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**OPINION WITH
RECOMMENDATIONS**

PREVENTION

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HIV AND SEX TRADE: TOWARDS A GUARANTEE OF UNIVERSAL ACCESS TO PREVENTION AND CARE

ADOPTED BY THE NATIONAL AIDS COUNCIL ON 16 SEPTEMBER, 2010

The present *Opinion with Recommendations* was unanimously adopted by the members of the National AIDS Council present on 16 September, 2010.

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Set up in 1989, the National AIDS Council is an independent consultative body comprising 24 members specialized in HIV/AIDS, representatives of civil society, or active in related associations.

The National AIDS Council issues opinions and recommendations regarding all the issues that society faces as a result of HIV/AIDS. These papers are addressed to the French authorities and to all those involved in or concerned by the epidemic.

Thus the National AIDS Council participates in the development of public policy, within a framework of respect for fundamental ethical principles and human rights.

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INTRODUCTION

In the past fifteen years, prostitution in France has profoundly altered. Its practises have diversified, the trajectories of the persons involved have shifted, the places where they exercise their activity have changed and legislation and regulation have been modified. The resulting new situation complicates the work of preventing HIV-AIDS and Sexually Transmitted Infections (STI), as well as access to care for persons involved in prostitution.

If there is optimal use of available means of prevention, prostitution does not in itself represent a risk-factor for transmission of HIV-AIDS, whether for the persons who are involved in prostitution or for their clients. However, persons involved in prostitution often work in difficult conditions that considerably diminish their access to prevention and to care, while also increasing their exposure to a whole range of health risks. This exposure is all the more worrisome since it affects populations that experience a higher prevalence of HIV-AIDS than is seen in the wider public: migrants from regions with high prevalence of HIV-AIDS; men who have sex with men (MSM), and transsexual or transgender persons.

In accordance with its mission, and particularly the need for attention to the prevention of infection with HIV-AIDS, the National AIDS Council seeks to ascertain that persons who are particularly exposed to this infectious risk can benefit from effective and optimal access to health-care and prevention. The Council has intervened on multiple occasions in recent years to highlight the evolution of the legislative and regulatory framework on prostitution, and to underscore the damaging effects on prevention of measures relating to soliciting, particularly those set out by the law of 18 March 2003 on Internal Security (LIS)¹.

On 22 November 2002 the Council published a press release in which it warned against several damaging effects of this law: loss of contact between non-profit associations and persons involved in prostitution; less information; decreased vigilance regarding the risk of contamination with HIV and STIs².

On 17 November 2005, in a report on France's prevention policy for HIV-AIDS, the Council noted that articles of the LIS relative to prostitution, and an increase in police pressure in several key locations, was having a damaging effect on the health parameters of persons involved in prostitution and was preventing the work of prevention led by health actors³. Hence among its recommendations the Council invites the government to rethink the measures outlined in this law, to create greater consistency in its policies regarding prevention⁴.

In 2009, following meetings organized within the framework of the Audience on Prostitution⁵ and the presentation of a report entitled "Four Cities"⁶ to the General Directorate of Health (*Direction générale de la santé*, DGS) – and additionally taking into account the annual reports of non-profit organizations for health and community health⁷ – the National AIDS Council decided to look more proactively at the difficulties regarding access to prevention and health-care, in a deteriorating general context marked by displacement of persons involved in prostitution, and increased violence and discrimination against them.

Because of the discreet and/or clandestine character of prostitution, there is little available data. Recent studies are qualitative, and highlight the local difficulties encountered by non-profit organizations, and persons involved in prostitution themselves, in terms of access to their legal rights, to health-care and to prevention⁸. Quantitative data

¹ Law #2003-239 of 18 March 2003 for Internal Security.

