

# **Social Fieldwork Research (FRANET)**

## **Severe forms of Labour Exploitation**

### **Supporting victims of severe forms of labour exploitation in having access to justice in EU Member States**

**France, 2014**

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## Categories of interviewees

Nine categories of experts working in the context of labour exploitation took part in the interviews and focus groups:

M – Monitoring bodies (such as labour inspectorates, health and safety bodies)

P – Police and law enforcement bodies

S – Victim support organisations

J – Victim support prosecutors

L – Lawyers

R – Recruitment and employment agencies

W – Workers' organisations, trade unions

E – Employers' organisations

N – National policy experts at Member State level.

FG – Focus Group

Throughout this report, references to these groups as 'M', 'P' etc. are to be understood as referring to the above-named 9 categories.

Where [M(X)] appears, this denotes the group from which the referenced interviewee came, in addition to the number of interviewees from that group referenced (for example, if a statement is supported by references to three interviewees from the M group, two from the S group and one from the J group, the reference will read '[M(3); S(2); J(1)]'. Likewise, if a statement is supported by statements from interviewees who participated in focus groups (in the following example, a lawyer), the reference will read '[FG(L)]'.

For data protection reasons, no names of interviewees have been mentioned.

# 1. Introduction, including short description of fieldwork

## Fieldwork carried out and participants

The fieldwork for this project was initiated in February 2014 and concluded in July 2014. Thirty nine interviews and two focus groups were conducted, with a total of 47 professionals (25 men and 22 women) actively involved (including two new participants in the focus groups). Taking into account new focus group participants, the panel included the following: six professionals working at public institutions tasked with inspection and monitoring; six law enforcement officers; nine professionals working with victim support services (essentially NGOs); four prosecutors/judges; six lawyers; six representatives of organisations representing migrant workers/advocating the rights of migrant workers (essentially representatives of unions); two representatives of employers' rights organisation; one representative of a recruitment/temporary work agency and one policy expert.

Interviews were primarily carried out in the regions of Ile de France and Provence-Alpes-Côte-d'Azur. But the panel also includes professionals based and active in other regions, namely Centre, Bretagne and Rhône Alpes. Most interviews were carried out face-to-face. Only three had to be carried out by telephone. Focus groups (2) were conducted in the presence of an FRA observer. They involved respectively five [N(1); M(1)| P(1); S(1); W(1: new)] and four [N(1); W(1); M(1); L(1: new)] participants, with a total of five men and four women. Some of the invited participants could not attend, [P(1); S(1); L(1)] due to prolonged rail strikes. Additional themes proposed for discussion during focus groups related to access to justice for victims of labour exploitation, the responsibilities of recruitment agencies and contracting authorities, and specialisation of professionals in the field of labour exploitation. The duration of focus groups was over 2 hours 30 minutes in both cases. 16 of the 18 case studies submitted are of direct relevance to the project. Two of them concern situations of nationals and are shared for information purposes.

Sectors covered in case studies include that of domestic households as employers (main one), manufacturing/retail, agriculture, construction, forest industry (woodcutting) and forced begging (one case concerning children, one concerning adults). Information on case studies was provided by members of victim support services [S(4)] but also labour inspectors [M(2)], law enforcement officials [P(2)] and a lawyer [L(1)]. Most cases had a judicial follow-up, with a criminal procedure and/or a procedure before labour courts, although some victims chose not to file a complaint or not to be civil party in a criminal procedure. Court decisions are still pending in a number of cases or decisions are still subject to appeal. Some of the victims did succeed in accessing justice with positive outcomes, at least to some extent. Detailed information is not always available on the judicial outcome. The report refers to case studies, where found relevant.

## Evaluation of sample and challenges

Overall the sample for interviewees matched the initial design. It involves key players (at present) in the field, including the specialised NGOs identified as having specific expertise [S(5)] and a national policy expert on trafficking in human beings [N(1)]. The selection of M group respondents focused on the labour inspection, targeting different levels of responsibility and fields of engagement.

Challenges encountered during the fieldwork were essentially those that were anticipated or experienced by other national focal points. A general one related to the identification of professionals with actual and direct experience in the field of (severe forms) of labour

exploitation. This is particularly true of judges (four interviewed) and law enforcement officers. In this regard, the number of years of experience in the field reported for professionals interviewed should be looked at as indicative: it sometimes relates to a period of involvement in a function that provides relevant competence; and the number of cases actually dealt with over that period may have remained extremely limited. Difficulties were also encountered in securing opportunities for interviews with representatives of recruitment, employment and temporary work agencies (one “R” interviewed) as well as representatives of employer organisations (E). Some requests for interviewees remained unanswered, in spite of repeated requests. Interviews – which lasted on average over 2 hours (110 min of recorded time) - proved often overly demanding for some of the professionals with significant responsibilities and concurrent priorities. As a consequence, not all questions could systematically be covered. Some multiple choice questions were not relevant to the field of intervention of respondents, and notably those dealing with situations of minors.

The final fieldwork panel includes professionals with varying degrees of involvement on issues of labour exploitation, as a consequence of the mandate of their organisation, the economic sectors they cover, their own position and experience. This also requires caution in drawing conclusions or inferring trends from aggregated responses (cf. tables in this report).

## 2. Legal framework

Significant changes to the legal framework have recently taken place. A major piece of legislation, to translate European and international commitments and standards, taking into account European case law, was adopted on 5 August 2013<sup>1</sup>. It introduced new offences in the criminal code (slavery and exploitation thereof, forced labour and reduction to servitude) and revised the definition of human trafficking introduced initially in 2003 (new purposes introduced, modification of the means)<sup>2</sup>. It also opened up opportunities for NGOs with a relevant mandate (and established for at least 5 years) to be active as civil party in judicial procedures concerning a number of these offences<sup>3</sup>, and removed obstacles in terms of access to compensation for victims in an irregular situation<sup>4</sup>. The following table lists some of the key offences of relevance for this project and penalties risks by their authors.

Offences	Article of the criminal code <sup>5</sup>	Penalties
Slavery ( <i>réduction en esclavage</i> )	Article 224-1-A	20 years of prison
Exploitation of slavery ( <i>exploitation d'une personne réduite en esclavage</i> )	Article 224-1-B	20 years of prison
Aggravated forms incl. when the victim is a minor/ vulnerable person	Article 224-1-C	30 years of prison
<b>Forced labour (<i>travail forcé</i>)</b>		
	Article 225-14-1	7 years of prison, 200 000 euro fine
Concerning a minor	Article 225-15	10 years, 300 000 euro fine
<b>Reduction to servitude (<i>réduction en servitude</i>)</b>		
	Article 225-14-2	10 years of prison, 200.000 euro fine
Concerning a minor	Article 225-15	15 years of prison, 400 000 euro fine

<sup>1</sup> [France] Law no. 2013-711 of 5<sup>th</sup> August 2013 including various adaptations in the field of justice, in line with EU law and international commitments of France (Loi no. 2013-711 du 5 août 2013 portant diverses provisions d'adaptation dans le domaine de la justice en application du droit de l'Union européenne et des engagements internationaux de la France), available at:

[[www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027805521&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027805521&categorieLien=id)].

<sup>2</sup> Le Coz, N. (2013), The repression of offences against persons in the law of 5th August 2013, (La repression des atteintes aux personnes dans la loi no. 2013-711 du 5 aout 2013), available at:

[[www.contrelatrite.org/IMG/pdf/Actualites\\_juridiques\\_penal-Dalloz-October\\_2013-repression\\_des\\_atteintes\\_aux\\_personnes\\_et\\_entraide\\_penale.pdf](http://www.contrelatrite.org/IMG/pdf/Actualites_juridiques_penal-Dalloz-October_2013-repression_des_atteintes_aux_personnes_et_entraide_penale.pdf)].

<sup>3</sup> [France] Code of criminal procedure (code de procedure pénale), article 2-22, available at:

[[www.legifrance.gouv.fr/affichCodeArticle.do?jsessionid=27540550FF1F7403399AF97EFDD1F8D2.tpdjo14v\\_1?i dArticle=LEGIARTI000027806922&cidTexte=LEGITEXT000006071154&dateTexte=20140720](http://www.legifrance.gouv.fr/affichCodeArticle.do?jsessionid=27540550FF1F7403399AF97EFDD1F8D2.tpdjo14v_1?i dArticle=LEGIARTI000027806922&cidTexte=LEGITEXT000006071154&dateTexte=20140720)].

<sup>4</sup> [France] Law no. 2013-711 of 5<sup>th</sup> August 2013 including various adaptations in the field of justice, in line with EU law and international commitments of France (Loi no. 2013-711 du 5 août 2013 portant diverses provisions d'adaptation dans le domaine de la justice en application du droit de l'Union européenne et des engagements internationaux de la France), article 20, available at:

[[www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027805521&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027805521&categorieLien=id)]; article 706-3 of the Code of criminal procedure, available at:

[[www.legifrance.gouv.fr/affichCodeArticle.do?jsessionid=6CE4C4A558AA27F9538710AF32EDB181.tpdjo13v\\_3?i dArticle=LEGIARTI000027813042&cidTexte=LEGITEXT000006071154&categorieLien=id&dateTexte=20140719](http://www.legifrance.gouv.fr/affichCodeArticle.do?jsessionid=6CE4C4A558AA27F9538710AF32EDB181.tpdjo13v_3?i dArticle=LEGIARTI000027813042&cidTexte=LEGITEXT000006071154&categorieLien=id&dateTexte=20140719)].

<sup>5</sup> [France], Criminal code (code de procedure pénale), available at:

[[http://legifrance.gouv.fr/affichCode.do?jsessionid=2C142CC75DCE06C13CEF44964C26D7AB.tpdjo07v\\_1?cidTexte=LEGITEXT000006070719&dateTexte=20091125](http://legifrance.gouv.fr/affichCode.do?jsessionid=2C142CC75DCE06C13CEF44964C26D7AB.tpdjo07v_1?cidTexte=LEGITEXT000006070719&dateTexte=20091125)].

Other aggravated forms of forced labour and reduction to servitude	Article 225-15	Variable (see article)
<b>Human trafficking (<i>traite des êtres humains</i>)</b>		
Human trafficking ( <i>traite des êtres humains</i> )	Article 225-4-1	7 years of prison, 150 000 euro fine
Concerning a minor	Article 225-4-2	10 years of prison, 1.500 000 euro fine
Other aggravated forms	Article 225-4-2 and following	Variable - see articles
<b>Absence of remuneration or under-remuneration (vulnerable/dependent victim)</b>		
Absence of remuneration or under-remuneration (vulnerable/dependent victim)	Article 225-13	5 years of prison, 150 000 euro fine
Concerning a minor	Article 225-15	7 years of prison, 200 000 euro fine
Other aggravated forms	Article 225-15	Variable – see article
<b>Living or working conditions inconsistent with human dignity (vulnerable/dependent victim)</b>		
Living or working conditions inconsistent with human dignity (vulnerable/dependent victim)	Article 225-14	5 years of prison , 150 000 euro fine
Concerning a minor	Article 225-15	7 years of prison, 200 000 euro fine
Other aggravated forms	Article 225-15	Variable – see article
<b>Exploitation of begging (<i>exploitation de la mendicité</i>)</b>		
Exploitation of begging ( <i>exploitation de la mendicité</i> )	Article 225-12-5	3 years of prison, 45 000 euro fine
<b>Exploitation of street peddling (<i>exploitation de la vente à la sauvette</i>)</b>		
Exploitation of street peddling ( <i>exploitation de la vente à la sauvette</i> )	Article 225-12-8	3 years of prison, 45 000 euro fine
Aggravated forms of exploitation of begging or street peddling incl.when the victim is a minor/vulnerable person	Article 225-12-6 Article 225-12-9	5 years of prison, 75 000 euro fine

Relevant provisions also appear in the labour code to counter multiple forms of illegal work (including the employment of foreign workers without work authorisation)<sup>6</sup>; and in the code of entry and stay of foreigners and asylum, covering aid to the irregular entry and stay of foreigners on the national territory<sup>7</sup>. The labour code also prohibits employing a minor under 16 years old (with exceptions) or a minor under the age of 18 where there is a risk to health, safety or ‘morality’.

These changes in the legal framework have been long awaited, notably by NGOs, who hope for adequate implementation by the judiciary. A circular was issued by the Ministry of Justice

<sup>6</sup> [France], Labour code (code du travail), article L.8211-1, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006072050&idArticle=LEGIARTI000006904814&dateTexte=&categorieLien=cid]; article L8251-1, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006072050&idArticle=LEGIARTI000006904851&dateTexte=&categorieLien=cid].

<sup>7</sup> [France], Code of entry and stay of foreigners and of asylum (code l’entrée et du séjour des étrangers et du droit d’asile, article L622-1 and following, available at: [www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006147789&cidTexte=LEGITEXT000006070158&dateTexte=20090408].

in December 2013 in this respect<sup>8</sup>. Another significant development is the official adoption of the national action plan against human trafficking (covering all forms), finally released in May, which includes a set of significant measures, with further legislative change ahead<sup>9</sup>.

Another law – referred to by a number of respondents as the “Savary bill” - was adopted in the course of our fieldwork. It concerns the fight against illegal social dumping<sup>10</sup> and should bear a number of implications for the situation of posted workers in France. This piece of legislation notably strengthens obligations of vigilance for contracting authorities mobilising service contractors (particularly in terms of the conditions of housing and work of workers) and solidary financial responsibility in cases of persistent violations by the service provider<sup>11</sup>. It also provides unions with room for action in cases concerning illegal work<sup>12</sup> and the situation of posted workers<sup>13</sup>, on the condition of non-opposition of the workers concerned (distinct from a more constraining condition of explicit agreement of the worker)<sup>14</sup>.

A relevant decision of the Constitutional Court also intervened in the context of the fieldwork<sup>15</sup>. It declared unconstitutional a provision (article L8271-13 of the labour code<sup>16</sup>), concerning search without consent to detect dissimulated work, with a judicial warrant (insufficient guarantees to be able to challenge the procedure). The Constitutional Court deemed the guarantees to challenge the procedure insufficient, but gave the government time to amend the legislation to maintain what it recognises to be an important instrument for effective investigation and repression (one which a senior law enforcement official [P(1)] also presented as “*an extremely valuable and powerful tool for the repression of illegal work*”).

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<sup>8</sup> [France] Ministry of Justice (Ministère de la Justice) (2013) Circular of 19th December 2013 concerning the presentation of provisions of the law no. 2013-711 of 5<sup>th</sup> August 2013 including various adaptations in the field of justice, in line with EU law and international commitments of France (Circulaire du 19 décembre 2013 relative à la présentation des provisions de droit pénal de la loi no. 2013-711 du 5 août 2013 portant diverses provisions d'adaptation dans le domaine de la justice en application du droit de l'Union européenne et des engagements internationaux de la France), available at: [www.textes.justice.gouv.fr/art\_pix/JUSD1331417C.pdf].

<sup>9</sup> [France], Ministry of Women's Rights, Urban Policy, Youth and Sports (Ministère des droits des femmes, de la ville, de la jeunesse et des sports), National action plan against trafficking in human beings (2014-2016) (*Plan d'action national contre la traite des êtres humains*), available at: [http://femmes.gouv.fr/wp-content/uploads/2014/05/Plan-daction-national-contre-la-traite-des-%C3%AAtres-humains.pdf].

<sup>10</sup> [France] Law no. 2014-790 of 10<sup>th</sup> July 2014 concerning the fight against illegal social dumping (*Lol no. 2014-790 du 10 juillet 2014 visant à lutter contre la concurrence sociale déloyale*), article 13, available at: [www.legifrance.gouv.fr/affichTexte.do;jsessionid=1DF09368A9E29EC136ED0B204D11FA68.tpdjo04v\_2?cidTexte=JORFTEXT000029223420&categorieLien=id].

<sup>11</sup> [France] Law no. 2014-790 of 10<sup>th</sup> July 2014 concerning the fight against illegal social dumping (*Lol no. 2014-790 du 10 juillet 2014 visant à lutter contre la concurrence sociale déloyale*), article 4 and 5, available at: [www.legifrance.gouv.fr/affichTexte.do;jsessionid=1DF09368A9E29EC136ED0B204D11FA68.tpdjo04v\_2?cidTexte=JORFTEXT000029223420&categorieLien=id].

<sup>12</sup> [France], Labour code (code du travail), article L8223-4, available at: [www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=8352FD92AF548CD92CDABF3AC7269F81.tpdjo04v\_2?idArticle=LEGIARTI000029233829&cidTexte=LEGITEXT000006072050&dateTexte=20140719&categorieLien=id&oldAction=&nbResultRech=].

<sup>13</sup> [France], Labour code, article L1265-1, available at: [www.legifrance.gouv.fr/affichCode.do;jsessionid=8352FD92AF548CD92CDABF3AC7269F81.tpdjo04v\_2?idSectionTA=LEGISCTA000029233759&cidTexte=LEGITEXT000006072050&dateTexte=20140719].

<sup>14</sup> [France] Law no. 2014-790 of 10<sup>th</sup> July 2014 concerning the fight against illegal social dumping (*Lol no. 2014-790 du 10 juillet 2014 visant à lutter contre la concurrence sociale déloyale*), article 9, available at: [www.legifrance.gouv.fr/affichTexte.do;jsessionid=1DF09368A9E29EC136ED0B204D11FA68.tpdjo04v\_2?cidTexte=JORFTEXT000029223420&categorieLien=id].

<sup>15</sup> Constitutional court (Conseil Constitutionnel), Decision no. 2014-387 QPC of 4<sup>th</sup> April 2014, available at [www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000022265924&cidTexte=LEGITEXT000006072050].

<sup>16</sup> [France], Labour code (code du travail), article L.8271-13 (now abrogated), available at: [www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000022265924&cidTexte=LEGITEXT000006072050].

### 3. Labour exploitation and the institutional setting

In France, the system of prevention and fight against labour exploitation can be characterised as one of limited specialisation. It engages multiple institutions, with mandates which are directly relevant to a greater or lesser degree. Several monitoring agents are mobilised, with significant powers, even though a number of operational obstacles/limitations were reported by respondents, and notably the labour inspection (incl. limited access to private homes and issue of diplomatic immunity, language issue and lack of spontaneous cooperation from workers concerned, complexity of organisations making it difficult to reach those ultimately responsible, masking of illegal practices, e.g. in terms of remuneration).

Policy priorities in the last years have been set on the fight against illegal work and social fraud (with priority sectors) rather than on severe forms of labour exploitation as such. New impetus is expected with the recently adopted national action plan against trafficking (covering all forms), notably in terms of prevention and coordination. Currently, coordination between competent institutions is not always institutionalised and is logically focused on aforementioned priorities (e.g. in the framework of anti-fraud committees – CODAF).

In terms of realities, respondents encountered work under exploitative conditions most frequently, ahead of most extreme forms (trafficking, forced labour, slavery or child labour). Unskilled workers, workers in the agricultural sector and active in services were reportedly the most exposed to labour exploitation. Risk sectors identified include the following: construction, agriculture, activities of households as employers, and accommodation and food services. The number and frequency of cases of labour exploitation registered appear fairly low as far as public institutions are concerned (e.g. the labour inspection) (see response to Q7 and Q9). Institutions referring cases are multiple, and specialised NGOs seem to be at the forefront when it comes to the identification and registration of cases. Law enforcement services and particularly NGOs active in the field have developed a number of tools to facilitate that identification.

#### 3.1 Tasks of institutions involved in preventing labour exploitation and in enabling victims to access justice

- **Overview of institutional mechanisms in place at the national level to prevent and fight against labour exploitation**

On a policy coordination level, the Interministerial Mission for the protection of women against violence and the fight against human trafficking (*Mission interministérielle pour la protection des femmes contre les violences et la lutte contre la traite des êtres humains* MIPROF)<sup>17</sup> has now a pilot role to play in the implementation of the recently adopted national action plan against human trafficking, monitoring of trends, statistical collection, and facilitation of the dialogue between institutional and associative actors. In the context of the national action plan, efforts will be deployed to set-up and encourage local coordination to fight trafficking, including all forms related to labour exploitation [N(1)].

Under the labour code, a number of monitoring agents (*agents de contrôle*), including the labour inspectors and judicial police/gendarmerie, are in a position to document situations of

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<sup>17</sup> [France], Decree No. 2013-7 of January 2013 creating an interministerial mission for the protection of women against violence and the fight against trafficking in human beings (*Décret no. 2013-7 du 3 janvier 2013 portant création d'une mission interministérielle pour la protection des femmes contre les violences et la lutte contre la traite des êtres humains*), available at: [\[http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026894612&categorieLien=id\]](http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026894612&categorieLien=id).

illegal work<sup>18</sup>. The labour inspectorate has wide competence when it comes to documenting not only criminal infractions related to various forms of illegal work, but also situations of abuse of vulnerability (articles 225-13 to 225-15 of the criminal code, see legal overview) [M(1)]. The national action plan against human trafficking foresees an extension of the mandate of labour inspectors, to be able also to report cases of trafficking. The labour code will be amended for that purpose [N(1)]. The labour inspectorate is currently undergoing a broader reform. In this context, one labour inspector should be designated in each *Département* to serve as the focal point for issues concerning the employment of posted workers and aspects relating to cross-border social dumping. This should facilitate cooperation and action, also for unions wishing to denounce situations of abuse [W(1)]. The reform in fact also foresees the creation of units dedicated to the fight against illegal work (*unite de contrôle et de lutte contre le travail illegal*) in each *Département* (DIRECCTE), but also the setting-up of a national investigation unit to be of support [M(1)]. Currently, joint inspections do mobilise several control bodies and are often coordinated within the Anti-Fraud Committees (CODAF) (see also section on cooperation).

Law enforcement services which may be in a position to prevent, detect and fight situations of labour exploitation include the following: the Border police (*Police aux frontières - PAF*), with its local units (*direction zonales*)<sup>19</sup> and Brigades for protection of minors (*Brigades de protection des mineurs - BPM*) present in large cities<sup>20</sup>; the Central Office for the fight against illegal work (*Office central pour la lutte contre le travail illégal - OCLTI*)<sup>21</sup>; the Central Office for the repression of illegal immigration and employment of foreigners without work authorisation/permits (*Office central pour la répression de l'immigration illégale et de l'emploi des étrangers sans titre - OCRIEST*)<sup>22</sup>; Central Office for the fight against itinerant crime (*Office central de lutte contre la délinquance itinérante – OCLDI* (the only one not covered by the fieldwork)<sup>23</sup>. The Central Office for the Fight against Trafficking in Human Beings (*Office Central de Lutte contre la Traite des Etres Humains -OCRTEH*) actually only deals with cases of sexual exploitation<sup>24</sup>. The relevant central offices mentioned (OCLTI, OCRIEST) can lead investigations or intervene in support of local law enforcement services. They also have a role to play in terms of collecting and sharing of information on the reality on the ground.

Within the judiciary, and more particularly within Prosecutors' offices, there is no real specialisation on trafficking (all the more so for purposes of labour exploitation). Existing specialisation will concern illegal work [J(1)], and offences concerning minors [J(1)]. For further information, see also sections of this report on prevention and victim support.

## INVESTIGATIONS BY LAW ENFORCEMENT SERVICES

Law enforcement officials interviewed mentioned significant investigative powers that are provided by the labour code (see legal overview), but also the code of criminal procedure. In the context of a preliminary investigation, the consent of the person is required for a house search, although this can be bypassed by an authorisation from a judge (*juge de la détention et des libertés*) for crimes (*crimes et délits*) which can be sanctioned by a prison sentence of

<sup>18</sup> [France], Code du travail (labour code), article L8271-1-2, available at: [www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000024500809&idSectionTA=LEGISCTA000006190004&cidTexte=LEGITEXT000006072050&dateTexte=20140719](http://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000024500809&idSectionTA=LEGISCTA000006190004&cidTexte=LEGITEXT000006072050&dateTexte=20140719).

<sup>19</sup> [www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Aux-Frontieres](http://www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Aux-Frontieres)].

<sup>20</sup> [www.prefecturedepolice.interieur.gouv.fr/La-prefecture-de-police/Missions-de-police/La-direction-regionale-de-la-police-judiciaire/La-brigade-de-protection-des-mineurs](http://www.prefecturedepolice.interieur.gouv.fr/La-prefecture-de-police/Missions-de-police/La-direction-regionale-de-la-police-judiciaire/La-brigade-de-protection-des-mineurs)].

<sup>21</sup> [www.gendarmerie.interieur.gouv.fr/re/Sites/Gendarmerie/Presentation/Police-Judiciaire/Travail-illegal-OCLTI](http://www.gendarmerie.interieur.gouv.fr/re/Sites/Gendarmerie/Presentation/Police-Judiciaire/Travail-illegal-OCLTI)].

<sup>22</sup> [www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Aux-Frontieres/Office-central-pour-la-repression-de-l-immigration-irreguliere-et-l-emploi-d-etrangers-sans-titre](http://www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Aux-Frontieres/Office-central-pour-la-repression-de-l-immigration-irreguliere-et-l-emploi-d-etrangers-sans-titre)].

<sup>23</sup> [www.gendarmerie.interieur.gouv.fr/eng/Sites/Gendarmerie/Presentation/Criminal-investigation-department/Delinquance-itinerante-OCLDI](http://www.gendarmerie.interieur.gouv.fr/eng/Sites/Gendarmerie/Presentation/Criminal-investigation-department/Delinquance-itinerante-OCLDI)].

<sup>24</sup> [www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Judiciaire/Lutte-contre-la-criminalite-organisee/Office-central-pour-la-repression-de-la-traite-des-etres-humains](http://www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Judiciaire/Lutte-contre-la-criminalite-organisee/Office-central-pour-la-repression-de-la-traite-des-etres-humains)].

5 years or more<sup>25</sup>. Hours to initiate such searches are 6am to 9pm. Derogations concerning this limitation of hours exist for a number of criminal offences<sup>26</sup>. Trafficking is among these but forced labour and others offences are not. Still, it should be noted that the law of 10 July 2014 added a number of offences relating to illegal work and notably the employment of foreign workers without work authorisation<sup>27</sup>. Another respondent [P(1)] referred to “expedited police investigation” (*enquête de flagrante*)<sup>28</sup>, applicable when a criminal offence is being committed or has just been committed. The respondent mentions the option to conduct searches and house visits in this context (*perquisitions et visites domiciliaires*)<sup>29</sup>. These cannot start before 6 am or after 9 pm<sup>30</sup>.

Choices in terms of areas of sites for inspections and investigations – with a focus on offences at the heart of each unit’s mandate (e.g. undeclared activity and employment of foreigners without authorisation for P(1)) – are guided by intuition [P(1)], surveillance work [P(1)] but also reports [P(1)], including from informers [P(1)]. As one interviewee [P(1)] reports: “*We have reports (denunciation) on one side. We plan. Then we walk around, we see certain things. We do reconnaissance. We say, “It might be interesting that”. We have to move fast*”. Choices will also, as reported, follow from priorities set by the Prosecutor’s office. Challenges reported relate to the reactivity inspections require (e.g. concerning short-term operations in the construction sector, rapidly completed or dismantled, with sometimes challenges to mobilise adequate numbers of investigators immediately and/or for parallel investigations) and restrictions in access to private homes/villas but also to ships in harbour areas (which may be operating under foreign flags). This limits opportunities to detect situations of servitude/exploitation. Some sectors are reportedly easier for inspections than others: e.g. in the case of restaurants in contrast to complex construction sites, where many companies may be operating, and with multiple layers of sub-contracting.

- **Functions exercised by interviewees and activities carried out**

	Institution									Personally involved										
	S	E	L	R	P	J	M	W	N	TOT AL	S	E	L	R	P	J	M	W	N	TOTA L
Monitoring/carrying out inspections (01)	-	-	-	-	1	-	6	-	-	7	-	-	-	-	-	4	-	-	-	4
Policing (inspections, protection measures, investigations (02)	-	-	-	-	6	-	-	-	-	6	-	-	-	-	6	-	-	-	-	6

<sup>25</sup> [France] Code of criminal procedure (Code de procedure pénale), article 76, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000006575124&dateTexte=&categorieLien=cid](http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000006575124&dateTexte=&categorieLien=cid).

<sup>26</sup> [France], Code of criminal procedure, article 706-73, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000029236668&cidTexte=LEGITEXT000006071154&dateTexte=20140722&oldAction=rechCodeArticle&fastReql=1869356976&nbResultRech=1](http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000029236668&cidTexte=LEGITEXT000006071154&dateTexte=20140722&oldAction=rechCodeArticle&fastReql=1869356976&nbResultRech=1).

<sup>27</sup> [France] Law no. 2014-790 of 10<sup>th</sup> July 2014 concerning the fight against illegal social dumping (*Lol no. 2014-790 du 10 juillet 2014 visant à lutter contre la concurrence sociale déloyale*), article 13, available at: [www.legifrance.gouv.fr/affichTexte.do;jsessionid=1DF09368A9E29EC136ED0B204D11FA68.tpdjo04v\\_2?cidTexte=JORFTEXT000029223420&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=1DF09368A9E29EC136ED0B204D11FA68.tpdjo04v_2?cidTexte=JORFTEXT000029223420&categorieLien=id).

<sup>28</sup> [France] Code de procedure pénale, article 53 and following, available at: [www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000006575015&idSectionTA=LEGISCTA000006151876&cidTexte=LEGITEXT000006071154&dateTexte=20001231](http://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000006575015&idSectionTA=LEGISCTA000006151876&cidTexte=LEGITEXT000006071154&dateTexte=20001231).

<sup>29</sup> [France] Code of criminal procedure (code de procedure pénale), article 56, available at: [www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000006575015&idSectionTA=LEGISCTA000006151876&cidTexte=LEGITEXT000006071154&dateTexte=20001231](http://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000006575015&idSectionTA=LEGISCTA000006151876&cidTexte=LEGITEXT000006071154&dateTexte=20001231).

<sup>30</sup> [France] Code of criminal procedure (code de procedure pénale), article 59, available at: [www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000006575015&idSectionTA=LEGISCTA000006151876&cidTexte=LEGITEXT000006071154&dateTexte=20001231](http://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000006575015&idSectionTA=LEGISCTA000006151876&cidTexte=LEGITEXT000006071154&dateTexte=20001231).

Advising/supporting victims of labour exploitation (03)	8	-	5	-	1	-	2	2	-	<b>19</b>	8	-	5	-	-	-	3	2	-	<b>18</b>
Criminal justice functions (04)	-	-	-	-	4	2	-	-	-	<b>6</b>	-	-	-	-	4	2	-	-	-	<b>6</b>
Advocacy of rights of workers (05)	5		2	1	-	-	2	3	-	<b>13</b>	5		2	1	-	-	2	3	-	<b>13</b>
Other (please specify)(06)	2	2	2		1	2			1	<b>10</b>	2	2	-	-	1	2	1		1	<b>9</b>
Don't know (99)	-	-	-	-	-	-	-	-	-	<b>0</b>	-	-	-	-	-	-	-	-	-	<b>0</b>

Note on interpretation: 19 interviewees reported their institutions were competent in terms of advising/supporting victims of labour exploitation (18 of them reported being personally active on that level). These numbers of broken down according to professional groups of interviewees. Responses were based on proposals (multiple choices).

The coding of responses was essentially based on declarations of interviewees. The table displays logical results. Other functions of relevance reported by respondents include awareness-raising activities on the realities of labour exploitation [S(1); M(1)]; the coordination of policy and monitoring in the field [N(1)]; and civil justice functions [J(2)]. A number of respondents also stress their engagement in relation to employers: with the provision of general information [M(1)]; advice to ensure adequate respect for the legislation [E(1)]; and sometimes sanctions, with also, for the French Office for Integration and Immigration (OFII), the recovery of administrative fines associated with the employment of workers without authorisation [S(1)].

Professionals tasked with inspections intervene on different levels and were not always directly involved [M(1)]. In terms of engagement, public officials tend to insist on their law enforcement function (e.g. labour code for labour inspectors, marking a distinction with the work of unions [M(2)]). One inspector reports that informing/referring workers is the first step to advocate the rights of workers [M(1)]. Among law enforcement officials, activities other than policing reported include the development of internal tools such as guidelines/circulars (e.g. on human trafficking, for investigators) [P(1)] and a tracking/monitoring of developments relevant to their field of intervention (e.g. cases), and to also dispatch information internally [P(1)]. It can be added that lawyers included in the panel work in cooperation with NGOs active in the field, taking up cases in labour or criminal courts. A number of them highlighted in interviews that they defend workers exclusively (but not exclusively migrant workers) [L(3)]. Some also see their work as participating in broader advocacy [L(2)].

Organisations advocating the rights of workers, or which focus on the human rights of migrants, did not always directly provide advice/support to victims of exploitation. Some provide legal counselling [W(1)], with sometimes the support of a lawyer in labour court procedures. Support to social and industrial action (strikes) was also cited, concerning more generally workers in an irregular situation [W(2)]. Some respondents focus on the support of undocumented victims with the administrative procedure, such as access to residency [W(1)] and report challenges in identifying situations of exploitation and accessing workers (cf. language barrier) [W(1)]. This support in terms of access to residency can be carried out by specialised NGOs [S(2)] but also social welfare organisations [S(1)]. One representative stressed a role in defending responsible practices within the profession [E(1)]. One representative of a recruitment agency claimed their agency is directly active in promoting equal treatment for migrant workers and their rights, although there is in practice no emphasis on the prevention of labour exploitation in their internal social responsibility policy [R(1)].

