

Shadow Report for the Review of France at the 86th CEDAW Session

submitted by STRASS, Syndicat du Travail Sexuel, in September 2023

Author and contact person: Thierry Schaffauser

contact@strass-syndicat.org

www.strass-syndicat.org



Executive Summary

This shadow report presents the perspectives of sex workers in France, who are affected by measures taken by the French government in response to the CEDAW Concluding Observations, in particular actions taken by France pertaining to **Article 6 of the CEDAW Convention**:

“States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”

In the List of Issues (CEDAW/C/FRA/Q/9), CEDAW specifically calls upon France to answer key questions regarding its legislation on trafficking and exploitation of prostitution. This shadow report will address the French government’s response to these questions as well as to measures reported by the government in the State Party report (2021) in response to the CEDAW concluding observations for France (2016).

Background

The French union of sex workers (STRASS) was founded by sex workers in France in 2009. STRASS represents all sex workers whatever their gender or the type of sex work they do and is particularly attentive to women – by adopting a feminist perspective based on the right of every woman to bodily autonomy – and to migrants – by adopting a critical perspective towards immigration policies that put them in danger.

Since 2016, France has implemented a sex purchase ban. Instead of protecting women in the sex industry, the criminalisation of clients has exposed them to increased precariousness, a loss of bargaining power, more risk-taking, and danger when it comes to their health and safety.¹ This is the reason why 261 sex workers filed a case against the French government with the European Human Rights Court (EHRC) in December 2019, on the basis that the criminalisation of clients breaches their human rights to life, health & security, and privacy (articles 2, 3, and 8 of EHRC). On August 31st, 2023, the EHRC declared admissible their application because they could consider themselves victims of the Act. No. 2016-44 due to increased isolation and clandestinity. Previously, in a judgment of 7 June 2019, France Conseil d’État had dismissed sex workers’ application to lodge a case to EHRC, claiming that “...prostitution is incompatible with human rights and dignity. The decision to outlaw demand for paid sexual relations, through the creation of the criminal offence introduced by the impugned provisions of the Law of 13 April 2016, is based on the finding ... that, in the vast majority of cases, persons who engage in prostitution are victims of procuring and human trafficking, which are made possible by the existence of this demand.”² The France Conseil d’État’s decision was based on the assumption that only a minority of sex workers are not victims of human trafficking, and therefore, their human rights can be sacrificed to protect the “vast majority” and the “general interest”. It believes that by criminalising the demand for sexual services, the number of sex workers would be reduced, hence reducing the occurrences of human trafficking within the sex industry.

¹ Médecins Du Monde evaluation report : What sex workers think about the French prostitution Act ? Avril 2018 https://nswp.org/sites/default/files/web_en_rapport-prostitution-finale.pdf

² <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000038566449>

What are the consequences of Act No. 2016-44 for female sex workers, particularly in terms of exposure to all forms of violence, including exploitation?

The premise of the law was that more than 90% of sex workers in France were considered victims of human trafficking (despite the lack of any evidence supporting this claim) and therefore to fight prostitution was the best way to combat human trafficking by reducing the demand for sexual services.

The Council of Europe's Group of Experts against Trafficking in Human Beings (GRETA) questioned France's lack of data to support its claim and highlighted the risks associated with this measure:

“Some interlocutors highlighted the lack of sufficiently reliable research to provide estimates of the impact of this law in terms of reducing demand for sexual services provided by victims of trafficking, and more generally on the phenomenon of human trafficking in France. According to some NGOs, criminalising clients of prostitutes is counterproductive for the fight against trafficking in human beings (THB), as clients become more reluctant to report situations of exploitation that they may observe, and persons engaged in prostitution become more dependent on intermediaries to find clients over the Internet, which exposes them to risks of exploitation. Some civil society actors have also noted that the legislation has encouraged a move away from prostitution on the streets to prostitution in hotels and flats, which hinders the detection of victims of trafficking not only by law enforcement agencies but also by NGOs, which are often the first means of exit from exploitation (see also paragraph 208).”³

In practice, the criminalisation of clients occurs almost exclusively outdoors and with great disparity within France, with half of verbalisations and fines occurring in Paris alone. As a result, many sex workers have had to change their working arrangements and move to more isolated areas. This has resulted in an increase in violence against sex workers, such as the murder of Peruvian sex worker Vanesa Campos in August 2018 because she was forced to work in a remote part of the Bois de Boulogne Forest with poor lighting at night.

In Belleville neighbourhood in Paris, Chinese sex workers also had to adapt due to higher police presence as explained by **Aying, leader of the Roses of Steel**, a Chinese sex worker-led organisation:

“Most Chinese women don’t speak French nor English. Before the law, we could take time with the client to make him understand with a few words and body language. Now they are afraid of the police who stay the whole day in the middle of the place just for us. They even learned to say “whore” in Chinese to insult us. The clients are afraid to come so many women have preferred going to other places, but they must work for bosses now”.

