoit que les ressortissants étrangers auxquels une carte de séjour temporaire a été délivrée en application de l'article L. 316-1 du CESEDA peuvent bénéficier de l'ADA, dès qu'ils satisfont à des conditions d'âge et de ressources, pendant la durée de détention de la carte de séjour temporaire (article D. 744-20 du CESEDA).

S'agissant plus spécifiquement de l'ADA, les étrangers munis d'un récépissé de renouvellement de leur carte de séjour temporaire continuent à bénéficier des mêmes droits que les étrangers titulaires d'un titre de séjour. Dès lors, le versement de l'ADA n'est pas interrompu.

Le récépissé de première demande d'une carte de séjour temporaire délivré à l'étranger, le temps que les services préfectoraux examinent la demande d'admission au séjour, ne permet

pas à lui seul de bénéficier de l'ADA. Comme indiqué au point 3 de l'information du 19 mai 2015, des vérifications doivent être effectuées avant que le préfet puisse se prononcer sur la délivrance de la carte de séjour temporaire. En particulier, le préfet doit s'assurer que la présence des étrangers en France ne constitue pas une menace pour l'ordre public.

C'est la raison pour laquelle, les étrangers, titulaires d'un récépissé de première demande de titre de séjour, doivent être munis de l'attestation préfectorale indiquant qu'ils s'inscrivent dans le cadre de la procédure prévue sur le fondement des dispositions de l'article L. 316-1 du CESEDA pour pouvoir bénéficier de l'ADA.

Paragraphe 169

« Les enfants victimes de traite aux fins d'exploitation de criminalité forcée ou mendicité forcée sont encore régulièrement considérés comme des délinquants, poursuivis et parfois condamnés et incarcérés. »

Le travail de détection peut se faire lors de la rencontre avec le jeune, y compris dans le champ pénal. Le mineur ne laisse pas toujours apparaître la réalité de son vécu, l'acquisition de la confiance est longue et passe parfois par une mise à distance du mineur de son milieu de vie ; ainsi il n'est pas rare qu'au cours de l'incarcération d'un mineur, une situation de TEH soit détectée.

Paragraphe 173

« [...] Si la loi encadre dorénavant le recours à certains modes de preuve permettant d'évaluer la minorité d'une personne, elle ne fixe toutefois aucune règle impérative pour la détermination de l'âge, laissant le magistrat libre d'apprécier, en cas de doute ou de contestation, s'il y a lieu de retenir la minorité de la personne. »

Les règles sont clairement spécifiées et sont basées sur un faisceau d'indices. De surcroît, le doute doit conduire à retenir la minorité.

Paragraphe 175

« Le GRETA exhorte les autorités françaises à renforcer sans délais le processus d'identification et d'assistance aux enfants victimes de traite, dans le plein respect de l'intérêt supérieur de l'enfant, et notamment à :

- mettre en place un mécanisme national d'orientation 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 ;*
- prévoir la désignation systématique et dans les plus brefs délais d'une tutelle pour les enfants victimes de traite afin de défendre leurs intérêts ;*
- développer l'offre d'hébergement dont le personnel est spécifiquement formé à accueillir des enfants victimes de traite ;*
- mettre tout en œuvre pour identifier les enfants victimes de traite parmi les enfants non accompagnés se trouvant dans les camps de migrants ou ayant été orienté vers des centres d'accueil et d'orientation pour mineurs ;*
- développer des programmes de réinsertion des enfants victimes de la traite ;*
- développer la sensibilisation et la formation des tous les acteurs institutionnels pouvant être en contact avec des enfants victimes de traite, y compris aux personnels intervenant sur les camps de réfugiés. »*

En ce concerne l'identification de situations de traite parmi les MNA, celle-ci se fait principalement à travers l'évaluation de la minorité et de l'isolement. Il convient de mettre en avant le fait que notamment pour les MNA victimes de traite aux fins d'exploitation sexuelle, ceux-ci sont souvent tenus à l'écart des dispositifs d'évaluation par les exploiters, ce qui rend plus difficile leur identification.