² National AIDS Council, *Policy on Prostitution: the National AIDS Council again advocates risk reduction as a top priority*, press release of 22 October 2002. http://www.cns.sante.fr/IMG/pdf/2002-10-22_cpr_en_prevention.pdf

³ National AIDS Council, *Report on Public Policy for Prevention of HIV Infection in Metropolitan France followed by Recommendations for Better enforcement of public policy for prevention of HIV Infection*, 17 November 2005, pp. 16 sq. http://www.cns.sante.fr/IMG/pdf/2005-11-17_rap_en_prevention.pdf

⁴ *Ibid*, p. 39. See also: National AIDS Council, *Preventing HIV transmission: the National AIDS Council asks for consistent government policy*, press release of 22 November 2005. http://www.cns.sante.fr/IMG/pdf/2005-11-22_cpr_en_prevention.pdf

⁵ Collectif Droits & Prostitution, Union Nationale des Associations de Lutte contre le Sida, *Assises Européennes de la Prostitution 2009 Actes* (Acts of the European Audience on Prostitution 2009), Paris, 2009.

⁶ Guillemaut F. (dir.), *État des lieux des actions de prévention VIH auprès des personnes prostituées. Étude préliminaire sur Toulouse, Lyon, Paris, Rennes*, December 2008. See also : Guillemaut F. (dir.), *La réduction des risques liée au VIH/sida et l'accès aux soins dans le contexte des rapports d'échange économique-sexuels en Guadeloupe*, GRSP Guadeloupe-SESAG, March 2009.

⁷ These organisations include Les Amis du bus des femmes (Paris) ; Arap-Rubis (Nîmes) ; Autres Regards (Marseille) ; Cabiria (Lyon) ; Entr'Actes-GPAL (Lille) ; Grisélidus (Toulouse) ; Médecins du Monde Lotus-Bus (Paris), Funambus (Nantes), Mission mobile (Montpellier), Mission prostitution (Poitiers), Mission France (Rouen) ; PASTT (Paris).

⁸ See for example: Maugère A., *Les politiques de la prostitution. Du Moyen Âge au XXI^e siècle*, Dalloz, Paris, 2009 ; Danet J., Guienne V., *Action publique et prostitution*, Presses Universitaires de Rennes, Rennes, 2006 ; Deschamps C., *Le sexe et l'argent des trottoirs*, Paris, Hachette

regarding the situation of persons involved in prostitution in France, or documented evaluations of government action and policy, are virtually non-existent, even though the LIS requires that the government achieve an annual evaluation of the demographic, sanitary and social situation of persons involved in prostitution, as well as the means available to the non-profit organizations and other bodies that assist them⁹. The only report that exists to date focuses on 2004¹⁰, and it provides no data regarding health¹¹; moreover, it emphasizes that there is very little information available and that it is limited to street prostitution largely failing to reflect the diversity of practises and life experiences of the persons involved¹².

In the absence of sufficient data regarding persons engaged in prostitution, the National AIDS Council began direct hearings of the principal public and non-profit actors involved in the question of prostitution in France. These hearings were not limited to the health sector. The practises of many actors distant from this field of intervention have undeniable impact on the access to health-care and prevention of persons involved in prostitution. Thus the Council invited representatives of several central and decentralized administrative bodies¹³: the General Directorate of the National Police, the General Directorate of Social Cohesion, the General Directorate of Health, the Regional Directorate of Judicial Police under the aegis of the Prefecture of Police. Additionally, the Council requested the presence of representatives from various organizations involved in health, community health, social rehabilitation, prevention of prostitution, rights of persons involved in prostitution and professional sex workers. Finally, the Council also invited a number of researchers in social science, sociologists, anthropologists and political scientists. A review of the relevant French and international literature, as well as an attentive examination of the annual reports of French non-profit organizations, are appended to the hearings.

The National AIDS Council wished to contribute to greater knowledge of prostitution in France, and of government action regarding prostitution, without attempting to produce the quantitative data that should be furnished by studies currently underway¹⁴. Understanding of the reality of prostitution, of changes in the origins and paths through life of the persons involved, their meeting places and locations in which they exercise their activity, and their practises of prevention and of exposure to risks, should be considered priority subjects for attention. The Council is equally interested in the work of non-profit actors and public actors involved in prostitution and the prevention of infection with HIV-AIDS and STIs. The range and perimeter of their work; their fields of competence and of intervention; their partnerships; the subjects on their agenda; the priorities of their budgets – all constitute indications that may assist in evaluating government action, whose results appear relatively disappointing, particularly in terms of health.