Indeed, instead of soliciting clients on the streets directly without any intermediaries, many women from the Chinese community had to accept paying people who can write adverts in French and answer the phone for them to arrange the meetings with the clients. This has contributed to *more*

³ EVALUATION REPORT FRANCE GRETA (2022)01 Published on 18 February 2022 This document is a translation of the original French version. Third evaluation round p54 <https://rm.coe.int/evaluation-report-france-third-evaluation-round/1680a5b6cb>

exposure to exploitation. If sex work is less visible in city centres, it doesn't mean that the number of sex workers has decreased due to the law.

To understand where sex workers had gone, **Anaïs, spokesperson for STRASS**, offers the following perspective:

"I can say that at the moment, there are 42,000 connected sex workers on sexmodel website where most female sex workers advertise in France. We used to be a maximum of 14,000 sex workers connected at the same time in 2016 when the law was voted, which is proof that the number of sex workers has not been reduced, but on the contrary dramatically increased. The government claims that there are only 40,000 sex workers in France compared to Germany, but just from a single website we are more. Male sex workers use an equivalent website where they are more than 15,000 adverts but of course they are never counted. We were supposed to be 30,000 in 2016 so even according to their own numbers it doesn't represent a reduction".

(Interview, 28th June 2023)

She adds that clients' criminalisation also had extremely harmful consequences on sex workers:

"The penalization has had extremely deleterious effects on our living conditions since its objective is above all to deprive us of income in order to discourage the maintenance of activity. Without customers, there will be no more prostitution, we were told! This is precisely what happened during the lockdowns and curfews because of the coronavirus pandemic. This period was the worst, finding us without any income, without social protection, with the sole device of an "exit route" unsuited to the situation. A wave of suicides followed as well as even greater risk-taking in terms of health or security."

Other responses can be found from anti-prostitution activists who want to help police crackdown on sex work venues and help them to identify massage parlours that they claim hide "sexual exploitation and human trafficking". They ask men anti-sex work activists to call all the adverts to identify where sex work takes place to later denounce them to the police and the justice system. In 2023, they have identified up to 450 massage parlours only in Paris saying that their number exploded in recent years.⁴ In 2021 they previously communicated about 300 massage parlours in Paris. They don't question the fact that clients' criminalisation was supposed to reduce their numbers but instead demand the closure of all the parlours in the name of saving women, who will receive no jobseekers' benefits, and will risk facing deportation orders.

Monsieur Jean Paul Mégret, head of the anti-pimping brigade (BRP) also complained in the press that the number of underground brothels has exploded in Paris' suburbs where migrant sex workers work in small houses. In January 2023, he claimed that there had been three times more of them in the last

⁴ <https://www.leparisien.fr/paris-75/entre-350-et-450-salons-de-massage-abritent-de-la-prostitution-a-paris-surtout-dans-le-xve-et-le-xviiie-07-07-2023-6LVICF77FZCCVB4VPXBQ7SYE7E.php>

two years,⁵ indicating a potential increase rather than a decrease in the number of sex workers and therefore no real effect of the law in terms of reducing the demand for sexual services.

In 2018 already, he warned in a news article interview: *“this law favoured the development of prostitution on the Internet with rates equivalent to those practiced in the street [...]. This law has not had the expected effects, he continues. It mostly chased girls off the street to put them in hotels or apartments, and everything now happens through cyberprostitution”*⁶

Additionally, when the police representatives are asked how the law is implemented it is increasingly difficult to understand the link between their action and the fight against exploitation or human trafficking.

Elvire Arrighi, director of the Central Office for the Suppression of Trafficking in Human Beings (OCRTEH) during her hearing in the Senate on April 8, 2021,⁷ considered that the criminalization of clients is above all a tool of the daily police. This means that its main purpose is to drive sex workers out of the city centres and does nothing to reduce exploitation since the clients arrested do not bring any relevant information to the police.

Proof of this is also the maintenance, in many cities, of municipal decrees directly targeting sex workers, even though the law is built on the official objective of no longer penalizing them. The government itself released a public order to directly punish sex workers in Lyons looking forward the rugby world cup in September and October 2023, in contradiction to its claim that they consider sex workers as victims who are no longer penalised.⁸

As is stated by the IGAS/IGAJ/IGA (justice and social affairs administrations’ inspectors) evaluation report:

*“The penalization of the customer also appears to be often misguided and used to solve public order problems and to deal punctually with the physiognomy of certain peri-urban areas or certain districts”*⁹

Has the criminalisation of clients (since 2016) helped to reduce the levels of human trafficking in the sex industry and improved the care of victims of pimping or trafficking in human beings for the purpose of sexual exploitation?

