

France

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1. INTRODUCTION

During our investigation, the information given has led us to raise the issue of the recognition of child prostitution in France. Lack of recognition was one of the problems we faced and so it made it more difficult for us to identify and to interview the persons concerned. Therefore, in order to carry out the study, we had to review the list of questions bearing in mind the people we had to meet.

First of all, it is necessary to acknowledge the reality of child prostitution in spite of the official position of the authorities. Indeed, France is concerned with both the African and East European communities. But, as we will see, these children are not reported in the figures because of the official position on prostitution and especially of child prostitutes. However, despite these difficulties, the results of the study show two main routes leading to a situation of danger for the minor: that of unaccompanied minors and minors in situations of danger. At last, French legislation regarding child prostitution and trafficking in children for this purpose is quite severe and satisfactory even if France does not have special legislation to combat trafficking.

2. SITUATION OF MINORS IN FRANCE

According to the Vice Squad (Brigade de Répression du Proxénétisme), there are a few minors prostituting themselves whereas NGOs claim there are many. France is both concerned with African and Eastern European children. As minors, they are entitled to the French Government's protection but social care services and the police are reluctant to offer this protection.

Origin of children

There have been major migration flows from Eastern Europe and Africa for three or four years. Among these migrants, there are many unaccompanied minors. Each year, between 200 and 300 unaccompanied minors arrive in France as asylum seekers. Since 1997 the annual income rate of unaccompanied minors seeking asylum in France has increased:

Year	Income of UAMs
1997	122
1998	332
1999	602
January-July 2000	558

Eastern Europe

According to the Juvenile liaison police (Brigade de Protection des Mineurs), a large number of children from Eastern Europe have been arriving in France for the last 3 or 4 years. They come from Albania, Kosovo, Ukraine, Bulgaria, Russia and the Czech Republic. Most of them are 17-18 years old but NGOs report that they are 15-16 years old.

Africa

According to the Juvenile liaison police, there are no African children involved in prostitution but NGOs say that they come from Sierra Leone, Nigeria and Ghana. They are generally young (15-16 years old).

African girls arrived before the Eastern European girls but for the past three or four months, NGOs have noticed 3 times more African girls than Eastern European.

Motives and methods of entry into France

From the interviews, it was difficult to determine how children enter the country. It is difficult to talk with them because of a language barrier, fears of reprisal and deportation as illegal aliens.

Central and Eastern Europe

Motives

For Albanian women, leaving their country for France is considered as a 'promotion'. They are all looking for a better way to survive.

Some recruitment into prostitution happens in the country of origin. Traffickers deceive them with false job advertisements. But some are also either sold by their families or abducted.

Some people also decide to emigrate and try to reach Western countries following the same routes as illegal aliens or they are smuggled into France.

Methods of entry

To enter the country legally, some arrive as asylum seekers. Others try to enter illegally. They are seen near bus and train stations arriving from Italy, Greece or Belgium. It is easier for them to enter the country if they are already in the Schengen area and so, do not need a visa.

Africa

Motives

Many want to escape the economic and political situations in their countries. Some arrive in France at Roissy Airport and ask for asylum.

Methods of entry

Contrary to Eastern European girls, African people need visas to enter the country unless they come via Schengen countries. Some ask for asylum and others try to enter the country by plane or boat in the south of France (Marseille, Nice) or from Spain illegally or as asylum seekers.

As regards prostitution, some girls are recruited in their home country. There are organised networks led by a 'Mamma' who takes care of them and is responsible for buying them a passport and visa.

The authorities and NGOs have noted that some children managed to enter the country because they were named on the passport of an adult pretending to be a member of the family. NGOs alleged that some police officers were quite negligent when checking identity papers.

Routes leading to a situation of danger

There are two clear situations in which minors become involved in trafficking for the purpose of prostitution.

Unaccompanied minors

The transit area

Most unaccompanied minors arrive in France as asylum seekers. Actual numbers depend on the economic and political situations in their countries of origin. The Decree of 2 November 1945 regulates the entry and residence of foreigners in France¹. But, there are no specific provisions as regards children and so they are treated like adults.

Thus, they can be held up to four days in the transit area in order to check their papers and age before reporting them to social services or a magistrate. After this time limit, according to Section 35^o4 of the 1945 decree, they must be handed over to a local magistrate (juge du 35^e quarter du Tribunal de Grande Instance). This judge decides either to allow entry or to hold the person in the transit area for further investigation into the child's identity. The judge can extend detention in the transit area to eight

¹ Ordonnance du 2 novembre 1945 relative aux conditions d'entrée et séjour en France des étrangers et portant création de l'Office National d'Immigration.

days, renewable for a further eight other days up to a total of 20 days.

But - in France - a minor does not have legal capacity and all legal decisions taken as regards the child are null. Thus, the 'juge du 35 quarter' must allow entry by default and the child is then entitled to the protection of the French Government like a national.