Par ailleurs, sur l'orientation des mineurs identifiés comme étant victimes de traite, il convient de préciser que la cellule nationale tient compte de cette situation et propose une orientation au plus près de l'intérêt du mineur (maintien dans le département si enquête pénale diligentée ou prise en charge particulière, ou réorientation s'il faut éloigner le mineur d'un réseau).

Enfin, la désignation systématique d'un tuteur n'est pas conforme aux dispositions normatives françaises. Une fois que le mineur a intégré l'Aide sociale à l'enfance, le cas échéant un administrateur *ad hoc* doit être désigné pour l'accompagner dans sa demande d'asile ; un tel représentant doit également être désigné, en l'absence de tutelle, si le mineur souhaite porter plainte, et ce dans les meilleurs délais.

Paragraphe 179

« L'octroi d'un délai de réflexion de 30 jours est prévu à l'article R. 316-2 du code d'entrée et de séjour des étrangers et du droit d'asile (CESEDA). Il prend la forme d'un récépissé délivré par les services des préfetures aux victimes signalées par les services de police ou les unités de gendarmerie. Le modèle de ce document est annexé à l'instruction du ministre de l'Intérieur du 19 mai 2015 relatives aux conditions d'admission au séjour des ressortissants étrangers victimes de la traite des êtres humains ou de proxénétisme. Aucune mesure d'éloignement ne peut être prise à l'encontre des bénéficiaires d'un récépissé et ils peuvent travailler sans aucune restriction. L'article R316-2 du CESEDA fait référence aux étrangers d'une manière générale comme bénéficiaires de ce délai mais les autorités françaises ont précisé dans leur réponse qu'il ne s'appliquait qu'aux seuls ressortissants de pays tiers de l'Union européenne. Le GRETA note qu'une victime originaire d'un pays de l'UE n'est pas nécessairement en situation régulière sur le territoire français puisque la régularité de son séjour dépend d'un certain nombre de conditions (voir paragraphe 198). Les victimes ressortissantes d'un pays de l'UE ne devraient dès lors par être exclues d'office du bénéfice du délai de rétablissement et de réflexion et devraient se le voir proposer chaque fois que cela s'avère nécessaire au regard du droit au séjour. Dans ce contexte, les autorités françaises ont fait référence à la circulaire n° NOR IMIM1000116C du 10 septembre 2010 sur les conditions d'exercice du droit de séjour des ressortissants de l'UE, des autres États parties à l'Espace économique européen et de la Confédération suisse, ainsi que des membres de leur famille, selon laquelle « il est impératif que les ressortissants de l'Union européenne ne soient en aucun cas traités plus défavorablement que les ressortissants d'États tiers soumis au régime général de droit commun ». Le cas des victimes de la traite des êtres humains y est expressément cité.

Conformément au droit européen, le droit au séjour des citoyens de l'UE est principalement régi par les dispositions de la directive 2004/38/CE relative au droit des citoyens de l'Union et des membres de leurs familles de circuler et de séjourner librement sur le territoire des États membres, transposées aux articles L. 121-1 et suivants du CESEDA. Ce texte européen n'a prévu de fonder l'existence d'un droit au séjour que sur des motifs limitativement énumérés: activité professionnelle, études, ressources suffisantes ou lien familial avec un Européen.

C'est pour cela que la circulaire n° NOR IMIM1000116C du 10 septembre 2010 sur les conditions d'exercice du droit de séjour des ressortissants de l'UE a prévu qu'il convient de s'assurer que ces derniers ne soient pas traités plus défavorablement que les ressortissants de

pays tiers placés dans une situation identique. Le cas des victimes de la traite des êtres humains y est expressément cité.