- **Relevant categorisations**

As reported, there are no categories of workers limiting the scope of intervention of labour inspectors when it comes to labour rights [M(1)]. Still, work authorisation will be required and may be checked only for third country nationals (these authorisations are no longer required for Bulgarian and Romanian nationals – they remain only for Croatians, as far as EU nationals are

concerned) [M(1)]. Conditions of work of posted workers will be reviewed also, possibly also inspecting the conditions of the establishment of the employing company in another EU country [M(1)]. Categorisations of workers will also not limit interventions from unions or organisations defending workers' rights, which will tailor support on a case by case basis [W(2)]. Effective membership of the union may be a filter still.

Among NGOs, categorisations proposed (cf. interview schedule) will generally not serve as filters for intake. In practice, many report supporting a majority of third country nationals in an irregular situation [S(4)]. One reported the opportunity to access a residence permit reserved to victims of trafficking based on cooperation (reportedly, while this is in theory not applicable for Algerian nationals, in practice Prefectures may sometimes still grant a residence permit on that basis, or grant a similar residence permit on other grounds)<sup>31</sup> [S(1)]. The administrative situation and nationality (EU/non-EU) of workers will essentially affect social support, and access to services such as healthcare (S-05), but will not impact on workers' ability to engage in a judicial procedure, whether it be a civil or criminal one [S(2)]. One NGO reported issues in terms of access to the general shelter system for undocumented migrants. Although admission should be unconditional, the system is clearly saturated [S(1)]. For the French Office for Integration and Immigration (*Office français de l'immigration et de l'intégration –OFII*) services, interventions in favour of migrants will concern those in an irregular situation, and particularly those placed in administrative detention centres [S(1)]. It can be added that some NGOs will provide services only to adults [S(2)] and that the current relocation system for victims of trafficking facing reprisals (Ac.Sé protection system - see section 5) is only accessible to adults.

- **Elements concerning inspections**

In individual interviews and focus groups, respondents insisted on the general monitoring activities of the labour inspectorate. As confirmed by respondents, there is no specific focus/action plan concerning severe forms of labour exploitation such as slavery or trafficking for the purpose of labour exploitation. Priorities are set nationally and annually in terms of sectors/issues with a latitude for inspection services to define their priorities as well, based on local realities. As reported [M(1)], five priority areas were assigned to control bodies in the field of illegal work<sup>32</sup>: the posting of workers (large fraud currently); sub-contracting (critical since the more sub-contracting there is the more risk of exploitation of workers there is, according to one respondent (M(1))); situations with foreign workers employed with work authorisation; undeclared work; false statuses: (e.g. issues of interns exploited as “cheap labour” under conditions which are not those of internships, part-time workers (*intermittents*) in the entertainment sector who defraud, independent workers who are actually not so (*faux indépendants*)). These combine with sectorial priorities which include: hotels, coffee places, restaurants (so-called “HCR” sector); construction; security (*gardiennage*), cleaning, and since 2013 road freight transport (*transports routiers de marchandise*); agriculture; entertainment industry (issue of fake status, lack of declarations).

In terms of mandate, access, and practice of the labour inspectorate: as stated by respondents, its agents can intervene in any working site and premises of companies, but will be limited by the need for prior consent of the persons concerned when sites are also inhabited<sup>33</sup>. As mentioned previously, a recent decision of the Constitutional Court reiterated the protection of

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<sup>31</sup> [France], Code of Entry and Stay of Foreigners and of Asylum (Code de l'entrée et du séjour des étrangers et du droit d'asile), article L.316-1, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070158&idArticle=LEGIARTI000006335129](http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070158&idArticle=LEGIARTI000006335129).

<sup>32</sup> [France], National Commission on the fight against illegal work (Commission nationale de lutte contre le travail illégal (2013)), Bilan du PNLTI 2013-2015, Perspectives 2014, p.3 available at: [http://travail-emploi.gouv.fr/IMG/pdf/CNLT1\\_2103\\_un\\_seul\\_document.pdf](http://travail-emploi.gouv.fr/IMG/pdf/CNLT1_2103_un_seul_document.pdf).

<sup>33</sup> [France], article 8111-3 of the labour code (article 8111-3 du code du travail) [www.legifrance.gouv.fr/affichCode.do?sessionId=8F3CD6E9EA8BC084374D600143443985.tpdjo07v\\_1?idSecti onTA=LEGISCTA000006189989&cidTexte=LEGITEXT000006072050&dateTexte=20140408](http://www.legifrance.gouv.fr/affichCode.do?sessionId=8F3CD6E9EA8BC084374D600143443985.tpdjo07v_1?idSecti onTA=LEGISCTA000006189989&cidTexte=LEGITEXT000006072050&dateTexte=20140408).

private domiciles, calling on the government to reform the existing procedure<sup>34</sup>, the guarantees of which were considered insufficient<sup>35</sup>.

Inspections are carried out unilaterally but can also be joint, involving other administrations. This is the case of targeted operations planned in the framework of the local anti-fraud committees (CODAF), with cooperation between the labour inspectorate and police/gendarmerie, as well as other administrations such as the Office for the Recovery of Social Security and family allowances (Unions de recouvrement des cotisations de sécurité sociale et d'allocations familiales (URSAAF) and Agriculture Social Security Institution (Mutuelle Sociale Agricole-MSA) (for instance a case study concerning Polish workers exploited in a strawberry farm, case in which the CODAF was mobilised, and within, the URSAAF and MSA, whose reports were required for the Prosecutor to decide on charges to be brought against the exploiters. These can be based on preliminary work carried out by the police/gendarmerie [FG(M)]. This may raise some difficulties: the presence of police services may make it difficult for labour inspectorate services to communicate with workers as workers may be fearing police, particularly if in an irregular situation. Some inspectors are also opposed to joint operations exposing workers to deportation (see also dedicated section under 4.3). In the sector of freight road transport, inspections on road sides are necessarily joint. Indeed, the presence of law enforcement officers is necessary to stop the vehicles/trucks.

It was reported that most inspections are not related to any specific warning or complaint (*plainte ou signalement*) [M(1)]. When situations are flagged up there are no specific criteria to decide on whether an inspection is necessary – inspectors will rely on their experience and assess whether the evidence presented is rational. Still, some situations will be referred by unions in particular (see also cooperation). Respondents (particularly from the M group) pointed out a number of challenges with inspections impacting on the ability to conduct these and to also ensure a positive follow-up for the migrant worker victims of the exploitation. These challenges include:

- The mentioned limitation in access: the inability to inspect private homes, unless it is through judicial police services based on an order of a judge (with a *commission rogatoire* for a house search), is problematic for detection and acting on situations of domestic exploitation. As one labour inspector reports [M(1)]: "*In situations of domestic exploitation let's say it's rare that we get the consent of the property owners. So we don't have the right to enter the inhabited premises. This is the big problem we have with cases that we know of for modern slavery, exploitation of domestic personnel in large chateaux, for migrant workers and others*".
- A lack of cooperation on the part of migrant workers: reportedly, they will only rarely come forward to report exploitation, and in the context of inspections, to help document irregularities and systematic infringements of their social rights (e.g. working hours, non-payment of overtime, no leave or medical coverage, medical visit omitted or billed to workers etc.) [M(1)]. The language barrier is a further obstacle (see also section on the language barrier).
- The difficulty to detect and document exploitation, while conditions may sometimes look regular on the surface. As one inspector reports: "*Then for the remuneration...there is that which appears on the payslip, it looks in order...but when compared with the number of hours they do...it's much harder to check*" [M(1)]
- The complexity of organisations, making it difficult to identify and track those responsible. This needs also to be done within short periods of time, when it comes to

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<sup>34</sup> [France], Labour code (code du travail), article L8271-13, available at: [\[www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000022265924&cidTexte=LEGITEXT000006072050\]](http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000022265924&cidTexte=LEGITEXT000006072050).

<sup>35</sup>[France], Constitutional Court, Decision on QPC no. 2014-387, available at: [\[www.gazettedupalais.com/services/actualites/actu\\_jur/e-docs/qpc\\_lutte\\_contre\\_le\\_travail\\_dissimule/document\\_actu\\_jur.phtml?cle\\_doc=00002663\]](http://www.gazettedupalais.com/services/actualites/actu_jur/e-docs/qpc_lutte_contre_le_travail_dissimule/document_actu_jur.phtml?cle_doc=00002663).

services performed by posted workers, as one labour inspector accounts: "*There is this difficulty because we are on somewhat ephemeral situations - since by definition, the service is temporary - and they are complex inspections. That's to say we should be able to move fast on complex situations that are more complex than those on which we work in a conventional manner.*" [M(1)]

Aspects checked in the context of inspections will include work authorisations of workers present. Multiple questions can be asked to assess the conditions of work, including working time, accommodation, payment (including of overtime hours). Information collected will be checked in a second phase [M(1)]. Checks may require involving the liaison offices of the Ministry of Labour ((established in certain regions (e.g. Alsace, Lorraine, Nord-Pas de Calais, Provence Alpes Côte d'Azur, Aquitaine, Languedoc Roussillon) in order to gather information on companies established in other EU member states) [M(2)]. However, as occasionally reported, cross-border cooperation is not always satisfactory. In practice, most offences registered by labour inspectors are that of "undeclared work", with few cases of working and accommodation conditions contrary to human dignity (see also section 4.3). One labour inspector [M(1)] reports they may be less familiar with other offences relevant to our project (e.g. offenses such as some of those listed in the table under the legal framework), which are not necessarily complex to document, but have received less attention so far.

- **Use of checklists/guidelines for assessing labour exploitation**

Tools cited by professionals are varied. Among law enforcement officers: a 2012 circular developed by the Gendarmerie concerning trafficking included in the annex indicators to detect situations and victims (circular no. 79000 shared by P-01). It notably states also that offenders (e.g. contravening the law on residency) are also potential victims of trafficking. An updated internal note was expected to follow the recent circular issued by the Ministry of Justice to ensure coherent interpretation and follow-up of the law of 5th August 2013<sup>36</sup>. One of the central offices [P(1)] also developed a bulletin in February 2014 (internal document). It includes a set of questions to detect and classify conditions of work/housing contrary to human dignity<sup>37</sup>, with relevant indicators to take into account. Other law enforcement officers insisted on know-how and accumulated experience [P(2)]. Labour inspectors report no specific tools focusing on severe forms of labour exploitation or trafficking (nor training) but sector specific questionnaires [M(1)]. One expert however points out that the labour code remains the reference, including precise elements/standards when it comes for instance to assessing the housing conditions of workers [M(1)]. It was mentioned that the labour inspectorate is currently working with the ILO on the adaptation of a manual for labour inspectors, covering all forms of trafficking [M(1)] but no further information was shared on this aspect.

Victim support services use a number of practical documents including templates to record key information when contacted by phone) [S(1)] (last document, for internal use/registration of phone calls was only shown to us)- other leaflets will be shared electronically). One NGO leaflet (not available electronically) lists a number of indicators of human trafficking (for the purpose of labour exploitation) or forced labour: excessive workload without leave; no remuneration or insufficient remuneration; withholding of identity documents; threats, violence, ill-treatment, any other psychological or physical forms of violence; control over family links;

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<sup>36</sup> [France], Ministry of Justice (Ministère de la Justice) (2013) Circular of 19<sup>th</sup> December 2013 concerning the presentation of provisions of the law no. 2013-711 of 5<sup>th</sup> August 2013 including various adaptations in the field of justice, in line with EU law and international commitments of France (Circulaire du 19 décembre 2013 relative à la présentation des provisions de droit pénal de la loi no. 2013-711 du 5 août 2013 portant diverses provisions d'adaptation dans le domaine de la justice en application du droit de l'Union européenne et des engagements internationaux de la France), available at: [[www.textes.justice.gouv.fr/art\\_pix/JUSD1331417C.pdf](http://www.textes.justice.gouv.fr/art_pix/JUSD1331417C.pdf)].

<sup>37</sup> [France], Criminal code, article 225-14, available at:

[[www.legifrance.gouv.fr/affichCode.do?sessionId=70B338B962B1C8A771C6FDDDD2F96B1C.tpdjo14v\\_1?idSectionTA=LEGISCTA000027811028&cidTexte=LEGITEXT000006070719&dateTexte=20131106](http://www.legifrance.gouv.fr/affichCode.do?sessionId=70B338B962B1C8A771C6FDDDD2F96B1C.tpdjo14v_1?idSectionTA=LEGISCTA000027811028&cidTexte=LEGITEXT000006070719&dateTexte=20131106)].

discriminatory conditions of living within the home of the employer; cultural and/or social isolation [S(1)]. These indicators are also used by another NGO [S(1)]. Yet another [S(1)] lists the following indicators for exploitation: persons working on average 15 hours a day; kept clandestinely/underground; kept in a situation of social and cultural isolation; living conditions contrary to human dignity; no remuneration or little remuneration; physical or psychological abuse. Another network [S(1)] listed the following (available online for download<sup>38</sup>) signs as potential indicators of trafficking: seclusion (*enfermement*), violence (e.g. person presenting bruises and signs of blows), constraint (*contrainte*), fear, unstable situation (e.g. persons not in possession of their documents, without a command of French, not knowing the address of her/his working site, not remunerated or under-remunerated, without access to medication)<sup>39</sup>.

Another NGO representative [S(1)] reports five key criteria for cases of domestic servitude: confiscation of identity documents; illegal confinement; working and housing conditions contrary to human dignity; breakdown of family ties. One NGO [S(1)] has developed a template to assess both the psychological and physical state of children, and relations with their family.

One NGO reported using a form of checklist developed with the support of a police officer, with detailed elements which can be recorded and which point to a situation of exploitation or conditions of housing contrary to human dignity [S(1)]. Beyond these instruments, interviews with potential victims will be critical to understand their situations and conditions in which they work or have worked [S(2)]. Up to 3 or 4 interviews can be necessary for a thorough assessment, given also the state of vulnerability of victims [S(1)].

## **AC.SÉ HANDBOOK ON THE IDENTIFICATION AND SUPPORT OF VICTIMS OF HUMAN TRAFFICKING**

A practical handbook was developed by the ALC NGO which operates the national Ac.Sé protection system, (see section 5.1 focus on Ac.Sé for further information on services provided). It includes sections concerning the identification of victims of trafficking (in all its forms), evaluation and signs of post-traumatic stress likely to exist. An entire set of questions is developed in the guide to facilitate identification (*entretien d'identification*). It addresses the 3 critical dimensions to establish a situation of trafficking: the action, the means and the purpose (exploitation). Questions cover the economic, social and professional background of the person, the recruitment process, the transportation, exploitation, and aspects relating to income/money, surveillance and hold exercised by the employer, living conditions, contacts with NGOs and/or police and gendarmerie services<sup>40</sup>.

One interviewee [W(1)] also quoted the European Mirror project – “Developing agreed methodology of identification and referral for trafficking for labour exploitation: guaranteeing the victims the access to protection”. Guidelines for interviews were developed in this context,

<sup>38</sup> [[www.contrelatraite.org/article.php3?id\\_article=84](http://www.contrelatraite.org/article.php3?id_article=84)].

<sup>39</sup> Network "Together against human trafficking" (Collectif « ensemble contre la traite des êtres humains ») (2011), Human beings, victims of trafficking, (Êtres humains, victime de traite), p. 10, available at [[www.secoure-catholique.org/IMG/pdf/Traite\\_des\\_Etres\\_humains.pdf](http://www.secoure-catholique.org/IMG/pdf/Traite_des_Etres_humains.pdf)].

<sup>40</sup> [France] Dispositif Ac.Sé (2014) Practical guide: Identification, sheltering and support of victims of human trafficking (*Identifier, Accueillir et Accompagner les Victimes de la Traite des Êtres Humains, Guide Pratique*. Reference available at: [[www.acse-alc.org/fr/publications/les-publications](http://www.acse-alc.org/fr/publications/les-publications)] (the interview guide is on pages 41 to 44). Available on demand.

beyond indicators to detect situations of trafficking for labour exploitation<sup>41</sup>. Another EU-sponsored project was also cited [P(1)]<sup>42</sup>.

- **Language barriers**

Among respondents, language resonated as a particular issue and sometimes a “considerable barrier” [M(1)] when trying to enter into contact and communicate with non-French speaking victims of labour exploitation. Workers were cited as coming from Asia (Philippines, Malaysia, Vietnam, China), Africa; e.g. Eritrea), but also central/Eastern Europe (e.g. Poland, Bulgaria, Croatia, Romania) and Turkey [M(1)]. It seems, from responses, that this is a particularly acute issue for labour inspectors as well as NGOs staff, even though they still manage to rely on ad hoc solutions. This can be seen in the case study in which Polish and Moldavian interpreters could fortunately be mobilised and allowed for communication between the labour inspector and the workers.

Law enforcement officials stress the variety of languages needed in judicial procedures to gather information with workers, but also to ensure an adequate notification of their rights in the context of hearings [P(1)]. They note that legal provisions<sup>43</sup> allow them to use interpreters – via a requisition of the Prosecutor [P6] - if these are not available in house [P(2)]. Some languages will bring particular difficulties (e.g. Pakistani (e.g. Urdu), Chinese dialects) [P(2); W(1)], or Eritrean [P(1)]. The availability of interpreters for interventions in rural areas will be more limited (making it necessary to travel with interpreters from large cities) [P(1)]. One interviewee reports challenges in finding interpreters of confidence for Romani (risks of ties leading to disclosure of information on the procedure) [P(1)]. Some NGO respondents reported occasionally using their own volunteer interpreters for police hearings of victims they support [S(2)]. (no reimbursement/financial compensation) but this remains exceptional.

For labour inspectors, challenges arise even concerning workers from the EU (e.g. from Poland, Romania, Bulgaria). Finding interpreters “before workers disappear” [M(1)] or when one decides to conduct inspections on road (making it actually impossible to anticipate language needs) [M(1)] is reportedly a real challenge. As one of them recounts [M(1)]: *“Language is the first barrier at inspections. It is essential to make observations, communicate quickly with workers. We have very little time. In practice it is difficult to enact”*. Central services of the Ministry of Labour stress budgetary limitations in using interpreters, and the limited language skills of labour inspectors, perhaps with the exception of border regions (Germany, Italy) [M(1)]. Another is sceptical when it comes to being able to mobilise further financial resources for language issues [M(1)]: *“We do not have the resources and we will never have them. We should not delude ourselves.”*

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<sup>41</sup> [France] ACCEM (2012), Developing agreed methodology of identification and referral for trafficking for labour exploitation: guaranteeing the victims the access to protection, available at: [www.ccme.be/fileadmin/filer/ccme/20\\_Areas\\_of\\_Work/10\\_Slavery\\_\\_\\_Anti-Trafficking/2013-05-15-MIRROR\\_English.pdf](http://www.ccme.be/fileadmin/filer/ccme/20_Areas_of_Work/10_Slavery___Anti-Trafficking/2013-05-15-MIRROR_English.pdf).

<sup>42</sup> European Commission (2013), Reference document: Guidelines for the identification of victims of trafficking in human beings Especially for Consular Services and Border Guards Protection First: early identification, protection and assistance of child victims at risk of trafficking and exploitation”, p.19, available at: [http://ec.europa.eu/dgs/home-affairs/e-library/docs/thb-victims-identification/thb\\_identification\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/docs/thb-victims-identification/thb_identification_en.pdf).

<sup>43</sup> Note: In fact, article 344 (concerning the Cour d’Assises proceedings) and 407 (proceedings before the criminal Tribunal) of the Code of criminal procedure provide for the support of an interpreter in proceedings, for both the accused, civil party and witnesses, if one does not sufficiently understand French or if translation of documents used in the debates is required. The revised preliminary article of the Code of criminal procedure focuses on the general right of the accused in this respect, including for police hearings. But no specific legal text spells out a right to have access to an interpreter for victims or witnesses during a hearing with the police or gendarmerie. As confirmed at a later stage in writing, by one law enforcement officers, judicial police officers will request this (doing so on the basis of article 60 and 77-1 of the Code of criminal procedure);

Cf. [France] Code of criminal procedure (code de procédure pénale), Preliminary article, articles 60, 77-1 344 407 and 408, available at: [www.legifrance.gouv.fr/affichCode.do?sessionId=41AA93BA28FF5F49D49215CAF3EB2911.tpdjo05v\\_1?cidTexte=LEGITEXT000006071154&dateTexte=20140301](http://www.legifrance.gouv.fr/affichCode.do?sessionId=41AA93BA28FF5F49D49215CAF3EB2911.tpdjo05v_1?cidTexte=LEGITEXT000006071154&dateTexte=20140301).

Several NGOs point out this challenge of communication and a lack of resources to respond, both in human and budgetary terms. Still, resources they manage to work with include: NGO staff (e.g. to cover languages such as English, Spanish, Arabic) [S(2)] and sometimes Romanian and Bulgarian [S(1)], in-house cultural mediators who can provide support for translation [S(1)]; (NGO) volunteers with specific language skills (including former victims), next of kin/friends of the victim [S(4)]; partnerships or contracts with private interpretation firms [S(1) but no longer in place] for specific procedures [S(1) concerning asylum] and when a certified interpreter is essential for the translation of official documents; technology, e.g. with google translate (application) to interact with workers [S(1); W(1)]. The lack of resources for interpretation can sometimes even lead to cases not going forward [S(1)].

Even when available, working with interpretation is a challenge, e.g. to detect inconsistencies in the account of victims, and helping them to gather elements useful for support/a judicial procedure [S(1)]. Beyond support, several representatives of victim support NGOs state that the barrier of language will also impact on the detection of situations and victims coming forward, when these are in practice cut off from social services (e.g. cases of persons coming from Vietnam, China [S(1)]. To facilitate the social inclusion of victims who have left a context of exploitation, one NGO indicates that a significant emphasis is placed, in their strategy to support the autonomisation of victims, on allowing access to French language classes, often free of charge [S(2)]. Some NGOs, such as ALC, managed to develop information documents or video-clips<sup>44</sup> in several languages [S(1)]. Information leaflets are also designed to inform migrants about their rights in France, or to best deal with situations in which they are working in France with their children back in their home country<sup>45</sup>. Union representatives will rely on their personal language skills [W(2)] or call on other workers available to translate [W(1)].

Official leaflets, developed by the Ministry of Labour and of Internal Affairs, include information on the rights of migrant workers found in an illegal situation of work, and on recourses and support organisations<sup>46</sup>. These have been cited by several professionals active in inspections, law enforcement, and victim support [P(1); M(2); S(1); N(1)]. These are reportedly now available in English, Polish, Chinese, Arabic, and Romanian [M(1)]. A 2011 decree<sup>47</sup> amending the labour code<sup>48</sup> makes it now mandatory for monitoring agents to share this information document when identifying a worker without work authorisation. One inspector however reports not always having it with them during inspections, suggesting their use is not systematic [M(1)]. Other inspectors interviewed did not elaborate on the actual availability and use of such documents, making it difficult to come to a general assessment.

While the language issue is therefore a real cause for concern, it can also be noted that several interviewees stress that migrant workers found in an irregular situation of work, for instance

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<sup>44</sup> 2 video clips (of 2-3 minutes) were developed (in French and English) to explain the Acse protection system (*dispositif*), and to present what the NGO offers (éloignement/mise à l'abri), but also to what victims are expected to commit (e.g. anonymous address, change of their SIM-cards, precautions to take concerning the social media) (information provided by S (1)).

<sup>45</sup> Guides informing persons about their rights: [[www.acse-alc.org/images/brochure\\_droits\\_fr.pdf](http://www.acse-alc.org/images/brochure_droits_fr.pdf)] (also available in Bulgarian and Romanian); [[www.acse-alc.org/images/Guide%20parents%20migrants%20fr.pdf](http://www.acse-alc.org/images/Guide%20parents%20migrants%20fr.pdf)] (also available in Bulgarian, Romanian, English, Russian).

<sup>46</sup> [France], Ministry of Interior, Ministry of Labour (Ministère de l'Intérieur, Ministère du travail), Information document (document d'information) available at: [[www.rhone-alpes.direccte.gouv.fr/IMG/pdf/Depliant\\_Droits\\_acquis\\_par\\_le\\_travail\\_FR.pdf](http://www.rhone-alpes.direccte.gouv.fr/IMG/pdf/Depliant_Droits_acquis_par_le_travail_FR.pdf)].

<sup>47</sup> [France], Decree no. 2011-1693 of 30th November 2011 concerning the protection of social and pecuniary rights of foreigners without documentation and the repression of illegal work (Décret no. 2011-1693 du 30 novembre 2011 relatif à la protection des droits sociaux et pécuniaires des étrangers sans titre et à la répression du travail illégal), article 1, available at :

[[www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024881074&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024881074&categorieLien=id)].

<sup>48</sup> [France], Labour code (code du travail), article R. 8252-1, available at: [[www.editions-tissot.fr/code-du-travail/article.aspx?idSGML=53a89257-7745-4001-972a-324b82b34af3&codeCategory=PME&codeSpace=MCG&source=gratuit&op=1&chapitre=MCP8L2T5&pageNumber=9&detail=y&section=MCAR.8252-1](http://www.editions-tissot.fr/code-du-travail/article.aspx?idSGML=53a89257-7745-4001-972a-324b82b34af3&codeCategory=PME&codeSpace=MCG&source=gratuit&op=1&chapitre=MCP8L2T5&pageNumber=9&detail=y&section=MCAR.8252-1)].

on a construction site, will sometimes deliberately pretend not to understand (whether in French or other languages), to avoid having to share information [M(2)].

- **Cooperation between institutions (Q13 and Q14)**

**Law enforcement officials** insist on operational cooperation with other control bodies, taking advantage of respective competences. The labour inspectorate and the Office for the Recovery of Social Security and family allowances (Unions de recouvrement des cotisations de sécurité sociale et d'allocations familiales (URSAAF) were cited by several interviewees from the police group. As argued by one law enforcement official [P(1)], developments can be positive:

*"In the inter-institutional framework, between ministries, there is cooperative work. There are eleven control bodies today, these eleven control bodies have to work satisfactorily together. I sincerely believe we have made tremendous progress in the past decade. We started with a situation where officials from various institutions did not speak to each other, where we placed professional confidentiality at the top, to the present situation where people share information, documents, and work together. Obviously, there I'm describing an ideal world, but still, we have progressed and we are progressing quickly". [P(1)]*

Inter-institutional cooperation and approaches (with the URSAAF, labour inspectorate, and customs) are also integrated in the training of investigators. There are also, on a permanent basis, 3 labour inspectors delegated within the OCLTI, as reported by one P group interviewee. Some cooperation exists with specialised NGOs (CCEM and OICEM in particular) (see boxes under the victim support services' section) and including child protection services [P(1)] and NGOs [P(1)]. One officer also insisted on European and international contacts with the GRETA, UNODC, EUROPOL, and those within the operational unit against the smuggling and exploitation of migrants (*Unité de coordination opérationnelle de la lutte contre le trafic et l'exploitation des migrants* –UCOLTEM, within the OCRIEST) where monthly meetings allow for an exchange of relevant information between administrations and follow-up on cases, including with security services abroad [P(1)].

**Union representatives** insist on partnerships and coalitions built in certain sectors for advocacy<sup>49</sup>, but also to use lawyers for legal action [W(1)]. Dialogue with the labour inspectorate, in spite of their obligation of neutrality and limited resources [W(2)] is also deemed rather positive, even if varied depending on services [W(1)]. Situations will be reported by unions [W(1)]. As one W group expert reported:

*"The labour inspectorate is quite valuable. At the same time they are forced to be neutral, which I totally agree with, and that seems valuable to me. It would not be normal for them to be pro-defence of workers. It remains valuable to have very regular exchanges of views."*

As observed locally, cooperation can support the mapping of priority areas and enterprises for targeted inspections (FG1) and can also engage federations of unions locally [W(1)]<sup>50</sup>. Cooperation also exists with the URSAAF and MSA [W(1)]. One expert reported challenges with child welfare services (suggesting these were reluctant to take action and effectively ensure the protection of children whose situation was referred to them).[W(1)]. Successful cooperation can occasionally take place with foreign consulates on awareness-raising and reporting and follow-up of specific situations of exploitation [W(1)].

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<sup>49</sup> [[www.codetras.org/spip.php?article17r](http://www.codetras.org/spip.php?article17r)].

<sup>50</sup> [[www.effat.org/en](http://www.effat.org/en)].

**Members of the labour inspectorate** mentioned cooperation with other monitoring agents, including the URSAAF and MSA and judicial police, in the context of joint operations [M(2)]. Cooperation with law enforcement was also positive to secure their inspections on worksites, when anticipating or facing particular risks [M(2)]. The anti-fraud departmental committees (*Comités départementaux anti-fraudes CODAF*), were cited as sites of operational coordination and information exchange and more general cooperation with the Préfet (local state representative), prosecutor's office, tax services and other administrative bodies [M(3)]. These can be the institutional framework where a positive culture of partnership is nurtured.

As one M group respondent reports: "*We share practices. We gain from the complementarity from each other to move forward on cases. And it works.*" Still, from one department to another, cooperation will work more or less smoothly. Ultimately, this will also depend on personal relationships [M(1)]. This view was shared by respondents from other groups [P(1)]. The development of joint units with the gendarmerie was mentioned: these bring together the labour inspectorate, URSSAF, and MSA (competent in the field of agriculture) notably with the specialised units of the Gendarmerie working on illegal work and fraud, currently being reinforced (*Cellule de Lutte contre le Travail Illégal et les Fraudes – CELTI*). Here again, for labour inspectors, cooperation with consulates can prove useful in specific situations of exploitation [M(1)] (see also the case study in which the Consulate of Poland, after being contacted by relatives of victims, referred cases to the labour inspection and played a role in the follow-up).

**Specialised victim support services** mention essentially cooperation on a case by case basis with unions, and other NGOs with a broader human rights remit or active in social welfare (such as the Secours Catholique, Secours Populaire, Croix-Rouge) [S(1)], child protection services for referrals [S(1)] and social shelters [S(2)] for referrals. Access to emergency shelter, with requests that have, since 2010, to be channelled through a special unit (*service intégré d'accueil et d'orientation – SIAO*) is seemingly a major challenge [S(1)]. The Ac.Sé protection system (see section on victim support) is exceptionally mobilised for victims of domestic exploitation [S(1)]. No formal contacts seemingly exist with the generic victim support NGO members of the INAVEM network [S(3)]. NGOs providing legal support rely on pools of lawyers [S(3)] or "in house ones" [S(1)]. Cooperation with Prefectures, to help undocumented victims obtain a residence permit, can be difficult [S(2)] – with one interviewee referring to a form of "mistrust" [S(1)] (suggesting some Prefecture would assume NGO support unfounded applications for residency). One NGO working with children mentions cooperation with the Brigade in charge of minors (specialised service of the judicial police dealing with cases concerning children) [S(1)] and the Conseil Généraux and Prosecutor's offices.

As far as reporting to law enforcement agencies is concerned, according to three S group interviewees, some NGOs will try to rely on sensitised officers they previously worked with, or choose to file complaints directly with the Prosecutors' office or the central office for the fight against illegal work (OCLTI) [S(2)]. Previous professional contacts with the labour inspectorate can lead to mutual referrals of cases, but these are not frequent in practice [S(1)]. Cooperation remains sometimes limited and could be developed [S(1)]. Concerning contacts with the judiciary, a number of NGOs regret the lack of information on follow-up on the situations they reported [S(2)] see also the case study in which the NGO could not obtain direct information on the actual closure of the case, nor, if applicable, the official reason for that closure, in spite of having addressed a letter to the Prosecutor in this respect. The OFII mentions that situations of workers are referred to them essentially by the Border police (PAF) [S(1)].

**In terms of general assessment** shared by interviewees: one NGO representative [S(1)] was of the view that on a national level cooperation remains limited, with a fragmented approach, between NGOs, the labour inspectorate, and police services. The respondent believes the system works perhaps better, from their experience, in countries such as Switzerland, Belgium and Italy. In terms of victim support, one labour inspector believes the chain of cooperation

between all relevant actors (including consulates, and bar associations for legal follow-up) is still to be built [M(1)]:

*"The coordination chain, as a whole, does not exist today. To the detriment of employees affected. And on which agencies and some networks thrive".*

This viewpoint was largely shared, but some respondents do insist on current developments being positive. One official thus believes cooperation is gradually shaping up even though much remains to be done in all areas, including to facilitate the social integration of victims, often still perceived firstly as offenders when in an irregular situation [N(1)]. Also in the context of the national action plan against trafficking, the respondent mentions existing cooperation with various ministries (Interior, Justice, Foreign Affairs, Employment and Social Affairs-Social Cohesion Department), as well as NGOs. The respondent focuses on upcoming developments with efforts to establish local coordination to implement the national action plan, in which Prefects (*Préfectures*) will play a lead role, but also Conseil Generaux. The DIHAL (Interministerial delegation for access to accommodation and housing) was also mentioned when it comes to children.

## 3.2 Forms and frequency of incidents of labour exploitation encountered by experts in their work; economic areas affected

- Breakdown of forms of labour exploitation encountered by professional group

Forms of labour exploitation according to professional group	code										Total
		S	E	L	R	P	J	M	W	N	
Slavery	01	2	-	-	-	-	-	-	1	1	4
Forced labour, including bonded labour (e.g. debt bondage)	02	5	-	4	-	2	1	1	3	1	17
Child labour	03	3	-	-	-	1	1	-	1	1	7
Trafficking for labour exploitation	04	6	-	5	-	6	3	1	2	1	24
Exploitation of a migrant worker under particularly exploitative working conditions (in the terms of the ESD)	05	4	2	4	1	5	3	6	4	1	30

Note on interpretation: 17 professionals cited forced labour, included bonded labour as among the the form of labour exploitation they encounter in their work). Responses provided based on proposals.