⁵ <https://www.leparisien.fr/faits-divers/prostitution-linquietante-multiplication-des-maisons-closes-en-ile-de-france-03-01-2023-EK4WNG7JVZHYBL4U4SA6L4ULXE.php>

⁶ https://www.lepoint.fr/justice/prostitution-enquete-sur-les-nouveaux-visages-du-proxenetisme-en-france-06-09-2018-2249103_2386.php

⁷ https://www.senat.fr/compte-rendu-commissions/20210405/2021_04_08_ddf.html

⁸ https://www.bfmtv.com/lyon/prostitution-a-lyon-la-justice-rejette-le-recours-contre-l-interdiction-de-stationnement-des-camionnettes-a-gerland_AN-202306050922.html

⁹ <https://www.igas.gouv.fr/IMG/pdf/2019-032r-prostitution-d.pdf> Evaluation de la loi du 13 avril 2016, report submitted in December 2019 to the government and published in July 2020, p50

Firstly, we must explain how the figures are produced in France. So far, there is no independent national referral mechanism (NRM) to identify trafficking victims as asked by the National Consultative Commission on Human Rights (CNCDH), an independent body in charge to assess, inform, and advise, the French government and authorities on human rights issues, including the fight against human trafficking.

One of France’s ongoing problems with methods of counting trafficking victims is the conflation between human trafficking and procurement cases, when procurement offenses don’t need to specify any constraint on sex workers. For example, when sex workers rent and share a flat together, this is considered « pimping », even without any coercion. In its third report on France, the Council of Europe's Group of Experts against Trafficking in Human Beings (GRETA) explained the numbers and came to the conclusion::

« According to the database on victims maintained by the Ministry of the Interior statistics department (Service statistique ministériel de la sécurité intérieure - SSMSI), which includes all victims logged in the information systems of the police and gendarmerie services (excluding double counting), the number of victims of trafficking in human beings (THB) and other offences linked to one of the purposes of THB was 1 401 in 2016, 1 263 in 2017, 1 445 in 2018, 1 460 in 2019 and 1 243 in 2020. Among those victims, the number of victims of THB in the strict sense of the term was 219 in 2016, 194 in 2017, 174 in 2018, 223 in 2019 and 192 in 2020, the other victims being considered as victims of pimping (around 60% of the cases), work and accommodation conditions contrary to human dignity, exploitation of begging, and other forms of forced labour. »¹⁰

| YEAR | 2016 | 2017 | 2018 | 2019 | 2020 |
|---|------|------|------|------|------|
| THB victims in the sex industry (in strict sense) identified by France police | 219 | 194 | 174 | 223 | 192 |

GRETA adds:

« These figures do not reveal the real scale of the phenomenon of trafficking in human beings in France for two main reasons: firstly, although a circular dating from 2015 urges prosecutors to make greater use of the classification of THB, the different forms of exploitation are often qualified as other offences linked to one of the purposes of trafficking. Secondly, the vast majority of victims, who are mostly illegally present on the national territory, do not report acts of THB to the competent authorities, chiefly because they fear reprisals by the traffickers or being expelled from France. »

GRETA’s observation is congruent with the testimonies of sex workers who have been victims of human trafficking and were supported by STRASS. One of them explained why she never thought about contacting the police :

“The police? No. When we arrive, we don’t know that we have rights. All we know is that we risk being deported. Too many girls were deported so we are too scared

¹⁰ <https://rm.coe.int/evaluation-report-france-third-evaluation-round/1680a5b6cb> page 9

to talk to the police. My idea was to ask my regular client to help me and he offered me to stay to his place instead of staying at the madam's apartment."

Blessing, interview, July 2023

Another method of counting relies on NGOs in partnership with the Interministerial taskforce on combating violence against women and human trafficking (MIPROF). This method consists in asking NGOs how many trafficking victims they have identified which includes a risk of double counting and differences in NGOs' definition of human trafficking, especially for those considering all forms of sex work as human trafficking.

According to the MIPROF report quoted by GRETA: *"1 857 victims were assisted by the 24 NGOs that replied to the survey in 2016, 2 918 victims were assisted by 53 NGOs in 2018, and 2 573 victims were assisted by 37 NGOs in 2019. Some 82% of the victims were female and around 11% were children. About three-quarters of them were victims of sexual exploitation »*

From these figures and estimations, it is very difficult to affirm that clients' criminalisation has had any positive impact on the fight against human trafficking. It may be quite the opposite.

In its February 2022 report, GRETA states that: *"The members of the law enforcement agencies met [] specified that the criminalization of the purchase of a sexual act has had the effect of drastically reducing the number of people prostituting themselves on public roads, which has made it extremely difficult for investigators to identify potential victims. » [...] One barrier to identification of victims pointed out by several interlocutors during GRETA's visit is that victims of sexual exploitation are increasingly being put in contact with clients online. Law enforcement officials met by GRETA indicated that the criminalisation of the purchase of sexual services had resulted in a drastic reduction in the number of people prostituting themselves on the streets, which has made it extremely difficult for investigators to identify potential victims. In addition, victims are changing flats/hotels far more often, which makes identification even more difficult"*¹¹

Almost all clients arrested since the 2016 law were identified in outdoor settings in the purpose to render sex work invisible from city centres, while all police and justice authorities consider that most trafficking cases increasingly occur in more sophisticated manners through online organisation and within indoor venues, showing a contradiction between the aim of the law and its implementation.