Dès lors, un citoyen de l'UE dont le droit de séjour ne pourrait s'inscrire dans le cadre européen fixé par la directive 2004/38/CE et qui serait victime de la traite des êtres humains peut bénéficier de l'ensemble des dispositions du droit commun des ressortissants de pays tiers fixées aux articles L. 316-1 et suivants, parmi lesquelles le délai de réflexion.

Paragraphe 185

« Rappelant les recommandations faites dans son premier rapport, le GRETA exhorte à nouveau les autorités françaises à :

- veiller à ce que les victimes de la traite, y compris les ressortissants de l'UE/EEE, soient systématiquement informées de la possibilité de disposer d'un délai de rétablissement et de réflexion et se voient effectivement accorder un tel délai ;*
- s'assurer que les autorités compétentes sont informées de l'obligation positive de l'État d'accorder un délai de rétablissement et de réflexion, que la victime en ait fait la demande ou non. »*

S'agissant de la première recommandation, il convient de se référer à la réponse donnée au paragraphe 179, par laquelle il est démontré que les citoyens de l'UE placés dans une telle situation bénéficient des mêmes dispositions que celles prévues pour des ressortissants de pays tiers lorsqu'ils ne peuvent pas se voir reconnaître un droit de séjour au titre de l'application de la directive 2004/38/CE.

S'agissant de la seconde recommandation, l'instruction du 19 mai 2015 apporte l'information précitée car elle précise bien au personnel de préfecture que : « Le seul signalement par les services de police ou les unités de gendarmerie et la production d'une photographie suffisent à la remise de ce récépissé qui matérialise le délai de réflexion de la victime présumée. Il n'est nul besoin d'entamer l'instruction d'un dossier d'admission au séjour, la remise de ce récépissé doit intervenir sans délai. ».

Paragraphe 188

« Toutefois, le GRETA note que l'article L. 316-1 ne se réfère pas à la notion de « coopération » mais à celles de « plainte » et de « témoignage » donnant une teneur plus étroite à ce qui est attendu d'une victime pour bénéficier de cette disposition [...]D'autres fois les préfectures ne contenteraient pas du dépôt de plainte pour faits de traite, ce qui serait suffisant, mais fonderaient leur décision sur le fait que l'infraction de traite, et non des infractions connexes comme le travail dissimulé, a été retenue dans le cadre de l'enquête et des poursuites.»

Le seul terme de « coopération » est trop flou pour permettre la délivrance d'un titre de séjour sur ce fondement et serait source de difficultés d'interprétation, à la fois pour les préfets mais également pour l'étranger à qui, il incomberait de démontrer celle-ci. Il était indispensable de préciser en l'insérant dans le droit national, la notion de la « manifestation d'une volonté claire de coopération » : l'exigence d'un dépôt de plainte ou le témoignage dans une procédure relative à une infraction liée à la traite des êtres humains permettent de traduire correctement cette notion. Il a fallu également préciser les infractions qui étaient concernées, à savoir celles relatives à la traite des êtres humains (articles 225-4-1 à 225-4-6 du code pénal). Il est à noter que le champ d'application de l'article L. 316-1 du CESEDA a été étendu aux infractions liées au proxénétisme (articles 225-5 à 225-10 du code pénal).

Des faits qualifiés par les autorités compétentes d'infractions relatives au travail dissimulé (articles L. 8221-1, L. 8221-2, L. 8224-1 et L. 8224-2 du code du travail), lorsqu'aucun autre élément probant n'établit l'existence de faits liés à la traite des êtres humains (contrairement au travail forcé ou à la situation de servitude), ne peuvent permettre la délivrance d'une carte de séjour temporaire sur le fondement de l'article L. 316-1 du CESEDA. Ce type d'infractions, assez courant, n'a pas spécifiquement de lien avec des faits de traite, la qualification juridique du droit français étant très précise.