A number of aspects should be kept in mind when examining the above table. The categorisation is based on declarations of interviewees, with efforts to interpret or adjust when necessary, given also the reality of cases discussed throughout the interviews [L(1); W(1)]. Their level of apprehension of realities often differs, depending on their respective positions (e.g. [N(1)] more active on police coordination). Some situations encountered by interviewees are recorded under several categories (e.g. 03 and 04 when trafficking concerns minors). The categorisations were also awkward to handle and relate to for a number of interviewees e.g. with a difficulty to isolate one item [W(1)]. Some definitions remain difficult to apprehend – this is particularly true of slavery (*réduction en esclave*), only recently introduced in the legislation (see legal overview) and with case law still to emerge.

Still, the table suggests that overall, the most frequent situations encountered by respondents remain situations of exploitation of migrant workers under particularly exploitative conditions. These include, as described by respondents, significant under-remuneration (see also table on practices), extensive hours breaching legal standards, and conditions of work and housing contrary to human dignity (FG2). Cases of exploitation of begging were rarely mentioned [J(1) concerning minors]. But a recent case in Marseille, concerning this time adults from Bulgaria

(6 victims) led to significant sentences (first instance judgment). The case received media attention.

The figures and types of practices reported by public officials tasked with inspections is consistent with the national data gathered from the Ministry of Labour (see section on frequency). As mentioned also by respondents, the fact that most extreme forms of labour exploitation were rarely detected could also relate to restrictions labour inspectors face in terms of access to private homes, and perhaps also to an issue of training. It should also be recalled that reporting (with a *proces verbal*<sup>51</sup>) offences of human trafficking is not yet explicitly possible for labour inspectors but amendment of the relevant article of the labour code (which lists criminal infractions that can be recorded by labour inspectors using a *proces verbal*)<sup>52</sup> is foreseen in the national action plan against trafficking that was recently adopted<sup>53</sup>.

- **Most frequent occupations of exploited migrant workers (incl. mention of other cited) and economic sectors (incl. mention of other cited)**

### Occupations of exploited migrant workers

Skilled worker e.g. electrician, foreman, motor mechanic (Transport drivers, boat cruises)	01	3
Semi-skilled worker e.g. bricklayer, bus driver, cannery worker, carpenter, baker	02	12
<b>Unskilled worker e.g. labourer, porter, unskilled factory worker</b>	<b>03</b>	<b>23</b>
<b>Farm worker e.g. farm labourer, tractor driver, fisherman</b>	<b>04</b>	<b>14</b>
<b>Service occupations e.g. waiter, care-taker, domestic worker</b>	<b>05</b>	<b>27</b>
Sales occupations e.g. shop assistant	06	4
Clerical occupations e.g. clerk, secretary	07	0
Professional and technical occupations e.g. engineer, accountant	08	0
Other - please specify (minors, apprentices)	09	2

Note on interpretation: 27 professionals cited workers service occupations as particularly exposed to labour exploitation. Responses were based on proposals (multiple choices).

**Unskilled workers, farm workers and workers in service occupations** (domestic worker, care-taker) were the most often cited occupations for migrant workers found in situations of exploitation, with also semi-skilled workers (notably in the building sector). As case law also suggests, skilled workers can also be exposed (see case studies concerning a leather shoe-maker and a computer engineer).

### Economic sectors

Sector	Code	Number of references
<b>Construction (24 occurrences)</b>		
General	43	16
Construction of buildings	44	7
Building completion and finishing	47	1
<b>Agriculture, forestry and fishing (general) (23 occurrences)</b>		
General	01	10

<sup>51</sup> For more information on the *proces-verbal*, see [France], Ministry of Labour, Instruction DGT no 11 du 12 septembre 2012 on *procès verbal* within the labour inspection (instruction DGT n°11 du 12 septembre 2012 sur le *procès verbal* de l'inspection du travail, available at :

[[http://travail-emploi.gouv.fr/publications/picts/bo/30102012/TRE\\_20120010\\_0110\\_0007.pdf](http://travail-emploi.gouv.fr/publications/picts/bo/30102012/TRE_20120010_0110_0007.pdf)].

<sup>52</sup> [France], Labour code, article L8112-2, available at:

[<http://legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000026268428&cidTexte=LEGITEXT000006072050>].

<sup>53</sup> [France], Ministry of Women's Rights, Urban Policy, Youth and Sports (Ministère des droits des femmes, de la ville, de la jeunesse et des sports), National action plan against trafficking in human beings (2014-2016) (*Plan d'action national contre la traite des êtres humains*), pp. 18-19, available at: [<http://femmes.gouv.fr/wp-content/uploads/2014/05/Plan-daction-national-contre-la-traite-des-%C3%AAtres-humains.pdf>].

Growing of vegetables	02	4
Growing of fruits	03	7
Poultry production	04	1
Logging	08	1
<b>Activities of households as employers (22 occurrences)</b>		
General	120	14
Diplomatic households as employers (specifically)	121	1
Non-diplomatic households as employers of domestic personnel	122	7
<b>Accommodation and food services (17 occurrences)</b>		
General	60	5
Other accommodation (services on boat cruises)	63	1
Restaurants and mobile food service activities	64	10
Other food service activities	67	1
<b>Manufacturing (7 occurrences)</b>		
Confection	19	1
Manufacturing of textiles	22	4
Manufacturing of clothing	23	2
<b>Other services activities (5 occurrences)</b>		
Washing and dry-cleaning	116	3
Physical wellbeing (massage places)	118	2
<b>Administrative and support service activities (5 occurrences)</b>		
Security, Night work in a garage	85	4
Cleaning activities	86	2
Call centre	89	1
<b>Wholesale and retail trade (3 occurrences)</b>		
Retail trade/restaurant	52	2
Car industry seller	53	1
<b>Transportation and storage (3 occurrences)</b>		
Road freight transport	56	3
<b>Human health and social work activities (2 occurrences)</b>		
Elderly care	103	1
Child care	104	1
<b>Arts, entertainment and recreation (1)</b>		
Creative arts and entertainment activities	107	1

Note on interpretation: 24 interviewees mentioned construction as among the key sectors by labour exploitation. Responses were based on proposals (multiple choices).

Four economic sectors were often cited by respondents as sectors concerned by various forms of labour exploitation. These were the sector of **construction, agriculture, activities of households as employers, and accommodation and food services**. Others cited appear in the table. Men were mostly concerned by exploitation in construction, and to some extent agricultural (one relevant case concerns both men and women) and accommodation and food services sectors; women were in the domain of domestic work for individual households.

### Reported frequency and ways of learning about case

No general conclusions should be drawn from the two tables presented below, which merge different situations, with different mandates and levels of engagement among respondents, and also varied definitions of what exploitation amounts to. Many respondents proved unable to provide clear responses in terms of frequency, or tended to put forward broader situations

(e.g. situations of illegal work – [J(2); P(3); E(1)], or discrimination – [R(1)]). The table concerning referring agents aggregates very different experiences with the same weight (e.g. specialised NGO with hundreds of cases, versus lawyers having had a couple of cases over a number of years [L(2)]).

Reported frequency of learning about cases	Code	S	E	L	R	P	J	M	N	W	TOTAL
twice or more than twice a week	01	3	-	-	-	2	1	-	-	3	9
once a week	02	2	-	-	-	-	-	-	1	1	4
less than once a week but at least twice per month	03	2	-	-	-	-	-	-	-	-	2
once a month	04	-	1	-	-	1	-	2	-	-	4
twice or more per year	05	-	-	2	-	2	-	3	-	1	8
once a year or less	06	-	-	-	-	-	-	-	-	-	0
other (please specify)	07	1	-	2	-	-	1	-	-	-	4
don't know	99	-	-	-	-	-	-	-	-	-	0

Note on interpretation: 9 Professionals reported being confronted by cases of exploitation twice or more than twice a week. The breakdown is according to their professional group. Responses were based on proposals (multiple choices).

Concerning the frequency of cases encountered, one can stress that specialised **NGOs are logically at the forefront**. They report a very significant number of referrals per year (e.g. 258 for the CCEM in 2013), even if not all will be falling within their mandate and lead to a form of support. Cases of severe forms of labour exploitation reported by the labour inspectorate remain scarce. This is confirmed by evidence available from reports of the labour administration (figures shared orally by [M(1)])<sup>54</sup> annually, for 2011, concerning the field of agriculture, 3 cases of abuse of vulnerability were detected (out of a total of 1075 offences registered). For 2012: 3 were again detected, focused this time on remuneration unrelated to the work performed. In the construction sector: 4 cases were detected concerning remuneration, 6 concerning conditions of housing contrary to human dignity. For hotels/restaurants/catering in 2012: 2 cases concerning remuneration, 3 concerning housing. 5 were also detected in car repair etc., 0 in industry and 0 in transport. Of the 3700 offences in 2012, these figures are “marginal”, as reported by one official [M(1)]. These figures cover offences registered by different inspection bodies, police and gendarmerie excluded: the labour inspectorate, the URSSAF (*Union de Recouvrement des Cotisations de Sécurité Sociale et d'Allocations Familiales*), the MSA (*Mutuelle Sociale Agricole*), competent in the agricultural sector, fiscal services as well. One respondent from the monitoring bodies group states this is also imputable to the fact that inspections remain anyhow limited (see quote below). *"In reality the labour inspectorate services inspect very few situations"*.

Ways of learning about cases	Code	S	E	L	R	P	J	M	N	W	TOTAL
Proactively looking for cases	01	2	-	-	-	4	-	3	-	1	10
The case is brought to your attention by another institution (public)	02	3	-	-	-	1	-	5	1	2	12

<sup>54</sup> See also Ministry of Labour, employment, professional training and social dialogue, General Labour Directorate (Ministère du travail, de l'emploi, de la formation professionnelle et du dialogue social, Direction Général du Travail (DGT)), Analysis of reporting on illegal work for the year 2012, (Analyse de la verbalisation du travail illégal en 2012), available at: [[http://travail-emploi.gouv.fr/IMG/pdf/Rapport\\_verbalisation\\_en\\_2012.pdf](http://travail-emploi.gouv.fr/IMG/pdf/Rapport_verbalisation_en_2012.pdf)].

The case is brought to your attention by another institution (private)	03	7	-	5	-	2	-	-	1	2	<b>17</b>
The case is brought to your attention by a private person/individual	04	6	-	1	-	-	-	5	-	4	<b>16</b>
Other (please specify)	05	-	-	2	-	2	-	-	-	-	<b>2</b>

Note on interpretation: 10 professionals indicated they learnt about cases of exploitation as they were proactively looking for these. Responses were based on proposals (multiple choices).

At a minimum, responses provided by respondents are suggestive of the **variety of referring agents** when it comes to situations of labour exploitation. Public institutions cited by interviewees include national or local police services [P(2); M(2); S(3); M(1)], the labour inspectorate [W(1)], social workers ([S(3)] including the “115” hotline for emergency shelter). More exceptionally, health services, hospitals [S(1)], consulates [M(1)], URSAAF [P(1)], the Prosecutor’s office [P(1)] and other administrations [M(1)].

Referrals by law enforcement officials to NGOs are seemingly limited. One of the specialised NGOs (OICEM) reports, from its own statistics, the following breakdown: 33% social workers, 5% police, 26% private persons (neighbours, teachers), 13% victims, lawyer, 3% health professionals for the year 2013 [S(1)]. Another NGO representative mentioned a majority of referrals from social workers as well [S(2)]. Referrals from private institutions come essentially from specialised NGOs (CCEM, OICEM) [W(1); L(5); S(2); P(1)] and to a more limited extent, ones with a general or specific human rights mandate - France Terre d’Asile [S(1)], Hors la Rue [S(1)], Ligue des Droits de l’Homme, Cimade [S(1)] and unions [W(1)].

Victims themselves did come forward in some of the cases encountered by respondents [W(2); S(2); M(1)]. Cases were also reported by neighbours [S(3)] (see also one of the case studies) or other individuals, with reports, sometimes anonymous [P(1); M(2)], or referred persons of the community or family members [S(1)]. It can be added that specialised NGOs have mail and telephone contact details available on their websites. Other sources cited include police informers (*indics*) [P(1)].

- **Situations frequently observed**

Forms of labour exploitation pointed out by the interviewees according to the professional group	Code	S	E	L	R	P	J	M	W	N	Total
Migrant workers do not have a contract written in a language they understand, or do not have a contract at all	01	7	-	3	-	3	3	2	3	-	<b>21</b>
Migrant workers are not properly informed about their entitlements as concerns wages, working conditions, annual leave etc.	02	6	1	4	-	3	3	5	3	-	<b>25</b>
Employers withhold wages or pay considerably less than what they are obliged to pay	03	6	1	5	-	4	3	6	5	-	<b>27</b>
Parts of what is paid flows back to employers, e.g. for fees which the employer owes to recruiters or for food or services provided by the employer	04	2	2	-	-	4	-	1	2	-	<b>11</b>
The migrant worker depends on the employer beyond the employment contract, e.g. as concerns accommodation or employment of family members	05	4	1	3	-	2	-	2	-	-	<b>12</b>
Employer does not pay social security contributions	06	1	2	3	-	3	2	3	3	-	<b>17</b>
Migrant workers are not allowed to go on annual leave	07	2	-	2	-	2	-	-	3	-	<b>9</b>

Migrant workers are restricted in their movement, either by physical barriers or by practical means, such as withholding travel documents	08	3	1	2	-	2	1	2	2	-	13
The employer adds to the migrant worker's isolation by impeding communication e.g. communication to representatives of labour unions or to labour inspectors	09	1	-	2	-	1	2	1	3	-	10
The migrant worker is subjected to physical violence or to threats of such violence	10	5	-	-	-	1	-	-	2	-	8
The worker's health conditions are impaired, e.g. through labour-intensive work or long hours	11	3	1	5	-	-	-	3	3	-	15
Other (please specify)	12	3	-	-	-	-	-	-	-	-	3
Don't know	99	-	-	-	-	-	-	-	-	-	-

Note on interpretation: 31 professionals cited migrant workers not having a contract written in a language they understand, or not having a contract at all as a frequent situation observed in situations of exploitation. Responses were based on proposals (multiple choices).

**Issues of remuneration, the lack of information on the part of workers on their rights, entitlements, and applicable labour standards, and the absence of a contract accessible to them** were the situations most frequently observed by respondents. The figures show, and several respondents mentioned this explicitly, that all items listed were actually relevant to some extent [S(1); W(2); L(1)]. This was notably in cases of domestic exploitation. Other practices cited included, in some situations, the taking by exploiters of social allowances workers may be receiving besides work [S(1)], or the use of false promises to maintain workers under a hold, and ambivalent attitudes (“hot-cold” effect) to maintain a psychological pressure on them, again particularly in situations of domestic work [S(1)].

Issues of remuneration take multiple forms including unpaid extra-hours, and salaries below the applicable minimum, notably in the construction sector. Deductions from salaries (item 4) were also frequently cited. The lack of information on the rights on the part of workers was often pointed out, with complex situations in which workers will be registered in a different country than their own and the country in which they actually work (case involving freight road transports, [M(1)]). The isolation of workers, sometimes deliberately organised by employers (items 08 and 09), was seen as a barrier to them gaining awareness and reaching out for support [L(1)]. As reported by union representatives active in the agricultural sector, reaching out to workers, if known, will expose them to adverse consequences, including lay-off [W(2)]. The issue of contracts is a related one. Some interviewees reported informal work, e.g. in the construction sector, with workers recruited on a daily basis and paid cash in hand [S(1); P(1); W(1)]. In some cases, workers will have multiple contracts, or contracts in a language they do not understand [W(1); M(1)].

The table options were not relevant for those dealing with minors only [J(1); P(1); S(1)]. Some respondents indicated they had no visibility on this [S(1)].

## 4. Risk and risk management

Respondents spontaneously identified a number of factors or elements exposing migrant workers to labour exploitation. These relate to the migrants' situation (being in an irregular situation and the migration itself being particular factors of vulnerability), their profile (lack of command of the French language, limited knowledge of one's rights, labour laws/protections available, and how administrations and judiciary function, low educational level in some cases, cultural background and economic vulnerability) and to the sector and environment of work (isolation, abusive attitude of employers in some sectors including services, agriculture, road transport) as well as to broader structural issues (significant gaps in remuneration across countries (leading to a toleration of exploitative working conditions), still limited responsiveness of public institutions to also effectively deter exploitation). Their views were logically echoed in their responses to multiple-choices questions.

Existing prevention measures appear to be somewhat limited in scope. They still include the provision of information to both workers and employers by the labour inspectorate, the development of a number of practical guides by NGOs and unions active in terms of awareness raising with foreign workers active in France, and advocacy for policy reform. The engagement of recruitment agencies and (federations of) employers remains marginal and tends to be focused on the prevention of illegal work/social fraud (with professional conventions that foresee their participation in awareness-raising/information efforts). A more relevant national awareness-raising campaign is expected with the national action plan against trafficking, as well as a training programme. It should target all professionals concerned and foster greater vigilance.

Few pre-departure programmes were cited. They tend to relate to the prevention of sexual exploitation rather than other forms of trafficking/labour exploitation. The engagement of actors in countries of origin was cited as a standing challenge, including for unions. Standard-setting or accreditation mechanisms (including sector specific labels) located are not specifically addressing labour exploitation and follow-up monitoring appears still weak. Some respondents see the strengthening of public monitoring/controls (e.g. by the labour inspectorate) as a standing priority. Views of respondents differ on current ways in which the situation of migrant workers in an irregular situation is handled. Many S, W or M group respondents suggest a focus remains on the fight against illegal immigration (priority being set on deportation), while law enforcement officials argue workers will still be considered as victims whenever the case and insisted that protection measures are available. Ultimately, an issue of training was identified, to be able to effectively identify situations of exploitation and ensure appropriate follow-up. This gap in training is also likely to impact on the legal qualification of cases, and the course of investigations and prosecution, sometimes found lengthy or ineffective. In some cases, the latter is also hampered by the lack of cooperation of workers themselves.

### 4.1 Identification of common risk factors for labour exploitation

- **General views of the respondents on risk factors (Q19)**

**Being in an irregular situation** was cited by many professionals as a source of vulnerability [J(1); P3); M(3); S(3); W(2)]. It plays out in multiple ways. This situation forces migrants to remain hidden and away from public services, including the police. It will often be interlinked with a wider social vulnerability, likely to persist for the migrants concerned: a lack of financial resources, limited access to housing etc. [P(1)] and a pressing need to find work and meet one's most basic needs [P(1)]. Some interviewees insisted on the lack of accessibility of

residence permits allowing migrants to work, e.g. including for victims of trafficking when they are issued only temporary residency documents (*autorisation provisoire de séjour*, APS) [W(1)]. One interviewee argues that workers in an irregular situation are more likely to accept poor conditions of work, as they have the prospect of an opportunity of regularisation through work in mind [M(1)]. In the same vein, one respondent [W(1)] also highlighted the existence of a form of dependency of migrant workers on their employer, in access to and renewal of work-related residency permits. This gives employers leverage, and leads to situations in which workers will accept conditions of work which are not necessarily acceptable. As the respondent puts it:

*"When the renewal is subordinated to the stay in the job, the link with the employer that creates an unbearable relationship of subordination". (...) "It is the perverse impact of the system: one has to prove professional activity, to do so one has to stay in the job, and therefore will not contest the employer. One will do anything to satisfy his/her orders".* [W(1)]

Last but not least, and as reported by several interviewees, this irregular situation is also being used by exploiters/employers to maintain a hold over workers, and prevent any form of complaint. As one representative [S(1)] explains:

*"The irregular situation is systematically used by the employer as an instrument of subjection: 'You are in an irregular situation, so you have no rights'. 'And if you want to complain)...you'll be taken away by the police, they'll put you in prison".* [S(1)]

For a number of respondents, **migration itself** creates vulnerability and a risk of dependency [J(1); P(1)], uprooting migrants [S(1)] who were often already vulnerable in their countries of origin [S(1); R(1)]. As expressed by one law enforcement officer [P(1)]: *"migrant populations are by definition vulnerable when they set foot in the country, and constitute a population at risk"*. The journey may be a source of debt (e.g. in cases of smuggling) [J(1)]. Mobility is a source of vulnerability, as also stated by a representative of a recruitment agency [R(1)]:

*"The migration itself is a rupture, it means leaving their family, losing their bearings, not being fluent in the language, it means being much more fragile and having no buffer zone, no area of refuge. This is the social link, the risk of an exploiter, including in their own community. Mobility is a weakness."* [R(1)]

It should be noted here that a double presumption of vulnerability concerning minors and non-national victims *"as they enter the country"* has been introduced in the criminal code, on the occasion of the August 2013 reform (see also legislative overview)<sup>55</sup>. Also, and as reported, migrant workers can sometimes be deceived by conditions of work they face once in France, but will also not necessarily be in a position to return to their country of origin [L(1)].

A number of related factors cited by respondents include the lack of command of French [J(2); P(1); M(2)] and the lack of basic knowledge on how administrations and the judicial system function [P(1)] - of "how things work" [M(1)]. This includes gaps in basic understanding of labour law, legal protection available, and one's rights as a worker [L(1); S(1)]. Furthermore, the cultural background/experiences of migrant workers, coming from countries in which the police are highly corrupt and social services less present, will affect their ability to orientate themselves, and reach out to public institutions [W(1)].

Isolation was also cited by several interviewees [J(1); W(2); M(1); L(2); S(1)], with an absence of fellow countrymen/women, or of parents, or friends, or support for workers once in France. Such isolation becomes an obvious risk factor when it comes to domestic workers [L(1)], with situations in which seclusion is even deliberately organised by the exploiters [M(1)] and in which the worker also becomes dependent, notably for housing [M(1)] (see also relevant case

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<sup>55</sup> [France], Criminal code (code de procédure pénale), article 225-15-1, available at: [www.legifrance.gouv.fr/affichCode.do?sessionId=70B338B962B1C8A771C6FDDDD2F96B1C.tpdjo14v\\_1?idSectionTA=LEGISCTA000027811028&cidTexte=LEGITEXT000006070719&dateTexte=20131106](http://www.legifrance.gouv.fr/affichCode.do?sessionId=70B338B962B1C8A771C6FDDDD2F96B1C.tpdjo14v_1?idSectionTA=LEGISCTA000027811028&cidTexte=LEGITEXT000006070719&dateTexte=20131106).

study). The more personal profile of migrant workers: illiterate persons [J(1)] or, more generally, those with a low level of education [M(2); L(1)] will be further exposed. The personality, mental/educational fragilities of persons, not “there for no reason”, allowing exploiters to exercise a hold, were also cited [S(2)] (see also two relevant case studies which concern vulnerable persons). Their economic vulnerability [L(1); S(1)] and the “need for money” [E(1)] while living in precarious conditions [J(1)] was also cited. A form of “cultural toleration” of exploitation was also put forward by one respondent, suggesting some migrant workers will be used to low wages and overwork [J(1)].

For several respondents, the gap in living conditions and remuneration across countries – including within the EU – is the structural issue behind situations in which posted workers are exploited. Indeed, it creates situations in which, although under-paid, workers will anyhow be earning significantly more than back home, and will thus accept conditions, even though they may be aware that these are not legal [M(1)].

**An exposure to exploitation in specific sectors** was pointed out. Reportedly, this is the case for instance in agriculture in the South of France, where informality and pressure on costs lead to exploitative conditions for workers employed by farmers, via foreign recruitment agencies [W(1)]. One lawyer referred to a pervasive “trivialisation of labour exploitation” (a form of acceptance of non-extreme forms of exploitation by society), with rather recurring practices in specific sectors such as agriculture and food/catering [L(1)]. The attitude of employers is also put forward in the sector of road transport, with also opportunities for cross-border arrangements based again on the lack of harmonisation of social/fiscal systems within the EU. As reported by an expert in the field [M(1)]:

*"It is primarily the greed and depravity of the people who employ them, who will do anything to get market share and increase their turnover, their margins. Which also explains why they are good for these truck drivers because in any case if they were working back home they would earn less"*

A number of interviewees, starting with civil society representatives (W and S groups notably), also questioned the capacities and responsiveness of national institutions in terms of preventing, detecting and sanctioning labour exploitation (see also responses in section 6 to the question ‘Breakdown and discussion of the three measures which would most improve the way labour exploitation is addressed in the country’, with table by professional groups). This included the labour inspectorate [W(2)] or police – in terms of adequately identifying situations of exploitation, and choosing the right criminal classifications (e.g. trafficking, opening up prospects for residency) [S(1)]. This is seen as contributing to maintaining the state of vulnerability and exposure of migrant workers, and even of identified victims [S(1)].

The specific exposure of minors was also highlighted: they can be viewed as interesting persons “to invest in” for long term exploitation – including for the forced committing of criminal offences, with less chances of judicial repression [S(1)]. One police officer recalled that families are sometimes exposing their own children to exploitation [P(1)]. It was also pointed out that victims of domestic exploitation are often first exposed when minors, and on arriving to France [L(1)]. This is confirmed by a number of case studies.

- **Views in relation to the legal/institutional framework and societal context**

<b>Legal/institutional framework / societal context</b>	<b>Code</b>	<b>S</b>	<b>E</b>	<b>L</b>	<b>R</b>	<b>P</b>	<b>J</b>	<b>M</b>	<b>W</b>	<b>N</b>	<b>Total</b>
Low risk to offenders of being prosecuted and punished;	01	7	2	5	-	4	2	6	5	1	<b>31</b>
Low risk to offenders of having to compensate exploited migrant workers;	02	5	2	5	1	3	2	5	1	1	<b>25</b>

Lack of institutions effectively monitoring the situation of workers in sectors of economy where labour exploitation occurs;	03	6	2	3	1	2	1	6	4	1	26
Corruption in the police;	04	-	-	-	-	-	-	-	-	-	0
Corruption in other parts of administration;	05	-	-	-	-	-	-	-	-	-	0
Other (please specify)	06	1	-	-	-	1	-	-	1	-	3
Don't know	99	-	-	-	-	-	-	-	-	-	0

Note on interpretation: 31 professionals were of the view that there is a low risk of offenders being prosecuted and punished in cases of exploitation. Responses were based on proposals (multiple choices).

As can be observed from the table, many respondents stressed the limited risks exploiters face in terms of sanctions and effective compensation of migrant workers. Issues registered under the “lack of institutions effectively monitoring the situation etc.” cover various concerns which do not necessarily relate to a lack of institutions as such. Respondents in fact referred alternatively to: gaps in human resources of the labour inspectorate [E(1); M(1)]; a loss of specialisation of inspectors on very specific sectors such as transport [M(1)], limited coordination nationally but also limited cross-border cooperation in inspections [M(1); E(1)]; standing legal restrictions which limit the capacity of labour inspectors to intervene in the domestic sphere [W(1); S(1)], and issues of training [S(1)].

While acknowledging the fact that inspections are limited in number, one official representative insisted on the need to define the right priorities in terms inspections (see also section on monitoring) [M(1)]. Corruption was not put forward as a structural nor critical issue, beyond isolated cases or concerns. Other legal and contextual factors which respondents chose to insist on include the general abuse of EU legislation concerning the posting of workers, in a context in which social systems are not harmonised [E(1); M(1)], leading to situations of exploitation [P(1)]. The issue of diplomatic immunity leading to a form of impunity in cases of domestic exploitation in particular [S(1); W(1)]. The lack of effective responses to support victims, in terms of access to residency for those in an irregular situation (with for some a still prevailing emphasis on the fight against illegal immigration [W(1)]), and also in terms of shelter [S(2)] (see also general views above).

- **Views in relation to the personal characteristics/initial situation of the migrant**

Personal characteristics/initial situation of the migrant	Code											Total
		S	E	L	R	P	J	M	W	N		
Migrant worker has a low level of education;	01	6	-	4	1	3	2	3	4	-	23	
Migrant worker does not know the language of the country of workplace;	02	6	1	1	1	2	2	5	4	-	22	
Migrant is not allowed to enter into employment;	03	6	2	3	-	3	1	4	3	1	23	
Worker comes from a country the nationals of which are often exploited in the destination country;	04	-	-	-	-	1	-	1	1	1	4	
Worker is prone to discrimination on behalf of their race or through their identification as belonging to a national minority (such as Roma, Dalit or sub-Saharan African)	05	-	-	1	1	-	-	-	1	-	3	
Worker is prone to discrimination on behalf of their sex	06	1	-	-	-	1	-	-	-	-	2	

Worker has experienced extreme poverty at home;	07	4	-	3	-	4	2	1	-	1	<b>15</b>
Other (please specify)	08	2	-	1	-	-	1	2	1	-	<b>7</b>
Don't know	99	-	-	-	-	-	-	-	-	-	<b>0</b>

Note on interpretation: 23 professionals cited a low level of education as a relevant element (risk factor) in the profile of migrant workers found in situations of exploitation. Responses were based on proposals (multiple choices).

Findings are here generally consistent with views spontaneously shared by respondents (see above). Emphasis was placed on the educational background of migrant workers, command of the language and knowledge of institutions and their rights as key factors [M(1); L(1)], as well as the position of workers without authorisation to work. This latter element includes migrants in an irregular situation in terms of residency in France (undocumented), but also workers with a residency permit that does not allow them to work, or not to the extent that they are working in practice (e.g. reported cases of Chinese women with student residence permits working long hours in massage places). The economic vulnerability of migrants, with the experience of extreme poverty back home, was also frequently cited.

Other elements that can expose workers are the existence of a debt contracted in the context of their migration [M(1)]. It was noted that in some situations, workers were already exploited in a third country before coming to France (e.g. cases of domestic workers exploited in Gulf countries) [W(1); S(1)]. In terms of nationality-related factors and discrimination: it was mentioned by several respondents, and notably law enforcement officials [P(1)], that exploitation tends to develop itself within specific communities present in France. Discrimination was reported as a factor that simply excludes access to the formal labour market (e.g. for Roma residents) [M(1)]. In some sectors workers employed under exploitative conditions were often from identified nationalities: Romanian, Bulgarian and Polish in road freight transport, Eastern Europeans but also Portuguese/Spanish in the field of construction.

- **Views in relation to situation of the worker at their workplace**

<b>Situation of the worker at their workplace</b>	<b>Code</b>	<b>S</b>	<b>E</b>	<b>L</b>	<b>R</b>	<b>P</b>	<b>J</b>	<b>M</b>	<b>W</b>	<b>N</b>	<b>TOTAL</b>
The migrant works in a sector of the economy that is particularly prone to exploitation;	01	7	-	4	1	5	2	4	4	1	<b>28</b>
The migrant works in relative isolation with few contacts to clients or to people outside the firm;	02	7	1	3	-	2	1	4	4		<b>24</b>
The migrant worker is not a member of a trade union;	03	2	-	1	-	1	-	2	2	-	<b>8</b>
The migrant works in a precarious or insecure situation of employment, e.g. formally not employed but self-employed;	04	-	-	2	-	-	1	1	-	-	<b>4</b>
The migrant worker is not directly employed by the business/organisation for which they work, e.g. agency workers, or employees of cleaning or security companies;	05	2	1	1	1	4	1	1	2	1	<b>14</b>
The migrant worker is employed as a posted worker by a foreign company;	06	1	2	1	-	1	-	4	1	1	<b>11</b>
The migrant is a seasonal worker;	07	2	1	-	-	3	-	1	2	-	<b>9</b>
Other (please specify)	08	-	-	-	1	-	-	-	-	-	<b>1</b>
Don't know	99	-	-	-	-	-	-	-	-	-	<b>0</b>

Note on interpretation: 24 professionals cited isolation in the workplace as a relevant risk factor. Responses were based on proposals (multiple choices).

In terms of working environment, working in a sector of work prone to exploitation, in an isolated context (see also the relevant case study concerning the agricultural sector), and being employed by a different organisation than one is working for were cited as the most relevant risk factors for migrant workers. For several respondents, situations of subcontracting in the construction sector, blurring responsibilities, as well as recruitment by agencies based in other EU countries and posting third-country workers in France, expose workers to precarious conditions of employment, likely to impact on their remuneration, security in the workplace (including medical coverage) and respect for their social and labour rights (including strike and collective bargaining). As one labour inspector reported concerning the construction sector [M(1)]:

*"The construction sector is the most predisposed because it has subcontracting. When you have a contractor that assigns a subcontractor, who will also appoint a subcontractor, who will try to earn as much money as possible. And actually at the end of the chain there are workers in a difficult situation".*

One R group respondent argues that the size of companies could be a relevant factor as well, suggesting risks could be higher in smaller organisations – but their views tended to focus on discrimination rather than labour exploitation.

- **Role of recruitment agencies and monitoring of their activities**

Most respondents are actually unaware of any specific commitments/engagements of recruitment agencies in favour of the prevention of labour exploitation [M(1); L(1); N(1)]. It was highlighted [E(1); J(1)] that recruitment agencies have the obligation to check the validity of the migrant's work authorisation/residency permit for the first mission, by referring it to the Prefecture (if no response within 48 hours, it should be considered regular)<sup>56</sup>. Still, limitations however exist: recruitment agencies cannot necessarily check whether the owner of the document is actually the individual who applies for the job [E(1); J(1)]. One representative [R(1)] of recruitment agencies mentions positive cooperation with the labour inspectorate, also in the context of the operational committee on the fight against illegal work (*Comité opérationnel de lutte contre le travail illegal*, COLTI).