Can we say that the increase in procurement prosecutions is actually linked to the reduction of human trafficking cases, or does it highlight only police and justice activity?

Some defenders of the law claim that one of its successes is the increase in the number of pimping cases since 2016. In paragraph 106 of the State party report to CEDAW, one can read:

"The number of criminal investigations conducted in France on procurement and trafficking in persons for sexual exploitation has increased by 54 per cent since 2016. The number of procurement investigations increased from 611 in 2015 to 944 in 2018."

Anti-sex work activists consider that since the law criminalising clients, the police and justice authorities take more seriously the problem which would explain the better results in increasing the number of pimping cases. However, this could also show an increase in the actual exploitation of sex

¹¹ GRETA <https://rm.coe.int/evaluation-report-france-third-evaluation-round/1680a5b6cb> page 56

workers, or not meaning anything since the definition of pimping in France is large enough to criminalise any form of relationship with a sex worker, including non-exploitative ones, such as solidarity between sex workers or sharing an apartment.

Nonetheless, IGAS/IGA/IGAJ evaluation report also states that:

“All the professionals heard confirm that the scale of the phenomenon can justify an increase in the power of inquiries and investigations. Specialized investigation services underline the congestion of the services, which leads them to prioritize cases, and deplore the lack of technical, financial and human resources. The mission subscribes to and shares this observation. It also notes the insufficiency of structured and generalized training and of a national plan to fight against (pimping) networks which would make it possible, especially in the provinces, to have teams trained in the fight against this form of delinquency.”¹²

The complaints from police sources to the evaluation inspectors rather show that they were not better equipped to investigate thanks to the law, nor had more willingness to identify cases of trafficking or exploitation, but instead that they didn't have enough means to work efficiently.

This corroborates with criticism from the CNCDH that denounced the absence and then the delays of the government's national plan against human trafficking. In January 2023, it published a report to denounce the fact that only 3 measures on the 44 listed in the plan were eventually implemented.¹³

A better answer can be found in the GRETA third evaluation report on France since it provides actual figures on human trafficking, rather than pimping prosecution cases:

“According to statistics provided by the French authorities, there has been an increase in the number of investigations and prosecutions conducted in THB cases between 2016 and 2020, despite a drop in 2020 due to the health crisis caused by the COVID-19 pandemic. The number of investigations initiated for THB was 112 in 2016, 129 in 2017, 113 in 2018, 171 in 2019 and 98 in 2020. The number of prosecutions was 57 in 2016, 75 in 2017, 95 in 2018, 150 in 2019, and 126 in 2020. By comparison with these figures, there were few convictions for THB: 26 in 2016, 19 in 2017, and 20 in 2018. This suggests that unlike related offences such as pimping and working and accommodation conditions contrary to human dignity, the offence of THB is often requalified as another offence during criminal proceedings.”¹⁴

Since the 2016 Act, do all victims of trafficking obtain effective protection and redress, including rehabilitation and compensation?

In all available reports, there is evidence that victims of trafficking are not sufficiently protected regarding housing and legal residency status. According to the Commission Nationale Consultative pour les Droits de l'Homme (CNCDH), about 100 accommodation centres only exist in France for victims of trafficking in 2023. They also deplore the lack of documentation for foreign victims:

“We note a low number of residence permits being issued for victims of trafficking. It should be noted that the statistics communicated by the Ministry of the Interior for the year 2021 mix, for the first

¹² <https://www.igas.gouv.fr/IMG/pdf/2019-032r-prostitution-d.pdf> Evaluation de la loi du 13 avril 2016, report submitted in December 2019 to the government and published in July 2020, p42

¹³ <https://www.cncdh.fr/sites/default/files/2023-03/CNCDH%20Evaluation%20du%20e%20PAN%20TEH.pdf>

¹⁴ GRETA <https://rm.coe.int/evaluation-report-france-third-evaluation-round/1680a5b6cb> page 29

time the grounds for issuance, namely foreign persons who are victims of human trafficking (under its different forms) and people who have suffered domestic violence. The Commission deplores this confusion and, as a result, the impossibility to know the number of titles issued only for victims of trafficking in human beings in 2021.”¹⁵

The notable increase in the number of residence permits in the most recent year may in fact be voluntarily misleading. According to the CNCDH, the fact that little use is made of Article L425-1 of the CESEDA is partly due to generalised suspicion towards victims of trafficking when they apply for a temporary residence permit:

“Under articles L.425-1 and L.425-3 of CESEDA, the person who files a complaint for trafficking offenses, whatever its form, or pimping, or who testifies in criminal proceedings targeting these offenses must obtain a one-year temporary residence permit automatically renewable for the duration of the criminal proceedings. In case definitive conviction of the person accused, a card of resident is issued to the victim. However, the texts on this point remain little applied and their implementation is largely heterogeneous from one prefecture to another. The CNCDH notes a real reluctance to issue residence permits on this basis. This is explained, on the one hand, due to delivery conditions unsuitable for the situation of the victims and, on the other hand, to a climate of suspicion generalised against migrants which leads to place the fight against illegal immigration before the protection of victims.”