L'admission au séjour des étrangers victimes d'infractions liées au travail dissimulé peut relever, le cas échéant, de l'article L. 313-14 du CESEDA (Admission au séjour pour motifs exceptionnels ou humanitaires). Aussi, le préfet pourra, si les conditions en sont satisfaites, procéder à leur régularisation par la délivrance d'une carte de séjour temporaire portant la mention « vie privée et familiale » ou « salarié » dans le cadre de la régularisation par le travail (en permettant à l'étranger de chercher un nouvel employeur).

Paragraphe 190

« Les référents traite qui doivent être désignés dans chaque préfecture comme le prévoit le plan d'action, et comme le GRETA l'avait recommandé dans son premier rapport, de manière à contribuer à une approche unifiée qui placerait toutes les victimes de traite sur un pied d'égalité dans leur accès à la régularisation, sont à l'heure actuelle désignés dans 51 préfectures sur 101. »

Une journée de sensibilisation de l'ensemble des référents TEH en préfecture, à l'initiative de la MIPROF, est envisagée en 2017. Elle permettra d'effectuer de nouveau un rappel du droit au séjour des victimes de la traite des êtres humains.

Paragraphe 195

« Par ailleurs, la loi no 2016-444 du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées insère un nouvel article L. 316-1-1 dans le CESEDA, qui prévoit qu'une autorisation provisoire de séjour d'une durée minimale de six mois peut être délivrée aux victimes de traite et de proxénétisme engagées dans le parcours de sortie de la prostitution indépendamment de leur coopération avec les services judiciaires. Tout en saluant cette mesure qui offre une mesure supplémentaire de régularisation, le GRETA note qu'elle s'adresse uniquement aux victimes de traite aux fins d'exploitation sexuelle par la prostitution. Le GRETA rappelle à cet égard que l'article 14 de la Convention n'établit pas de distinction suivant les types d'exploitation pour l'octroi d'un permis de séjour aux victimes de la traite. Le GRETA est d'avis que les autorités devraient examiner la possibilité d'ouvrir la possibilité de bénéficier de cette autorisation provisoire sans distinction à partir du moment où une victime s'engage dans un parcours de sortie de son exploitation. »

La délivrance d'une autorisation provisoire de séjour est couplée à la mise en œuvre d'un parcours de sortie de la prostitution et d'insertion sociale et professionnelle sur décision du préfet prise après le recueil de l'avis de la commission départementale de lutte contre la prostitution, le proxénétisme et la traite des êtres humains aux fins d'exploitation sexuelle.

Il convient de souligner que les commissions départementales, compétentes uniquement en matière d'exploitation sexuelle, n'ont pas été encore toutes désignées. Certaines sont en cours de constitution. Un bilan de ce dispositif constitue le prérequis nécessaire à la décision de l'étendre à l'ensemble des victimes de la TEH engagées dans un parcours de sortie de leur exploitation.

Enfin, l'extension de la délivrance d'une autorisation provisoire de séjour à l'ensemble des victimes de la traite des êtres humains nécessiterait une nouvelle réforme législative.

Paragraphe 236

« Le GRETA exhorte les autorités françaises à aligner la notion d'abus de vulnérabilité prévue à l'article 225-4-1 du code pénal sur celle de la Convention qui couvre toute sorte de vulnérabilité, qu'elle soit physique, psychique, affective, familiale, sociale ou économique. »

La situation de vulnérabilité apparente ou connue, telle que définie à l'article 225-4-1 du code pénal, mentionne les critères de l'âge, de la maladie, de l'infirmité, de la déficience physique ou psychique et de l'état de grossesse, apparents ou connus de l'auteur des faits.

Il importe de rappeler que la notion de vulnérabilité est, en vertu du principe constitutionnel de légalité des délits et des peines, définie de manière précise par le code pénal français.

La loi n°92-684 du 22 juillet 1992, portant réforme des dispositions du code pénal relatives à la répression des crimes et délits contre les personnes, en a énuméré limitativement les causes: l'âge, la maladie, l'infirmité, la déficience physique ou psychique ou encore l'état de grossesse.