In terms of practices, some indicate they are not really in a position to assess [N(1); W(1)]. Other respondents are of the view that French recruitment agencies generally respect the legal framework [W(1); J(1)]. Opinions shared are too limited to conclude to any trend or divide between/within professional groups (the only R representative did not see any particular gap in their response). Unscrupulous ones may remain a marginal phenomenon [J(1)] while criminal/exploitation networks placing workers in exploitative working conditions will anyhow usually not involve official recruitment agencies. Still, breaches of labour law can reportedly concern the designation of workers representatives, while these have a fundamental role to play to ensure adequate working conditions, notably in the care/services sector (*services à la personne*) [W(1)]. It was argued that risks of irregular practices are more frequent in smaller organisations found in large cities, and Paris in particular [W(1); J(1); L(1)]. Internal controls may be lacking. As reported by one lawyer [L(1)]:

*"They say they do checks, but in reality everyone knows. We know that they employ undocumented migrant workers. And it also makes it possible to...I'm not talking about the big ones because, the big ones, Manpower, etc., anyway they show that they do checks, even if there too everyone knows. But it's all the small companies. You have*

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<sup>56</sup> [France], Labour code (code du travail), article R.5221-41 and R-5221-44, available at [www.legifrance.gouv.fr/affichCode.do;jsessionid=2D95CB845E9BE3D39FFA0DF1063326CD.tpdjo03v\\_1?idSectionTA=LEGISCTA000018525698&cidTexte=LEGITEXT000006072050&dateTexte=20140722](http://www.legifrance.gouv.fr/affichCode.do;jsessionid=2D95CB845E9BE3D39FFA0DF1063326CD.tpdjo03v_1?idSectionTA=LEGISCTA000018525698&cidTexte=LEGITEXT000006072050&dateTexte=20140722); [www.immigration.interieur.gouv.fr/Immigration/La-lutte-contre-le-travail-illegal/Obligation-faite-a-l-employeur-de-verifier-la-situation-administrative-des-etrangers-candidats-a-l-embauche](http://www.immigration.interieur.gouv.fr/Immigration/La-lutte-contre-le-travail-illegal/Obligation-faite-a-l-employeur-de-verifier-la-situation-administrative-des-etrangers-candidats-a-l-embauche)].

*one there, just down the road in the 9th District... It's impressive, the number of temping agencies. It's incredible. So there you have people who do anything, who check nothing, and it allows the prime contractor to cover themselves".*

Concerns of respondents focus on foreign recruitment agencies [N(1); W(1)], including some established in Eastern Europe by French nationals in order to recruit a flexible workforce, but without having any activity based in that country [M(1)]. In certain sectors such as agriculture, farmers will be approached by agencies offering package services [E(1)]. Fears concern recourse to intensive subcontracting, diluting responsibilities [J(1); L(1), the development of recruitment agencies abroad taking advantage of legislation with different (and lower) levels of social protection for workers and having “*the appearance of legality*”. This creates complex legal situations, also with abuse of EU legislation on the posting of workers [J(1)]. Concerns expressed by respondents tend to focus also on this issue of posted workers, used in France under exploitative conditions (see conclusion).

In terms of monitoring and controls, several respondents state that the labour inspectorate services are, within their general mandate, competent to control the activities of recruitment agencies [M(2); E(1)]. Others, including union representatives, believe inspections on these recruitment agencies are insufficient and should be strengthened [E(1); W(2)]. Inspections and repression of illegal practices is impeded by the fast operations of these organisations (some recruitment/placement agencies are quickly set up and dismantled, to avoid being exposed to controls). These may also require cross-border cooperation with inspections services of other EU member states, which can be difficult to secure according to one interviewee from the monitoring bodies group.

One representative [R(1)] mentions also the importance of internal (procedures, audits) and external checks (involving NGOs but only in the field of discrimination (no further elements sought as out of scope- focus was on anti-discrimination) and public administrations). Current human resources of the labour inspectorate may be too limited [W(1); J(1)]. It is hoped that current legislative efforts will bring changes (e.g. Savary bill – see legal overview). Several respondents express concerns about the attitudes of professional organisations in this respect [W(1)] and are also favourable to an extension of responsibilities on the part of contracting authorities [L(1)]. The example of the Netherlands was mentioned: reportedly, authorities there have brokered an agreement with the social partners, in agriculture and all Dutch and foreign temporary employment companies have to go through a certification body.

## **4.2 Prevention measures aimed to reduce the risks of labour exploitation and the obligations of specific organisations in this area**

- **Organisations carrying out prevention measures and actions carried out**

Representatives of organisations that reported being involved in prevention measures include members of labour inspectorate services/labour inspectors (M), members of civil society organisations (S), and workers’ unions (W). Actions anticipated under the national action plan against human trafficking were also presented [N(1)]<sup>57</sup>.

**Representatives of the labour inspectorate** services insisted on the general provision of information to workers. This is done in the context of inspections [M(2)], with an effort to

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<sup>57</sup> [France], Ministry of Women’s Rights, Urban Policy, Youth and Sports (Ministère des droits des femmes, de la ville, de la jeunesse et des sports), National action plan against trafficking in human beings (2014-2016) (*Plan d’action national contre la traite des êtres humains*), available at: [<http://femmes.gouv.fr/wp-content/uploads/2014/05/Plan-daction-national-contre-la-traite-des-%C3%AAtres-humains.pdf>].

address workers collectively or via their representatives (also to avoid targeted suspicion from the employers towards individual workers), but not only this. An information service (*service des renseignements*) is generally also available within the territorial unit of the regional labour administration (DIRECCTE)<sup>58</sup>. It can be reached by telephone, or regular mail and is run by labour inspectors and can provide general information to workers on labour laws and standards [M(1)]. Several respondents also referred to the information document [M(1)] developed for workers employed without work authorisation/residence permit, which could, in some situations, be also of preventive use (see also language barrier section).

Several also insist on information targeting employers, e.g. informing them of their obligations, and of the implications of undeclared work [M(1)], and with occasional awareness-raising/training activities ([M(1)] mentioned one action for the National Forest Office (Office National des Forêts) to encourage them to strengthen checks on their contracting partners). The interviewee knew of irregular practices occurring in this sector concerning posted workers from Eastern Europe (overwork, lack of security standards, inadequate working conditions-see one case study concerning workers from Romania). The aforementioned information service is also available for employers seeking information. On a more institutional level, professional agreements or conventions – both national and local were mentioned, although these are more generally focused on the fight against illegal work (not labour exploitation as such) [M(1)]. One such convention for instance exists in the field of agriculture, engaging the ministries of labour and agriculture, professional organisations, unions and the Agricultural Social Mutual Fund (*mutuelle sociale agricole-MSA*)<sup>59</sup> [E(1)].

A national agreement concerning the sector of hotels, cafés and restaurants was also signed in 2012<sup>60</sup>. It includes commitments on awareness raising and information for companies on their obligations; the awareness-raising among workers on the consequences of illegal work, and to prevent illegal work as much as possible. Local conventions will target sectors such as construction, or hotels, cafés and restaurants<sup>61</sup>. Professional organisations commit, in these conventions, to informing their members about applicable standards and procedures and enhance their legal awareness (e.g. on the obligation to check work authorisations of the migrant workers they recruit) [M(1)]. One respondent pointed out that further emphasis on the prevention of labour exploitation could be expected in future agreements, following the adoption of the national action plan against trafficking [M(1)]. Besides these activities, one expert in the field of transport highlighted the political and diplomatic engagement of the government to raise the awareness of European institutions and other Member States on social dumping and illegal practices in the sector of road freight transport, which lead to poor working and remuneration conditions for workers. A European conference was thus organised in April 2014 in France on the harmonisation of conditions across member states in this field<sup>62</sup>.

**Representatives of unions** highlighted their efforts to develop information tools and carry out information/awareness raising activities in specific sectors, such as agriculture [W(2)],

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<sup>58</sup> See for instance, DIRECCTE Provinces Alpes Côte d'Azur (2013), Labour inspectorate, the information service on labour law, (Inspection du travail. Le service de renseignements droit du travail, available at: [[www.paca.direccte.gouv.fr/IMG/pdf/plaquette\\_IT\\_2013-2.pdf](http://www.paca.direccte.gouv.fr/IMG/pdf/plaquette_IT_2013-2.pdf)].

<sup>59</sup> [[http://agriculture.gouv.fr/IMG/pdf/convention\\_LTI\\_agri-2\\_cle42edd6.pdf](http://agriculture.gouv.fr/IMG/pdf/convention_LTI_agri-2_cle42edd6.pdf)].

<sup>60</sup> [France], Professional Branch Agreement of 18<sup>th</sup> September 2012 concerning the fight against illegal work (Accord du 18 septembre 2012 relatif à la lutte contre le travail illégal), available at: [[www.legifrance.gouv.fr/affichIDCC.do?sessionId=15784C03BFBFC590923999C60353C719.tpdjo16v\\_2?idConvention=KALICONT000005635534&cidTexte=KALITEXT000026975937](http://www.legifrance.gouv.fr/affichIDCC.do?sessionId=15784C03BFBFC590923999C60353C719.tpdjo16v_2?idConvention=KALICONT000005635534&cidTexte=KALITEXT000026975937)].

<sup>61</sup> For an illustrative multi-sectorial local example, concerning the Department of the Vienne: [France] Préfet de la Vienne, Press release, Signature of the Departmental agreement concerning the fight against illegal work (Signature de l'accord départemental dans la lutte contre le travail illégal : un partenariat renforcé entre l'État, et deux branches professionnelles (2013-2015), available at: [[www.vienne.gouv.fr/content/download/4095/26729/file/CP%20chartes%20lutte%20contre%20le%20travail%20ill%C3%A9gal.pdf](http://www.vienne.gouv.fr/content/download/4095/26729/file/CP%20chartes%20lutte%20contre%20le%20travail%20ill%C3%A9gal.pdf)].

<sup>62</sup> [[www.developpement-durable.gouv.fr/Conference-europeenne-du-16-avril.html](http://www.developpement-durable.gouv.fr/Conference-europeenne-du-16-avril.html)].

meatpacking [W(1)], or services (e.g. beauty salons [W(1)]). One union thus organised action for information/awareness raising in the agricultural sector (in 2012, leaflets were distributed, focusing on the relevant areas in the region, [W(1)]). An annual campaign is focused on seasonal work [W(1)]. Another union, the CGT (Confédération Générale du Travail), also produced leaflets, including examples of successful regularisation cases for workers without documentation, with the obtaining of employment contracts, and contacts of the union for support [W(1)]. This was distributed in a Paris neighbourhood. As stressed by one interviewee, the impact of information campaigns towards workers can sometimes be indirect: if complaints may not come directly as a result, the targeted companies may feel under scrutiny and in need of taking action, including on sub-contractors in certain situations [W(1)]. A migrants' guide was developed by the CFDT union some years ago (see box below) One interviewee mentioned the preparation of another guide, focusing on their rights (labour law, professional agreements (*convention collective*)) in the agricultural/food sector (from horticulture to meatpacking), with versions in Polish and Romanian. Contact details of sections of the Union are included [W(1)]. Cross-border actions were also cited (see pre-departure information campaigns). One union representative wished these actions of proactive information for workers could be developed, notably in the construction sector [W(1)]. The CGT also attempted to convince a municipality to adopt a charter that would impose further obligations of vigilance for the companies they work with respect to their own service providers. This however did not materialise for reasons that were not specified by the interviewee [W(1)]. One union representative, also having a community-based organisation, stressed their efforts to put forward their individual testimony as sometimes victim of domestic slavery, with various media coverage, and in cooperation with NGOs (such as PICUM<sup>63</sup>) to raise awareness but also encourage victims to come forward and file a complaint [W(1)]. Some migrants' rights organisations focus on regularisation, access to residency, including with joint media campaigns (with networks/*collectifs*) to denounce precarious access to residency, targeting also seasonal work, in cooperation with unions (e.g. in the context of the CODETRAS<sup>64</sup> [W(1)]).

#### **CFDT GUIDEBOOK ON THE INFORMATION AND INSTALLATION OF MIGRANT WORKERS IN FRANCE (2012)**

This educational and accessible guide compiles information about migrant workers' labour rights (incl. work authorisation, salary, working hours, representative institutions within companies, etc.), social protection (unemployment, pension, family allowances etc.) and social support. A specific focus concerns the situation of workers from Mali and Senegal since the guide is also intended to be distributed to candidates for immigration to France from those countries (no focus on specific sectors, but mentions of bilateral conventions between France and these countries, and their implications, e.g. concerning social security or pensions). Relevant contact details – including for administrative matters, support of unions, access to professional training, information on pensions, discrimination issues, housing, health, but also victim support (trafficking) are included in the final section of the guide. A number of these guides were distributed in certain areas particularly affected by labour exploitation. It is now available online<sup>65</sup>.

#### **GUIDE FOR FILIPINO MIGRANTS IN FRANCE (2012)**

<sup>63</sup> [<http://picum.org/fr/>].

<sup>64</sup> [[www.codetras.org/](http://www.codetras.org/)].

<sup>65</sup> CFDT/IL0 (2012) (Information guide for migrant workers in France) (Guide d'information et d'accueil des travailleurs migrants en France, 2012), available at: [[www.ilo.org/public/french/region/eurpro/paris/actualites/download/guideinfobitcfdt.pdf](http://www.ilo.org/public/french/region/eurpro/paris/actualites/download/guideinfobitcfdt.pdf)]; see also: CFDT (2012) Supplément Bulletins aux syndicats: Guide travailleurs migrants, available at: [[www.lgv-sea.cfdt.fr/media/01/00/327497497.pdf](http://www.lgv-sea.cfdt.fr/media/01/00/327497497.pdf)].

This guide was developed in 2012 for Filipino workers coming to France, with the support of the European Commission and the ILO<sup>66</sup>. It covers labour rights, rights to social protection, family life, rights against arbitrary detention, and women's rights, and includes useful contact details, including of specialised NGOs for support in cases of exploitation. It also includes questions for workers to assess whether they are in such a situation. The guide, also made available in English and Tagalog, was distributed free of charge in the community. It proved useful and led to referrals of victims, according to one of its authors, active as a community leader and union representative [W(1)].

**Representatives of victim support services**, essentially NGOs, refer to a number of preventive actions. These include the dissemination of information via leaflets and publications (see also section on checklists), information campaigns on issues of labour exploitation (with the use of posters, photography exhibits, compilation of portraits/testimonies<sup>67</sup>) [S(4)]. Information shared includes how to access and use the services they offer, with publications edited in various languages [S(1)]<sup>68</sup>. Some of the leaflets can include information on the realities of trafficking in France, ways for the general public to detect these (with useful indicators) and institutions to refer these situations to (see also section on checklists)<sup>69</sup>. Media initiatives (TV, radio interviews) were also mentioned [S(1)]. One NGO reported current efforts to re-use powerful videos developed by ACCEM<sup>70</sup>, a Spanish NGO, for TV broadcasts in France (subtitled). The clips, available online<sup>71</sup>, focus on various contexts of labour exploitation, and everyone's responsibility to report it ("*open your eyes*" campaign). One NGO [S(1)] reported carrying out field interventions, e.g. to enter into contact with potential victims in strategic places and provide them with contact details for support.

One NGO [S(1)] working with minors developed information for children, insisting on school enrolment and the prohibition of child labour. It is involved in an EU-sponsored project, RESILAND<sup>72</sup>, which is aimed at developing working methodology with children at risk: the purpose is to reflect on effective and appropriate ways of providing information to children, with regard to his/her age, profile. Workshops are seemingly planned in this context, engaging children to address issues connected with school enrolment, social care, and children's rights. Other NGOs seem to be limited in terms of resources to pro-actively reach out to potential victims or workers likely to be exposed to labour exploitation.

Several organisations are active in advocacy, on various levels: campaigns/lobbying for legislative reform (e.g. [S(2)] to obtain a reform of the legal definition of trafficking) or adoption of the national action plan against trafficking (since adopted) [S(1)]. Several networks active in the field were cited in this context, such as the Network "Together against trafficking in human beings" (*Collectif "Ensemble contre la traite des êtres humains"* [S(1)]<sup>73</sup> – regularly organising public events on issues relating to trafficking, but also the European network of NGOs, ENPATES)<sup>74</sup>. Links exist with other organisations active in this field in Europe, such as Anti-Slavery<sup>75</sup> in the United Kingdom (very active in terms of advocacy), and LA STRADA<sup>76</sup>, also in

<sup>66</sup> ILO, European Commission (2012), A guide for Filipino Migrants in France (2012), available at: [www.ilo.org/public/french/region/eurpro/paris/actualites/download/guideinfphilippines.pdf].

<sup>67</sup> [France], Dispositif National Ac.Sé (2014), Identification and support of victims of human trafficking (Identifier, Accueillir et Accompagner les victimes de la traite des êtres humains. More information), available at: [www.acse-alc.org/fr/18-actualites/37-lettre-d-engagement-entre-la-ville-de-nice-et-l-association-alc

<sup>68</sup> [www.acse-alc.org/fr/publications/les-publications].

<sup>69</sup> For a good example, see Network 'Together against human trafficking' (Collectif « ensemble contre la traite des êtres humains ») (2011), Human beings, victims of trafficking, (Etres humains, victime de traite), available at [www.secoures-catholique.org/IMG/pdf/Traite\_des\_Etres\_humains.pdf]www.secoures-catholique.org/IMG/pdf/Traite\_des\_Etres\_humains.pdf.

<sup>70</sup> [www.accem.es].

<sup>71</sup> [www.youtube.com/playlist?list=PL10A78273F011F73C].

<sup>72</sup> [www.horslarue.org/hors-la-rue/nos-actions-en-europe/projets-europeens-en-cours/projet-resiland.html].

<sup>73</sup> [www.contrelatraite.org/].

<sup>74</sup> [http://enpates.org/].

<sup>75</sup> [www.antislavery.org/french/].

<sup>76</sup> [http://lastradainternational.org/].

order to develop joint projects (on forced labour, links with trade unions etc.). Some report carrying out training activities, targeting notably labour inspectors (on trafficking in human beings) [S(1)] and a resolution to develop these activities, with the updated legal framework now in place (see also legal overview).

No preventive actions directly addressing labour exploitation were identified with **representatives of employers and recruitment agencies**. One mentioned a focus on efforts to prevent illegal practices by other agencies in the field of interim work and advocacy with members of Parliament in this context [E(1)]. A public statement<sup>77</sup> was issued recently on the urgency of social harmonisation across the EU (denouncing also the practice of deductions from workers' remuneration practised by these agencies), following media coverage (in *Le Parisien*, 22 October 2013, inaccessible) of interim agencies operating in France but established in Eastern Europe. A representative of a recruitment/interim agency spelled out a CSR engagement more focused on the fight against discrimination and promotion of diversity, even if respect for labour law at large, and thus workers' rights, is seen as essential. The practice of systematic checks on the validity of the work authorisations presented by migrant workers prior to recruitment was also mentioned, to prevent illegal recruitment and work (see also section on the role of recruitment agencies).

It should be noted that several respondents [M(2); W(1)] were critical of the attitude of some professional organisations/federations. Criticisms included a lack of actual engagement beyond public commitments to raise awareness among their member organisations, a lack of transparency, and forms of pressure to prevent the development of initiatives, including of unions, to inform workers of their rights and enhance control and reporting in specific sectors (including agriculture and wineries, one interviewee referring to a “*the Chateaux lobby*” paralysing any form of action and denunciation of situations of exploitation by workers). Criticisms also targeted actual support and defence of fraudulent practices of some of their members, abusing EU law and exposing EU migrant workers to exploitation (in the sector of transports) [M(1)].

In individual interviews, as well as focus groups, upcoming initiatives and work paths in terms of prevention were discussed. A number of relevant actions are thus anticipated in the national action plan against trafficking in human beings, adopted in May 2014<sup>78</sup>. Hence the Inter-ministerial mission for the prevention of violence against women and against human trafficking (MIPROF)<sup>79</sup> will be initiating, this year or early 2015, a national information and awareness raising campaign (with posters, flyers, brochures, to be dispatched nation-wide, in places such as airports, railway stations, public spaces but also lawyer's offices, prefectures, and hospitals). The development of a national training programme is also planned, to create a common knowledge base in terms of the identification of victims and facilitation of access to their rights (with the development of tools for guidance). The national action plan mentions the following target groups: doctors, medical professionals and paramedicals, social workers, judges, lawyers, teachers and educational staff, police and gendarmerie, personnel of the administration reviewing applications for asylum (Office français de protection des réfugiés et apatrides-OFPRA), labour inspectors, staff of consulates and the prison administration, custom officers, and members of the administration dealing with access to temporary/emergency shelter (SIAO)<sup>80</sup>. Awareness-raising is also anticipated for teachers,

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<sup>77</sup> [[www.manpowergroup.fr/alain-roumilhac-la-flexibilite-responsable-reponse-au-dumping-social/](http://www.manpowergroup.fr/alain-roumilhac-la-flexibilite-responsable-reponse-au-dumping-social/)].

<sup>78</sup> [France], Ministry of Women's Rights, Urban Policy, Youth and Sports (Ministère des droits des femmes, de la ville, de la jeunesse et des sports), National action plan against trafficking in human beings (2014-2016) (*Plan d'action national contre la traite des êtres humains*), available at: [<http://femmes.gouv.fr/wp-content/uploads/2014/05/Plan-daction-national-contre-la-traite-des-%C3%AAtres-humains.pdf>].

<sup>79</sup> [<http://femmes.gouv.fr/dossiers/actions-dispositifs-interministeriels/miprof-mission-interministerielle-pour-la-protection-des-femmes-victimes-de-violences/>].

<sup>80</sup> [France], Ministry of Women's Rights, Urban Policy, Youth and Sports (Ministère des droits des femmes, de la ville, de la jeunesse et des sports), National action plan against trafficking in human beings (2014-2016) (*Plan*

who may be in contact with potential victims (e.g. domestic workers coming to schools to pick up children). Another relevant measure is the mobilisation of cultural mediators in specialised NGOs, planned for in sectors such as agriculture, construction and hotels/restaurants/catering, to facilitate the informing of workers on their rights. One respondent [N(1)] reported an intention to develop partnership agreements with federations of employers, unions and other actors, and to work also towards agreements by sectors of activity (*conventions par branches d'activité*) [FG(N)].

Concerning areas where further preventive work needs to be deployed, the following were mentioned: information for persons/professionals likely to be in contact with potential victims (e.g. the child protection services (*protection maternelle infantile – PMI*); school teachers and staff; but also neighbours, who can be targeted by campaigns directed at the general public [S(1)]; informing workers representatives within companies (their understanding of EU-derived legislation, e.g. on posted workers, may not be adequate) [W(1)]; informing of employers, including on the risks they face in terms of criminal offences [P(1)], as some may be complicit in irregular practices of sub-contractors impacting on workers' rights, e.g. in cases of illegal work. It was also jointly agreed by several focus group participants in the second focus group that the medical examination, although it is not obligatory for part-time workers, could be an opportunity to provide information of workers, and could help detect situations of situations of exploitation.

The need for further awareness-raising and fostering greater responsibility and accountability on the part of **contracting authorities** (*donneurs d'ordre*). Several interviewees mentioned the *Savary* bill (see legislative overview) with the prospect of reinforced obligations and possibly a 'black-list' of sanctioned enterprises. This provision has been adopted into law<sup>81</sup>. The development of online information on legal obligations and conditions applicable in France in the context of the posting of workers was also reported<sup>82</sup>. One law enforcement officer also insisted on efforts to develop training of investigators, for them to be able to work with the criminal offences in focus and provide adequate support to workers/other actors reporting. Offences in focus can be complex to manipulate, e.g. the offence of human trafficking [P(1)].

- **Information on pre-departure information programmes**

Most professionals interviewed could not really identify any pre-departure information programmes, or programmes that would specifically focus on severe forms of labour exploitation. One NGO representative suggested that the emphasis in pre-departure programmes was rather on the prevention of sexual exploitation.

One respondent [N(1)] mentions a pre-departure/prevention programme funded in Roma neighbourhoods in one area in Bulgaria (Varna) to raise awareness of the risks of exploitation both in the country and when migrating. Other actions were based on theatre, in schools in Romania and Moldova but no further details were provided. The respondent indicated that a programme to be developed by French consulates is under consideration (with information leaflets for persons considering migrating) but no further information is available yet. One NGO mentioned cooperation with the STRADA, European NGO network<sup>83</sup> which, reportedly, proposes support services to those workers who leave Eastern European countries (e.g. offering to review their work contract to ensure that these are in conformity with applicable

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*d'action nationale contre la traite des êtres humains*), p.10, available at: [<http://femmes.gouv.fr/wp-content/uploads/2014/05/Plan-daction-nationale-contre-la-traite-des-%C3%AAtres-humains.pdf>].

<sup>81</sup> [France] Law no. 2014-790 of 10<sup>th</sup> July 2014 concerning the fight against illegal social dumping (*Loi no. 2014-790 du 10 juillet 2014 visant à lutter contre la concurrence sociale déloyale*), article 8, available at: [[www.legifrance.gouv.fr/affichTexte.do;jsessionid=37C61CA35138CF2DBD7EFED18041A1CA.tpdjo11v\\_2?cidTexte=JORFTEXT000029223420&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=37C61CA35138CF2DBD7EFED18041A1CA.tpdjo11v_2?cidTexte=JORFTEXT000029223420&categorieLien=id)].

<sup>82</sup> [<http://travail-emploi.gouv.fr/informations-pratiques,89/les-fiches-pratiques-du-droit-du,91/detachement-de-salaries,407/temporary-posting-of-workers-in,8988.html>].

<sup>83</sup> [<http://lastradainternational.org>].

legal standards). Another referred to the activities of the Caritas Network<sup>84</sup>, active in Ukraine and the Balkans particularly, which may be supported by the Embassies in some countries, but the activities may not necessarily be related to those migrants willing to come to France. A few interviewees referred to seasonal contracts for migrant workers in the agricultural sector. But views concurred that in this context, information shared with workers prior to their posting in France was essentially focused on their contractual obligations [S(1); W(1)]. As one respondent [W(1)] recounts: "*They give them information. But the information given is, 'be careful, you must comply, leave at the end of the season, if not you'll have no contract next year.' There is nothing about working conditions or housing.*"

Still, several union representatives [W(3)] reported efforts to develop cross border activities and missions, e.g. to reach out to unions in countries of origin (Spain, Bulgaria), to discuss the situation of workers, and better understand patterns and conditions of recruitment. These activities, sometimes receiving media coverage, and the links between unions are seen as critical for the protection of workers. As reported by one of these [W(1)]: "*Ideally, there would be a link with the unions from start to finish*". Such initiatives, which could also involve foreign union representatives (e.g. from Bulgaria) coming to France, are seen positively by one labour inspectorate representative [W(1)]. Representatives stress, however, the limitations in resources to develop such actions, and further limitations when it comes to their counterparts in countries of origin: [W(1)]:

*"We did a big thing with Bulgaria, where we had an information meeting with the Bulgarian Union, in Bulgaria, before the departure of migrants. It was also relayed by Bulgarian television, there were reports in the media. They came, we had the material, leaflets in Bulgarian. They were distributed to Bulgarian employees, we also had the television. Regional television, at least, local newspapers. So it really was a media event. But the difficulty is to put it into operation, where we can get to recreate links with organizations in the countries of origin to follow these things regularly. But it requires resources being made available, including for the implementation. When we see the situation of trade unions in Bulgaria, Romania... it's even worse than here"* [W(1)].

Working paths suggested by respondents include the listing and dissemination of useful contacts in countries of destination to those workers who intend to migrate there: they should ideally be able to leave with contact details of NGOs they can turn to locally if they face any issues; and the development of actions at the level of consulates both in France and abroad. Another NGO representative mentioned indications of one consulate having reinforced its checks when delivering visas for domestic workers accompanying families to France, with an obligation of physical presence (the respondent could not confirm which consulate) [S(1)]. Ultimately, several respondents stressed challenges in developing actions in countries of origin, where they believe the reality of issues may not be acknowledged [S(1)] (e.g. of domestic slavery, in Mali), given also the economic benefits drawn from workers' remittances etc. [W(1)], and where unions, who could be relevant partners, may also be vulnerable to pressure of mafias (Bulgaria, [W(1)]). One NGO representative stressed the need for local initiatives and ownership for such preventive action to have an impact: [S(1)]:

*"True prevention, it would be in the country of origin. The concern is that we do not have the resources, and also that it is still a tricky business at the cultural level. It is true that ideally, it should be done by people there. Ultimately, I think the model that can work is that we provide logistical support. Because there is a 'lecturing people' side that will not work at all. If it came from us, I think it would be doomed to failure. I think it would be better to create organisations out there, encourage the creation of organisations that would do prevention work"*. [S(1)]

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<sup>84</sup> [www.caritas.org/fr/].

A respondent [N(1)] eventually noted that information in countries of origin, while being important, needed ultimately to be backed by prospects of economic development there. The respondent argues the gap in conditions and opportunities across countries is a driver behind the migration of workers who, to some extent, often already know they will face some degree of exploitation:

*“What I am afraid of despite everything, is that people are informed, but leave anyway. I was surprised, really, in the countries of origin, by talking with people who had been exploited, and who knew that they were going into a system of exploitation. But they did not believe that it was as bad as that. They did not think it would be so difficult. But being aware of leaving to be in conditions that are not normal, which are conditions of exploitation, very often people know about this. This is why I said that it is important to work on the economic development of the country” [N(1)]*

It was also mentioned that some other countries are perhaps more proactive when it comes to information for workers, which is a relevant work path in terms of prevention. Portugal was cited as seeming to have systematic information for workers on their rights prior to departure/posting [M(1)].

- **Information on mechanisms of standard-setting and accreditation at national and international level**

Very few respondents were aware of relevant mechanisms of standard-setting and accreditation, whether at national or international level. The ISO 26 000 standard<sup>85</sup>, seemingly adopted by a few cooperatives in the agricultural sector, was mentioned by one union representative active in this field. According to one interviewee, it remains recent and its adoption limited, also by contrast with the situation in Germany [E(1)]. Sector specific labels were mentioned: the sustainable forest label<sup>86</sup>, which concerns companies active in the forest/wood/paper sector, and which encourages companies to have union representation within the company (one representative suggested further involvement was needed with this instrument, in a sector where abuse can be significant); a social label developed concerning services (*prestations de service*) in the meatpacking industry, developed by the national union of meat companies in France (SNIV)<sup>87</sup>. But according to one union representative [W(1)], this label has not yet been incorporated in the professional agreement (*convention collective*), which would allow unions to track and encourage its implementation and impact. It would also pose obligations not only for sub-contractors, but also for the contracting authorities (*donneurs d'ordres/ industriels*).

One respondent [R(1)] also mentioned the UN Global Compact but considered such an initiative to be weak in terms of follow-up, beyond the initial commitment. The respondent is waiting to see what the recent legislation (Grenelle II) will produce, even if it may remain weak as well<sup>88</sup>. Secured by a 2012 decree<sup>89</sup>, it introduces an obligation of reporting for companies on social and environmental aspects (see below). Under this obligation companies are to report on social actions concerning health and security, but also the promotion and respect of international ILO standards (freedom of association, assembly, collective bargaining, elimination of discrimination in terms of employment and occupation, elimination of forced or

<sup>85</sup> [[www.iso.org/iso/fr/home/standards/iso26000.htm](http://www.iso.org/iso/fr/home/standards/iso26000.htm)].

<sup>86</sup> [[www.pefc-france.org/](http://www.pefc-france.org/)].

<sup>87</sup> [[www.sniv.fr/index.php?repertoire=label\\_social&nbarticle=1&fic=article](http://www.sniv.fr/index.php?repertoire=label_social&nbarticle=1&fic=article)].

<sup>88</sup> [France] Law no. 2010-788 of 12<sup>th</sup> July 2010 on commitment for the environment, (Loi no. 2010-788 du 12 juillet 2010 portant engagement pour l'environnement), article 225, available at: [[www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000022470434](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000022470434)].

<sup>89</sup> [France], Decree no. 2012-557 of 24 April 2012 concerning the obligations of transparency of companies on social and environmental aspects, (Décret no. 2012-557 du 24 avril 2012 relatif aux obligations de transparence des entreprises en matière sociale et environnementale) available at:

[[www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000025746900&dateTexte=&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000025746900&dateTexte=&categorieLien=id)].

obligatory work, effective abolition of child labour). The same interviewee noted that for recruitment agencies CSR engagement in relation to labour rights issues is currently more focused on anti-discrimination, seen as the most valued:

*"In the same way in our contractual relations, if we had the opportunity to develop that [CSR engagement concerning the prevention of labour exploitation] it would be a good thing. Today what is valued is the struggle against discrimination especially"* [R(1)]

In the same line of thought, one official called for the development of control and audits rather than standards, although existing ones could be fine-tuned to address prevention of specific forms of exploitation:

*"I believe that we must go further in the standards. Because there are standards that already exist, but there should be put in place a mechanism of control, audit, the implementation of these standards. So perhaps improve or adjust the existing standards to specific forms of exploitation, and then, in my opinion the most important thing, implement control mechanisms. Because if you do not control, everyone can commit, but only those who believe commit"* [N(1)]

One union representative also noted their attachment, in priority, to a public system of monitoring (as opposed to a system in which companies commit but finance their own controls) [W(1)].

### **4.3 Protection against (repeat) victimisation: actions undertaken by the police to protect victims against the risk of repeated victimisation, including how the police conduct investigations**

- **Consideration of migrant workers as potential victims of crime, or as illegally staying in the country**

This question was often considered by respondents as a “sensitive” or “complex” one, with “standing ambiguities” and the risk of police interventions being ultimately detrimental for workers [J(1); P(1); L(1)]. A number of interviewees reported having no direct experience, or consider they were in no position to respond [S(4); L(3)] – although some ultimately expressed views). Labour inspectors notably mentioned that they are not necessarily being kept informed of the administrative procedures unfolding after joint operations with law enforcement services [M(2)]. Views expressed are varied. Several interviewees – notably from the M and S groups (and N), by contrast with members of the P group, suggest the current approach remains unfavourable for migrant worker victims of exploitation. They stress contextual elements:

- An emphasis placed in recent years (under the previous Presidency) on the expulsion of migrants in an irregular situation from the country, with pressure placed on operational units to follow-through and “make up the numbers” (pressure to detect and deport migrants in an irregular situation) [S(1)]. This has led, as reported, to tensions and sometimes ruptures in the cooperation between police and labour inspectorate [M(1)]. Pressure on law enforcement officials and tensions may have eased up in recent years [M(2)] but this has “left marks” according to some NGO representatives. It has reportedly “formatted” how investigators will deal with situations [S(2)]. A labour inspector was also of the view that a cultural gap remains: *“For us, undocumented foreigners are victims, for the police they are more like culprits to be deported. That's not our culture”* [M(1)].