Specific procedures

According to Section 56 of the Family and Social Care regulations (Code de la Famille et de l'Action Sociale), an unaccompanied minor must be supported by social care services. They must report the child to the Public Prosecutor (Procureur de la République) within five days of his/her entry into France. The Prosecutor must ask the juvenile magistrate (Juge des enfants) to issue protection measures and provide him/her with accommodation. In addition, as the child does not have a legal representative, the Prosecutor has the duty to refer the child to a judge of the magistrates' court in order to supervise his/her guardianship (Juge des tutelles)².

Minors in danger

Minors in danger (mineurs en danger) include both minors in a situation of risk (mineurs à risque) and abused children (enfant maltraité). A minor in a situation of risk is a child whose living conditions could lead him/her to a situation where his/her health, safety, morality or education could be jeopardised. An abused child is one who is a victim of physical violence, mental cruelty, sexual abuse or neglect that could have serious consequences on his/her psychological and physical development³. From these scientific definitions, unaccompanied minors can be considered as children in a situation of risk.

When illegal minor aliens enter into contact with the police, an NGO or any other party, they should be reported to social services and the juvenile magistrate (juge des enfants) to initiate protection measures and provide them with accommodation. At the same time, a magistrate should be appointed to supervise his/her guardianship (juge des tutelles). During the whole procedure, the child is placed in a shelter. But most young people do not stay in shelters because of language problems, no separation from adults and other unsuitable conditions.

Social services have trouble finding them accommodation because they have no identification to establish their age. Because of the above; the child is at risk. He or she must show real motivation for protection and rehabilitation measures to work.

The lack of cooperation and trust between social care services and justice departments are a threat to the child's welfare. Specific shelters should be provided for unaccompanied minors and at-risk minors during and after the procedure in order to prevent them from becoming street children at the mercy of traffickers.

Difficulties

Reception conditions in the transit area

The first problem is a young person's lack of status because French alien law has no special provision for minors. In the transit area, since the authorities fail to recognise their legal minority, they go on record as adults. The age problem is linked to bone evaluation (expertise osseuse) which has a margin of error of 18 months. Thus, the child is released but receives no protection. He or she is then considered as an at-risk minor.

Before expiry of the four days of transit area detention, the authorities may allow temporary entry for the alien through the delivery of a safe-conduct. But as far as minors are concerned, during this four-day period, they are not compelled to report the child either to social care services or to the juvenile magistrate. That is how some minors 'disappear' and become at-risk minors.

Unfortunately, very few NGOs are allowed to assist aliens. They can access the transit area only eight times a year. According to them, only 60% of unaccompanied minors are released and allowed entry. In these conditions, they cannot really bring concrete assistance to them. Although these aliens are

² Articles 373 and 390 du Code Civil.

³ Definitions of the Observatoire National de l'Action Sociale Décentralisée or Observatoire de l'Enfance en Danger.

entitled to the services of a translator and/or a legal adviser, this rarely happens. Some ignore their rights as asylum seekers or just as aliens in transit. In these conditions, it is difficult for a child to realise his/her legal rights and clearly state his/her case and needs.

There is no evidence to suggest that traffickers or their agents stalk the transit area or lurk outside. Some recruiters are apparently asylum seekers themselves.

The problem of unaccompanied minors is a political one linked to French immigration policy. The authorities and social care services are reluctant to handle their cases in case they seek to establish domicile in France.

As seen, the reception conditions of minors in the transit area are substandard: they are already at risk inside the transit area itself.

The bone evaluation

Bone evaluation should be used only for children with no identification. But, because of the increase of young asylum seekers, the authorities systematically use it to determine the age of a child. But it is criticised by physicians, NGOs and the justice department because its methods are obsolete. The margin of error is up to 18 months.

One senior bone expert stated that the conditions under which they operate the tests are very rushed and offensive to human dignity. Indeed, the medical department that performs bone evaluations is open 24 hours a day. It performs 200-250 evaluations every month (young offenders, young asylum seekers and unaccompanied minors combined). Very often, children arrive in handcuffs in the middle of the night, as if they were offenders. Given the detention deadlines in the transit area, evaluation must be performed quickly, which encourages sloppy results.

As already stated, children are entitled to translation services and legal aid, but rarely receive it.

Therefore, the child is isolated and afraid because of the lack of understanding and feels even more reluctant to cooperate. The evaluation is perceived as a form of assault.

The second problem is the accuracy of the evaluation. Indeed, cases arise where the evaluation says the child is over 18 when he or she has identification saying he or she is under that age. In this case, Section 40 of the French civil code provides that an individual's papers take precedence over the evaluation. Last year, a court ruling confirmed that even in the presence of doubt, it should be assumed that the child's identification is authentic in his/her own best interests⁴. Unfortunately, very few social workers or police act on this ruling.

The hearing of the '35 quarter'

NGOs have noticed irregularities during the magistrate's hearing. In theory, aliens are entitled to an interpreter and a lawyer but neither the authorities nor do the judges ever inform them about their rights. Many NGOs and lawyers have already denounced this as kangaroo justice.