L'article 223-15-2 du code pénal, créé par la loi n° 2001-504 du 12 juin 2001 tendant à renforcer la prévention et la répression des mouvements sectaires portant atteinte aux droits de l'homme et aux libertés fondamentales, est par la suite venu définir l'abus de faiblesse de la manière suivante :

« Est puni de trois ans d'emprisonnement et de 375000 euros d'amende l'abus frauduleux de l'état d'ignorance ou de la situation de faiblesse soit d'un mineur, soit d'une personne dont la particulière vulnérabilité, due à son âge, à une maladie, à une infirmité, à une déficience physique ou psychique ou à un état de grossesse, est apparente ou connue de son auteur, soit d'une personne en état de sujétion psychologique ou physique résultant de l'exercice de pressions graves ou répétées ou de techniques propres à altérer son jugement, pour conduire ce mineur ou cette personne à un acte ou à une abstention qui lui sont gravement préjudiciables ».

Ainsi, la définition des situations de vulnérabilité par l'article 225-4- du code pénal, s'inscrit dans le cadre de l'économie générale du code pénal français qui impose des critères stricts de caractérisation. Au-delà des questions constitutionnelles susceptibles de naître d'un élargissement insuffisamment défini, il n'apparaît pas que ces critères précis soient un frein aux poursuites et à la répression de l'infraction de TEH.

Paragraphe 237

« De plus, le GRETA considère que les autorités françaises devraient indiquer expressément dans le code pénal que le consentement de la victime de traite est indifférent, ce qui pourrait améliorer la mise en œuvre des dispositions anti-traite, ou à tout le moins de prendre des mesures supplémentaires pour sensibiliser les enquêteurs, procureurs et juges à l'importance de ce principe dans le cadre des affaires de traite. »

De manière générale, il apparaît utile de rappeler que la démarche choisie par la Direction des affaires criminelles et des grâces (DACG) du ministère de la justice est de privilégier le développement d'outils de formation et de diffusion à destination des magistrats, afin de poursuivre le travail de sensibilisation à l'incrimination de TEH. La DACG s'inscrit ainsi dans une démarche de soutien et d'accompagnement des juridictions face à une incrimination complexe dont l'appréhension peut être difficile, mais dont le recours est de plus en plus fréquent.

Ainsi, le principe de l'indifférence du consentement de la victime est rappelé de manière explicite dans la circulaire du garde des Sceaux de janvier 2015 mais également dans le DACG Focus intitulé « traite des êtres humains : rappel des fondamentaux et dispositifs de protection des victimes » diffusé en septembre 2016 sur l'intranet du ministère de la justice. Il y est en effet expressément indiqué que : « le consentement de la victime est dans tous les cas indifférent et ne saurait, s'il venait à être démontré, exonérer l'auteur de faits de traite des êtres humains ». Les magistrats sont donc sensibilisés à l'importance de ce principe qui découle du principe du droit pénal français selon lequel le consentement de la victime ne constitue pas une cause exonératoire de responsabilité de l'auteur de l'infraction.

Paragraphe 242

« Le GRETA invite les autorités françaises à examiner la possibilité d'introduire une infraction visant spécifiquement les personnes ayant recours, en connaissance de cause, aux services d'une victime de traite et ce afin de rendre plus aisées les poursuites et condamnations desdites personnes. »

La DACG a déjà fourni, dans le cadre de la consultation sur le projet de rapport, des éléments permettant d'attester de la possibilité de poursuivre, en l'état actuel du droit et de la jurisprudence, des personnes qui auraient eu recours aux services d'une victime de traite, et dont il connaissait la situation de victime. Ces éléments ont d'ailleurs été repris dans le rapport du GRETA, qui conclut néanmoins que l'insertion d'une nouvelle infraction apparaîtrait utile.

La DACG considère, s'agissant de cette recommandation, que le droit actuel lui semble suffisant, le pouvoir de libre interprétation du juge permettant les éventuels ajustements nécessaires. Elle continuera néanmoins d'être vigilante sur de nouvelles difficultés d'application qui pourraient surgir.