PRELIMINARY CLARIFICATION

During its auditions, the National AIDS Council did not wish to address directly positions taken by non-governmental organizations in favour of a particular policy with respect to prostitution. Some of these actors defend regulation of prostitution to benefit those whom they refer to as "sex workers", while others envisage the abolition of all forms of regulation of prostitution, and a few evoke the prohibition of prostitution and the criminalization of its clients. The Council has no intention of defining a specific policy regarding prostitution, nor does it intend to arbitrate between the different options available. On the contrary, it wishes to identify, with no specific engagement and with a clear commitment to pragmatism, the challenges of the fight against HIV-AIDS among prostituted persons, in order to lay out useful recommendations for public action.

Similarly, the National AIDS Council did not wish to define a specific terminology to describe the range of persons involved in prostitution.

Littérature, 2006 ; Vernier J. "La loi pour la sécurité intérieure: punir les victimes du proxénétisme pour mieux les protéger?" in Handman M.-E, Mossuz-Lavau J. (dir.) *La prostitution à Paris*, Editions de la Martinière, Paris, 2005, pp. 212-152.

⁹ Article 52 of the LIS stipulates that as of 2004, the government should register at the offices of the National Assembly and of the Senate, at the opening of their ordinary session, a report regarding the evaluation of the demographic, sanitary and social situation of persons engaged in prostitution, as well as the means available to the non-profit organizations and bodies that assist them.

¹⁰ *Rapport faisant état de la situation démographique, sanitaire et sociale des personnes prostituées ainsi que des moyens dont disposent les associations et les organismes qui leur viennent en aide*, March 2006, unpublished.

¹¹ The report reproduces *in extenso* passages of the National program for the fight against AIDS 2005-2008 (*Programme national de lutte contre le sida*, PNLS) regarding persons involved in prostitution. The PNLS does not feature French data either, and bases its discussion of the difficulties faced by prostituted persons on the international literature. *See below*.

¹² *Rapport faisant état de la situation démographique, sanitaire et sociale des personnes prostituées ainsi que des moyens dont disposent les associations et les organismes qui leur viennent en aide*, *op.cit.*, p. 16.

¹³ A list of people who spoke at these hearings is appended to this Opinion.

¹⁴ Fédération nationale des associations d'accueil et de réinsertion sociale (FNARS), Institut national de veille sanitaire (InVS), *ProSanté, Etude sur l'état de santé, l'accès aux soins et l'accès aux droits des personnes en situation de prostitution*, 2010. The results of this study will not be disclosed until 2011.

International organizations, following the lead of UNAIDS¹⁵ and the WHO¹⁶, as well as certain non-governmental organizations in favour of the rights of persons involved in prostitution, have adopted the term "sex workers", proposed by American feminists in the late 1970s in order to avoid the allegedly judgmental implications of "prostitute" and to make the activity of prostitution more ordinary and less morally charged¹⁷. According to its promoters, this term does not designate any particular form of sex work, whether it be exercised under constraint or freely, occasionally or regularly, involving the direct or indirect supply of sexual services or constituting a primary or secondary financial resource¹⁸. However, the expression *sex worker* cannot be considered an unequivocal semantic category, since it may suggest that the given activity of commercial sex is freely exercised. In reality numerous people are forced to engage themselves in prostitution and they suffer evident violations of their rights, their dignity and their integrity, sometimes within the framework of organized networks devoted to the traffic and exploitation of human beings. Moreover, the expression is opposed by those who support prohibition of prostitution and the abolition of measures that regulate it.