In addition, some court-appointed lawyers have been approached to recruit for traffickers while others attempt to extort fees from the clients.

The role of social care services

Since the Decentralisation law of 22 July 1983, counties (départements) are responsible for child welfare. There is no longer any central oversight or coordination of the administrative power of social care services. Thus, since 1983, children in the same situation may receive different treatment for a same problem which can be prejudicial.

Social care services of Paris and Seine Saint-Denis, because of their proximity to the Roissy airport, are directly concerned with the unaccompanied minors issue. In practice, these two counties must deal with a national problem with local means. The protection of unaccompanied children should be the responsibility of the state (central authorities) as immigration is its prerogative.

This then is a policy issue. Each county perceives social services and unaccompanied minors in a different way. Some do not want to spend time and money on children who are only in transit. They

⁴ Chambre du Conseil, Tribunal de Grande Instance de Paris, 31 mars 2000.

are more interested in solving the problems of French minors.

Therefore, social services usually claim to be overextended: they say the shelters are full, plead inexperience in the problem or invoke other excuses.

But they do have the power and the means to help these children. A magistrate and NGOs have spoken of the xenophobia of some police officers and social workers. For example, any child under social services custody is eligible for naturalisation. Thus any child rejected for asylum can apply for French citizenship to escape deportation⁵. They are all afraid to see more aliens remaining in France.

Lack of obligation to report to a judge

Police, prosecutors and NGOs never report unaccompanied minors to a magistrate or judge because the transit area is international territory and French child welfare law does not apply there but French immigration law does.

Actually, the submission of such a case to these magistrates depends on the public prosecutor who is empowered to open a case and submit it to a judge. NGOs and others in charge of children's protection agree that reporting unaccompanied minors to a judge as soon as they arrive at the passport checkpoint or in the transit area should be compulsory in order to protect them.

Figures

Figures were difficult to obtain. As we will see, official statistics and those of NGOs reflect a different situation. But comparisons should be handled cautiously because they have different baselines.

Government figures

National policy

We have no reliable figures because the French government does not recognise the existence of a significant child prostitution problem and therefore gives it no investigative priority. Moreover, as off-street prostitution was banned since the decree of 25 November 1960 banning brothels, prostitution has become an underground and uncontrollable phenomenon. Therefore, it is difficult to assess the extent of the problem. In addition, as they move very often, it is not possible to know exactly how many prostitutes there are in France and amongst them, how many children are involved.

On-street prostitutes controlled in France in 1999

	Women	Women under 18	Men	Men under 18	Transvestites	Total
Total	4.463	9	129	1	594	5.196
Total aliens	1.972	unknown	2	unknown	137	2.111
Total nationals	2.491	unknown	127	unknown	457	3.075

Source: French Senate activity report no. 209, 2000-2001

Problems of definition

When taken in charge by the police or social care services, children involved in prostitution are considered to be at-risk children. Official figures concerning children are mixed up, and those aged 15 to 18 are not reported as such. It is explained as a will to avoid traumatising the child by labelling him or her as a prostitute. Lastly, children under 15 are prone to more covert prostitution qualified as paedophilia and therefore escape the prostitution statistics.

All child sex assaults are reported as sexual abuse, not prostitution. Moreover, some prostitution related-facts are considered as paedophilia, not prostitution.

⁵ Article 21.12 du code civil.

The result is that France has no child prostitution because the figures show none.

Figures from social workers

These figures give only a limited idea of the extent of the phenomenon because every social worker has his/her own definitions and criteria.

Amicale du Nid

For the year 2000, this association found women and men prostituting themselves along the outer- ring road in eastern and western Paris.

Eastern Europeans: <ul style="list-style-type: none">- west area: 31 homosexual or transvestite men;- north area: 154 women;- east area: 150 women.	West Africans: <ul style="list-style-type: none">- west area: 19 women;- north area: 163 women;- east area: 108 women.
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Source: Amicale du Nid, 2000

However, social workers have noticed that women have started changing areas since the start of 2001 and that arrivals of Africans have trebled while those of Eastern Europeans have been falling off.

Aux Captifs, La libération

Since 1996, social workers from this NGO have met and tried to help on-street prostitutes of the 12th district of Paris.

Most Eastern European women come from Albania. But over the last three or four months, they too have noticed large inflows of African women. Nowadays, 10 women out of 17 are African.

From their 1999 report, we note that:

- in 1999, there were 262 new women (70%) out of 400. Half of these women were seen only once;
- 124 women out of 281 come from Eastern Europe (44%) and 23 from Africa.

However, the trend for 2000 differs because social workers also noticed there were less people from Eastern Europe and more women from Africa. It is difficult to have more details about nationalities because women change nationality very often.

- only 14 women out of 281 were seen several times.

About on-street male prostitutes mainly located in west Paris:

- 53 men out of 295 were aged between 18 and 21 and seven were under 18;
- 25 men out of 295 came from Eastern Europe and 57 from North Africa (Algeria, Morocco). A majority is French.