- The current definition of priorities in fighting against illegal work, in which the protection of victims may come second to other objectives, impacting on how inspections and investigations are handled. As reported in one of the focus groups by one respondent:

*"In the context of the fight against forced labour, exploitation, the issue is mostly financial. These are frauds, etc. The second issue, it is illegal aliens. Incidentally, the 3rd or 4th issue is actually the fight against human exploitation. I speak in terms of investigations, in terms of classification of the offence, it is not necessarily naturally the offence sought (nb: trafficking). So it is true that maybe with a change, with a redefinition of the issues entrusted both to the labour inspectorate and gendarmes, police or magistrates, it can evolve"* [FG(N)]

-The **limited awareness on issues of labour exploitation**, also affecting law enforcement services. As stressed by a number of interviewees, cases with judicial decisions (e.g. on trafficking) remain scarce, over 10 years after the introduction of the offence in the criminal code [S(2)].

Others – notably from the P group - maintain that there is **room for the consideration of workers primarily as victims** in the context of (joint) operations [P(2)]. One law enforcement official points out that one should also not overlook the **complexity of certain situations** with lines that are often blurred: migrant workers can be victims but can also be actively involved to some extent in illegal activities (participation in some scams, accomplice to extortion etc.). Still, the same officer [P(1)] defends a clear attention to potential victims within their unit:

*"To use the jargon, this is a sensitive issue. This duplicity between on the one hand the situation of an illegal alien, but who is also a victim. As part of our procedures at the office, we first consider the victim situation of the person concerned. That's what for us is the most worrying. So the victim is above all a witness who tells us of a situation and then asserts their rights according to the information we will provide. That is our vision of things. But unfortunately in reality, things are not always so simple (...) we sometimes have this double aspect, and the victim is not always a victim, they may also be perpetrator or accomplice".* [P(1)]

This vigilance and know-how, which will translate in the questioning of workers, is confirmed by several victim support NGOs who suggest a contrast with other units [S(3)]. Still, the emphasis in approach remains also dependent on the mandate of the law enforcement services which intervene. For the border and air police (PAF), the key responsibility remains the repression of exploiters responsible for the employment of workers without authorisation and the criminal networks involved. In this context, the primary focus will not be on workers' situations. If the worker's situation is later considered, the main focus is likely to be on the review of their administrative (irregular) situation [P(1)], perhaps, some would argue, to the detriment of their potential situation as victim [S(1)].

In practice, the approach will impact in terms of how workers are handled: whether they will attend a hearing, and whether they will or not be subjected to **a procedure of deportation**. Indeed, as reported [J(2); P(1)], workers found in an irregular situation remain exposed to an administrative procedure, with an imposed hearing, under the dedicated regime (*retenue administrative*) introduced after recent European and national case law<sup>90</sup>. They may be placed in an administrative detention centre and later deported. In this respect, responses of several respondents suggest the treatment will be varied. One respondent [P(1)] thus indicates that the irregular situation, during a raid, "*can be seen or not*". The situation and profile of the

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<sup>90</sup> [France], Ministry of Justice (Ministère de la Justice) (2012), Circulaire: Conséquences des arrêts de la 1ère chambre civile de la Cour de cassation du 5 juillet 2012 relatif à la garde à vue en matière de séjour irrégulier et de l'arrêt de la même chambre du 6 juin 2012 concernant l'article L.611-1 du CESEDA, available at: [www.gisti.org/IMG/pdf/dacg-dacs1104c39.pdf](http://www.gisti.org/IMG/pdf/dacg-dacs1104c39.pdf).

migrant may influence the response, leading to different treatment. As summed up by one respondent [S(1)]:

*"It is the ability of the victim to 'move' the police that will determine their response. If it's a poor Madagascan maid in a magnificent property in Antibes, she will be listened to carefully. If it's three Senegalese workers on a construction site in Nice, I think the approach will be a bit different. And then I think it is a question of training". [S(1)]*

(This is a mere illustration of an arbitrary approach/differential treatment from one situation to another, but the interviewee did not specifically elaborate on any gender-based discrimination it would highlight). The response can also depend on the migrant's willingness and ability to provide information useful to the identification of a criminal network, and to following judicial procedures focused on the exploiters [J(1); P(1)]. Beyond the legal provisions that concern victims of trafficking for sexual exploitation, positive cooperation may be taken into account by the law enforcement services and the Prefect. In practice, this can lead to a form of negotiation with the worker to foster his/her cooperation, as suggested by a law enforcement official [P(1)].

Existing guarantees were mentioned when a hearing is imposed on the worker (notification of rights, access to an interpreter and to a lawyer)<sup>91</sup>. One officer makes mention of efforts not to resort to handcuffing during raids, unless really necessary. The same officer reports that the questioning will cover the identity/civil status, administrative situation, and situation in terms of employment/work. It was noted that an open hearing (*audition libre*) was still always an option. Some respondents expressed reservations as to the ability of migrant workers to obtain recognition as victims while an administrative procedure is initiated against them. One victim support representative argues that once placed in an administrative detention centre (*centres de rétention administrative*), no attention will be brought to the potential situation of person as victim of exploitation [S(1)]. One also suggested a less favourable treatment for migrant workers, in contrast with situations of exploitation which concern nationals, in which all actors will be victim-sensitive and working in close cooperation [S(1)].

Ultimately, several respondents (mostly representatives of victim support services) insisted on the need to address gaps in terms of training, which remain a critical issue [S(4)]. As reported by one of them:

*"They (law enforcement officers) mainly deal with the infraction relating to illegal residency. That's the problem. It's also because people are not trained. It's not even ill will. But asking how people have got into the situation, I think there are a lot of people who don't think like that".*

The objective being to ensure that law enforcement officials are in a position to detect situations of exploitation, including in hearings.

- **Actions taken by the police and referrals**

Respondents mentioned actions of a varied nature (no specific trends in opinions to highlight here), but likely to help put an end to a situation of exploitation and ensure the protection of victims. These actions include:

- The immediate arrest and prosecution of persons responsible for the exploitation [P(1)]. As reported, in extreme situations, persons can be placed in police custody

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<sup>91</sup> See also [France], Circular of 28 January 2013 concerning the presentation of the key measures of law no. 2012-1560 of 31<sup>st</sup> December 2012 concerning the administrative hearing to check the administrative situation and modifying the criminal infraction of assistance to illegal stay, to exclude humanitarian and altruistic actions, (Circulaire du 28 janvier 2013 relative à la présentation des principales provisions de la loi no. 2012-1560 du 31 décembre 2012 relative à la retenue pour vérification du droit au séjour et modifiant le délit d'aide au séjour irrégulier pour en exclure les actions humanitaires et désintéressées NOR : JUSC1301015C).

(*garde à vue*) /preventive detention (*détention provisoire*) [J(1)] (see for instance the case study in which the perpetrators (responsible for trafficking and exploitation of begging), were initially arrested and placed in preventive detention (they were maintained in detention following their sentencing). This can be the case in situations of exploitation of minors [P(1)];

- The adoption of administrative sanctions in situations even of dissimulated work and employment of foreign workers without authorisation, with the closure of the company/shop, responses concerning employers being gradual (decision of the Prefect). These can prove useful in cases of repeated offences or re-offending [P(1)];
- The use of procedural protection tools: deliberate omission of the victim's personal address on the complaint<sup>92</sup> [S(1)], possibility for victims to testify anonymously under "X"<sup>93</sup>);
- The use of a clear judicial response in cases of threats: one NGO representative reported a case in which an exploiter was additionally charged with death threats by a prosecutor, following a police report that threats were made against the victim in the course of the investigation [S(1)].

Measures of physical protection and social assistance were cited: including with referrals for relocation for victims of trafficking (within the Ac.Sé protection system - see below), and ad hoc shelter solutions (placement in hotels or emergency shelter - CHRS) [J(2); S(1)]. Police protection was deemed possible, although officers who mentioned this had no specific situation in mind where it would have proved necessary [P(2)].

One law enforcement official still pointed out a clear gap: the absence of a comprehensive system of victim and witness protection in France, which also sometimes blunders further exposing victims (e.g. communication of contact details of the victim to the accused). As the respondent sums it up it "*In France there is no protection of victims and witnesses. The provisions of the Code of criminal procedure are indigent*" ([P(1)] – evoked in contrast with other countries, where legal standards are more advanced- e.g. Italy - see template for further information). The opportunity for victims of trafficking cooperating with police services (filing a complaint/witnessing) to access a temporary residency permit was also mentioned<sup>94</sup>. As reported by one official, a template liaison sheet (*fiche de liaison*) is planned in the context of the national action plan against trafficking, to ensure adequate follow-up at the level of Prefectures<sup>95</sup>.

Views differ on the effectiveness of the generic referral system for victim support, based also on the legal obligation to inform victims of their right to be assisted (among other rights, with

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<sup>92</sup> [France], Criminal code (code de procédure pénale), article 706-57, available at: [\[www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000006577742&dateTexte=&categorieLien=cid\]](http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000006577742&dateTexte=&categorieLien=cid).

<sup>93</sup> [France], Code of criminal procedure (code de procédure pénale), article 706-58, available at:  [\[www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=1D288EC55A69EF9DFE6B7B65C41CDD76.tpdjo11v\\_2?idArticle=LEGIARTI000006577747&cidTexte=LEGITEXT000006071154&dateTexte=20140721&categorieLien=id&oldAction=&nbResultRech=](http://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=1D288EC55A69EF9DFE6B7B65C41CDD76.tpdjo11v_2?idArticle=LEGIARTI000006577747&cidTexte=LEGITEXT000006071154&dateTexte=20140721&categorieLien=id&oldAction=&nbResultRech=).

<sup>94</sup> [France], Code of entry and stay of foreigners and of asylum, (code de l'entrée et du séjour des étrangers et du droit d'asile), article L-316-1, available at: [\[www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070158&idArticle=LEGIARTI000006335129\]](http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070158&idArticle=LEGIARTI000006335129).

<sup>95</sup> [France], Ministry of Women's Rights, Urban Policy, Youth and Sports (Ministère des droits des femmes, de la ville, de la jeunesse et des sports), National action plan against trafficking in human beings (2014-2016) (*Plan d'action nationale contre la traite des êtres humains*), p. 9, available at: [\[http://femmes.gouv.fr/wp-content/uploads/2014/05/Plan-daction-nationale-contre-la-traite-des-%C3%AAtres-humains.pdf\]](http://femmes.gouv.fr/wp-content/uploads/2014/05/Plan-daction-nationale-contre-la-traite-des-%C3%AAtres-humains.pdf).

notable reservations from S group representatives<sup>96</sup>. In practice, victims filing a complaint receive a complaint receipt with contact details of a victim support NGO. Contact details will usually be those of a generic victim support NGO, a member of the INAVEM network. One officer claims the information is also communicated verbally [P(1)]. Some deem this system relatively effective with the limitation that specialised NGOs in the field are very few in number and without national coverage [P(2); N(1)] (see also 5.1). Several NGO representatives [S(2)] believe it to be inadequate, given also the specific profile and condition of victims of exploitation, and notably those of domestic servitude who may lack a command of the language and have lost any form of autonomy to reach out to support services. Victims will not read, and if they do, will not understand [S(1)]. In practice, responses of law enforcement officials suggest varied and sometimes limited familiarity with specialised NGOs and services available [P(2)]. One official reported that these are better known by central law enforcement offices than of regular police units [N(1)].

Referrals from law enforcement officials to NGOs are thus rather rare according to three S group experts (see also section 3.2). Still, as evidenced in some cases, referrals can sometimes come from individual officers who are aware of the existence of services provided by specialised NGO, including for minors ([P(1)] referring [S(1)]). The national Ac.Sé protection system, available to relocate adult victims of trafficking was mentioned [P(2); N(1)]. In the context of placement in administrative detention centres, referrals will be made to the French Office for Immigration and Integration (OFII). NGOs mandated to intervene in administrative retention centres will also be involved. Several respondents had no specific information to share on this victim support aspect [S(1); J(1); L(1)].

Developments foreseen in the context of the national action plan (concerning trafficking) include the creation of local coordination mechanisms, which should also serve to favour adequate orientation of victims, and include local investigations units, the labour inspectorate (DIRECCTE), and specialised NGOs [N(1)]<sup>97</sup>. It will allow professionals to share information. As mentioned previously, a liaison document (*document de liaison*) is foreseen for investigators to flag up and refer situations of victims of trafficking to the Prefecture, to facilitate the effective issuing of a residence permit. This should formalise referrals, even though NGOs are likely to continue supporting victims, including on this aspect [N(1)]. One NGO representative expressed concern that such formalisation/centralisation could perhaps play out negatively, by limiting the current flexibility and room for actions for NGOs with respect to their communications with the Prefecture when it comes to access to a residency permit [S(1)].

Beyond law enforcement, it was noted that there was arguably room to improve referrals and support initiated by the labour inspectorate. For victims, beyond information (e.g. on the option to go to the labour court), practical assistance will be needed (e.g. access to a lawyer, to build the case file etc.). As reported by one respondent:

*"I think there is room for improvement in inspection work on this issue. It is true that often we do the minimum. While it's true that in terms of support etc., it is not necessarily present. For example advice to go to the tribunal, everyone can say that. But that means that behind that, being able to defend the case etc., so it must necessarily go through associations. Here, for example, victim support associations, in order to effectively ... it means a minimum, get a lawyer for certain cases. It is not simple, if there is a claim for compensation"* [FG(M)].

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<sup>96</sup> [France], Code of criminal procedure (code de procédure pénale), article 75, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGIART000006071154&idArticle=LEGIARTI000006575119].

<sup>97</sup> [France], Ministry of Women's Rights, Urban Policy, Youth and Sports (Ministère des droits des femmes, de la ville, de la jeunesse et des sports), National action plan against trafficking in human beings (2014-2016) (*Plan d'action national contre la traite des êtres humains*), p. 22, available at: [http://femmes.gouv.fr/wp-content/uploads/2014/05/Plan-daction-national-contre-la-traite-des-%C3%AAtres-humains.pdf].

Concerning children, it was mentioned that the overall referral system to the child welfare protection services (*signalement*) is largely in place<sup>98</sup>. Issues reported remain saturation and lack of tailored (placement) solutions to support child victims of labour exploitation [N(1)] and sometimes a lack of reactivity of child protection services ([P(1)]: “no emergency after 5 pm”).

- **Effectiveness of investigations and prosecution**

Investigations usually combine inspections on worksites, which can be joint (police and labour inspection but also involving the URSSAF), along with actions of surveillance and hearings (with suspects, victims and witnesses) (see the case studies for an illustration concerning a case of exploitation of begging). It should be recalled, that within the Prosecutors’ office, there is no real specialisation of labour exploitation, although, as reported, there sometimes exists a focal point for issues concerning labour-related and financial offences [P(1); J(1)]. Investigations will be more or less directed by magistrates, who may choose to encourage action on specific sectors [P(1)]. Their personalities will also play a role, leading to changes in priorities and working methods over time. Turnover in magistrates will also have an effect [P(1)].

Several practical challenges were stressed by law enforcement officers and magistrates when it comes to investigations and their effectiveness. Beyond the lack of victims coming forward to complain, one recurrently cited challenge was the more general lack of/limited cooperation from workers found in irregular situations of work. For fear of the police or of reprisals from their employers [J(1)] some will indeed, in the context of inspections, pretend they do not work on the site, or started the day before, or attempt to run away [J(1)]. This can impede efforts to identify and document chains of responsibility (e.g. in the construction sector, where sub-contracting is frequent), and affect the quality and effectiveness of investigations. The language barrier is a further issue, even though interpretation can be used [J(1)]. As reported by a magistrate, a critical aspect of the work then becomes documenting what is observed on the site of inspection: [J(1)] "*With the employee, it is difficult to trace back, because they do not give any information*". The lack of human and technical resources in the face of criminal networks that are faster and more efficient than investigation services was also mentioned [J(1)].

This lack of cooperation on the part of victims was also pointed out in the case of minors found in situations of exploitation – they will rarely cooperate, while their testimony would be essential, including to characterise situations as trafficking for the purpose of labour exploitation [J(1)]. Another challenge reported concerning minors is the absence, due to legal restrictions, of systematic cross-border information exchange/databases concerning minors found in situations of exploitation between prosecutors’ offices. The creation of a European database would be necessary according to one specialised prosecutor [J(1)]. Further limitations exist in terms of investigations (legal restrictions), but some interviewees would not elaborate on these [P(1)].

**Key issues** reported by other professionals in how investigations are carried out relate to:

- Gaps in qualifications and experience between local and central law enforcement units: this concerns knowledge of offences relevant to the project (in particular human trafficking) and know-how in questioning of workers, and more general handling of cases. Some NGO representatives report, as a consequence, differing treatment of cases depending on the services one will be dealing with [S(2)]. Central offices, and particularly those competent for illegal work (OCLTI), are deemed more reliable by several victim support NGOs [S(3)]. An issue of insufficient coordination can also arise between local and national units working on a given case (with sometimes also unnecessary competition) [S(1)].

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<sup>98</sup>See also contribution to the FRA mapping of child protection systems for additional information.

- Diligence in interventions: some NGOs deplore late interventions in cases where rapid action would be essential to secure elements of proof (e.g. in cases of domestic exploitation) [S(1)]. The criticism is also addressed to the labour inspectorate [L(1)].

A central issue of concern for several respondents is the legal characterisation of situations – that is, offences ultimately used by the judiciary. Some NGO representatives note a resistance and a propensity, among magistrates, to give priority to classifications such as under-remuneration<sup>99</sup>, or work and housing conditions contrary to human dignity<sup>100</sup>, over, in particular, trafficking. The focus can also be on simply documenting situations of *illegal work* including of *employment of foreign workers* without work authorisation) (*emploi d'étrangers sans titre*) [J(1)]. Several law enforcement officials report that the offence of trafficking in human beings is quite complex to manipulate [P(3)]. Two suggested a particular challenge in establishing the organised crossing of the border (suggesting a limited understanding of the offence), including concerning minors coming from EU countries (due to the freedom of movement within the EU).

One additional issue mentioned is the handling of situations in which parents are involved – e.g. coming with their children to later put them in situations of exploitation (one police officer mentioning a debate with the judiciary on this, but without sharing further elements). Ultimately, magistrates retain control over the classification. In this respect, one law enforcement officer believes there is a “genuine desire to seek a conviction”. But the respondent argues that applicable penalties are quite considerable and this could also sometimes hold back magistrates a little [P(1)]. One lawyer shared that concern with the newly introduced offences of slavery and forced labour [L(1)]. The same officer insists on efforts, in practice, to look for the most tailored classifications (*spécialité*), but also to record all applicable offences, from the moment that these can be effectively documented – even if the principle will be that of a merged sentence [P(1)]. Another insists on efforts to systematically work on the basis of trafficking, where relevant, in the situation of minors [P(1)]. Several magistrates in fact point out the difficulty of prosecuting on the basis of criminal offences relevant to our project, with few elements of proof and the lack of cooperation from workers, already mentioned.

One judge also concedes that there are limitations in available resources to further investigate certain aspects in procedures, such as housing conditions of the workers found in an irregular situation during an inspection (which could lead to the identification of a broader situation of exploitation, and could impact on classifications). Prosecutors recall that manipulating offences such as illegal work and/or employment of a foreigner without authorisation is easier to document. Logically, it will be easier to secure a positive judicial outcome on that basis, before the court.

The legal classification of situations can ultimately bear considerable importance for the situation of victims, notably in terms of access to a residence permit and compensation, theoretically easier for victims of trafficking. As reported by one respondent [S(1)], this may be overlooked by the judiciary:

*"The real difficulty is on the classification of trafficking. And the classification under 225-14. But we understood the problem. It's that they are judges who are not trained, so who may not know, they do not realize that there are fundamental rights of the victim, particularly in terms of staying in the country in an irregular situation, in terms*

<sup>99</sup> [France], Criminal code (code pénal), article 225-13, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070719&idArticle=LEGIARTI000006417890&dateTexte=&categorieLien=cid](http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070719&idArticle=LEGIARTI000006417890&dateTexte=&categorieLien=cid).

<sup>100</sup> [France], Criminal code (code pénal), article 225-14, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070719&idArticle=LEGIARTI000006417893&dateTexte=&categorieLien=cid](http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070719&idArticle=LEGIARTI000006417893&dateTexte=&categorieLien=cid).

*of access to the CIVI [commission for the compensation of victims], there are rights that are associated with this classification, so they do not know them. And the prosecutors do their job, that is to say they are trying as much as possible to secure the conviction, so they press charges that will succeed where they all are. So 225-13 because yes, a vulnerable person who is not paid, we can establish that they are not paid, it's good that they have their conviction. And "assisting an illegal stay" because it is really easy to establish, and they do not go with trafficking. There it falls on deaf ears" [S(1)]*

NGOs report varied strategies to overcome potential resistance: some will address complaints directly to the Prosecutor's office (to immediately present the situation as one of trafficking) [S(1)]. Others work on the development of positive relationships and awareness-raising of officers they deal with [S(1)]. In cases of resistance at the Prosecutor's office, complaints will be filed with the investigation judge, with a constitution as civil party [S(1); L(1)].

In terms of impact of prosecution and outcomes of judicial procedures, the following were also put forward:

- the excessive length of criminal procedures [L(1)] (see also case studies), although civil procedures before labour courts were also cited [L(1); S(1)]. This is referred to as a general shortcoming of the judicial system [S(2)], which can be dissuasive for victims [S(1)] (see also quote below).
- the obstacle of diplomatic immunity [S(1)] which leads to no impact for some complaints, with uncertainty also about the possibility for victims of trafficking to then access a residence permit.
- a sometimes restrictive and limitative interpretation by the judiciary when it comes to the issue of work and housing conditions contrary to human dignity (e.g. on the relevant threshold in terms of number of hours worked) [S(1)]
- a lack of substantial elaborations in the reasoning of positive decisions, while these which could potentially be used as guiding case law and as a basis for advocacy by NGOs [S(1)], and also a lack of grounds and information communicated when the prosecutor's office decides not to take the case forward [S(1)].
- a lack of adequate attention to and appreciation of the element of constraint in cases concerning minors (compelled to commit criminal offences) which leads to a focus on repression (children being primarily considered as perpetrators, not as victims) [S(1)], although a more consistent approach has been identified locally (in Paris) [W(1)].

The overall account of one NGO representative is the following:

*"So here we are at a standstill. For classifying the offence, the first meeting, it works. But then after, it takes years for there to be a judgment, it takes years of investigation, the time limits are not at all suitable. But this is how it is in the justice system in general, but it is actually very problematic, because our follow-up time is also set to that time scale. So it goes on, we have a case now that's lasted ten years. We have very few conclusions from the measure, it's absurd. And then in terms of evidence, it is clear that if the investigation is not done within a week for a situation of domestic slavery, obviously in six months ... The person was already anonymous, they had no bedroom, it's sure that six months later, their few belongings are in the bin. So after, there is no evidence left. It's their word against the other's" [S(1)]*

Case law remains scarce [S(2)] ten years after the first law which introduced human trafficking. Some NGOs consider migrants stand better chances in civil procedures when it comes to positive outcomes and actual compensation [S(1)]. But hopes for further developments were shared, in the wake of the adoption of the law of 5 August 2013. Several respondents see a positive trend in terms of awareness within the judiciary and in judicial responses, with this change in the legislation [L(1)] and positive actions in terms of training of judges [J(1)].

## 5. Victim support and access to justice

Victims support services offered by NGOs are generally accessible free of charge, without any specific filters based on prior recognition as victim or a condition of regularity of stay. However the geographical reach of the specialised NGOs – limited in numbers and resources - remains limited and the generic victim support system (engaging NGOs of the INAVEM network) is not necessarily tailored to respond to the needs of victims for support (whether legal, social or psychological). The referral system for law enforcement services was also deemed – by NGOs in particular- to not be adapted to the level of vulnerability presented by the victims of severe forms of labour exploitation. The national relocation system, for victims of trafficking exposed to trafficking, should be further developed with the national action plan against trafficking. Shelter solutions remains a broader challenge, NGOs reporting that limited options are available, due to an overall saturation. Specific gaps were identified concerning children, in terms of effective placement solutions and social/educational support (gaps in resources and training).

In terms of access to justice, many respondents shared positive views on the labour court system, with reasonable chances for effective and significant compensations, including under the emergency procedure. Still, a number of challenges remain, including the excessive length of procedures, the difficulty of proof/evidence, and gaps in the enforcement of judgements (notably for domestic workers). Uncertainties are still greater with civil law claims in the criminal justice system, notably due to the qualification of offenses and evaluation of the prejudice, which is considered not always adequate. Positive steps have been taken in recent legal reforms in terms of access to the Commission for the compensation of victims and to facilitate the involvement/support of third parties in judicial procedures (both NGOs and unions). Respondents also shared a number of suggestions to ease up the complaint process for workers and lift current obstacles.

### 5.1 Victim support, including available support services

**Victim support services** mentioned by interviewees include specialised NGOs (OICEM [S(1)], CCEM [S(2)], SOS Esclaves [W(1); S(1)]) (see below); and the national protection system available for victims of trafficking (Ac.Sé) (see below). The generic victim support NGOs which are members of the INAVEM network and one NGO working specifically with minors (Hors la Rue) were also mentioned. The network against trafficking was also cited. Its activities are focussed on advocacy, but member organisations do provide social and legal services [S(1)]. The French Office for Immigration and Integration (*Office français de l'immigration et de l'intégration –OFII*)<sup>101</sup> was also cited when it comes to the general information and support for workers placed in administrative detention centres [S(1); P(1)]. One should note that no professional mentioned the Public victim support offices (*Bureaux d'Aide aux Victimes*), currently being rolled-out within Courts<sup>102</sup>, and whose services, usually run by victim support NGOs, are accessible without any filters, and are free of charge.

Concerning NGO services identified by respondents: with rare exceptions [S(1)], respondents [P4]) report or assume no specific legal obstacles nor restrictions in terms of access, that would be based either on nationality, regularity of stay in the country, or a formal recognition as a victim of labour exploitation. (No contradiction here: no obstacles – NGO services are accessible, but actual and proactive referrals from law enforcement referrals may be limited in practice. In fact, applicable restrictions will be derived from the organisations' mandate, which may not cover all forms of labour exploitation (e.g. CCEM), or may lead to a prior assessment of individual circumstances (e.g. Ac.sé). It should be noted that a number of

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<sup>101</sup> [www.ofii.fr].

<sup>102</sup> [www.justice.gouv.fr/aide-aux-victimes-10044/generalisation-des-bureaux-daide-aux-victimes-25121.html].

respondents, including law enforcement officials, report being unfamiliar with available victim support organisations and their actions [P(3); S(2)]. This is suggestive of limited connections and targeted referrals. It was also mentioned that unions, who can actively support worker victims of exploitation in the context of social movements or judicial actions may also restrict access to some migrant workers as they tend to function on a membership basis [S(1)].

### **Short presentations of key NGO services identified in the context of the project:**

INTERNATIONAL ORGANISATION AGAINST MODERN SLAVERY (ORGANISATION INTERNATIONALE CONTRE L'ESCLAVAGE MODERNE (OICEM))<sup>103</sup>.

Labour exploitation is at the heart of the NGO's mandate, based in Marseille. Its statutes put forward the following mission: "*Identification, protection, legal assistance, support (accompagnement), socio-educational support towards shelter/housing (hébergement) and inclusion, psychological support of minors and adults victims of current forms of trafficking in human beings, of slavery, debt bondage, forced labour, forced begging and labour exploitation* (article 2). There is no a priori focus in the mandate/statutes on the support of 'migrant' workers being exploited. As reported, it results from realities on the ground and in practice (few situations with nationals concerned). Services are provided free of charge, without the pre-condition of prior recognition as a victim.

The NGO offers free psycho-social support (individual and group) and legal support (relying on a pool of lawyers sensitive to human rights issues, including trainees, to take up cases, including on a pro bono or legal aid basis). The NGO constitutes itself as a civil party (*partie civile*) in court cases concerning workers. The staff can also accompany some victims to report or go to the Prefecture/other administrations. Psycho-social services include support to find shelter, food and clothes (they organise collections), but also a workshop to assist victims in dealing with everyday administrative issues (e.g. social security, contracts, etc.) and gain independence (also preventing re-exposure to exploitation). Group workshops on 'support to parenthood' are also organised (with the financial support of the Family Allowances Funds (*Caisse des Allocations Familiales - CAF*) since some women supported by the NGO were already, or have become, parents.

COMITTEEE AGAINST MODERN SLAVERY (COMITÉ CONTRE L'ESCLAVAGE MODERNE (CCEM))<sup>104</sup>

Based in Paris, the NGO focuses on trafficking in human beings and forced labour. When it comes to trafficking, the NGO focuses on the purpose of labour exploitation – now intervening in all economic sectors, while the focus was initially/historically on domestic slavery cases. Cases of exploitation which do not amount to forced labour may be referred to other organisations, such as the state employment agency (where legal consultations and information can be obtained by workers) or unions, though this is difficult and cooperation is not necessarily very close (see also 2.8). The NGO has a national mandate but in practice deals with a majority of cases located in the Paris area.

Services include legal support (they do not need to pay lawyers, who generally intervene pro bono, with significant support of the NGO to prepare elements of the case – the NGO may pay the lawyer the equivalent of legal aid) and social support (see also case studies 1 and 2 for specific examples of multidimensional support provided). They are available free of charge and services are provided with restrictions: the case should only be in line with the NGO's mandate and the situation presented should be plausible ("*they must tell a true story, that*

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<sup>103</sup> [[www.esclavage-stop.org/](http://www.esclavage-stop.org/)].

<sup>104</sup> [[www.esclavagemoderne.org/](http://www.esclavagemoderne.org/)].

*seems real in any case because you cannot swear on anything. But otherwise, the only thing that concerns us is to know that it is under our mandate")* – with the exception of child cases, where the NGO has no mandate/accreditation to intervene.

## SOS ESCLAVES<sup>105</sup>

The SOS-ESCLAVES NGO is dedicated to the combat against modern slavery: in fact, the NGO deals with cases of domestic servitude. It was created in 2007 by three persons from the Committee Against Modern Slavery (*Comité contre l'esclavage moderne*) and relies on volunteers. The NGO provides legal support to victims in both criminal and civil proceedings. No specific filters were reported.

In terms of adequacy: The essential role of NGOs [P(1)] and the know-how of specialised NGOs [P(1)] is largely recognised. As one respondent [N(1)] reports:

*"They work on the specificity of these victims. Whether it's the specificity of the situation, or the specificity of psychological trauma they have suffered, whether it's specificity of the country of origin, or the administrative situation etc. There is an assessment, it's more that, experience really, for some, often allowing them to guide the victims in good conditions, and not to give the impression of going into combat a bit like Don Quixote. They have instead targeted actions, and it is effective"* [N(1)]

Specialised NGOs however reported situations of severe financial pressure on their activities [S(3)]. Permanent staff members remain limited in number, e.g. to ensure professional social support [W(1); S(1)] One of them currently has no office space [S(1)].

Critical aspects put forward by respondents include:

- a clear gap in specialised resources available [S(1)], in contrast to those available for victims of domestic violence or of sexual exploitation [W(1); P(2)]. As echoed by several NGO representatives, generic victim support NGOs probably lack the indispensable specialisation required to deal with cases of labour exploitation or trafficking [P(1); S(2)] which, from a legal standpoint, is also at the crossroads of family law, labour law, and criminal and human rights law. As a result, the accessible support and its quality will vary across the country. As reported by one respondent:

*"When you are a victim of trafficking, you will be better assisted depending on the location. Whether it's Paris, Nantes, Lyon, Nice. The law is the same but its application may be a little different"* [S(1)]

- an under-development of the existing protection system [P(1); N(1)] – Ac.Sé - focusing on relocation and social support, financed by the public sector (see below), which is, up to now, essentially mobilised for victims of sexual exploitation exposed to reprisals. Its strengthening is foreseen in the context of the recently adopted national action plan against trafficking. The broader issue is one of scarce resources in terms of shelters/housing solutions for victims exiting a context of exploitation [S(1); P(1); N(1)]. One official points out that the generic shelter system (115 hotline) and local coordination services which deal with requests (Service for Reception and Emergency Orientation) (*Service intégré d'accueil et d'orientation urgence, SIAO Urgence*) is totally saturated. Shelters available are also not appropriate for victims of domestic exploitation who have often experienced humiliation, submission, and violence. They do not provide the right conditions to feel secure and to allow a pathway back to normal life [N(1)].

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<sup>105</sup> [www.sos-esclaves.com/].

One labour inspector also conceded that there are limitations in their current response, which is focused on reporting offences but is not necessarily adequate to secure support for victims [M(1)]:

*"We are an inspection service, with a victim and a person who commits an offence, we will rather focus on the person who commits the offence. And I recognize that in practice there is no culture to necessarily support the victim."*

Another insists on the challenge posed by the high mobility of workers in precarious situations, and sometimes returning immediately to their country of origin. Such situations require high reactivity from administrative services which cannot be guaranteed. There is a need for local contacts with unions and lawyers to ensure a follow up of individual situations, to keep contact with the workers, and help them recover the social rights they are entitled to [M(1)].