Paragraphe 251

« Pour assurer l'application de la disposition de non-sanction, le GRETA exhorte à nouveau les autorités françaises à prendre toutes les mesures appropriées afin que la possibilité prévue en droit interne de ne pas imposer de sanctions aux victimes pour avoir pris part à des activités illicites lorsqu'elles y ont été contraintes soit respectée dans le cas des victimes de la traite, conformément à l'article 26 de la Convention, et pour ce faire à élaborer des instructions adressées aux services enquêteurs et aux parquets qui préciseraient la portée de la disposition d'irresponsabilité dans le cas particulier des victimes de la traite. Dans ce contexte, il convient d'attirer l'attention sur les recommandations sur la non-sanction, destinées aux législateurs et aux procureurs, contenues dans le document publié par le Bureau du représentant spécial et coordinateur de la lutte contre la traite des êtres humains de l'OSCE en consultation avec le Groupe de coordination des experts de l'Alliance contre la traite des êtres humains. »

La DACG rappelle, comme mentionné ci-dessus, qu'elle souhaite privilégier dans ce domaine la diffusion d'instructions de politique pénale visant à accompagner le travail des juridictions.

Quant au principe de non-sanction des victimes de traite, là encore, la circulaire du 22 janvier 2015 insiste sur le fait que lorsqu'est démontrée l'existence d'un réseau de traite et que les victimes sont identifiées, la priorité de politique pénale est celle de la poursuite des chefs du réseau et de la protection des victimes. Elle souligne la nécessité d'appréhender la chaîne criminelle dans sa globalité et d'apporter une réponse pénale englobant en France et à l'étranger. En outre, plusieurs outils pédagogiques à destination des enquêteurs et magistrats au développement desquels la DACG a contribué, et tout particulièrement la fiche-réflexe sur la traite des mineurs, visent précisément à sensibiliser les différents acteurs à l'identification et à

la prise en charge des victimes de traite parmi les personnes commettant des faits de délinquance. Néanmoins, le principe d'opportunité des poursuites, principe essentiel du droit pénal français, commande de laisser au parquet la liberté de poursuivre ou non la commission d'une infraction.

Paragraphe 273

« Le GRETA considère que les autorités françaises devraient 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 de travail forcé et de servitude :

- *en assurant une meilleure diffusion de la circulaire de politique pénale sur la lutte contre la traite des êtres humains et le cas échéant en la complétant ;*
- *développant la spécialisation à la traite des magistrats au sein de l'ensemble des JIRS. »*

Sur ces divers points, la DACG rappelle que la publication de la circulaire du 22 janvier 2015 encourageant les magistrats à recourir de manière plus fréquente à la qualification de traite des êtres humains a constitué une étape importante et constitue encore aujourd'hui la pierre angulaire à partir de laquelle la politique pénale en matière de traite des êtres humains doit être pensée et évaluée.

Accompagnant la réforme législative d'août 2013 qui a modifié en profondeur l'incrimination pénale de TEH, cette circulaire appelle les magistrats à utiliser de manière accrue cette qualification, dès lors que cela s'avère possible, aux motifs notamment qu'elle permet une appréhension plus globale - et plus en amont - de la chaîne logistique criminelle.

La traite étant parfois réduite à la forme d'exploitation qui n'en constitue en réalité que la finalité, la circulaire encourage le cumul de qualifications entre la qualification de traite et celle liée à l'exploitation, par exemple le proxénétisme.