Rehabilitation and Probation Bureau of Fleury Mérogis Prison

Eastern Europe

If we consider the 81 minors held in 2000:

- 18 Romanian;
- 19 Yugoslavian;
- 30 French.

Most were charged with robbery with or without assault. French prostitutes were indicted with more serious charges. The average time of imprisonment was 15 to 45 days.

There were only two repeat-offenders in 2000.

Africa

Two or three years ago, social workers heard of the 'Ghanaian network' whereas now it is the 'Sierra

Leonean' network. There were only seven girls from Sierra Leone in 2000 and no repeat offenders. But since September or October 2000, there have been no more women from Sierra Leone in jail. According to social workers, some orders may have been given to cope with them at their entry to France. The average time of imprisonment is also short because they only stayed two months in general.

3. FRENCH LEGISLATION AND POLICY

France has adopted an abolitionist position with regard to prostitution. Officially, prostitution is ignored and women are free to prostitute themselves. Only pimping or procuring are punishable.

As far as minors are concerned, under French law, the age of consent is 15 years. Therefore, child prostitution is tolerated according to the rights over one's body. In France, the traffic in children for the purpose of sexual exploitation shows up mainly in prostitution. To prosecute traffickers, the legislation relating to procuring is used. Yet, there is no specific legislation for child prostitution.

French legal provisions

French criminal law punishes both the prostitute and procurer but not the client unless the child is under 15.

The prostitute

Prostituting oneself is not punishable but the prostitute can be charged with soliciting⁶. The maximum fine is FRF 10,000. In the event of a subsequent offence, the fine is doubled⁷. In 1996, 401 persons were sentenced for soliciting (306 women and 95 men) and one person was released. The average amount of the fine was FRF 1,774⁸.

The situation of a prostitute is ambiguous because she is both a victim (of procuring) and an offender (for soliciting). Moreover, prostitutes must pay taxes on professional earnings although prostitution is not recognised as a profession.

The procurer and intermediaries

In France, there is no specific legislation to prosecute trafficking in children for the purpose of sexual exploitation. Nevertheless, some provisions in criminal law cover procuring and are said to be efficient enough to combat this phenomenon. The use of children is then considered an aggravating circumstance.

Provisions for trafficking in human beings

There is no legislation on trafficking in human beings. However, offenses constituting of trafficking in human beings for the purpose of sexual exploitation are punishable under the law on procuring. Article 225-5 NCP defines procuring as:

1. Helping, assisting or protecting the prostitution of others;
2. Taking advantage of the prostitution of others, distributing or receiving the profits of it;
3. Recruiting, deceiving a person for the purpose of prostitution or coercing a person in order that she prostitutes herself.

Procuring is sentenced to 5 years' imprisonment and to a fine of FRF 1,00,000.

Lawmakers have tried not to leave anyone involved in the traffic in human beings unpunished. Therefore, when organised crime is involved, offenders are sentenced to 20 years' imprisonment and a fine of FRF 20,000,000 (article 225-8 NCP). Moreover, all intermediaries are considered legally as

⁶ Article R.625-8 du Nouveau Code Pénal.

⁷ Article 132.11 New Penal Code.

⁸ Borricand, C., *Etudes et statistiques justice. Les condamnations en 1996*, Ministère de la Justice, 1998, p.74, 141, 192.

main offenders and sentenced to the same penalties (article 225-6 NCP). Finally, anyone aiding or abetting pimping is punishable by 10 years' imprisonment and a fine of FRF 5,000,000 (article 225-10 NCP).

The 1945 edict ruling the conditions of entry and stay of foreigners in France *covers* the smuggling of persons. Under article 21, 'any person who, in France, directly or indirectly, facilitates or tries to facilitate the irregular entry, movement or stay of a foreigner in France, will be sentenced to 5 years' imprisonment and to a fine of FRF 200,000'. If the offence is committed in a context of organised crime, penalties will be imposed of up to 10 years' imprisonment and a fine of FRF 5,000,000. We note that legal bodies are also punishable for procuring and sentenced to a fine of FRF 5,000,000. In the event of aggravating circumstances, the fine is five times higher than for physical persons (articles 131-38 and 131-39 NCP).

Provisions for child abuse

Recruiting children for the purpose of prostitution is an aggravating circumstance and is punishable by 10 years' imprisonment and a fine of FRF 10,000,000 (article 225-7a.1 NCP).

Article 227-27 NCP covers sexual assaults on children over 15. A sexual assault on a child perpetrated without violence, coercion or threat is punishable by two years' imprisonment and a fine of FRF 200,000 if the offender was either 'a legitimate, a natural, an adopted member of the family or any other person who has authority over the child' or 'a person abusing his/her power over a child'.

Abusing a child's vulnerability is punishable by three 3 years' imprisonment and a fine of FRF 2,500,000 (article 313-4 NCP).