### **NATIONAL SET-UP (DISPOSITIF NATIONAL AC-SÉ)<sup>106</sup>**

Managed by an NGO (*ALC- Accompagnement, Lieux d'Accueil, Carrefour éducatif et social*), the Ac-Sé system allows for the transfer and sheltering of victims of human trafficking facing reprisals. It relies on a network of cooperating shelters (*Centres d'Hébergement et de Réinsertion Sociale, CHRS*) located throughout the national territory (the list of partner CHRS is confidential – 45 considered to be active in 2013, with 51 victims effectively relocated at that time<sup>107</sup>). In practice, these protection services benefit, for an overwhelming majority, victims of sexual exploitation ("90 to 95 %"), although they have intervened in a few other cases, including of domestic slavery and forced marriages also involving exploitation (and sometimes sexual abuse). Services offered are free of charge – they are open to adults (victims of trafficking and at risk), irrespective of their administrative situation. Formal recognition as a victim by the judiciary (or filing a complaint) is not a pre-requisite. Partners who refer situations conduct a general assessment. Victims of trafficking can be supported whether or not they have already filed a complaint with the police. The critical evaluation is whether or not they are exposed to significant risks which can justify geographical relocation. This is sometimes already carried out by the person/organisations who referred the situation. The recently adopted national action plan against trafficking (2014-2016) provides for a strengthening of this set-up and awareness-raising on its existence.

Along with shelter, victims will also benefit from social support. On average, persons will stay between 1 to 3 years. The NGO remains available to follow-up on cases and assist where there are administrative or judicial problems, and also provides some basic financial assistance initially in the context of Ac.Sé. The Acsé has also a financial fund of 600 Euros per case to meet needs in terms of legal assistance. It can be used when lawyers are reluctant to intervene for the allowance granted by the legal aid system. All persons assisted in Ac.sé also receive financial support of 350 Euros that they may use as they deem useful. Return to the country of origin can also be organised, on a voluntary basis. The NGO then cooperates with the OFII, and now the IOM, which offers financial support up to 2000 Euros for a personal economic activity/training plan.

General issues mentioned are heightened when it comes to **children**. Respondents report the lack of efficient responses within child welfare services, and a lack of adapted placement structures for migrant child victims of exploitation [S(2); P(1)]. There is reportedly a more general lack of programmes and space to create the relationship of trust with children, which is needed to ensure their protection and make them understand its relevance (issue of children running away). NGOs also have the resources to create this with children. A solution

<sup>106</sup> [\[www.acse-alc.org/fr/\]](http://www.acse-alc.org/fr/).

<sup>107</sup> [France] Dispositif National Ac.Sé, Annual Report 2013 (Bilan d'activités, Année 2013), p.32, available at : [\[www.acse-alc.org/fr/a-propos-d-ac-se/qui-sommes-nous\]](http://www.acse-alc.org/fr/a-propos-d-ac-se/qui-sommes-nous).

under consideration is a regional coordination follow-up on cases of children (victims of trafficking), with placements in different Departments, which would allow for an appropriate physical distance from exploiters/networks [FG(N)].

In terms of victim support and access to justice, several respondents mentioned current challenges with the **legal aid system**, with a condition of regular stay in the country (in addition to the general resource-based conditions, a copy of a residence permit or application for renewal is requested in the application). There however exists a clause of '*interest of the cause*', which can still allow an exception for migrants in an irregular situation to benefit from it in certain cases (no specific examples cited by interviewees – further research would be needed on this aspect)<sup>108</sup> (Note: in fact, the law was modified in 2011, and provides for clarified access when it comes to criminal procedures in which workers are civil party – but the situation is less clear when it comes to labour court actions). Limited feedback was shared on the extent to which this option works in practice. Concerns were also expressed by lawyers on the current under-payment of lawyers under this system which led to an on-going movement within the profession (repeated strikes of lawyers in recent months).

Note: a relevant resource guide and more evaluative publication was shared by one of the respondents. It was edited with the IOM, in the framework of a project called "FIIT", supported by the EU Commission. This resource focuses on the reintegration of victims of trafficking, with an overview of practices and services available in France, Belgium, Hungary, Italy and the UK<sup>109</sup>.

## 5.2 Access to Justice and other mechanisms to empower victims

- **Effectiveness of the civil justice system to claim compensation and payment of withheld wages**

Views of respondents are varied on this question – without specific trends to report - but several respondents share positive views on opportunities and efficiency, focusing on the labour court system. They indicate that significant amounts can be awarded there [L(2); S(2)] for unpaid wages as well as for damages [S(1)], and that the civil procedure can be complementary with an action before criminal courts [L(1); W(1)]. One lawyer [L(1)] argued that:

*“One can get more at the employment court than the criminal court, when you make a good case. When the nature of the contractual relationship, so the rules of labour law, are really raised one after the other. It allows for compensation that may be significant at times”. [L(1)]*

Being able to count on the support of a qualified lawyer was seen as a critical element for victims, not only for the procedure, but also for the enforcement of rulings [S(2)]. Some respondents were still calling for a reform of the current functioning of labour courts, as they believe risks of external influence and partiality are real, and can lead to differing outcomes for similar cases (depending on the court presidency) [W(1); L(1)]. This could be done either by systematically involving the professional judge (currently he/she is appointed to reach a

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<sup>108</sup> [France] Law no. 91-647 on legal aid (aide juridique), article 3, available at: [www.legifrance.gouv.fr/affichetexte.do?cidTexte=LEGITEXT000006077779](http://www.legifrance.gouv.fr/affichetexte.do?cidTexte=LEGITEXT000006077779).

<sup>109</sup> IOM (2013), un aperçu des programmes d'intégration nationaux accessibles aux victimes de la traite et des pratiques efficaces, available at: [www.iomfrance.org/sites/default/files/FIIT%20Toolkit\\_FR.pdf](http://www.iomfrance.org/sites/default/files/FIIT%20Toolkit_FR.pdf); IOM (2013), Evaluation de l'efficacité des mesures pour l'intégration des victimes de la traite, available at: [http://publications.iom.int/bookstore/free/FIIT\\_study\\_FR.pdf](http://publications.iom.int/bookstore/free/FIIT_study_FR.pdf).

decision – *juge départiteur*), or by moving entirely to a system with professional judges. As one lawyer argues:

*"There should be a wide discussion on the labour courts in France. On the mode of operation, it is a disaster. President-employee or President-employer: almost on entering the room, I knew if I had won or if I had lost."* [L(1)]

Some concerns were expressed concerning the compensation of migrant workers in an irregular situation [W(1)], with possible gaps between case law of labour courts and the position of the social Chamber of the Court of Cassation. A 2014 decision of the Court of Cassation may have restrictive consequences.<sup>110</sup> (Indeed in the case concerned, it rejected the demand for compensation from the migrant worker while he had been fired by his employer. The latter put forward the irregular situation of the migrant, considered as a serious misconduct, to support his dismissal without compensation. Judges followed the arguments of the employer: no compensation for irregular migrant workers who commit fraud. On the other hand, one NGO stress that employers are usually conscious that work permits are false [W(1)]. Therefore this decision makes irregular migrant workers more vulnerable. As a matter of fact, one lawyer employers arguably find themselves in a better position when the workers were in an irregular situation [W(1)].

One lawyer pointed out a broader issue of differential treatment: the respondent argues that foreign workers without work authorisation do not have equal rights when it comes to compensation in cases of termination of the employment contract, the respondent refers to article L. 8252-2 of the labour code, which they believe should be amended<sup>111</sup>.

A number of concrete challenges were also highlighted. These include:

- Limitation periods to file an action [L(1); W(1); S(1)]: these were reduced from 5 years to 3 years by a law adopted in June 2013<sup>112</sup>, and from 5 to 2 years for the challenge of a dismissal. This may negatively impact on access to justice for victims, but also on their ability to use, in the civil procedures, outcomes or elements of proof collected in the context of the criminal procedure, and which often proved strategically important [S(2); L(1)] (The risk is that the time limitation for the civil procedure will have been exceeded by the time criminal proceedings are concluded);

- Evidence and proof [J(1); W(1); S(2)]: documenting the working activity, notably in situations of domestic work, remains a challenge. This can lead to cases being rejected [S(1)]. It becomes particularly acute when it comes to extra-hours [L(2)]. Victims will usually try to use multiple testimonies in the absence of official documentation. One lawyer pointed out that labour court judges, even at the conciliation stage, rarely used the investigative tools at their disposal, even when it is suggested to do so [L(1)]<sup>113</sup>. In cases of domestic exploitation the criminal procedure can be critical to attest to a relationship of subordination, and to counter arguments on the part of exploiters that there was consent of the worker [L(1)]. It was also reported that although the civil court is not bound by the decision in criminal proceedings, in general, civil court judges will go in the same direction [L(1)]. This leads some respondents to

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<sup>110</sup> [France] Court of Cassation (Cour de Cassation), Decision in case 12-19214, 18<sup>th</sup> February 2014, available at: [www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000028642376&fastReqId=302643797&fastPos=1](http://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000028642376&fastReqId=302643797&fastPos=1).

<sup>111</sup> [France], Labour code (code du travail), Article L. 8252-2, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006072050&idArticle=LEGIARTI000006904853&dateTexte=&categorieLien=cid](http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006072050&idArticle=LEGIARTI000006904853&dateTexte=&categorieLien=cid).

<sup>112</sup> [France] Law of 14 June 2013 on the securing of employment, (loi du 14 juin 2013 sur la sécurisation de l'emploi), available at: [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027546648](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027546648).

<sup>113</sup> [France], Labour code (code du travail), article R-1454-14, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006072050&idArticle=LEGIARTI000018484907&dateTexte=&categorieLien=cid](http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006072050&idArticle=LEGIARTI000018484907&dateTexte=&categorieLien=cid).

consider that the quality of the criminal investigation is essential for the outcome of the labour court procedure.

- Enforcement of judgments: issues here pertain to a lack of voluntary execution of court orders on the part of employers/exploiters, and also to their insolvency, whether it is real or arranged [L(2); S(2)]. The lack of voluntary execution of court orders can make it necessary to involve bailiffs, with further delays that workers will not always understand or accept [L(1)]. Even though labour courts decide on fair compensation, employers might also be insolvent. As reported, there is no guarantee fund provided when it comes to employers who are individual households (generally the case for domestic exploitation). This contrasts with situations concerning companies, for which a special regime/fund can be used (the AGS - *Association pour la gestion du régime de Garantie des créances des Salariés*, and its CGEA centres - *Centre de Gestion et d'Etude*,)<sup>114</sup>. In cases where the company is liquidated, recovery of due compensation may be easier (e.g. with a positive attitude of the designated judicial liquidator (*mandataire liquidateur*), but victims may experience frustration with the procedure - their exploiters will not stand before the court, and this will instil a sense of impunity, [L(1)]).

- Diplomatic immunity: in cases where diplomatic households are involved, this also remains an obstacle to effective sanctions and compensation [L(1); S(1)].

Some respondents also pointed out the excessive length of procedures [L(2)]. Still the emergency procedure (*référé*) was found to be a useful solution to secure provisional compensation, concerning unpaid salaries and holidays (see for instance the case study following a *référé* supported by her lawyer and one NGO active in the field, the victim – exploited as a computer engineer – managed to obtain provisional compensation (significant ones) on both aspects – unpaid salaries and unpaid holidays – awaiting the actual decision in the case). Some respondents had no view on this issue [J(1)], or suggested that anyhow a limited number of cases reach the courts [J(1); S(1)].

#### SUPPORT TO MIGRANT WORKERS IN RECOVERING THEIR SOCIAL RIGHTS IN CASES OF ILLEGAL EMPLOYMENT<sup>115</sup>

The French Office for Immigration and Integration (Office Français de l'Immigration et de l'Intégration (OFII)) has been designated as a relevant body in the context of the EU “Employer Sanctions Directive” by a 2011 law<sup>116</sup> reforming the labour code<sup>117</sup> and a corresponding decree<sup>118</sup>. It is responsible for the consignment, recovery and transfer of sums due by the employer to the migrant workers without work authorisation, whether they are placed in an administrative detention centre, under home surveillance (*assigné à résidence*), or deported from the country. The recovery will be enforced in the event where the employer does not pay the sums voluntarily with a 30-day period following the documentation of the offence<sup>119</sup>

<sup>114</sup> [[www.ags-garantie-salaires.org/tl\\_files/ags-theme/ags/fichiers/L3253-6%20a%20L3253-21.pdf](http://www.ags-garantie-salaires.org/tl_files/ags-theme/ags/fichiers/L3253-6%20a%20L3253-21.pdf)].

<sup>115</sup> [France], Labour code, Article L8252-2, available at:

[[www.legifrance.gouv.fr/affichCodeArticle.do?sessionId=429F3A3AA1AC64703E79621F6636FE08.tpdjo11v\\_2?cidTexte=LEGITEXT000006072050&idArticle=LEGIARTI000006904853&dateTexte=&categorieLien=cid](http://www.legifrance.gouv.fr/affichCodeArticle.do?sessionId=429F3A3AA1AC64703E79621F6636FE08.tpdjo11v_2?cidTexte=LEGITEXT000006072050&idArticle=LEGIARTI000006904853&dateTexte=&categorieLien=cid)].

<sup>116</sup> [France], Law no. 2011-672 of 6<sup>th</sup> June 2011 concerning immigration, integration and nationality, (Loi n° 2011-672 du 6 juin 2011 relative à l'immigration, à l'intégration et à la nationalité), articles 77, 86 and 87, available at: [[www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024191380&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024191380&categorieLien=id)].

<sup>117</sup> [France], Labour code (code du travail).

[[www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000024194190&cidTexte=LEGITEXT000006072050](http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000024194190&cidTexte=LEGITEXT000006072050)].

<sup>118</sup> [France] Decree no. 2011-1693 of 30<sup>th</sup> November 2011 concerning the protection of social and financial rights of foreigners without documentation and repression of illegal work (Décret n° 2011-1693 du 30 novembre 2011 relatif à la protection des droits sociaux et pécuniaires des étrangers sans titre et à la répression du travail illegal), available at:

[[www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024881074&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024881074&categorieLien=id)].

<sup>119</sup> [France], Labour code (code du travail), article 8252-4 available at:

[[www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000024194190&cidTexte=LEGITEXT000006072050](http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000024194190&cidTexte=LEGITEXT000006072050)].

(besides the recovery of a contribution<sup>120</sup> special contribution (contribution spéciale)<sup>121</sup> due by the responsible employer). This part of their mandate is thus fairly recent and the official interviewed during the research reported no strategic document on this aspect specifically. The official indicates that for workers already back in their country of origin, the payment system is organised via the relevant French consulates. The OFII is also tasked with the recovery of two administrative fines applicable in situations of employment of migrant workers without documentation (*contributions spéciale*).

Some sums due to workers have been recovered. In practice, the obstacle is, reportedly, the goodwill of the employers [S(1)]. Reportedly, some employers will still challenge the procedure and choose to go to litigation (before administrative courts) at that stage. There is no decision yet (as of the date of the interviewee) when it comes to such procedures for enforced recovery. Some 4 litigation cases are pending. An interesting finding is that for the year 2013, as conceded by the official interviewed, the OFII registered no single request from migrant workers for support in recovering their social rights. The representative interviewed was of the view that this is not due to a lack of information/support of workers by their services – stressing that OFII mediators will be present in all administrative retention centres - but rather to their deliberate choice on the part of workers not to raise issues with the employers [S(1)]. Note: The OFII annual report, 2012, mentions the role of the institutions in terms of collection of contribution the mission vis à vis workers is not mentioned)<sup>122</sup>.

- **Civil law claims in the criminal justice system**

Several interviewees had no experience to assess [J(1); W(2)], or stressed the lack of presence of workers as civil party in procedures concerning illegal work [J(1)], and the still limited case law on criminal procedures concerning labour exploitation [S(1)]. Effective access to compensation will depend on the quality of the investigation, adequate characterisation of the offences, and for victims, support from a lawyer [W(1)].

The judicial response as a whole was seen by some respondents as varied (no significant trend to report as far as professional groups are concerned), depending on the sensitivity of judges [S(2)] and given also a general lack of specialisation [J(1)]. One NGO representative reported attitudes spanning from almost racist reasoning (e.g. on a perpetuation of exploitation occurring within specific communities, suggesting a cultural factor), or limitations in the analysis of evidence (focusing on the shared responsibility of the victim, given, in some cases, the irregular entry into the country, a claimed “family arrangement”, or suggesting workers acted deliberately, out of “desperation to find a better situation abroad”), to a more objective assessment that will be rightly favourable to the victim [S(1)]. Respondents reported that decisions were varied on compensation. Sums awarded will vary (15,000 to 30,000 Euros for a “basic case of slavery”, from the experience of one NGO representative, [S(1)], depending sometimes on the period of exploitation, but also on whether violence was involved. Perceptions on the gravity of the exploitation will also have an impact. In this regard, some respondents suggested that sexual exploitation remains a point of comparison, against which other forms of labour exploitation tend to be looked at as “soft” [S(1); L(1)]. Amounts awarded are sometimes judged as inadequate or derisory (position of the lawyer concerning the case

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<sup>120</sup> [France] Code of entry and stay of foreigners and of asylum, article L-626-1, available at : [\[http://legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000020463761&cidTexte=LEGITEXT000006070158&dateTexte=20091027&oldAction=rechCodeArticle\]](http://legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000020463761&cidTexte=LEGITEXT000006070158&dateTexte=20091027&oldAction=rechCodeArticle).

<sup>121</sup> [France], Labour code (code du travail), article L8253-1, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?sessionId=5C57B67084C76827EF2082DB6C6653E2.tpdjo11v\\_2?i dArticle=LEGIARTI000026948146&cidTexte=LEGITEXT000006072050&dateTexte=20140721&categorieLien=id &oldAction=&nbResultRech=](http://www.legifrance.gouv.fr/affichCodeArticle.do?sessionId=5C57B67084C76827EF2082DB6C6653E2.tpdjo11v_2?i dArticle=LEGIARTI000026948146&cidTexte=LEGITEXT000006072050&dateTexte=20140721&categorieLien=id &oldAction=&nbResultRech=).

<sup>122</sup> [France], OFII (2013), Rapport d'activité, Année 2012, pp.36-38, available at: [\[www.ofii.fr/IMG/pdf/Rapport\\_d\\_activite\\_OFII\\_2012.pdf\]](http://www.ofii.fr/IMG/pdf/Rapport_d_activite_OFII_2012.pdf).

study relating to the Romanian woman). One judge [J(1)] argues that methods of determination of amounts before criminal courts are not always clear:

*"To calculate the financial damages: it is the rule of thumb technique, they do what they can. They did not do the calculation like us, in a certain year the minimum was so much, etc. There is a certain rigour they did not have. It's not really their field."*

One lawyer shared this view [L(1)]. Another insisted on the need for lawyers to decouple demands for compensation, reserving those concerning withheld wages for the labour court procedures [L(1)].

Concerning practices with the Commission for the compensation of victims (*Commission d'Indemnisation des Victimes d'Infractions*, CIVI), respondents shared a number of observations. Concerning access, it was highlighted by one respondent that access is facilitated when the case was qualified as trafficking in human beings, since the victim will not be required to attest to a resulting incapacity of 30 days or more (*incapacité de travail*) [N(1)]. In fact, this is also the case for victims of offences of reduction into slavery and exploitation<sup>123</sup>. One lawyer argued that migrant workers in an irregular situation will not have access to the CIVI [L(1)]. However the condition of regular situation (at the time of the offence or when applying) was actually removed from the Code of criminal procedure with the adoption of the law of 5th August 2013<sup>124</sup>. Indeed, compensation becomes for them accessible under a number of conditions, the two critical ones being that the offense(s) was committed on the national territory, comes under a specific list (which includes slavery and trafficking) or meets a certain threshold of gravity (these last two criteria equally apply to nationals (see provision referenced in footnote -versions before and after legal reform - for more details).

Reportedly, the calculation of compensation to be awarded is variable. One NGO representative mentioned damages may be recalculated downwards [S(1)], but still constituted a positive alternative to enforcement proceedings against the exploiters, which are unlikely to deliver. One NGO representative pointed out cases were too few in number for any general assessment of practices of the CIVI [S(1)]. One respondent stressed a gap, already mentioned, in terms of assessment in cases of exploitation other than sexual exploitation, notably when it comes to psychological damage, which may be under-evaluated in some cases ("Was that really slavery?", "Was it really exploitation?") [N(1)]. This gap, in the respondent's view, is not necessarily justified. As observed in one case, the CIVI may also be cautious on these issues of trafficking and exploitation, including by withholding its decisions until the outcome of the criminal procedure is known, as experienced in one case concerning a minor. The lack of case law is also an issue here.

As concerning civil procedures, enforcement was reported as a challenge, with the lack of voluntary payment of compensation by exploiters sentenced to pay such, and situations of insolvency. [S(1)]. Efforts to enforce execution with bailiffs may be costly [S(1)]. Procedural guarantees were put forward as useful to prevent such issues: provision of a financial bond

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<sup>123</sup> [France] Code of criminal procedure (code de procédure pénale), article 706-3 , 2°, available at: [www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=6CE4C4A558AA27F9538710AF32EDB181.tpdjo13v\\_3?iDArticle=LEGIARTI000027813042&cidTexte=LEGITEXT000006071154&categorieLien=id&dateTexte=20140719](http://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=6CE4C4A558AA27F9538710AF32EDB181.tpdjo13v_3?iDArticle=LEGIARTI000027813042&cidTexte=LEGITEXT000006071154&categorieLien=id&dateTexte=20140719) ].

<sup>124</sup> [France] Law no. 2013-711 of 5<sup>th</sup> August 2013 including various adaptations in the field of justice, in line with EU law and international commitments of France (Loi no. 2013-711 du 5 août 2013 portant diverses provisions d'adaptation dans le domaine de la justice en application du droit de l'Union européenne et des engagements internationaux de la France), article 20, available at: [www.legifrance.gouv.fr/affichTexte.do;jsessionid=6CE4C4A558AA27F9538710AF32EDB181.tpdjo13v\\_3?cidTexte=JORFTEXT000027805521&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=6CE4C4A558AA27F9538710AF32EDB181.tpdjo13v_3?cidTexte=JORFTEXT000027805521&categorieLien=id); article 706-3 of the Code of criminal procedure, available at: [www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=6CE4C4A558AA27F9538710AF32EDB181.tpdjo13v\\_3?iDArticle=LEGIARTI000027813042&cidTexte=LEGITEXT000006071154&categorieLien=id&dateTexte=20140719](http://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=6CE4C4A558AA27F9538710AF32EDB181.tpdjo13v_3?iDArticle=LEGIARTI000027813042&cidTexte=LEGITEXT000006071154&categorieLien=id&dateTexte=20140719) ].

(*cautionnement*) in the context of the judicial procedure<sup>125</sup>. As reported, victims can also turn to the dedicated service which supports victims in the recovery of damages awarded (*Service d'aide au recouvrement pour les Victimes d'Infractions, SARVI*),<sup>126</sup> which will advance 3000 Euros (see also the NFP report on victim support services for further information – no significant further elaboration from other interviewees on this aspect) and then use its exclusive mandate to recover the sums due. No general assessment was shared on the efficiency of this system. Another general challenge identified by respondents also included the excessive length of procedures [W(1); L(2)]: although this is not specific to labour exploitation cases. This can prove particularly challenging for victims (e.g. see the case which went all the way to the Court of Cassation with still an ongoing appeal trial with charges (debated) of notably illegal employment and submitting a vulnerable person to working conditions and accommodation incompatible with human dignity and facts that date back to the period 2000-2005).

Ultimately, one respondent [N(1)] stressed the fact that further emphasis in training on issues of labour exploitation should have a positive impact on access to compensation. As the respondent puts it:

*"It's an entire chain. As soon as (...) we manage to train magistrates and investigators on labour exploitation and not only sexual exploitation, and that the criminality, or classification changes, I think that then responses in terms of civil compensation, even if it is independent, will change also, curiously".* [N(1)]

One NGO representative [S(1)] echoed this view when stressing the need for organisations to further engage on issues of enforcement:

*"We lack resources. It is absolutely essential to develop expertise and action on the enforcement of judgments and enforcement of court rulings. Compensation is very nice but most of the time it is on a piece of paper they can frame. Some get satisfaction from the conviction of the person, but here, they are not compensated".* [S(1)]

- **Complaints being lodged by third parties**

As far as legal actions are concerned:

Concerning criminal courts, reference was made to article 2-22 of the Code of criminal procedure<sup>127</sup>, the result of the legal reform of 5 August 2013, which provides NGOs ('any association') established for at least 5 years and with a relevant mandate with the possibility to exercise the rights of civil party in cases of human trafficking, reduction to slavery, exploitation, forced labour and reduction into servitude (*réduction en servitude*). The admissibility (*recevabilité*) of the NGOs action is conditional on the agreement of the victim (or their legal representative if they are a minor or a protected adult).

Concerning action before labour courts, reference was made to the general competence of professional unions to be civil party in cases where direct or indirect prejudice is caused to the profession they represent<sup>128</sup>. Also mentioned was the possibility for unions to bring legal action

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<sup>125</sup> [France], Code of criminal procedure (code de procédure pénale), article 138-11, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000006575615&dateTexte=&categorieLien=cid](http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000006575615&dateTexte=&categorieLien=cid).

<sup>126</sup> [www.fondsdegarantie.fr/sarvi](http://www.fondsdegarantie.fr/sarvi).

<sup>127</sup> [France] Code of criminal procedure (code de procédure pénale), article 2-22, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000027806922&cidTexte=LEGITEXT000006071154](http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000027806922&cidTexte=LEGITEXT000006071154).

<sup>128</sup> [France] Labour code (code du travail), Article L 2132-3, available at: [www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006901591&cidTexte=LEGITEXT000006072050](http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006901591&cidTexte=LEGITEXT000006072050).

before the courts in the place of employees (action by substitution) in a limited number of cases: moral and sexual harassment, discrimination<sup>129</sup>, and redefinition of a contract from fixed-term to permanent duration<sup>130</sup> [L(2)]. Conditions will differ: in the first case, written agreement of the employee is necessary, in the second, he/she should be notified of the action and not oppose it within 15 days. But such actions remain seemingly quite rare.

One lawyer deemed it useful to extend such a possibility to issues of labour exploitation of relevance to this project. It should be noted that this option already existed in relation to the rights and entitlements of workers without work authorisation<sup>131</sup>. One union representative also mentioned prospects of an extension of unions' mandates in this respect. This has materialised in the law of 11 July 2014 on the fight against illegal social dumping, which modifies the Labour code<sup>132</sup> and provides room for action by unions in cases concerning illegal work<sup>133</sup> and posted workers<sup>134</sup> (see also legal overview). The condition of admissibility of the action is one of non-opposition of the worker informed of the action.

A number of respondents mention the duty for any person to report any criminal offence they may be aware of to the prosecutor's office. A legal obligation is also applicable for any public official<sup>135</sup>. Relevant situations may also be referred to the labour inspectorate, as is done occasionally by respondents [W(1)]. Some respondents also stressed the supportive role NGOs and unions can play, whether it is to accompany victims to a police unit to file a complaint, or to stand by workers in court [N(1); S(1)], assisting them directly or using a lawyer.

- **Mechanisms that would facilitate the lodging of complaints of migrant workers against employers**

A number of respondents had no specific suggestions to share [J(2); L(1)] or maintained that the prevailing treatment of irregular migration remains the key stumbling block and a source of logical fear for migrants [W(1); L(1); S(1)]. Others chose to insist on the need to remove current obstacles which are dissuasive: these include the current excessive length of investigations [W(1)] and judicial proceedings. The recent removal of the financial contribution required from individuals filing legal action (35 Euros when initiating a first instance action)<sup>136</sup>

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<sup>129</sup> [France], article L1154-2 of the Labour Code, available at: [www.legifrance.gouv.fr/affichCode.do;jsessionid=6248E24D813E91600E9FC522EAB114D3.tpdjo04v\\_2?idSectionTA=LEGISCTA000006177847&cidTexte=LEGITEXT000006072050&dateTexte=20140403](http://www.legifrance.gouv.fr/affichCode.do;jsessionid=6248E24D813E91600E9FC522EAB114D3.tpdjo04v_2?idSectionTA=LEGISCTA000006177847&cidTexte=LEGITEXT000006072050&dateTexte=20140403).

<sup>130</sup> [France]: article L1247-1 of the Labour Code, available at: [www.legifrance.gouv.fr/affichCode.do;jsessionid=6248E24D813E91600E9FC522EAB114D3.tpdjo04v\\_2?idSectionTA=LEGISCTA000006177871&cidTexte=LEGITEXT000006072050&dateTexte=20130903](http://www.legifrance.gouv.fr/affichCode.do;jsessionid=6248E24D813E91600E9FC522EAB114D3.tpdjo04v_2?idSectionTA=LEGISCTA000006177871&cidTexte=LEGITEXT000006072050&dateTexte=20130903).

<sup>131</sup> [France], Labour code, article L8225-1, available at: [www.legifrance.gouv.fr/affichCode.do;jsessionid=6248E24D813E91600E9FC522EAB114D3.tpdjo04v\\_2?idSectionTA=LEGISCTA000006178282&cidTexte=LEGITEXT000006072050&dateTexte=20140403](http://www.legifrance.gouv.fr/affichCode.do;jsessionid=6248E24D813E91600E9FC522EAB114D3.tpdjo04v_2?idSectionTA=LEGISCTA000006178282&cidTexte=LEGITEXT000006072050&dateTexte=20140403).

<sup>132</sup> [France], Law no. 2014-790 of 10<sup>th</sup> July 2014 on the fight against illegal social dumping, (Loi no. 2014-790 du 10 juillet 2014 visant à lutter contre la concurrence sociale déloyale), available at: [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000029223420&dateTexte=&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000029223420&dateTexte=&categorieLien=id).

<sup>133</sup> [France], Labour code (code du travail), article L8223-4, available at: [www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=8352FD92AF548CD92CDABF3AC7269F81.tpdjo04v\\_2?idArticle=LEGIARTI000029233829&cidTexte=LEGITEXT000006072050&dateTexte=20140719&categorieLien=id&idAction=&nbResultRech=](http://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=8352FD92AF548CD92CDABF3AC7269F81.tpdjo04v_2?idArticle=LEGIARTI000029233829&cidTexte=LEGITEXT000006072050&dateTexte=20140719&categorieLien=id&idAction=&nbResultRech=).

<sup>134</sup> [France], Labour code, article L1265-1, available at: [www.legifrance.gouv.fr/affichCode.do;jsessionid=8352FD92AF548CD92CDABF3AC7269F81.tpdjo04v\\_2?idSectionTA=LEGISCTA000029233759&cidTexte=LEGITEXT000006072050&dateTexte=20140719](http://www.legifrance.gouv.fr/affichCode.do;jsessionid=8352FD92AF548CD92CDABF3AC7269F81.tpdjo04v_2?idSectionTA=LEGISCTA000029233759&cidTexte=LEGITEXT000006072050&dateTexte=20140719).

<sup>135</sup> [France] Article 40 of the Code of criminal procedure, available at [www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006574933&cidTexte=LEGITEXT000006071154](http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006574933&cidTexte=LEGITEXT000006071154).

<sup>136</sup> [France], Decree no. 2013-1280 of 29<sup>th</sup> December 2013 concerning the removal of the contribution for legal aid and various provisions concerning legal aid and support (Décret no. 2013-1280 du 29 décembre 2013 relatif à la suppression de la contribution pour l'aide juridique et à diverses provisions relatives à l'aide juridique), available at:

was mentioned as a positive step (even if there was an exemption procedure, this was creating further delays) [L(1)].

Many experts' suggestions focus on the strengthening of support available for victims with notably: the development of resources of the labour inspectorates [L(1)], and early and more systematic referrals of situations encountered to unions [W(1); L(1)]; further guarantees of adequate reception in police stations when they want to press charges [W(1)], and cutting down waiting time [P(1); W(1)]; further training for police officers [S(2)] and NGOs supporting migrant workers on issues of exploitation [L(1)]; further engagement on the part of workers' unions [W(1)]. Specific mechanisms/concrete proposals shared by some of the respondents included:

- The introduction of focal point officers competent to deal with cases of human trafficking. Although it was pointed out that this could not be reasonably done in all police stations [S(1)], it could be envisaged on a Departmental/regional level. Treatment currently remains, as reported, varied depending on units one will be dealing with. Some of them are reluctant to receive victims of domestic servitude because they are not receptive, not trained for it.
- The extension of the current time available for the victim to file a complaint/cooperate with law enforcement services (*délai de réflexion* – currently of 3 months according to the interviewee). This was a point of advocacy of the network around the National Action Plan Against Trafficking (Plan National de Lutte contre la Traite des Etres Humains). As one NGO representative argues [S(1)]:

*"There needs to be time for reflection. Time should be given to the associations, the public bodies, for them to do their work, the time to explain to the person their rights, their interests, what to do, and all that sometimes with the language barrier which means that explaining things is difficult".*

- Further legislative reform was also suggested to avoid conditioning access to residency to prior cooperation with the judiciary on the part of victims. One NGO representative suggested reversing the current approach, also from a perspective of impact (providing security first, including in terms of residency, to allow victims to come forward). The respondent refers to the approach in Italy. Such a reform is actually anticipated in the national action plan for victims of human trafficking, with a prospect of access to a temporary residency permit without a condition of prior cooperation<sup>137</sup>.
- The introduction of an online European platform for workers to report/denounce situations of exploitation [W(1)]. Further specialisation could also be introduced at the level of the Prosecutors' offices (as seemingly exists in Belgium, or soon in Switzerland) to ensure adequate follow-up.