The available data on the Interior ministry website can be seen in the tables below:

¹⁵ CNCDH, page 33 <https://www.cncdh.fr/sites/default/files/2023-03/CNCDH%20Evaluation%20du%20e%20PAN%20TEH.pdf>

Les données sur les titres de séjour délivrés aux victimes

Lorsqu'une personne étrangère, identifiée par les autorités compétentes en tant que victime de traite des êtres humains (art. 225-4-1 et suivants du CP) ou de proxénétisme (art. 225-5 et suivants du CP), dépose plainte ou témoigne dans une procédure pénale, elle peut obtenir des droits spécifiques relatifs à son séjour. Ces dispositions sont précisées dans les articles L. 425-1 du Code de l'entrée et du séjour des étrangers et du droit d'asile (CESEDA).

Les données du Département des statistiques, des études et de la documentation (DSED, faisant partie du service statistique public coordonné par l'Insee) transmises à la Sous-direction du séjour et du travail concernent la délivrance de titres de séjour (création ou renouvellement) enregistrés par la Direction générale des étrangers en France (DGEF). Les données sont agrégées pour tous les territoires de la République française et distinguent les cartes de résident, les cartes de séjour temporaire, les autorisations provisoires de séjour et les récépissés de demande de titre de séjour.

Depuis 2016, le nombre de victimes de traite ou de proxénétisme bénéficiant d'une carte de séjour temporaire a augmenté de 89 %, passant de 226 victimes à 428 en 2021 (Figure E1). Peu de cartes de résident sont délivrées aux victimes, en moyenne 5 nouvelles cartes par an, dans la mesure où cela nécessite la condamnation de l'auteur d'infractions de traite ou de proxénétisme. En outre, dans le cadre du parcours de sortie de la prostitution créé par la loi n° 2016-444 du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées, une autorisation provisoire de séjour est délivrée aux victimes. En 2021, 566 victimes ont pu en bénéficier, dont 249 dans le cadre d'une première demande.

E1 Nombre de documents relatifs au séjour délivrés aux ressortissants étrangers ayant déposé plainte ou témoigné contre des personnes accusées d'avoir commis des infractions de traite des êtres humains ou de proxénétisme

| Groupes d'infractions de traite ou d'exploitation des êtres humains | Nombre d'infractions condamnées entre 2016 et 2020 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 ^(p) |
|--|--|------|------|------|------|------|---------------------|
| Carte de séjour temporaire (L425-1 du CESEDA) | Création | 72 | 111 | 82 | 174 | 141 | 225 |
| | Renouvellement | 154 | 130 | 139 | 139 | 147 | 203 |
| Carte de résident (L425-3 du CESEDA) | Création | 5 | < 5 | 6 | 5 | < 5 | < 5 |
| | Renouvellement | 35 | 41 | 48 | 36 | 28 | 36 |
| Autorisation provisoire de séjour - Parcours de sortie de prostitution | Création | | | | | 179 | 249 |
| | Renouvellement | | | | | 266 | 317 |
| Récépissé de demande de titre de séjour | | | | | | 7 | 11 |

^(p) Données provisoires.

Note : la partie grisée signifie que les données n'étaient pas disponibles avant 2020.

Lecture : en 2021, 225 ressortissants étrangers ayant déposé plainte ou témoigné contre des personnes accusées d'avoir commis des infractions de traite ou de proxénétisme se sont vus délivrer une carte de séjour temporaire.

Champ : Territoire de la République française.

Source : DGEF/DSED, cartes de résident et cartes de séjour temporaire enregistrées de 2016 à 2020, traitement SSMSI.

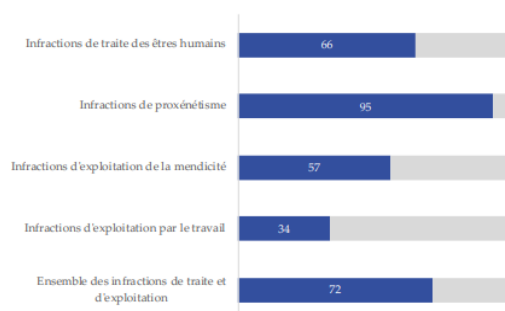
1. Depuis 2018, 71 interventions des inspecteurs du travail en lien avec des infractions liées à la traite ou à l'exploitation des êtres humains ont donné lieu à au moins une suite (dont l'enregistrement de procès-verbaux et le signalement au parquet).