For information, French criminal law prosecutes child pornography (article 227-23 NCP). The making, the distribution and the trade of pornographic material involving children is punishable by three years' imprisonment and a fine of FRF 500,000.

The client

Unfortunately, clients are not prosecuted since prostitution is legal. But since 1998, as far as minors are concerned, the client can be prosecuted for corrupting the morals of a minor. This offence is punishable by a maximum of five years' imprisonment and a fine of FRF 500,000. If the child is under 15 the offender can be sentenced to seven years' imprisonment and to a fine of FRF 700,000 (article 227-22 NCP).

But, it is possible to prosecute the client when a child over 15 is involved. Indeed, article 227-25 NCP provides that an adult who sexually assaults a child of 15 without the use of violence, coercion, threat or surprise can be sentenced to two years, imprisonment and to a fine of FRF 200,000. The offender is punishable by 10 years' imprisonment and a fine of FRF 1,000,000 when he will have offered a financial compensation (article 227-26a.4 NCP).

Extraterritorial legislation

French criminal law provides for the principle of extraterritorial law under article 113-6 NCP.

Extraterritorial law applies to crimes or offenses committed abroad by French nationals (i.e. citizens and alien residents).

As far as prostitution is concerned, an individual who coerced another person for the purpose of prostitution within or outside France is liable to prosecution and can be sentenced to 10 years, imprisonment and to a fine of FRF 10,000,000 (article 225-7a.4 NCP).

The client is still liable to prosecution for corrupting the morals of a child even when the alleged criminal acts were committed abroad. Since 1998, the double criminality criteria principle and the victim's complaint are no longer required to investigate cases of sexual offenses such as corrupting the morals of a child under 15, violent sexual assaults or child pornography. Unfortunately, the Public Prosecutor has full discretionary powers to drop or pursue a case.

But the police say these investigations are time-consuming and depend on the degree of cooperation of the foreign authorities where the crime was committed or where the offender comes from.

Law enforcement

To fight against procuring and international crime, the French interior ministry has created a special police unit: the Central Office for the Repression of Traffic in Human Beings (OCRTEH). These police officers can ask for the collaboration of the juvenile liaison police.

In general, the police say it is difficult to deal with child prostitution. The main problem is in obtaining testimonies. Due to both the absence of a recognised victim status and of a protection programme, prostitutes are also reluctant to lodge a complaint against pimps and traffickers for fear of reprisals.

OCRTEH

This bureau was created in 1958. Its aim is to fight procurement and organised crime. However this department is only concerned with adult prostitution. It has national jurisdiction and can initiate investigations without the prior authorization of the Public Prosecutor. Police officers no longer need a prostitute's complaint to launch an investigation. This is an advantage when we consider the prostitutes' reluctance to testify. Now, the provision of evidence of the exploitation is enough and the victim's consent has no influence.

However, when children are involved, the police must proceed differently. Indeed, as the child does not have a legal capacity, he or she cannot lodge a complaint. To do so, the minor has to be represented⁹. Therefore, investigations are rendered more difficult because of the child's age and his/her vulnerability. Police officers need training in how to handle children whose testimonies are still necessary to launch inquiries. Moreover, as child prostitution is an underground problem, evidence is more difficult to obtain.

To improve its methods of investigation, the OCRTEH has asked the Interior Ministry to extend the special police methods of investigation as used for drugs trafficking or money laundering to the methods used to combat trafficking in human beings. However, the Ministry has not yet responded.

The juvenile police liaison bureau

This police unit is responsible for the protection of minors and the investigation of offenses against them.

The Vice Squad and juvenile liaison police have only reported a few children prostituting themselves to date. Moreover, no network recruiting children for sexual exploitation has yet been discovered. However according to the chief superintendent of the juvenile liaison police, the mobility of these children makes it difficult to obtain information about any networks.

At present, there are many child sex investigations in the pipeline. But, it is still a problem to convict offenders because of the lack of testimonies.

In general, when the police arrest a child prostitute, the child can only be held temporarily. The police refer the child to social care services and a juvenile magistrate. But most of the time, children do not stay in shelters. Effective action is dependent on the child's cooperation.

Sometimes, unaccompanied minors come to the police spontaneously when they do not know where to go. In an emergency, the police take the child to a reception centre if he or she is 13 to 18 (Centre d'Accueil d'Urgence de la Croix Nivert) or to social care services if younger.

The chief superintendent in the juvenile police liaison bureau does not understand why NGOs claiming to have found many child prostitutes do not report them to the police. Therefore, she speaks about either a lack of coordination and trust between NGOs and the police or a lack of interest in children. They may not be cooperative because they do not have any proof of the child's age. Victims may also avoid turning to the police knowing that they cannot be protected from their pimps.

According to the French Social Affairs Ministry and more particularly the child welfare department¹⁰, NGOs do not give any information unless the government gives assurances about its use. It is a pity NGOs do not cooperate because they have an important role to play in prevention.