Concerning victims of trafficking, one NGO representative [S(1)] described what they would consider the ideal functioning in the following terms:

*"In an ideal world, normally in the system it should work like this: we receive the victim, they want to press charges, no problem. We go to the police, we are received with an interpreter, they have the necessary time. They know what we are talking about, they are guided by the prosecution, and they make a complaint with accurate facts, and*

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[[www.legifrance.gouv.fr/affichTexte.do;jsessionid=6AA389ADE5F0712B5BEFBD0E848E1344.tpdjo11v\\_2?cidTexte=JORFTEXT000028402277&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=6AA389ADE5F0712B5BEFBD0E848E1344.tpdjo11v_2?cidTexte=JORFTEXT000028402277&categorieLien=id)].

<sup>137</sup> [France], Ministry of Women's Rights, Urban Policy, Youth and Sports (Ministère des droits des femmes, de la ville, de la jeunesse et des sports), National action plan against trafficking in human beings (2014-2016) (*Plan d'action national contre la traite des êtres humains*), p. 12, available at: [<http://femmes.gouv.fr/wp-content/uploads/2014/05/Plan-daction-national-contre-la-traite-des-%C3%AAtres-humains.pdf>].

*which is well oriented. Immediately, they give us the receipt of complaint form. We go to the prefecture in the following days. If the prefecture plays the game, they make the connection with the prosecutor who replies, who says: "Ok, this is trafficking." And there, it would be much faster. I think all these successive difficulties for victims ... It would be interesting to ask them to see how they perceive it, it is an obstacle course" [S(1)].*

## 6. Attitudes

Respondents generally share no one-sided views when it comes to the overall impact of interventions for migrant workers victim of exploitation. Positive outcomes could be dependent on the opening and result of a judicial procedure, on protection measures put in place, and on the ability to secure access to a residency permit and benefit from support services of NGOs. Adverse impact begins with losing one's job and source of revenue. Respondents cited the lack of information on one's rights, cultural barriers, vulnerability and the hold of employers, and gaps in support available as among key reasons for under-reporting. Risks and fears (deportation, loss of job and future opportunities, exposure to reprisals) should also not be underestimated in this respect. According to respondents, being able to stay and make a living within the EU and being in a position to financially support other family members are two key priorities for workers who are victims.

In terms of the overall response to labour exploitation, it was recurrently pointed out that the legal framework is now in place, and that key challenges remain with implementation. Respondents called for further resources in terms of budget, capacities and trainings, notably for NGOs who wish for a departure from the current focus on the fight against sexual exploitation and trafficking for that purpose at the expense of that against other forms of labour exploitation.

- **Overall impact of interventions on the interests of migrant workers concerned**

To several respondents, the question concerning the impact of interventions was not always straight clear in its formulation/meaning. Most chose to elaborate on specific aspects addressed in subsequent paragraphs rather than offering a clear-cut opinion.

Some consider that the legal framework is in place and generally provides for the protection of workers and repression of exploiters. The EU directive on the sanction of employers was also cited as favourable to further emphasis on a victim-centred approach, with the introduction of a procedure for workers to claim back their social rights [M(1); S(1)]. The overall challenge remains one of systematic implementation [N(1); M(1)]. In this respect, gaps in resources of the labour inspectorate were seen as detrimental to the effective and timely detection of situations of exploitation [J(1); S(1); E(1); W(1)].

The sanctions adopted against employers who employ workers illegally, tracing back to contracting authorities, can help "*cut the source of exploitation*" [J(1)], raise awareness on this issue, and act as a deterrent [P(1)]. Interventions of the labour inspectorate are also focused on the detection of violations of labour law and should therefore impact positively [M(1)]. Still, some respondents - no specific trend /differences across groups -would argue that still today the priority remains on the fight against irregular migration rather than illegal work and exploitation, this leads to unfavourable treatment for migrant workers in an irregular situation, who, as reported, are perhaps more exposed than exploiters [L(1); W(1)]. Others stress the risk of differing treatment, e.g. depending on the law enforcement services one will be dealing with [S(1)], or express disappointment with judicial follow-up. As one labour inspector reports:

*"Most of the time we do not feel useful ... When we are dealing with criminal employers who know very well that, well, before they are punished, before there is the legal system ... we don't feel that we are rapidly and effectively any use".*

Positive outcomes are found in situations in which victims are able to access a residence permit (for those in an irregular situation) and stabilise their situation in France, which is often a key concern for them [S(1)]. Some interventions can still, to some extent, have an adverse impact on the situation of workers, if they expose them to deportation, or put an end to their activity and deprive them of a source of income (which can for instance be the case in situations of administrative closure, [P(2)]). Several respondents shared the view that the judicial procedure remains a necessary step in the interests of victims [P(1); N(1)], in spite of

its excessive delays, often pointed out [L(2); S(2); W(1)] and uncertainty in terms of results and effective compensation etc. [S(1)]. Compensation can be obtained (before the labour courts, [J(1)]). Several respondents put forward conditions for interventions being favourable to workers. For one, migrant workers will benefit from judicial procedures to the extent that they benefit from swift and effective assistance from NGOs [S(1)], and/or unions and/or lawyers [M(1)]. Actions of specialised NGOs are essential in this respect [L(1); N(1)] as the involvement of workers in procedures is hardly a given (note: one prosecutor reported that, in cases of judicial procedures with charges of illegal work, they never saw any migrant workers involved as civil party [J(1)]). Benefits are also dependent on the judicial police and judiciary adequately understanding and legally classifying the situations, and notably situations of trafficking [N(1)]. Specific challenges will often arise. They include the access to a residency permit for victims [S(1); W(1)], which if overly restrictive further exposes victims to exploitation [S(1)], and limits access to the support available to victims to redefine and build an alternative professional project consistent with their aspirations and qualifications [W(1)].

Concerning **minors** specifically, competent respondents argue that while the social system is oriented towards protection [S(1)], it proves inefficient and not adapted when it comes to the protection of exploited foreign children (who are involved in criminal activities) [J(1); P(1)]. One law enforcement officer stresses the existence of protracted situations of exploitation and calls for new measures to be experimented, e.g. in terms of placement and social support [P(1)]:

*"Minors are not served by interventions because basically nothing is done to allow them to get out (...) Because of this failure we allow painful situations to endure". [P(1)]*

### **Reasons why not more migrant workers come forward and seek a way out of their situation**

Most respondents would consider under-reporting a reality. They cite multiple reasons, from a form of toleration/acceptation of poor working conditions to a set of objective obstacles and dissuasive risks.

For many respondents, some workers, and notably posted workers (for instance in the construction sector), will sometimes knowingly tolerate exploitative conditions of work, considering the significant revenues of the work in contrast to the opportunities and conditions which prevail in their country of origin [N(1); M(2); S(1)]. Some respondents would say these workers actually would not consider themselves as victims of exploitation [S(1); E(1); M(1); P(1)]. They may be significantly under-remunerated, and be aware that it is illegal, but it may still amount to 2 or 2 ½ times what they would earn back in their country of origin. So the issue, they stress, is not necessarily one of knowledge of one's rights [M(1)]. Workers qualifications and educational background should also not be underestimated [M(1)].

Economic vulnerability: In some cases, the workers will consider their employer as a benefactor (*bienfaiteur*) [N(1)]. Their precarious social situation may also impact on their consciousness of being in a situation of exploitation. Workers may find themselves trapped with daily concerns to meet their basic needs [S(1); L(1)], or need to repay a debt [S(1)] with limited alternative prospects for the future [W(1); J(1)].

A set of objective obstacles and dissuasive perceptions were highlighted:

- The **lack of information on their rights**, including the right to file a complaint, and knowledge of relevant institutions to turn to for support and to seek a remedy [E(1); M(2); S(1); W(1); P(1)]. Complex cross-border arrangements with labour contracts and sub-contracting can affect workers' capacity to understand under what regime they work, and what their entitlements are. As exposed by one expert, "*it is the people who are victims of that are completely in the dark when it comes to their rights, of employment rights as*

a worker who pays social contributions. They no longer know what they are really entitled to” [M(1)].

- **Gaps in command of the language** and educational background [M(1); W(1); J(2)]. This issue can lead to workers prioritizing solutions within their own community, when available, and staying away from social services and any other public institutions [S(1)]. The least educated will be the most unlikely to come forward to file complaints and seek assistance to take legal action, as reported also by a lawyer: “*Those who do not have any education and do not speak the language – these are the ones I do not see*” [L(1)]. Geographical isolation will also be a further element in some cases, e.g. for agricultural workers” [M(1)].
- **Cultural barriers:** migrant workers may be projecting negative perceptions of law enforcement officials and the judiciary formed in their own country and therefore will not trust nor reach out to these institutions [S(1); P(1)]. As a representative of a victim support NGO [S(1)] says:

*“These are not people who will not seek justice. It comes from their social and cultural background. There is also the fact that in their country justice can be corrupt. They have the idea that it is the powerful who win. As it is the employer who is powerful, it is useless. And they come from a social layer where we do not instinctively seek justice, from authorities”.* [S(1)]

Some workers will not perceive their interest in filing a complaint and remain sceptical on chances to actually recover financial amounts due, notably before the labour court [M(1)].

- **Vulnerability and hold of employers**, in most extreme situations of exploitation, and notably situations of trafficking and domestic exploitation [P(1); S(1); L(2)]. Victims may sometimes be subjugated, under hold psychologically (*asujetties*) and no longer aware of the abnormal conditions they find themselves in, and are in a state of great vulnerability [P(1)]. The provision of housing will deepen dependence and allow exploiters to control both professional and personal life. Realisation of one’s condition as a victim, and moving towards a complaint in order to obtain reparation will then be progressive, and be dependent on external support, including from NGOs [S(1)]. Some situations will involve not only psychological but also physical violence (see for instance one of the case studies). Conflicts of loyalty may also play a role when the exploiter is a relative [S(1)].
- **Gaps in support available** for victims to exit their situation of exploitation, be informed about remedies available and to take action. Several respondents stress the relative isolation of some migrant workers – including domestic workers, who are to some extent invisible (see also the case study concerning the retail sector and concerning a stud farm). This was confirmed in a 2008 European study in which testimonies of victims were collected [S(1)]<sup>138</sup>. Support services may not be identified or may not be available. This includes NGOs, but also unions. As one expert recounts: “*The transport unions are not so receptive to these problems as to come to the assistance of foreign drivers*”[M(1)]. One judge also points out that unions may sometimes be reluctant to assist foreign (and undocumented) workers as this could be politically sensitive in relation to their constituencies, given also the current state of high unemployment in the country (suggesting a form of unequal competition by those migrant workers in relation to nationals) (See also 5.1).

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<sup>138</sup> ALC(2008), Feed-back, available at: [[www.acse-alc.org/fr/publications/les-publications](http://www.acse-alc.org/fr/publications/les-publications)] ; See also : [[www.contrelatraitement.org/IMG/doc/Annexe6=CR\\_feed\\_back.doc](http://www.contrelatraitement.org/IMG/doc/Annexe6=CR_feed_back.doc)].

Some argue that time will be needed for specific groups of migrants to adapt, when working in France, and to find themselves in a position to effectively defend their rights: as one union representative reports:

*“It can be seen that for these employees, there needs to be adaptation. 10-15 years ago we were talking about the Polish plumber, at present we do not talk about that any more. There is a population, after 10 years they have understood the system. They know the rules. So what happens now with Romania and Bulgaria, in 10 years it will be other countries. Because these people they will understand our French system, they will understand how the rules work automatically and they will defend themselves. But they need time to adapt to learn to defend themselves. It is well known that in the slaughterhouses, 10-12 years ago, they found a lot of Vietnamese, Cambodians. They were exploited, at the present time, no. We occasionally have Vietnamese who went on strike, so they defend themselves. And that population, in 5-8 years, they will defend themselves, they go on strikes they will start to speak French, etc.” [W(1)]*

Rapid staff-turnover in certain sectors, such as meatpacking where working conditions are hard, will impact also on the capacity of workers to get organised, or will be a solution to it [W(1)].

In addition, respondents stressed a set of risks, real or perceived:

- **Being in an irregular situation and facing deportation** if coming forward [S(2); W(2); M(1); J(2); L(1)]: this risk was cited by many respondents as dissuasive for victims. Some will have objectively “no interest in flagging up their situations” [P(1)]. This irregular situation also creates an integrated sense of being “less than a citizen”, as one NGO representative reports [S(1)]:

*“Being in an illegal situation. Being irregular in the country, for some people, they not only are not aware of their rights but also they feel like an underclass of citizens. Even if they went to assert their rights, they are not at the same level as other citizens. And then there is also, after all, because of their migrant status, whether regular or not, this suspicion that hangs over them. ‘You have chosen migration above all, and you must bear the consequences now. Prove us wrong. Prove to us that you have been hired to be exploited and that it is not you who chose to come then be exploited to turn the situation to your advantage.’ Because there is a suspicion that hangs over them, which is integral”. [S(1)]*

Exploiters also use this situation to threaten workers, maintain their hold and prevent any form of complaint of being irregularly staying in the country (see two of the case studies). In other cases, undeclared workers can be in a form of complicity with their employer, and thus logically oppose their situation being revealed [P(1)]

- **Fear of reprisals from the exploiter/employer** [W(5); S(1); M(2); L(1); J(1)]. The threats and related fear can also concern family members in the country of origin, effectively exposed to pressure [S(1)]. One union representative reported pressure of family members of workers in the agricultural sector, describing their situation in the following terms: “*The workers are, are in totally insecurity there. And if they move their head in the wrong way, they are reduced to nothing*”. A related factor is the fear of jeopardizing future opportunities of finding a job in the country [P(1); S(1)]. Respondents report that migrant workers will often fear being blacklisted within the community in which they are employed [S(1)]. Reportedly this could explain the limited number of requests by workers placed in administrative detention centres to claim social rights and assistance from the OFII to recover these. Some workers “[know] that they should better not speak if they want to find a job again” [P(1)].

- **Concrete implications of exiting one's situation:** Leaving and/or reporting one's situation means immediate loss of an often indispensable source of revenue [S(1); W(1); M(1)]. It also means for workers no longer being able to send remittances to family members back home [S(1)], and being exposed to ostracism within one's community or family (including in cases of return to the country of origin). In situations in which one is dependent on the employer for housing [W(1)], it also means having to find an alternative [W(1)]. It can also mean being exposed to reprisals, as one's protection will not always be guaranteed [L(1)].

Concerning **children** specifically, psychological fragility was also mentioned [S(1)], with many victims recruited as minors in the field of domestic work. Concerning criminal networks, it was reported that children are often under a hold, standing "*close to the perpetrators*" and solidly behind them, all the more when these are members of the family [J(1); P(1)]. Children can be trapped in violence with no other aspiration than to take on ever greater responsibility and status within the criminal network [P(1)].

- **Breakdown of most relevant factors for why not more migrant workers come forward and seek a way out of their situation**

Factors	Code	S	E	L	R	P	J	M	W	N	Total
Lack of effective monitoring of relevant areas of economy	01	-	-	1	-	-	3	1	1	-	6
Lack of targeted support service provision available to victims	02	2	-	1	-	-	-	-	-	-	3
Victims are not aware of their rights and of support available to them	03	6	-	2	-	-	-	3	3	1	15
Victims fear retaliation from the side of offenders against them or against family members	04	7	-	1	-	1	1	3	3	-	16
Victims suffer from feelings of shame	05	2	-	1	-	-	-	-	-	-	3
Victims believe that speaking to authorities is not worthwhile or they would not benefit from subsequent proceedings	06	1	-	2	-	2	2	3	2	-	12
Victims believe that proceedings are too bureaucratic and costly	07	-	-	-	-	-	2	-	1	-	3
Victims fear that if their situation became known to the authorities, they would have to leave the country	08	5	-	4	-	3	3	3	3	1	22
Victims do not trust that the police in particular would treat them in a sympathetic manner	09	2	-	-	-	1	-	1	1	-	5
Victims perceive being jobless as worse than working in exploitative conditions	10	2	-	3	-	5	-	3	2	1	16
Other-please specify	11	1	-	-	-	-	-	-	1	-	2
Don't know	12	-	-	-	-	-	-	-	-	-	0

Note on interpretation: 22 respondents cited the fact that "Victims fear that if their situation became known to the authorities, they would have to leave the country" as a most relevant factor for why not more migrant workers come forward and seek a way out of their situation. Responses were based on proposals (multiple choices).

Choices of respondents were consistent with spontaneous responses recorded during interviews. The fear of being exposed to deportation (08), the risk of finding oneself without any job (10), the fear of retaliation from the exploiter/employer (04), the lack of awareness

about one's rights and support available (03), as well as the notion that they would not benefit from subsequent proceedings if complaining (06) were most often cited. Additional factors very occasionally cited concerned domestic workers and carers: the affective ties built with children from the family (fear of being separated) and for some, a stronger desire to "move on" if and once they managed to exit and change their personal situations, and when the employer/exploiter is gone.

- **Breakdown and discussion of the three most important factors to migrant workers who are victims**

Factors/objectives	Code	S	E	L	R	P	J	M	W	N	Total
To be safe and to be protected against further victimisation	01	3	-	3	-		1	1	1	-	9
For their family to be safe	02	3	-	-	-	1	1	-	2	1	8
To be able to stay and make a living in an EU country	03	7	-	4	-	5	2	3	5	-	26
To see that offenders are held accountable and that justice is done	04	1	-	5	-	-	-	1	2	-	9
To be respected and to see that their rights are taken seriously	05	1	-	1	-	1	-	2	2	1	8
To be in a position to economically support other family members	06	6	-	-	-	5	1	3	3	1	19
To receive compensation and back pay from employers	07	3	-	3	-	2	-	2	-	-	10
To be able to return home safely	08	-	-	1	-	-	-	1	-	-	2
Other (please specify)	09	-	-	-	-	-	-	-	-	-	0
Don't know	99	-	-	-	-	-	-	-	-	-	0

Note on interpretation: 26 respondents cited "being able to stay and make a living in the country" as an important factor/element for migrant workers who are victim of exploitation. Responses were based on proposals (multiple choices).

According to respondents, being able to stay and make a living within the EU (03), and being in a position to financially support other family members (06) stand out as two key priorities for workers who are victims. Other factors listed (the third one being to receive compensation and back pay from employers) were often found relevant as well, with the exception of the objective of safe return.

- **Is enough being done in the country to address severe forms of labour exploitation?**

Several respondents stressed the fact that, overall, the legal framework is now in place, following the reform of 2013 [N(1); S(1)], which is expected to bring positive change in terms of judicial follow-up [L(1)]. Provisions of the labour code and criminal code thus provide for significant protection and sanctions against all forms of exploitation, taking into account vulnerabilities [S(1)].

The challenge remains effective implementation and means available in this respect [W(1); S(1)], and the resources may be lacking to ensure adequate monitoring actions [M(1); L(1); J(1); W(1)] and effectively prevent employers from circumventing legal regulations, including those derived from EU law [M(1)]. Concerns on resources extended to the judicial chain (police and judiciary) to conduct far-reaching and effective investigations [J(1)]. As argued by one union representative [W(1)] concerning foreign temporary work agencies placing workers in the agricultural sector: "*There is the legislation. And there is the implementation of the legislation. And today we are in a complete state of laissez-faire*". Still, positive changes were also expected from some respondents on the monitoring of posting of workers within the EU, with a proactive engagement (see legal overview on the Savary bill) [P(1)].

In terms of commitment and engagement, some respondents note a clear commitment on the more general fight against illegal work [W(1)]. Still, the response to labour exploitation is sometimes considered to be fragmented. Several NGO representatives (S- group) argue that the focus remains on responses to sexual exploitation rather than labour-related forms of trafficking, including in terms of budget and support to active NGOs [S(3)]. Some of them argued that there is still a disturbing emphasis on the repression of illegal immigration which can take priority over protection of undocumented migrant workers and their rights [S(2)]. Some stated that more can always be done [S(1)], but suggested that France was, comparatively, far from falling behind [M(1); E(1)]. (Note: the S group is larger than others, and NGOs tend to be indeed vocal/putting forward hopes for further public action and support for their own activities in the fight against labour exploitation and victim support). Several respondents mentioned the national action plan against trafficking, which includes a set of relevant measures already mentioned in the report, including for minors [J(1)]. France would be now "on track" [N(1)]. Among NGOs, it was long expected [S(1)], and it is hoped that it will provide grounds for the upward harmonisation of practices and evaluation over time of action against all forms of trafficking [S(1)]. Other interviewees insisted on the need for further engagement of professional organisations and unions on these issues of labour exploitation and trafficking (seen as limited so far, e.g. [P(1)])

Specific suggestions for improvement included:

- An increase of resources of the labour inspectorate in terms of staffing; training [L(1)] to include dealing with complex business organisations involving illegal subcontracting and supply of workers which generate labour exploitation [W(1)].
- The development of cross-border cooperation within the EU for inspections and checks on firms, and a responsive judicial follow-up, as it remains arguably limited up to now [E(1); M(1); W(1)].
- General awareness raising on current forms of labour exploitation and attitudes to adopt for persons who could be confronted with cases of exploitation [S(1)].
- The development of training activities targeting the police and judiciary [W(1)]
- A reform of the system of diplomatic immunity, to address current forms of impunity [W(1)]
- A reform of existing legislation on residency which creates for migrant workers a dependency on the employer [W(2); L(1)]

- A reform of the legal aid system to secure access for undocumented worker victims of exploitation [L(1)], and better remuneration of lawyers intervening in this context [L(1)].
- The introduction of guarantees of compensation for recognised victims of labour exploitation before labour courts, to remedy a recurring issue of insolvency of perpetrators [J(1)]. As suggested by a lawyer [L(1)], *“for the situation of people who work in private homes, there one could imagine a kind of collective fund. There are no reasons why not. As for criminal law victims who can apply to the Commission for the compensation of victims of offences (CIVI), one could imagine a collective system”*.
- The development of solutions concerning children, for placement and social support [S(1); P(1); J(1)]

Ultimately it was noted that the precarious economic and social situations prevailing in countries of origin need to be tackled as well if one is to hope for lasting solutions [P(1); N(1)].

• **Breakdown and discussion of the three measures which would most improve the way labour exploitation is addressed in the country**

Measures	Code	S	E	L	R	P	J	M	W	N	Total
Improve legislation against labour exploitation and its implementation	01	2	2	3		1	2	3	4		17
Improve legislation to allow better access to justice and compensation	02	1		3	-	2		2	1	-	9
More effective monitoring of the situation of workers in the areas of economy particular prone to labour exploitation	03	2	1	2	1	3	3	1	4	-	17
Measures to ensure that all workers know their rights	04	3	1		1		1	2	1	-	9
Measures to ensure that all workers have access to labour unions	05	-	-	2	-	1		1	1	-	5
More effective coordination and cooperation between labour inspectorates, the police and other parts of administration as well as victim support organisations and the criminal justice system	06	5	1	1	-	1	1	3	-	1	13
Setting up of specialised police units to monitor and investigate labour exploitation	07	1	-	-	-	-	-	-	1	-	2
Regularising the situation of certain groups of migrant workers with an irregular status	08	1	-	1	-	-	-	-	3	-	5
Regularising the situation of migrant workers once they have become victims of severe labour exploitation	09	3	-	3	-	-	-	-	1	-1	8
Measures addressing corruption in the administration	10		-	-	-	-	-	-	-	-	0

More training of police, labour inspectors and other authorities	11	6	-	2	-	1	-	3	1	2	15
Police and courts taking labour exploitation more seriously	12	1	-	-	-	-	1	2	2	1	7
Don't know	99	-	-	-	-	-	-	-	-	-	-

Note on interpretation: 17 respondents cited "more effective monitoring" as a key priority measure for the fight against labour exploitation in France. Responses were based on proposals (multiple choices).

The most frequently cited areas for improvement – based on proposals in the above table - were legislation (01), monitoring (03) (including cross-border) and training (11) (targeting labour inspectors, but also law enforcement officials and judges in labour and criminal courts, [M(1); L(1); S(1)]. It needs to be stressed again that most respondents mentioning legislation insisted on effective implementation of the existing framework rather than needs for further legal reforms [L(2); S(1); N(1); J(1)]. A number of respondents found all proposals to be relevant [M(1); L(1)]. Concerning in particular training (item 11), cooperation and coordination (item 6), awareness-raising with the general public (item 4), and judicial response (item 12) on issues of trafficking specifically, one can also refer to the national action plan (measure 2) for expected initiatives<sup>139</sup>.

Views were varied and sometimes opposed on the idea of opening up opportunities for regularisation of migrant workers (items 08, 09), which was seen as essential, or sometimes as totally inappropriate [J(1)]. Corruption was not seen as an issue at the moment. The prospect of heightened obligations of vigilance and legal responsibility for contracting authorities in the field of posting of workers was perceived in different ways. Several respondents saw the corresponding legislative initiative as a positive and necessary step [P(1); M(1); E(1)]. One representative of employers was critical of developments in that direction, concerning farming: the respondent deemed it irresponsible to press small employers (farmers) with monitoring responsibilities which they anyhow do not have any capacity to follow-up on [E(1)]. Others called for further emphasis in both inspections and sanctions on contracting authorities. As one union representative argued [W(1)]:

*Wwe should not hit the subcontractors first, they are the ones who suffer as well. If the company is not happy, it changes subcontractor. So anyway, the subcontractor is caught by the throat. And it is behind them that the company hides: "No, it's not me, it is the subcontractor." While we realize that if we could hit the contracting agent, that might change things a lot faster."* [W(1)]

<sup>139</sup> [France], Ministry of Women's Rights, Urban Policy, Youth and Sports (Ministère des droits des femmes, de la ville, de la jeunesse et des sports), National action plan against trafficking in human beings (2014-2016) (*Plan d'action national contre la traite des êtres humains*), available at: [<http://femmes.gouv.fr/wp-content/uploads/2014/05/Plan-daction-national-contre-la-traite-des-%C3%AAtres-humains.pdf>].

## 7. Conclusion and any other observations, including contentious issues from interviews/focus groups

As indicated previously, respondents in the panel had varying experiences of labour exploitation in France as far as migrant workers are concerned. If views of respondents logically varied with their professional responsibilities and engagement, few contentious issues actually emerged from the research. Findings from additional questions in focus groups, to the extent that these could be addressed (lack of time), were taken into account under relevant sections (e.g. prevention, access to justice).

In general terms, recurring themes/areas of concerns in interviewees include the situation of domestic workers, workers without documentation, and posted workers, in sectors such as construction. In all these situations, professionals highlighted the lack of workers willing to report their situation or file complaints, or being in a position to do so, stressing the need for further prevention, outreach and support solutions, and more reactive and effective sanctions on exploiters. Many interviewees – whether law enforcement officials, representatives of unions or NGOs, or the labour inspection – shared challenges they face to cope with current realities of exploitation, with sometimes limited resources (financial, human, and in terms of training/expertise) to interact with workers, investigate and effectively tackle and act upon situations, including in terms of victim support.

On this last issue of posted workers – topical - the background is one of a rapid increase in declarations of ‘posted workers’ (*détachement*) in recent years - even in those actually declared - concerning in large part workers with limited qualifications<sup>140</sup>. Misuse of the EU posted workers directive were reported by respondents, with migrants workers found in situations which breach the core applicable standards, notably on health and safety and working time. Some will be found in housing conditions contrary to human dignity. This larger phenomenon of so-called “low-cost” workers, in a context of persisting gaps in fiscal and social legislations across EU member states respondents, was also documented in a 2013 parliamentary information report, which stresses also current gaps in inspections and sanctions<sup>141</sup>. Its conclusions informed the most recent legal reform (cf.2 legal framework).

Several respondents argued that the larger fight against labour exploitation and the protection of victims still comes second to other priorities – including the fight against illegal immigration, the fight against illegal work and social fraud, and the fight against sexual exploitation. The specialisation and engagement of actors surveyed in this research, and specialisation of support services remain at this stage limited, as is the case law and the corresponding dissuasive effect of this. Still, recently, some judicial cases concerning also nationals received significant media attention. In one of these, in first instance last April 2014, the Prosecutor also relied on the 2013 decision of a Court of Appeal in another case which concerned a migrant worker (refugee) victim of trafficking in a stud farm, in order to charge the perpetrators with trafficking in human beings. The outcome was positive.

As reported by one interviewee, “much remains to be done” [N(1)]. However, further responses are hoped for in the coming months and years, with an updated legal framework and new instruments to sanction those responsible for the exploitation of workers. The national action

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<sup>140</sup> See also Ministry of Labour, employment, professional training and social dialogue, General Labour Directorate (Ministère du travail, de l’emploi, de la formation professionnelle et du dialogue social, Direction Générale du Travail (DGT)), Analysis of 2012 posted worker declarations of companies providing services in France, (Analyse des déclarations de détachement des entreprises prestataires de service en France en 2012), available at: [[http://travail-emploi.gouv.fr/IMG/pdf/Prestations\\_de\\_service\\_internationales\\_en\\_2012.pdf](http://travail-emploi.gouv.fr/IMG/pdf/Prestations_de_service_internationales_en_2012.pdf)].

<sup>141</sup> [France], National Assembly, Savary, Guittet, Piron (2013), Parliamentary information Report on the proposal for a directive on the execution of the directive on posted workers (rapport d’information sur la proposition de directive relative à l’exécution de la directive sur le détachement des travailleurs), available at [[www.assemblee-nationale.fr/14/europe/rap-info/i1087.asp](http://www.assemblee-nationale.fr/14/europe/rap-info/i1087.asp)].

plan against trafficking in human beings, with actions programmed for the period 2014-2016, is expected by many to bring a new impetus.

## 8. ANNEX

### QUOTES USED IN THE REPORT

#### 3 Labour exploitation and the institutional setting

##### 3.1 Overview of institutional mechanisms

[P(1)] "On a des dénonciations d'un côté. On planifie. Ensuite on se promène, on voit telle ou telle chose. On fait des reconnaissances. On se dit, "ça ca pourrait être intéressant". Il faut aller vite".

[P(1)] "We have reports on one side. We plan. Then we walk around, we see certain things. We do reconnaissance. We say, "It might be interesting that". We have to go fast. "

##### - Elements concerning inspections

[M(1)]: "Dans les situations d'exploitation domestique on va dire, il est rare qu'on ait l'assentiment des propriétaires des lieux. Donc du coup, on a pas de droit coercitif pour rentrer dans le local habité. C'est toute la problématique d'affaires qu'on peut connaître d'exploitation d'esclavage moderne de personnels domestiques dans des grandes demeures ou châteaux, de travailleurs migrants ou autres".

[M(1)]: "In situations of domestic exploitation let's say it's rare that we get the consent of the property owners. So we don't have the right to enter the inhabited premises. This is the big problem we have with cases that we know of for modern slavery, exploitation of domestic personnel in large chateaux, for migrant workers and others".

[M(1)]: "Après la rémunération... il y a ce qui apparaît sur le bulletin de salaire ça paraît correct...après par rapport au nombre d'heures qu'ils font... c'est beaucoup plus dur à contrôler"

[M(1)]: "Then for the remuneration...there is that which appears on the payslip, it looks in order...but when compared with the number of hours they do...it's much harder to check

[M(1)]: Il y a cette difficulté parce qu'on est sur des situations un peu éphémères - puisque par définition, la prestation est temporaire - et dans des contrôles complexes. C'est à dire qu'il faudrait pouvoir aller vite sur des situations complexes, qui sont plus complexes que ce sur quoi on intervient de manière classique".

[M(1)]: "There is this difficulty because we are on somewhat ephemeral situations - since by definition, the service is temporary - and they are complex inspections. That's to say we should be able to move fast on complex situations, that are more complex than those on which we work in a conventional manner. "

##### - Language barriers

[M(1)]: "La langue est le premier obstacle lors des contrôles". "C'est essentiel pour être à même de constater, échanger rapidement avec les travailleurs. On est dans un temps court. C'est en pratique difficile à mobiliser"

[M(1)]: "Language is the first barrier at inspections. It is essential to make observations, communicate quickly with workers. We have very little time. In practice it is difficult to enact".

[M(1)]: "On n'a pas les moyens et on les aura jamais. Il ne faut pas se faire d'illusion"

[M(1)]: "We do not have the resources and we will never have them. We should not delude ourselves."

#### - **Cooperation between institutions**

[P(1)]: "dans l'inter-institutionnalité, inter-ministériale, là c'est le travail en coopération. On a onze corps de contrôle aujourd'hui, il faut que ces onze corps de contrôle arrivent à travailler de manière satisfaisante ensemble. Je pense sincèrement qu'on a accompli des progrès énormes depuis une dizaine d'années. On est parti d'une situation où les fonctionnaires des différentes administrations et institutions ne se parlaient pas, où on se jetait à la tête le secret professionnel, à une situation où aujourd'hui les gens échangent des informations, des documents, et travaillent ensemble. Evidemment, là je décris un monde idéal, mais tout de même, on a progressé et on progresse assez vite."

[P(1)] "In the inter-institutional framework, between ministries, there is cooperative work. There are eleven control bodies today, these eleven control bodies have to work satisfactorily together. I sincerely believe we have made tremendous progress in the past decade. We started with a situation where officials from various institutions did not speak to each other, where we placed professional confidentiality at the top, to the present situation where people share information, documents, and work together. Obviously, there I'm describing an ideal world, but still, we have progressed and we are progressing quickly."

[W(1)] "L'inspection du travail, c'est assez précieux. A la fois eux ils sont obligés de se tenir dans une neutralité, ce que j'entends tout à fait, et qui me paraît précieux. Ce serait pas normal qu'elle soit pro défense des travailleurs. Il reste précieux de pouvoir avoir très régulièrement un échange de vues".