5 Profil des victimes de traite et d'exploitation des êtres humains enregistrées par les services de police et de gendarmerie sur la période 2016-2021

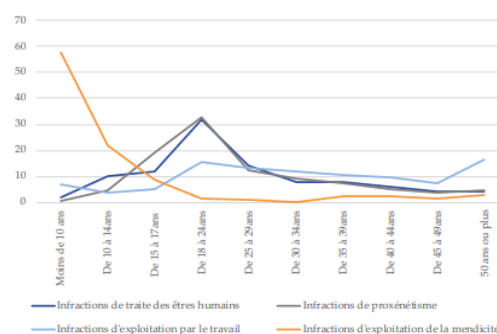
Nombre de victimes

| Groupes d'infractions de traite ou d'exploitation des êtres humains | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|--------------|--------------|--------------|--------------|--------------|--------------|
| Infractions de traite des êtres humains | 218 | 204 | 191 | 244 | 228 | 331 |
| Infractions de proxénétisme | 922 | 841 | 905 | 797 | 848 | 1 044 |
| Infractions d'exploitation de la mendicité | 56 | 79 | 67 | 48 | 23 | 31 |
| Infractions d'exploitation par le travail | 374 | 440 | 435 | 676 | 347 | 514 |
| <i>dont Réduction en esclavage</i> | 6 | 14 | 8 | 18 | 5 | 8 |
| <i>Conditions de travail et d'hébergement indignes</i> | 364 | 392 | 421 | 653 | 339 | 471 |
| <i>Travail forcé</i> | <5 | 33 | 7 | <5 | <5 | 24 |
| <i>Réduction en servitude</i> | <5 | <5 | <5 | 5 | 0 | 25 |
| Ensemble | 1 439 | 1 451 | 1 538 | 1 669 | 1 372 | 1 811 |

Part des femmes parmi les victimes (%)



Tranches d'âge des victimes (%)



Lecture : en 2021, 1 811 victimes de traite et d'exploitation des êtres humains ont été enregistrées par les services de police et de gendarmerie. En moyenne, entre 2016 et 2021, 66 % des victimes d'une infraction de traite des êtres humains sont des femmes et 32 % de ces victimes ont entre 18 et 24 ans.

Champ : France, date d'enregistrement des victimes.

Source : SSMSI, bases des victimes de crimes et délits enregistrés par la police et la gendarmerie de 2016 à 2021.

Interstats Analyse n°49 - Octobre 2022

Page 7

17

In 2021, 428 temporary residency permits (valid for one year) have been issued. Given that 1811 victims (of trafficking and other forms of exploitation such as “pimping”) were identified by the police and justice, this represents only 23,6% of the total of identified victims.¹⁸ The documents issued usually only last for the time of the investigation and trial. It is therefore common that victims of trafficking lose their permits once the case ends, especially if it did not result in a conviction.

According to paragraph 27 of the France State party report to CEDAW:

“Within two months of filing their asylum application or if new circumstances arise, a victim of trafficking who has been formally identified by the police and has agreed to cooperate with them may apply for a residence permit under article L.316-1 of the French Code on the Entry and Residence of Foreigners and the Right to Asylum or embark on a pathway out of prostitution.” (paragraph 27, CEDAW/C/FRA/9)

Although French authorities may deny any obligation to cooperate, in practice, victims will not receive unconditional protection and are expected to appear as good victims, which means cooperating with law enforcement and committing to quit sex work.

¹⁷ <https://www.interieur.gouv.fr/Interstats/Actualites/La-traite-et-l-exploitation-des-etres-humains-depuis-2016-une-approche-par-les-donnees-administratives-Interstats-Analyse-N-49>

¹⁸ <https://www.interieur.gouv.fr/Interstats/Actualites/La-traite-et-l-exploitation-des-etres-humains-depuis-2016-une-approche-par-les-donnees-administratives-Interstats-Analyse-N-49>

Joy testimony:

« The police told me I had to denounce my madam otherwise I couldn't file a complaint and without it, I couldn't be recognised as a victim».

(Interview in July 2023, in Nantes)

GRETA's interviews have shown that some police investigators are afraid of being taken advantage of by individuals claiming to be trafficking victims, especially Nigerians, who are suspected of lodging false complaints in order to have access to rights ensuing from the victim status, such as a residence permit, access to accommodation, an allowance under the programme for exiting prostitution or under the asylum procedure¹⁹

*"The NGOs stressed that in many other cases where they did not manage to act in time, victims were deported even if they had lodged complaints against the traffickers."*²⁰

The reason why most victims of THB must cooperate with the police and justice is the result of decisions from the National Court of Asylum (CNDA) in 2017 and the Office Français de Protection des Réfugiés et Apatrides (OFPRA) in 2019 considering that only a very detailed complaint can prove the effective extraction of the exploitation network.²¹ This was later confirmed in 2020 by a reform of the CESEDA as explained by the CNCDH:

*"the Commission deplors the addition during the recodification of CESEDA in 2020 of a condition additional to the issue of the residence permit due to the fact that the victim has "broken all ties" with their operator (previously located in the regulatory part). In fact, this condition does not hold take into account the complexity of the situations in which they find themselves victims and the difficulty for the latter to provide proof of the severance of the link with the operator and whose assessment is often subjective"*²²

This led to further criticism from GRETA:

*"However, the regulatory part of the CESEDA added an extra requirement of "severing all ties with the alleged perpetrators" of the aforementioned offences (former Article R316-3 of the CESEDA)."*²³

Concretely, this has led to increased difficulties for victims of THB especially when no accommodation is provided and that their only resource not to end up homeless is to stay at their madam's place, rather than file a complaint against her.

The CNCDH added:

"In a decision of 16 October 2019, the State Council (Conseil d'État) confirmed the case-law existing since March 2015, according to which Nigerian women from the state of Edo who were victims of

¹⁹ GRETA, page 56

²⁰ GRETA page 55

²¹ . CNDA, Grande formation, 30 mars 2017, Mme. F, n° 16015058 R. 46. & Conseil d'Etat, 16 octobre 2019, Mme. A, n° 418328

²² <https://www.cncdh.fr/sites/default/files/2023-03/CNCDH%20Evaluation%20du%20e%20PAN%20TEH.pdf>

²³ GRETA page 67

trafficking for the purpose of sexual exploitation were a “social group” within the meaning of the Geneva Convention. However, it made the applicability of “social group” conditional upon the requirement that these women had to have removed themselves from the forced prostitution network, going back on the case-law that had prevailed since the CNDA’s decision of principle of 30 March 2017. This restrictive interpretation of the definition of “social group” considerably reduces the opportunity for victims to legalise their presence in the country through the asylum process without co-operating with the judicial authorities, because filing a complaint or giving evidence against exploiters is regarded by the authorities as important in proving distancing from the network.”²⁴

Data from the Interior Ministry²⁵ indicates that the “prostitution exit program” is a way for victims of trafficking to obtain protection with regard to a residence permit. However, the so called “exiting path” was supposed to help people who want to quit sex work and was not thought as a tool to protect victims of trafficking. Furthermore, the exit programmes are only open to victims of trafficking within the sex industry. Not only are victims of trafficking required to file a complaint and provide testimonies, but increasingly, they are expected to quit sex work to appear as serious enough in their commitment to sever all ties with their perpetrators. From STRASS observations, many former victims of trafficking, however, continue to do sex work because it is only source of income available to them as migrant women.

Are exit programmes effective for helping sex workers wanting to leave sex work?

According to the France State party report:

“Since 2017, 1,242 people have followed or are currently following a path to exit prostitution. As of January 1, 2023, 121 associations are approved for the implementation of the prostitution exit pathway and 643 current prostitution exit pathways have been authorized by prefectural decision, an increase of more than 30% compared to 2022. These pathways are monitored by departmental commissions working to combat prostitution, procurement and sexual exploitation, led by departmental women’s rights representatives. As of 1 March 2020, a total of 300 people were benefiting from this scheme.”

A lot has been said about the ineffectiveness of exit programmes, including by those supporting the law. Many French départements do not hold regular meetings of their executive commission deciding on the exiting programme, and 14 of them (out of 101 départements) never had a meeting²⁶.

Sex workers criticise the exit programmes for not providing sufficient alternative income. The allowance called Aide Financière à l’Insertion Sociale (AFIS) is 343 € a month for a single person without children, and about 100€ more per additional child. The law does not allow the AFIS allowance to be combined with the Revenu de Solidarité Active (RSA) or any other social welfare benefit and condemns people to surviving in an unworthy manner.

Access to the programme is difficult. According to the IGAS/IGAJ/IGA evaluation²⁷, there is a 20% refusal of the cases presented, while more than half of the requests are never presented by the

²⁴ <https://www.cncdh.fr/sites/default/files/2023-03/CNCDH%20Evaluation%20du%20e%20PAN%20TEH.pdf>

²⁵ <https://www.interieur.gouv.fr/Interstats/Actualites/La-traite-et-l-exploitation-des-etres-humains-depuis-2016-une-approche-par-les-donnees-administratives-Interstats-Analyse-N-49>

²⁶ <https://www.mediapart.fr/journal/france/160423/sortir-de-la-prostitution-une-hypocrisie-francaise>

²⁷ <https://www.igas.gouv.fr/IMG/pdf/2019-032r-prostitution-d.pdf>

approved associations. Overall, only a minority of people benefit from the programme. The Mouvement du Nid association, that is a leader in the implementation, admitted in the Médiapart interview in April 2023²⁸ that it must sort the requests upstream before presenting only the cases most likely to be accepted.