⁹ See p.72. Lack of report to magistrates. The child must be represented by a magistrate who will supervise the child guardianship because (s)he does not have legal capacity.

¹⁰ Ministère du Travail et de la Solidarité, Bureau de l'Enfance Maltraitée.

As regards pornography on the Internet, the police say it is even more difficult to investigate. The police have not yet discovered any child prostitution networks on the Internet. Nevertheless, according to the chief superintendent, they certainly exist.

Difficulties

According to a police officer, the prevalence of prostitution is badly evaluated. For proper evaluation, he proposes a new watchdog patterned after that for narcotics. A better understanding of prostitutes' living and working conditions offers hope for better programmes of protection, prevention and rehabilitation.

However at the moment, the main problems are a lack of trust between the police, social care services, NGOs and officials, a lack of global mobilisation as well as of human and financial resources. Obviously, this all hampers the course of investigations and decrease the possibility for finding a solution for accommodation problems for aliens and others.

The lack of protection programmes and of victims' legal status

The lack of protection for victims prevents victims from testifying and therefore from the conviction of traffickers. Once the prostitute has been charged by the police, she is free to go.

The role of the victim during the criminal trial is ambiguous. In France, there is no real victim status. She can only have a status at the cross-examination stage when she can decide either to remain a witness or to sue for damages.

According to the OCRTEH, the granting of temporary residence as in Belgium or Italy is not a good solution unless the conditions for this are neither dependent on the authorities' discretion nor of the victim's cooperation. Moreover, granting these permits could lead to an increase in unjustified asylum seekers and could help traffickers to enter a country legally. Therefore it is important for the police, NGOs and social care services to cooperate in order to improve their working methods and to respond to the needs of victims properly.

At the moment, the French government is considering allowing an alien to remain in France under the 'territorial asylum' principle. The term is new and more extensive than political asylum.

However, the NGOs take a different view. A group of human rights agencies has set up a platform against trafficking in human beings. Their aim is to provide other NGOs likely to be concerned with this problem with information and to raise the awareness of the general public and officials. According to them, France needs a policy regarding the protection of victims who were trafficked and their rehabilitation. For example, they suggest that this policy could provide for:

- the granting of a residence permit;
- assistance and rehabilitation programmes;
- the creation or improvement of reception centres and social services providing medical, social and educational help;
- the creation of shelters protected by the police for those who feel threatened.

The lack of specific legal provisions for children

In any case, an alien child can be in a clandestine situation in France. Indeed, as the child does not have a legal capacity, no legal decisions as regards his/her situation can be enforced. At this point, the magistrate ('juge du 35 quarter')¹¹ must allow entry. From this moment, the child must be protected as if he were a national¹². Therefore, there should be no need of other specific provisions for the child as regards protection by social services.

But related to trafficking or child prostitution, there is a lack of legal provision. Some of the associations of the platform want a special law on trafficking. This offence should be defined such as

¹¹ See p.71.

¹² Article 56 du Code de la Famille et de l'Action Sociale.

in the convention against transnational organised crime (2000) and its two protocols related to the trafficking in human beings, particularly in women and children and to the smuggling of migrants (article 2 bis).

According to a police officer, passing a new law on trafficking is not necessary. Considering trafficking as a whole and defining it as a specific offence would be a mistake because trafficking is a more complicated phenomenon implying other different offenses. The laws on procuring are satisfactory enough to combat trafficking. All we need is global mobilisation.

In general, the lack of specific provisions is due to the non-recognition of child prostitution by the government.

Sentences

In practice, pimps or traffickers are sentenced to a minimum of five years' imprisonment (for procuring) to 10 years' imprisonment in the event of aggravating circumstances.

Every year, the courts sentence about 600 pimps and traffickers for periods of from six months to 10 years.

To increase sentencing, more investigations have to be opened. However this is difficult because it involves international networks and organised crime. These investigations take a long time (from 6 to 12 months) and not all police units are able to give so much time for an investigation. Moreover, efforts are needed to ensure testimonies e.g. protection programmes.

According to the juvenile liaison police, the legislation appears to be satisfactory when off-street prostitution is considered, for there are fewer and fewer problems. Penalties are so heavy that bars and clubs take precautions when employing women. If they recruit minors, they are liable to criminal prosecution and to administrative penalties such as shutdown and a heavy fine. They are required to ask for the original papers of the individual and to be sure of their validity.

4. PROTECTION MEASURES

Prevention and rehabilitation programmes

Since the 1984 decentralisation law, the protection of children depends on counties (les départements) and no longer on central government. But each county has its own needs and there are financial problems. NGOs try to compensate for the lack of national and social services initiatives. Each NGO tries to find solutions for each individual but there is nothing coordinated.

The role of NGOs

There are no special reception centres for trafficked children or child prostitutes. When social services accept them, the children are sent to reception centres but mixed with others. Their specific needs are not considered and they are not aware of their rights and legal status as no one informs them nor are they automatically provided with an interpreter.