Les données actuellement disponibles semblent attester de l'impact positif de l'évolution du cadre législatif et des orientations de la DACG sur le nombre d'infractions constatées et de condamnations prononcées pour TEH :

- En 2015, 161 infractions de traite des êtres humains ont donné lieu à condamnation, contre 27 en 2011 soit une multiplication par 6 en 4 ans. En 2014, ce chiffre avait atteint 232 infractions ayant donné lieu à condamnation.
- Les personnes condamnées pour traite des êtres humains étaient 75 en 2015 contre 16 en 2011, soit encore une fois, une augmentation très significative. Elles étaient 83 en 2014.
- En 2015, ces 161 infractions et 75 condamnations concernent 22 affaires de traite des êtres humains, contre 7 affaires en 2011 et 26 en 2014.

Compléter la circulaire du 22 janvier 2015 n'apparaît, à ce stade, pas utile à la DACG, le GRETA ne spécifiant d'ailleurs pas sur quels aspects des ajouts pourraient s'avérer pertinents. Néanmoins, la DACG rejoint l'analyse du GRETA quant à l'importance de poursuivre la diffusion et la connaissance de cette circulaire auprès des acteurs judiciaires, et principalement du ministère public. La DACG a ainsi souhaité concentrer son action de sensibilisation sur les magistrats des Juridictions interrégionales spécialisées (JIRS) en organisant en mars 2017 un séminaire à leur attention, au regard de l'importance de renforcer le rôle de ces juridictions spécialisées dans le traitement de ce contentieux. Cet événement, mentionné dans le rapport du GRETA (§53), a ainsi réuni une quarantaine de magistrats du parquet et du siège, essentiellement issus des JIRS.

Paragraphe 284

« *Saluant le développement de l'arsenal législatif pour la protection des témoins y compris de traite, le GRETA considère néanmoins que les autorités françaises devraient :*

- *prendre les dispositions nécessaires pour que les mesures de protection des témoins et victimes de traite prévues en droit soient pleinement mises en œuvre pendant et, le cas échéant, après l'enquête et la procédure judiciaire ;*
- *veiller à ce que les victimes soient informées de la date de remise en liberté du prévenu et des mesures de protection mises en place en conséquence, ainsi que tout développement pouvant avoir un impact sur la sécurité de la victime pendant la procédure judiciaire ;*
- *prévoir une protection spécifique aux enfants victimes de traite quelle que soit le type d'exploitation, adaptée aux besoins des enfants et dans le respect de l'intérêt supérieur de l'enfant».*

Concernant le dispositif de protection des témoins et victimes de traite, la DACG rappelle qu'afin de faire mieux connaître ce dispositif d'application très récente (2016), la DACG a diffusé des informations aux juridictions afin de les sensibiliser à son existence et à son fonctionnement :

- d'une part, à travers une circulaire du 18 avril 2016 de présentation de la loi du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées, créant le dispositif de protection des victimes de traite ;
- d'autre part, par la diffusion, le 23 avril 2017, d'une note de présentation de ce dispositif, également mis en ligne sur le site intranet de la DACG.

Ces informations s'inscrivent en complément de certaines sessions de formation continue, assurées par l'École nationale de la magistrature, comprenant un module sur la présentation du dispositif, auquel la DACG a été amenée à participer.

Concernant l'information faite à la victime de la date de remise en liberté du prévenu, l'article 144-2 du code de procédure pénale dispose que « lorsqu'une mise en liberté est ordonnée en raison des dispositions des articles 143-1, 144, 144-1, 145-2, 145-3 ou 706-24-3 (*régime de la détention provisoire*), mais qu'elle est susceptible de faire courir un risque à la victime, la juridiction place la personne mise en examen sous contrôle judiciaire en la soumettant à l'interdiction de recevoir ou rencontrer la victime ou d'entrer en relation de quelque façon que ce soit avec elle en application des dispositions du 9° de l'article 138. Cette dernière en est avisée conformément aux dispositions de l'article 138-1 ».

Ainsi, en vertu de cet article, un prévenu soupçonné d'avoir commis des faits de traite et susceptible d'exercer des actes de représailles à l'égard de sa/ses victime(s) qui serait remis en liberté est placé sous contrôle judiciaire avec interdiction d'entrer en contact avec ces personnes. Ces dernières sont informées de l'existence et des effets de ces mesures.