Many sex workers were refused because they previously received an obligation to leave the French territory, or because they don't have a proficient level of French. Each prefecture is autonomous and strong disparities exist in the acceptance rate of the exit programmes. Most prefectures invent their own rules independently of what the law says. Most sex workers cannot access professional training through the exit programme because the residence permit allowed is only valid for 6 months, meaning that jobcentres cannot provide any support and most employers prefer not to hire for such a limited period. Many sex workers who complete the exit programme become cleaners, many working part-time and precariously, a situation that many sex workers have already experienced before choosing to do sex work.

Sex workers' rights organisations conclude that the exit programmes do not help sex workers²⁹. Instead, they make it possible to justify the refusal to regularise all undocumented migrants, creating a case-by-case situation instead of approving unconditional protection, in particular for victims of trafficking.

The path imposes social control and surveillance rather than the same policy for all via common law. With these exception measures for sex workers, we are far from the claimed universalist principles of equality from the French republic (just as with the service vouchers to be distributed during the COVID and monkeypox crisis in the absence of real social protection). It is the only "right" that is conditioned upon the fact to stop a legal and taxed activity.

The exit programme creates the conditions to discriminate against sex workers in terms of access to social protection and welfare, as sex workers are told that they can only benefit from a specific programme. The exit path is not necessary since the associations provide better support without the conditions imposed by the path. It maintains an entire system of control, surveillance and sorting between people. The only interest is for undocumented people who have no right to anything. It would be more judicious to regularize them unconditionally rather than force them into a stigmatizing and exceptional path outside of common law.

²⁸ <https://www.mediapart.fr/journal/france/160423/sortir-de-la-prostitution-une-hypocrisie-francaise>

²⁹ NSWP, 2015, "[When Economic Empowerment Programmes Fail Sex Workers.](#)"

Tableau 2 : Financement des mesures de prévention et de lutte contre la prostitution et la TEH (en millions d'euros)

| | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|---|-------------|-------------|-------------|-------------|-------------|-------------|
| Action du programme 137 | 15 | 15 | 15 | 15 | 21 | 21 |
| Source (LR : loi de règlement ; PLF : projet de loi de finances) | LR | LR | LR | LR | PLF | PLF |
| Dotation initiale en CP (crédits de paiement) | 2,24 | 4,99 | 6,63 | 5,02 | 4,60 | 3,30 |
| Dont Associations | 2,24 | 2,69 | 2,84 | 2,65 | 2,63 | 2,1 |
| Dont AFIS | | | 3,7 | 2,38 | 1,98 | NC |
| Consommation des CP | 2,18 | 2,47 | 2,75 | 3,56 | | |
| Dont associations | 2,18 | 3,12 | 2,71 | 2,92 | | |
| Dont AFIS ⁴⁰ | | | 0,05 | 0,605 | | |
| Financement AGRASC⁴¹ versé par la DGCS aux associations | | | | | 0,40 | NC |

Source : Mission à partir des documents budgétaires « Solidarité, insertion et égalité des chances » 2015 à 2019

Ce tableau révèle une sous-consommation des crédits prévus pour l'aide financière à la réinsertion sociale et professionnelle (AFIS) des personnes engagées dans le parcours de sortie de la prostitution (PSP) créé par la loi ⁴² (cf. 3.2). Selon le rapport sénatorial relatif à l'examen du projet de loi de règlement du budget 2018 : « Cette sous-consommation des crédits résulterait, pour les associations spécialisées, du manque de moyens de celles-ci pour faire vivre le dispositif ». Activer! Accédez à

Of the 5 to 6 million € voted each year in PLF, only about a third goes to sex workers through the so called AFIS.³⁰ The rest is used to finance training/awareness/communication/lobbying and therefore approved pro-law organisations. Part of the funds is also reallocated to other actions that do not concern “prostitution”, as shown in the report by senators Boquet and Bazin.³¹

Recommendations:

- **Repeal Act No. 2016-44 that criminalises the purchase of sexual services and penalises clients.**
- **Decriminalise all aspects of sex work, including sex workers, clients and third parties. Criminalisation is a major barrier that excludes sex workers from attaining labour rights, healthcare and creates economic insecurity.**
- **Provide residency permits for all undocumented sex workers, in particular victims of trafficking, violence, and exploitation and ensure that these permits are not dependent on cooperation with law enforcement or on exiting sex work.**
- **Replace exit programmes with social welfare programmes open to all sex workers without the requirement to undergo rehabilitation or to leave sex work.**

³⁰ Stella Dupont MP report (pages 19-28) <http://www.assemblee-nationale.fr/15/pdf/rapports/r1055-a41.pdf>

³¹ <https://www.senat.fr/rap/r19-602/r19-6021.pdf>

- **Increase funding for sex worker-led economic empowerment programmes and community-led health programmes.**
- **Support the creation of sex worker-led community health centres that prioritise the healthcare needs of sex workers.**