Therefore NGOs helping prostitutes have created their own shelters but none of them are accredited to host children. To do so, NGOs require special authorization from the Social Affairs Ministry.

Only one refugee rights NGO has opened a shelter to receive unaccompanied asylum-seeking minors. This shelter must provide young asylum seekers with accommodation and assistance in their application for asylum. They usually stay for a period of nine to 12 months, i.e. the time necessary to complete the required procedures. If the application is rejected, they can apply to the Interior Ministry for refugee status or a residence permit on humanitarian grounds.

An association provides training for NGOs, schools and social workers. It teaches them how to deal with prostitutes (adults or children). It also provides advice and guidance to others about training matters. Today, 50% of social workers want child prostitution training, which shows they realise the existence of a problem.

Difficulties

Limited financial resources, languages barriers, lack of concern by the authorities are some of the problems NGOs face.

In general, NGOs assert that it is difficult to help child prostitutes and to make them give up prostitution. Minors need round-the-clock supervision to make sure they complete all steps to their freedom. It is difficult to approach them because they are suspicious. They do not want to speak for fear of reprisals or of the police because of their illegal status. They are also reluctant to speak because they fear that such associations cannot help them.

Social services and NGOs note that women do not know the real meaning of social services. In Eastern Europe, there were no social services because the State had every structure under control. This reveals another problem: women and young girls ignore their rights in France. What is needed are mediators speaking their language, leaflets in the different languages informing them of their rights as well as people or agencies they can go to for help.

Needs identification

An alternative to the transit area

Magistrates and NGOs assert the need for an alternative to the transit area which is prejudicial to children¹³. Some consider that unaccompanied minors should automatically be granted entry to France without staying in the transit area. A judge suggested that authorities should take into consideration the proposals of the 'Défenseure des droits de l'enfant'¹⁴ which recommends that:

- educational reception structures financed by the government should be created for unaccompanied minors with access to translators;
- it should be compulsory to report the child to the juvenile judge and judge responsible for the guardianship as soon as the child arrives in France;
- a new programme of research for bone evaluation should be set up. New methods of evaluation should take into account the physiological differences of different ethnic groups. Moreover, the conditions under which the experts work should be improved. The child should be assisted by an interpreter and a person who has accompanied the child since his/her arrival in France in order to give doctors information about his/her behaviour necessary for his/her psychological evaluation and by a legal adviser.

Evaluation of child prostitution

The police, NGOs and social services agree that child prostitution is an under-investigated problem. It is necessary to evaluate its extent and to identify the needs and proper solutions. For example, one police officer suggested the creation of a watchdog mechanism such as there is for drugs.

Cooperation

Once the problem is identified, social action should be undertaken on two levels:

- the repressive one that is to analyze the child prostitution phenomena and its links with criminal networks;
- the educational one that is to protect the child, prepare rehabilitation. This implies the training of social workers for them to cope properly with child prostitutes.

Repatriation programmes

There is no national repatriation programme.

The head of child welfare at the Social Affairs Ministry stated that there was none because this would entail an evaluation of the child's situation in France and in his/her home country. Such an evaluation would require significant human and financial resources and diplomatic efforts.

However, a judge may allow the repatriation of a minor.

¹³ See p.72.

¹⁴ Person appointed by the Ministry of Justice responsible for the defence of the rights of children in France and has national jurisdiction.

According to a judge and some NGOs, some police officers have already performed 'forced repatriations' of children (without his/her consent or even informing the Justice Ministry).

An NGO is trying to set up a programme to repatriate trafficking victims. To do so, the NGO is creating a network between the country of origin and the country of destination. The aim of the project is to obtain and share information such as addresses of social workers, shelters, medical services and other resources in both countries. In this way, the victim will receive care once back in his/her country of origin.

5. GENERAL OBSERVATIONS

The client

NGOs assert there is not enough client prevention. A national campaign is needed.

The clients of women prostitutes are 22 to 65 years old and from different social backgrounds whereas the clients of male prostitutes are older (60 to 65 years old) and relatively wealthy.

Some NGOs note that some clients ask for unprotected sex. This is a real problem because they note an increase of unwanted pregnancies and of sexually transmitted disease in Eastern European women.

Profits

In France, commerce in human beings is worth an annual FRF 15 to 20 billions and 70% goes to the traffickers¹⁵.

There is little monetary information because prostitutes will not say. But in most interviews, NGOs said that in general traffickers usually demanded that the prostitute hand over FRF 3,000 to FRF 5,000 per night. This leaves them with anything from FRF 300 to FRF 3,000 for rent and food. With regards male prostitution, it seems that prices are higher because this activity is more casual for men than for women, more of whom need it to survive. Moreover, this activity does not last so long for men as they are older. Of course, as said, prices are higher as clients are richer than for women.

Responsibility of the country of origin

The reasons for these big migration flows were identified. As far as minors are concerned, migration is due to political events, economic considerations and criminal migration. For each case, the country of origin has some responsibility. We should think of helping these countries to set up economic development programmes. Those hit by wars should rebuild their legal and judicial systems and structures. Finally, countries should make an effort to set up prevention campaigns against prostitution and on the different means of recruitment used by organised crime.