Ainsi, les dispositions de l'article 138-1 du code de procédure pénale permettent l'information de la victime concernant l'interdiction faite à la personne mise en cause ou condamnée d'entrer en contact avec elle.

Par ailleurs, s'agissant des personnes déjà condamnées, il convient de noter que l'article 707 du code de procédure pénale dispose qu' « au cours de l'exécution de la peine, la victime a le droit [...] 3° D'être informée, si elle le souhaite, de la fin de l'exécution d'une peine privative de liberté, dans les cas et conditions prévus au présent code ».

Concernant la protection spécifique des mineurs victimes de traite, comme le précise le rapport du GRETA, l'ensemble des garanties prévues aux articles 706-48 à 706-53 du code de procédure pénale s'appliquent aux procédures concernant les délits et crimes de traite des êtres humains à l'égard d'un mineur prévus aux articles 225-4-1 à 225-4-4 du code pénal (article

706-47 5° du code de procédure pénale) , sans opérer de distinction en fonction du type d'exploitation.

La possibilité pour les mineurs victimes de traite de faire l'objet d'une expertise médico-psychologique « destinée à appréhender la nature et l'importance du préjudice subi et à établir si celui-ci rend nécessaires des traitements ou des soins appropriés » est prévue. L'information sans délai du juge des enfants de l'existence d'une procédure concernant un mineur victime de traite est également prévue. Enfin, l'accompagnement par un administrateur *ad hoc* chargé de représenter leurs intérêts ainsi que l'assistance d'un avocat sont également ouverts aux mineurs victimes de traite.

Paragraphe 294

« S'agissant des enfants disparus, un dispositif alerte enlèvement spécifique a été créé permettant de diffuser un message pendant trois heures à la télévision, à la radio, par voie de presse, dans les lieux publics, y compris les gares et le métro, et sur internet. Le plan alerte enlèvement est un dispositif exceptionnel, déclenché par le procureur de la République en étroite concertation avec les enquêteurs et après consultation du ministère de la Justice. Il répond à des critères précis, supposant notamment que la vie ou l'intégrité physique d'une victime mineure soit en danger, à la suite d'un enlèvement avéré et non d'une simple disparition, même inquiétante. Le numéro de téléphone européen harmonisé pour les enfants disparus (116000) est opérationnel en France depuis 2009. Toutefois, le GRETA a relevé que la disparition d'enfants du camp de réfugiés de Calais ne donnait lieu au déclenchement d'aucun dispositif d'alerte particulier, en particulier avec les autorités britanniques sachant que nombre d'entre eux envisageaient de rejoindre le Royaume-Uni (voir paragraphe 96). S'agissant du cadre en place pour permettre le regroupement familial des enfants avec leurs proches au Royaume-Uni et l'évaluation des risques éventuels de traite, les autorités françaises ont indiqué que les décisions tenant à l'accueil des jeunes au Royaume-Uni et, par conséquent, les conditions d'un possible regroupement, dépendent entièrement du Home Office britannique. Le Home Office a déployé des agents dans l'ensemble des CAOMI permettant ainsi aux mineurs de faire valoir leurs attaches familiales au Royaume-Uni conformément aux dispositions du règlement Dublin III. Le Home Office a procédé pour chaque dossier à des vérifications sur les liens de famille allégués, prenant compte dans ce cadre des risques éventuels de traite. »

Concernant la disparition d'enfants en Europe, la France apporte son soutien aux négociations en cours relatives à la révision du Système d'information Schengen, et notamment au projet de création des alertes préventives contre les enlèvements d'enfants. Lors du Conseil JAI du 9 juin 2017, les ministres de l'Intérieur –dont la France - de l'UE ont soutenu à une large majorité la création de ce type d'alertes. Ces discussions ont commencé début janvier (propositions législatives de la Commission européenne du 21/12/2016).