[W(1)]: "The labour inspectorate is quite valuable. At the same time they are forced to be neutral, which I totally agree with, and that seems valuable to me. It would not be normal for them to be pro-defence of workers. It remains valuable to have very regular exchanges of views."

[M(1)]: We share practices. We gain from the complementarity from each other to move forward on cases. And it works.

[M(1)]: On échange les pratiques. On profite de la complémentarité des uns et des autres pour avancer sur les dossiers. Et ça marche.

[M(1)]: "La chaîne de coordination, dans sa globalité, aujourd'hui n'existe pas. Au détriment des salariés victimes. Et sur lequel prospèrent des agences de placement et certains réseaux".

[M(1)]: "The coordination chain, as a whole, does not exist today. To the detriment of employees affected. And on which agencies and some networks thrive. "

### **3.2 Forms and frequency of incidents of labour exploitation**

#### - **Reported frequency and ways of learning about cases**

[M(1)]: "Dans la réalité, les services d'inspection contrôlent très très peu de" situations".

[M(1)]: "In reality the labour inspectorate services inspect very few situations".

## - Risk factors

### 4.1 Identification of common risk factors for labour exploitation

[S(1)]: 'La situation irrégulière est systématiquement utilisée par l'employeur comme instrument de soumission: " T'es en situation irrégulière, donc tu n'as droit à rien". Et si tu veux (te plaindre)... tu vas être embarquée par la police, ils vont te mettre en prison'"

[S(1)]: "The irregular situation is systematically used by the employer as an instrument of subjection: 'You are in an irregular situation, so you have no rights'. 'And if you want (to complain)...you'll be taken away by the police, they'll put you in prison' ".

[W(1)] "Quand le renouvellement est soumis à cette question de maintien dans l'emploi, le lien avec l'employeur, ca crée un lien de subordination insupportable". (...) C'est l'effet pervers du système: il faut prouver une activité professionnelle, donc pour la prouver il faut rester en poste, on va aller difficilement au conflit avec l'employeur. On va essayer de satisfaire à ses demandes".

[W(1)]: "When the renewal is subordinated to the stay in the job, the link with the employer, that creates an unbearable relationship of subordination". (...) "It is the perverse impact of the system: one has to prove professional activity, to do so one has to stay in the job, and therefore will not contest the employer. One will do anything to satisfy his/her orders".

[P(1)]: "migrant populations are by definition vulnerable when they set foot in the country, and constitute a population at risk".

[P(1)]: "populations migrantes sont par définition exposées dès lors qu'elles mettent le pied sur le territoire, et constituent une population à risques".

[R(1)]: « La migration en elle-même c'est un déchirement, c'est laisser sa famille, c'est perdre ses repères, ne pas maîtriser la langue, c'est être beaucoup plus fragile et ne pas avoir de zone tampon, de zone refuge. C'est le lien social, le risque d'un l'exploiteur y compris dans votre propre communauté. La mobilité est une fragilité. »

[R(1)]: "The migration itself is a rupture, it means leaving their family, losing their bearings, not being fluent in the language, it means being much more fragile and having no buffer zone, no area of refuge. This is the social link, the risk of an exploiter, including in their own community. Mobility is a weakness."

[M(1)]: "C'est d'abord la cupidité et l'avilissement des gens qui les emploient, prêts à tout pour prendre des parts de marché et accroître leur chiffres d'affaire, leurs marges. Qui vous expliquent d'ailleurs qu'ils leurs font du bien à ces conducteurs parce que tout de façon, s'il travaillaient chez eux, ils gagneraient moins."

[M(1)]: "It is primarily the greed and depravity of the people who employ them, who will do anything to get market share and increase their turnover, their margins. Which also explains why they are good for these drivers because in any case if they were working back home they would earn less".

## - Views in relation to workers situation at their workplace

[M(1)]: "La construction est le secteur le plus pré-disposé, parce qu'il a de la sous-traitance. Quand vous avez un maître d'ouvrage qui désigne un sous-traitant, qui va désigner un sous-

traitant, qui va essayer de gagner un maximum d'argent. Et du coup effectivement au bout de la chaîne il y a des travailleurs en situation difficile”.

[M(1): "The construction sector is the most predisposed because it has subcontracting. When you have a contractor that assigns a subcontractor, who will also appoint a subcontractor, who will try to earn as much money as possible. And actually at the end of the chain there are workers in a difficult situation.”

#### - **Role of recruitment agencies and monitoring on their activities**

[L(1)] « Ils disent qu'ils contrôlent, mais en réalité tout le monde sait. On sait qu'elles emploient des travailleurs migrants sans papiers. Et ça permet d'ailleurs de... je ne dis pas les grosses parce que, les grosses, Manpower, etc, dans tous les cas ils affichent un contrôle, même si là aussi chez eux tout le monde sait. Mais c'est toutes les petites officines. Vous en avez une là, juste en bas, dans le 9<sup>ème</sup>, c'est impressionnant le nombre de sociétés d'intérim. C'est incroyable. Donc là vous avez des gens qui font n'importe quoi, qui ne contrôlent rien, et ça permet au donneur d'ordres de bien se couvrir”.

[L(1)]: “They say they do checks, but in reality everyone knows. We know that they employ undocumented migrant workers. And it also makes it possible to...I'm not talking about the big ones because, the big ones, Manpower, etc., anyway they show that they do checks, even if there too everyone knows. But it's all the small companies. You have one there, just down the road in the 9th District... It's impressive, the number of temping agencies. It's incredible. So there you have people who do anything, who check nothing, and it allows the prime contractor to cover themselves”.

#### **4.1 Prevention measures**

##### - **Information on pre-departure information programmes**

[W(1)]: “we did a big thing with Bulgaria, where we had an information meeting with the Bulgarian Union, in Bulgaria, before the departure of migrants. It was also shown by Bulgarian television, there were reports in the media. They came, we had the material, leaflets in Bulgarian. They were distributed to Bulgarian employees, we also had the television. Regional television, at least, and local newspapers. So it really was a media event. But the difficulty is to put it in operation, where we can get to recreate links with organizations in the countries of origin to follow these things regularly. But it requires resources being made available, including for the implementation. When we see the situation of trade unions in Bulgaria, Romania... it's even worse than here”.

[W(1)]: Là on a fait une grande action avec la Bulgarie, où on a fait une réunion d'informations avec le syndicat bulgare, en Bulgarie, avant le départ des migrants. Ça a été bien relayé aussi par la télévision bulgare, il y a eu un écho. Ils sont venus, on avait du matériel, des tracts en Bulgare. On a diffusé aux salariés Bulgares, on a eu aussi la télévision. Au moins la télévision régionale, les journaux locaux. Donc on a fait une action vraiment médiatique. Mais la difficulté, c'est de remettre ça dans un fonctionnement, où il faudrait qu'on arrive à recréer des liens avec les organisations des pays d'origine pour suivre ce genre de choses régulièrement. Mais bon, ça nécessite la mise en place de moyens, y compris pour le fonctionnement. Quand on voit la situation des syndicats en Bulgarie, en Roumanie... c'est encore plus catastrophique qu'ici.”

[W(1)]: “On leur delivre une information. Mais l'information donnée, c'est “attention, faut bien respecter, partir à la fin de la saison, sinon pas de contrat l'année prochaine”. Il n'y a rien sur les conditions de travail ou de logement”.

[W(1)]: "They give them information. But the information given is, 'be careful, you must comply, leave at the end of the season, if not you'll have no contract next year.' There is nothing about working conditions or housing."

[W(1)]: "L'idéal, c'est qu'il y ait un lien entre les syndicats de départ et d'arrivée".

W-01: "Ideally, there would be a link with the unions from start to finish".

[S(1)]: "True prevention, it would be in the country of origin. The concern is that we do not have the resources, and also that it is still a tricky business at the cultural level. It is true that ideally, it should be done by people there. Ultimately, I think the model that can work is that we provide logistical support. Because there is a lecturing people side that will not work at all. If it came from us, I think it would be doomed to failure. I think it would be better to create organisations out there, encourage the creation of organisations that would make prevention work."

[S(1)]: "La vraie prévention, ça serait dans les pays d'origine. Le souci c'est qu'on n'a pas les moyens, et aussi que c'est quand même une affaire délicate au niveau culturel. C'est vrai que dans l'idéal, il faudrait que ce soit fait par des personnes là-bas. A la limite, je pense que le modèle qui peut fonctionner, c'est qu'on apporte un soutien logistique. Parce qu'il y a un côté donneur de leçons qui ne va pas passer du tout. Si ça venait de nous, je pense que ça serait voué à l'échec. Je pense qu'il faudrait plutôt créer des structures là-bas, encourager la création de structures qui feraient le travail de prévention."

[N(1)]: "Ce que je crains malgré tout, c'est que les gens partent en connaissance de cause, mais partent quand même. J'ai été surpris, justement, dans les pays d'origine, en discutant avec les gens qui avaient été exploités, et qui savaient qu'ils partaient dans un système d'exploitation. Mais ils ne pensaient pas que c'était à ce point-là. Ils ne pensaient pas que ça serait aussi difficile. Mais la conscience de partir pour être dans des conditions qui ne sont pas normales, qui sont des conditions d'exploitation, très souvent c'est connu de la part des personnes. C'est pour ça que je vous disais qu'il est important de travailler au développement économique du pays."

[N(1)]: "What I am afraid of despite everything, is that people are informed, but leave anyway. I was surprised, really, in the countries of origin, by talking with people who had been exploited, and who knew that they were going into a system of exploitation. But they did not believe that it was as bad as that. They did not think it would be so difficult. But being aware of leaving to be in conditions that are not normal, which are conditions of exploitation, very often people know about this. This is why I said that it is important to work on the economic development of the country."

#### - **Information on mechanisms of standard-setting and accreditation**

[R(1)]: « De la même façon dans nos relations contractuelles si on avait la possibilité de valoriser ça [engagement CSR en faveur de la prévention de l'exploitation] ce serait une bonne chose. Aujourd'hui ce qui est valorisé c'est la lutte contre les discriminations surtout] ».

[R(1)]: "In the same way in our contractual relations, if we had the opportunity to develop that [CSR engagement concerning the prevention of exploitation] it would be a good thing. Today what is valued is the struggle against discrimination especially]. "

[N(1)]: I believe that we must go further in the standards. Because there are standards that already exist, but there should be put in place a mechanism of control, audit, the

implementation of these standards. So perhaps improve or adjust the existing standards to specific forms of exploitation, and then, in my opinion the most important thing, implement control mechanisms. Because if you do not control, everyone can commit, but only those who believe commit.”

[N(1)]: “Je crois qu’il faut aller plus loin dans les standards. Parce qu’il y a effectivement des standards qui existent déjà, mais il faudrait mettre en place un mécanisme de contrôle, d’audit, de la mise en œuvre de ces standards. Donc peut-être perfectionner ou ajuster les standards existants aux formes spécifiques de l’exploitation, et puis ensuite, à mon avis le plus important, mettre en place des mécanismes de contrôle. Parce que si vous ne contrôlez pas, tout le monde peut s’engager, mais ça n’engage que ceux qui croient.”

### **4.3 Protection against (repeated) victimisation**

#### **4.2: Consideration of migrant workers as potential victims of crime or as illegally staying in the country**

[M(1)]: “Pour nous, les étrangers sans titre, c’est des victimes. Pour la police, c’est plutôt des responsables à expulser. Nous c’est pas notre culture”.

[M(1)]: “For us, undocumented foreigners are victims, for the police they are more like culprits to be deported. That's not our culture.”

[N(1)]: „Parce que dans le cadre de la lutte contre le travail forcé, l’exploitation, l’enjeu est surtout financier. Ce sont les fraudes, etc. Le deuxième enjeu, ce sont les étrangers en situation irrégulière. Accessoirement, le 3<sup>ème</sup> ou 4<sup>ème</sup> enjeu, c’est effectivement la lutte contre l’exploitation de la personne. Je parle en termes d’enquête, en termes de qualification de l’infraction, ce n’est pas forcément naturellement l’infraction qui est recherchée. Donc c’est vrai que c’est peut-être avec une modification, une redéfinition des enjeux qui sont confiés, tant à l’inspection du travail qu’aux gendarmes, aux policiers ou aux magistrats, qu’effectivement ça peut évoluer“.

[N(1)]: "Because in the context of the fight against forced labour, exploitation, the issue is mostly financial. These are frauds, etc. The second issue, it is illegal aliens. Incidentally, the 3rd or 4th issue is actually the fight against human exploitation. I speak in terms of investigations, in terms of classification of the offence, it is not necessarily naturally the offence sought. So it is true that maybe with a change, with a redefinition of the issues entrusted both to the labour inspectorate and gendarmes, police or magistrates, it can evolve. "

[P(1)]: “Pour utiliser la langue de bois, c’est un problème sensible. Cette duplicité entre d’une part la situation d’étranger en situation irrégulière, mais qui est aussi une victime. Dans le cadre de nos procédures à l’office, nous considérons d’abord la situation de victime de l’intéressé. C’est ça qui pour nous est la situation la plus préoccupante. Donc la victime est avant tout un témoin qui nous fait part d’une situation et qui ensuite le cas échéant fait valoir ses droits en fonction de l’information qu’on va lui apporter. Ça c’est notre vision des choses. Mais malheureusement dans les faits, les choses ne sont pas toujours aussi simples. (...) on a parfois ce double aspect, et la victime n’est pas toujours qu’une victime, elle peut être aussi auteur ou coauteur.”

[P(1)]: “To use the jargon, this is a sensitive issue. This duplicity between on the one hand the situation of an illegal alien, but who is also a victim. As part of our procedures at the office, we first consider the victim situation of the person concerned. That's what for us is the most worrying. So the victim is above all a witness who tells us of a situation and then asserts their rights according to the information we will provide. That is our vision of things. But

unfortunately in reality, things are not always so simple (...) we sometimes have this double aspect, and the victim is not always a victim, they may also be perpetrator or accomplice”.

[S(1)]: “C’est la capacité de la victime à émouvoir les forces de police qui va déterminer leur réponse. Si c’est une pauvre petite bonne malgache dans une magnifique propriété du cap d’Antibes, elle aura une écoute bienveillante. Si c’est trois travailleurs sénégalais sur un chantier de BTP sur Nice, je pense que le prisme va être un petit peu différent. Après je pense que ce sont des questions de formation”.

[S(1)]: "It is the ability of the victim to 'move' the police that will determine their response. If it's a poor Madagascan maid in a magnificent property in Antibes, she will be listened to carefully. If it's three Senegalese workers on a construction site in Nice, I think the approach will be a bit different. And then I think it is a question of training".

[S(1)]: “On traite surtout l’infraction relative au séjour. C’est ça le problème. Aussi parce que les gens sont pas formés. C’est même pas de la mauvaise volonté. Mais le comment vous êtes arrivés là, je pense qu’il y en a beaucoup qui ont pas ce réflexe là”.

[S(1)]: "They (law enforcement officials) mainly deal with the infraction relating to illegal residency. That's the problem. It's also because people are not trained. It's not even ill will. But asking how people have got into the situation, I think there are a lot of people who don't think like that".

#### - **Actions taken by the police**

[P(1)]: “En France il n’y a pas de système de protection des victimes et des témoins. Les dispositions du code de procédure pénales sont indigentes”.

[P(1)]: “In France, there is no system of protection of victims and witnesses. The dispositions of the code of criminal procedure are indigent”

[M(1)]: on rencontre effectivement cette difficulté par rapport aux victimes. On est en train de réfléchir à : « comment peut-on mieux prendre en compte le droit des salariés en cas de contrôle ? » Parce que c’est vrai que jusqu’à maintenant, même si les textes existent, on sait très bien que l’application reste un peu lettre morte. Entre le contrôle une fois, et la procédure d’expulsion, les salariés étant en situation irrégulière, je ne suis pas sûr qu’ils ont entre temps obtenu les indemnités auxquelles ils avaient droit. Et c’est vrai qu’on s’interroge à l’inspection du travail, au niveau de la région Centre, pour prendre en compte cette question-là.

[M(1)]: we see this problem actually in relation to victims. We are thinking about "how can we better take into account the rights of employees in the event of an inspection?" Because it is true that until now, even though the laws exist, we know very well that the application remains somewhat unfulfilled. Between the inspection and deportation proceedings, the employees are in an irregular situation, I'm not sure they have in the meantime obtained payments to which they were entitled. And it is true that we are thinking about that at the labour inspectorate in the Centre region, to take into account that question.

#### - **Effectiveness of investigations and prosecution**

[J(1)]: “En partant du salarié, c’est compliqué de remonter la filière parce qu’il ne donne pas d’informations”.

[J(1)]: "With the employee, it is difficult to trace back because they do not give any information".

[S(1)]: “La vraie difficulté elle est là, c’est sur la qualification de la traite. Et sur la qualification 225-14. Mais ça, on comprend le problème. C’est que ce sont des juges qui ne sont pas formés, donc qui ne savent pas forcément, ils n’ont pas conscience qu’il y a des droits fondamentaux de la victime, notamment en termes de maintien sur le territoire en situation irrégulière, en termes d’accès à la CIVI, il y a des droits qui sont liés à cette qualification, donc ils ne le savent pas. Et les parquetiers ils font leur boulot, c’est-à-dire qu’ils essaient de sécuriser la condamnation le plus possible, donc ils prennent des infractions qui vont marcher, où ils sont tous. Donc 225-13 parce que oui, une personne vulnérable qui n’est pas payée, on peut établir qu’elle n’est pas payée, c’est bon ils ont leur condamnation. Et « aide au séjour irrégulier » parce que c’est super facile à établir, et ils ne vont pas sur la traite. Là, on a un dialogue de sourds.”

[S(1)]: "The real difficulty is on the classification of trafficking. And the classification under 225-14. But we understood the problem. It's that they are judges who are not trained, so who may not know, they do not realize that there are fundamental rights of the victim, particularly in terms of staying in the country in an irregular situation, in terms of access to the CIVI, there are rights that are associated with this classification, so they do not know them. And the prosecutors do their job, that is to say they are trying as much as possible to secure the conviction, so they press charges that will succeed where they all are. So 225-13 because yes, a vulnerable person who is not paid, we can establish that they are not paid, it's good that they have their conviction. And "assisting an illegal stay" because it is really easy to establish, and they do not go with trafficking. There it falls on deaf ears".

[S(1)]: “Non. Alors là, on est au point mort. Autant les qualifications, la première rencontre, ça fonctionne. Mais sur la suite, il faut des années pour qu’il y ait un jugement, il faut des années d’enquête, les délais ne sont pas du tout adaptés. Après c’est comme ça dans la justice en général, mais c’est effectivement très problématique, parce notre durée de suivi est aussi calée sur ce délai-là. Donc ça allonge, là on a un suivi de dix ans. On a très peu de sortants du dispositif, c’est aberrant. Et puis en termes de preuves, il est clair que si l’enquête n’est pas faite dans la semaine pour une situation d’esclavage domestique, évidemment dans six mois... La personne était déjà anonyme, elle n’avait déjà pas de chambre, c’est sûr que six mois après, ses quelques effets personnels sont dans le vide-ordure. Donc après, il n’y a plus de preuves. C’est parole contre parole.”

[S(1)]: “No. So here we are at a standstill. For classifying the offence, the first meeting, it works. But then after, it takes years for there to be a judgment, it takes years of investigation, the time limits are not at all suitable. But this is how it is in the justice system in general, but it is actually very problematic, because our follow-up time is also set to that time scale. So it goes on, we have a case now that's lasted ten years. We have very few conclusions from the measure, it's absurd. And then in terms of evidence, it is clear that if the investigation is not done within a week for a situation of domestic slavery, obviously in six months ... The person was already anonymous, they had no bedroom, it's sure that six months later, their few belongings are in the bin. So after, there is no evidence left. It's their word against the other's.”

## **6 Victim support and access to justice**

### **6.1 Victim support , including available support services**

[N(1)]: “Elles travaillent sur la spécificité de ces victimes. Que ce soit la spécificité de la situation, que ce soit la spécificité des traumatismes psychologiques qu’elles peuvent avoir subis, que ce soit la spécificité du pays de provenance, que ce soit de la situation administrative etc. Il y a quand même une expertise, c’est plus qu’une expérience vraiment, pour certaines, qui souvent leur permet d’orienter les victimes dans de bonnes conditions, et de ne pas donner l’impression de partir au combat un peu comme Don Quichotte. Elles ont plutôt des actions ciblées, et c’est efficace.”

[N(1)]: "They work on the specificity of these victims. Whether it's the specificity of the situation, or the specificity of psychological trauma they have suffered, whether it's specificity of the country of origin, or the administrative situation etc. There is an assessment, it's more that, experience really, for some, often allowing them to guide the victims in good conditions, and not to give the impression of going into combat a bit like Don Quixote. They have instead targeted actions, and it is effective."

[S(1)]: "Quand on est victime de traite, on peut être plus ou moins bien pris en charge suivant le lieu. Que ce soit Paris, Nantes, Lyon, Nice. La loi est la même, mais l'application peut être un peu différente".

[S(1)]: "When you are a victim of trafficking, you will be better assisted depending on the location. Whether it's Paris, Nantes, Lyon, Nice. The law is the same but its application may be a little different".

[M(1)]: "On est un service de contrôle, avec une victime et une personne qui commet une infraction, on va plutôt s'attacher à la personne qui commet l'infraction. Et je reconnais que dans la pratique on n'a pas la culture forcément de la prise en charge de la victime."

[M(1)]: "We are an inspection service, with a victim and a person who commits an offence, we will rather focus on the person who commits the offence. And I recognize that in practice there is no culture to necessarily support the victim."

## **5.2 Access to justice and other mechanisms to empower victims**

[L(1)]: "En tout cas, on peut avoir plus aux prud'hommes qu'au penal, quand on vise bien. Quand précisément la nature de la relation contractuelle, donc les règles de droit du travail, sont vraiment soulevées les unes après les autres. Ca permet d'avoir une indemnisation qui peut être conséquente parfois".

[L(1)]: « one can get more at the employment court than the criminal court, when you make a good case. When the nature of the contractual relationship, so the rules of labour law, are really raised one after the other. It allows for compensation that may be significant at times. While perhaps at the criminal court, I do not know how the criminal law layers see it, but I don't get the impression that they manage to get very substantial sums ».

[L(1)]: "Il faudrait qu'il y ait tout une discussion sur le conseil de prud'hommes en France. Sur le mode de fonctionnement, c'est une catastrophe. Présidence salarié ou présidence employeur. Quasiment en rentrant dans la salle, je savais si j'avais gagné ou si j'avais perdu".

[L(1)]: "There should be a wide discussion on the industrial tribunal in France. On the mode of operation, it is a disaster. President-employee or President-employer. Almost on entering the room, I knew if I had won or if I had lost. "

### **- Civil law claims in the criminal justice system**

[J(1)]: "Pour calculer le prejudice financier: c'est la technique du doigt mouillé, ils font comme ils peuvent. Ils n'ont pas fait de calcul comme nous, telle année, le minimum c'était tant etc. Il y a une certaine rigueur qu'ils n'ont pas eu. C'est pas trop leur domaine".

[J(1)]: "To calculate the financial damages: it is the rule of thumb technique, they do what they can. They did not do the calculation like us, in a certain year the minimum was so much, etc. There is a certain rigor they did not have. It's not really their field. "

[N(1)]: "It's an entire chain. As soon as, as I have said earlier, we manage to train magistrates and investigators on labour exploitation and not only sexual exploitation, and that the criminality, or classification changes, I think that then responses in terms of civil compensation, even if it is independent, will change also, curiously".

[N(1)]: "C'est toute une chaîne. A partir du moment, où, comme je vous le disais tout à l'heure, on arrivera à former les magistrats et les enquêteurs à l'exploitation par le travail et pas seulement l'exploitation sexuelle, et que la réponse pénale, ou la qualification pénale, va changer. Je pense qu'à partir de ce moment-là, les réponses en termes d'indemnisation au civil, même si c'est indépendant, vont changer aussi, curieusement".

[S(1)]: "We lack resources. It is absolutely essential to develop expertise and action on the enforcement of judgments and enforcement of court rulings. Compensation is very nice but most of the time it is on a piece of paper they can frame. Some get satisfaction from the conviction of the person, but here, they are not compensated".

[S(1)]: "On manque de moyens. Il faudrait absolument développer une expertise et des actions sur l'exécution des jugements et l'exécution des décisions de justice. L'indemnisation est très jolie mais la plupart du temps elle est sur un papier qu'elles peuvent encadrer"

#### - **Mechanisms that would facilitate the lodging of complaints**

[S(1)]: "Il faut un délai de réflexion. Il faut laisser le temps aux associations, les pouvoirs publics, faire leur travail, le temps d'expliquer à la personne ses droits, ses intérêts, comment s'y prendre et tout ça parfois avec déjà un problème de langue qui fait que pour s'expliquer, c'est très compliqué".

[S(1)]: "There needs to be time for reflection. Time should be given to the associations, the public bodies, for them to do their work, the time to explain to the person their rights, their interests, what to do, and all that sometimes with the language barrier which means that explaining things is difficult".

[S(1)]: "Dans un monde idéal, normalement dans le système ça devrait fonctionner comme ça : on reçoit la victime, elle veut porter plainte, pas de souci. On va au commissariat, on est reçu avec un interprète, ils ont le temps nécessaire. Ils savent de quoi on parle, ils sont bien guidés par le parquet, et ils font une plainte avec des faits exacts, qui est bien orientée. Tout de suite, il nous donne le récépissé. On va à la préfecture dans les jours qui suivent. Si la préfecture joue le jeu, elle fait le lien avec le parquet, qui lui répond, qui lui dit: « Ok, *a priori* c'est de la traite. » Et voilà, ça irait beaucoup plus vite.

Je pense que toutes ces difficultés successives pour les victimes... Ce serait intéressant de les interroger elles, pour savoir comment elles perçoivent ça, c'est un parcours du combattant

[S(1)]: "In an ideal world, normally in the system it should work like this: we receive the victim, they want to press charges, no problem. We go to the police, we are received with an interpreter, they have the necessary time. They know what we are talking about, they are guided by the prosecution, and they make a complaint with accurate facts, and which is well oriented. Immediately, he gives us the receipt of complaint form. We go to the prefecture in the following days. If the prefecture plays the game, it makes the connection with the prosecutor who replies, who says: "Ok, this is trafficking." And there, it would be much faster. I think all these successive difficulties for victims ... It would be interesting to ask them to see how they perceive it, it is an obstacle course."

## **7 Attitudes**

### **Overall impact of interventions**

[M(1)]: “La plupart du temps on a pas l'impression d'être utile (...) Quand on affaire à des employeurs délinquants qui savent très bien que bon, avant qu'ils soient punis, qu'il y ait la justice...on a pas l'impression d'être utile rapidement et efficacement”.

[M(1)]: "Most of the time we do not feel useful ...When we are dealing with criminal employers who know very well that, well, before they are punished, before there is the legal syste ...we don't feel that we are rapidly and effectively any use".

[P(1)]: “Les mineurs ne s'y retrouvent pas parce que fondamentalement, rien n'est fait pour leur permettre de s'en sortir (...) A force d'être dans l'échec, on laisse perdurer des situations douloureuses”

[P(1)] "Minors are not served by interventions because basically nothing is done to allow them to get out (...) Because of this failure we allow painful situations to endure".

### **Reasons why not more migrants workers come forward**

[M(1)]: « Les gens qui sont victimes de ça sont dans l'opacité totale de leurs droits, du droit du travail en tant que travailleur et assujettis sociaux. Ils ne savent plus à quoi ils ont le droit en réalité».

[M(1)]: "The people who are victims of that are completely in the dark when it comes to their rights, of employment rights as a worker who pays social contributions. They no longer know what they are really entitled to."

[S(1)]: “Ce ne sont pas des gens qui vont faire appel à la justice. Ça vient de leur origine sociale et culturelle. Il y a aussi le fait que dans leur pays la justice peut être corrompue. Ils ont l'idée que c'est le puissant qui gagne. Comme c'est l'employeur qui est puissant, ça ne sert à rien. Et aussi, ils viennent d'une couche sociale où on n'a pas le réflexe de faire appel à la justice, aux autorités.”

[S(1)]: "These are not people who will seek justice. It comes from their social and cultural background. There is also the fact that in their country justice can be corrupt. They have the idea that it is the powerful who win. As it is the employer who is powerful, it is useless. And they come from a social layer where we do not instinctively seek justice, from authorities".

[M(1)]: “Les syndicats de la route ne sont pas réceptifs à ces problématiques au point d'aller porter assistance à des conducteurs routiers étrangers”.

[M(1)]: "The transport unions are not so receptive to these problems as to come to the assistance of foreign drivers".

[W(1)]: “On s'aperçoit que pour ces salariés, il faut logiquement une adaptation. Il y a 10-15 ans on parlait du plombier polonais, à l'heure actuelle on n'en parle plus. Il y a une population, au bout de 10 ans ils ont compris le système. Ils connaissent les règles. Donc ce qui se passe maintenant avec la Roumanie et la Bulgarie, dans 10 ans ce sera d'autres pays. Parce que ces gens-là ils auront compris notre système français, ils auront compris comment fonctionnent les règles et automatiquement, ils vont se défendre. Mais il leur faut un temps d'adaptation pour savoir se défendre. On sait très bien que dans l'abattoir, il y a 10-12 ans, ils ont trouvé énormément de Vietnamiens, de Cambodgiens. Ils se sont fait exploiter, à l'heure actuelle, non. On a de temps en temps des Vietnamiens qui se mettent en grève, donc ils se défendent. Et cette population-là, dans 5-8 ans, ils vont se défendre, ils vont commettre des grèves, ils vont commencer à parler français, etc.”

[W(1)]: "It can be seen that for these employees, they need to be adapted. 10-15 years we were talking about the Polish plumber, at present we do not talk about that any more. There is a population, after 10 years they have understood the system. They know the rules. So what happens now with Romania and Bulgaria, in 10 years it will be other countries. Because these people they will understand our French system, they will understand how the rules work automatically and they will defend themselves. But they need time to adapt to learn to defend themselves. It is well known that in the slaughterhouses, 10-12 years ago, they found a lot of Vietnamese, Cambodians. They were exploited, at the present time, no. We occasionally have Vietnamese who went on strike, so they defend themselves. And that population, in 5-8 years, they will defend themselves, they go on strikes they will start to speak French, etc."

[S(1)]: "Le fait d'être en situation illégale. Être irrégulière sur le territoire, pour certaines personnes, non seulement elles n'ont pas connaissance de leurs droits mais en plus elles se représentent comme étant une sous-catégorie de citoyen. Quand bien même elles iraient faire valoir leurs droits, elles ne sont pas au même niveau que les autres citoyens. Et puis il y a aussi, malgré tout, du fait de leur posture de migrant, que ce soit régulier ou non, cette suspicion qui plane sur eux. « Vous avez choisi la migration avant tout, et il faut en assumer les conséquences maintenant. Prouvez-nous le contraire. Prouvez-nous que vous avez été recruté pour être exploité et que ce n'est pas vous qui avez le choix de venir être exploité pour ensuite retourner la situation à votre avantage. » Parce qu'il y a une suspicion qui plane sur eux, qui est intégrée."

[S(1)]: "Being in an illegal situation. Be irregular in the country, for some people, they not only are not aware of their rights but also they feel like an underclass of citizens. Even if they would go to assert their rights, they are not at the same level as other citizens. And then there is also, after all, because of their migrant status, whether regular or not, this suspicion that hangs over them. " You have chosen migration above all, and you must bear the consequences now. Prove us wrong. Prove to us that you have been hired to be exploited and that it is not you who chose to come then be exploited to turn the situation to your advantage." Because there is a suspicion that hangs over them, which is integral."

[W(1)]: "Les travailleurs sont. Ils sont dans une précarité totale là bas. Et s'il bouge la tête dans un sens qu'il ne faut pas, ils sont réduits à néant."

[W(1)]: "The workers are, are in totally insecurity there. And if they move their head in the wrong way, they are reduced to nothing".

- **Is enough being done to address severe forms of labour exploitation**

[W(1)]: "Il y a la législation. Et il y a la mise en oeuvre de la législation. Et aujourd'hui on est dans un laissez-faire total. Aujourd'hui les ETT elles sont là. Et qu'est ce qu'il y a en face: "Ah c'est compliqué" (...) Les parquets ne fonctionnent pas"

[W(1)]: "There is the legislation. And there is the implementation of the legislation. And today we are in a complete state of laissez-faire."

[L(1)]: "Pour la situation des personnes qui travaillent chez des particuliers, on pourrait imaginer une sorte de fonds collectif. Il n'y a pas de raisons. Comme pour les victimes pénales qui peuvent saisir la CIVI, on pourrait imaginer un système collectif".

[L(1)]: "For the situation of people who work in private homes, there one could imagine a kind of collective fund. There are no reasons why not. As for criminal law victims who can apply to the CIVI, one could imagine a collective system"

- **Breakdown and discussion of the three measures**

[W(1)]: „il ne faut pas qu'on tape sur les sous-traitants en premier, ce sont eux qui subissent aussi. Si l'industriel n'est pas content, il change de sous-traitant. Donc de toute façon, le sous-traitant est pris à la gorge. Et c'est derrière lui que se cache l'industriel : « non, ce n'est pas moi, c'est le sous-traitant. » Alors qu'on s'aperçoit que si on pouvait taper sur le donneur d'ordre, ça pourrait changer beaucoup plus vite les choses“

[W(1)]: "we should not hit the subcontractors first, they are the ones who suffer as well. If the company is not happy, it changes subcontractor. So anyway, the subcontractor is caught by the throat. And it is behind them that the company hides: "No, it's not me, it is the subcontractor." While we realize that if we could hit the contracting agent that might change things a lot faster."