Links with organized crime

Some 20 or 40% of asylum seekers and 15 or 30% of illegal migrants resort to smugglers to reach Western countries. The link with organised crime is difficult to prove. However, in France, the police say there is no network which is only recruiting children.

Children can be recruited either in their countries (deception, kidnapping, purchase from parents) or in the country of destination in the transit area. NGOs report that some traffickers are also asylum seekers. Recruitment is undertaken in airports, or around shelters, courts and even in associations. Prostitutes report physical violence, repeat rapes and even special camps where women are 'taught their place' and raped as many times as needed until the traffickers are satisfied they have obtained complete submission.

According to the police and NGOs, Eastern European women usually arrive through criminal networks. Leaders, usually of the same nationality, remain in the country of origin. They delegate to others the recruitment, travel arrangements and physical control of the women. Women arrive via Italy or Greece. Some NGOs reported that some women are sold three to five times before reaching

¹⁵ Rapport d'activité 2000 du Sénat, no. 209, 2000-2001.

France.

Prostitutes are organised. Each ring has a leader called 'Kapo' who supervises the others. Cars pick them up and drive them to the place of prostitution and back to their lodgings. Every three or four months, they move to another place in the city or the country and to other countries such as Belgium or Germany. In this way, women are kept isolated to maximise their vulnerability and easier control by the traffickers. With regard to male prostitution, it would seem that there is no link with organised crime.

6. CONCLUSIONS AND RECOMMENDATIONS

The recognition of child prostitution

We should recognise the existence of child prostitution in France.

The French government should review its position and undertake investigations to obtain an overview of the real situation of children and to identify needs and proper solutions. The setting up of an observatory such as for drug issues could be a solution

The reception in the transit area

NGOs entitled to visit foreigners in the transit area should be authorised to undertake more frequent and regular visits in order to inform people about their rights.

Also, the government should think of an alternative to the transit area for children. There is an urgent need for the creation of reception and educational structures for unaccompanied minors because the transit area is prejudicial to them. At the same time, there should be an obligation to report a child to a juvenile magistrate and to a judge supervising guardianship for his/her protection as soon as the child arrives in France. A new programme of research for bone evaluation should be set up taking into account the physiological differences of different ethnic groups. The present methods are obsolete, which is prejudicial to children because they are declared adults whereas they are really under-aged. These are at-risk minors.

Protection of victims

Efforts should be made with regard to the protection of victims of trafficking for the purposes of sexual exploitation. For example, France should ratify the new convention against transnational organised crime.

More financial and human resources should be given to police departments and NGOs to identify and dismantle networks, and to create other reception centres.

Specific laws

As far as prostitution is concerned, the law on procurement is complete and efficient. However the Government should pass special legislation for crimes against children. At present, the fact that the victim of a sexual misdeed is a minor is only an aggravating circumstance. Child prostitution should be taken more seriously and an effort should be made to punish the client (without any distinction whether the child is under or over 15). Present policy is ambiguous and should be made more clear.

Moreover, the decree of 2 November 1945 regulating alien entry and residence in France should be reviewed taking into consideration the specific needs for children. At present, conditions of detention in the transit area implemented to adults are also applied to children. Children have other needs which require other treatment.

National procedures for child protection are not enforced for foreign minor whereas, under French law, he or she is entitled to such protection.

The bill providing for the appointment of an ad hoc administrator responsible for the representation of unaccompanied minors should be re-examined. It could lead to an increase of the number of minors denied entry to France and put France in violation of the 1989 Convention on the Rights of the Child (articles 3, 22, 37), the 1961 Hague convention (article 9) and the 1951 Geneva convention on refugees

(article 1A2).

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8. ANNEX

List of interviewed experts

The persons interviewed are representatives of:

Social workers

- Médecins du monde;
- France Terre d'Asile;
- Comité Contre l'Esclavage Moderne (CCEM);
- Paris Ados Services;
- Mouvement du Nid (délégation de Paris);
- SAMU Social de Paris;
- AEMO-ANRS Ile-de-France;
- Association METANOYA;
- Amicale du Nid-Milieu Ouvert;
- Centre de détention de Fleury-Mérogis;
- Chef du Service pénitentiaire d'Insertion et de Probation.

Officials

- Brigade des Mineurs;
- Tribunal Pour Enfant de Bobigny;
- Première Substitut du Procureur au Parquet des Mineurs;
- Juge Pour Enfants;
- OCRTEH, Direction centrale de la police judiciaire;
- INTERPOL, OIPC-Interpol;
- Ministère de l'Emploi et de la Solidarité, Bureau de l'action sociale Responsable de l'enfance maltraitée;

- Parquet des mineurs de Paris;
- Juge des Tutelles au Tribunal de Grande Instance du Onzième Arrondissement de Paris.