Thus numerous non-governmental organizations in France have retained the term "prostitute", and evoke *prostituted persons* or *persons in situations of prostitution*. Both these expressions have the advantage of reminding us that prostitutes are, above all, persons, and as such, have rights. Additionally, reference to the concept "*in situations of..*" emphasizes that the identity of these persons cannot be reduced to their sole activity as prostitutes. However, these expressions imply a certain passivity of these persons, who are subjected to prostitution as they might be subjected to social vulnerability or arduous social conditions. And many people bear witness to the possibility that prostitutes may freely choose this activity.

More generally, the very concept of prostitution may be debatable; it refers to an ancient practice, and a historical category of persons stigmatized for immorality and disease¹⁹, particularly since measures taken in the 19th century to regulate syphilis.²⁰ Because of this, prostitution, particularly street-based prostitution, is even today widely perceived to be a social status marked by shame²¹ and stigma²².

Thus no term in the available vocabulary is exempt of specific connotations, nor benefits from unanimous approval. Following this semantic clarification, the term "persons involved in prostitution" has been retained, as it carries less freight than the alternative terminology and is more widely used, in particular by public bodies and most French non-governmental organizations. We may also under certain conditions use the term *persons in situations of prostitution*, particularly regarding victims of procurement and sex trafficking, and the term *sex worker*, regarding persons who freely exercise prostitution without being subjected to violations of their rights or attacks on their dignity or physical and moral integrity.

DIFFICULTIES IN COMMON

The striking variety of the context, paths through life and practises that is partially reflected in the plurality of terminologies available, should not mask the common factors of vulnerability that the National AIDS Council attempts to sketch out here. Persons involved in prostitution are exposed to similar types of vulnerability, and this is reinforced by a discourse that questions even their presence in the public space. The disappearance of visible manifestations of prostitution, the rise of migrant populations in precarious situations, the development of new and sometimes very discreet forms of prostitution (Internet, massage parlours, travelling or "on tour" prostitution) impairs the security of these persons, complicates the work of establishing mechanisms for prevention and makes the conditions in which the sex trade operates today in France more opaque, particularly with regard to health.

The authorities have not yet succeeded in increasing the security of persons involved in prostitution persons, nor have they durably improved their access to prevention and health-care. In the past ten years two concerns have become manifest: in the short term, the fight against visible forms of prostitution, particularly soliciting; in the medium term, the fight against international criminality and illegal migration, and mobilisation to support professional rehabilitation of persons involved in prostitution. According to the legislator, these responses have been

¹⁵ UNAIDS, UNAIDS Guidance Note on HIV and Sex Work, 2009.

¹⁶ WHO, *Priority interventions: Prevention, treatment and care for HIV/AIDS in the health sector*. HIV/AIDS department, April 2009.

¹⁷ Leigh C., "Inventing sex work", in Nagle J. (ed.), *Whores and other feminists*, Routledge, New-York & London, 1997, pp. 223-231; Delacoste F., Alexander P. (ed.), *Sex Work : Writing by Women in the Sex Industry*, Cleis Press, San Francisco, 1987.

¹⁸ Harcourt C., Donovan B., "The many faces of sex work", *Sexually Transmitted Infections*, 2005,81:201-206.

¹⁹ Tabet P., *La grande arnaque : Sexualité des femmes et échange économique-sexuel*, Paris, L'Harmattan, 2005.

²⁰ Corbin A., *Les filles de Noce. Misère sexuelle et prostitution au XIX^e siècle*, Paris, Aubier Montaigne, 1978.

²¹ Pherterson G., *Le prisme de la prostitution*, Paris, L'Harmattan, 2001 and *A vindication of the Rights of Whores*, Washington, Seal Press, 1989.

²² Pryn S., *Stigmate et métier. Une approche sociologique de la prostitution de rue*, Presses Universitaires de Rennes, Rennes, 1999.

conceived as a reaction to the growth in criminal networks, the deterioration of order and public tranquillity arising from an increase in street prostitution, and the increasingly precarious position of women victims of prostitution.

The question of access to health-care and prevention no longer benefits from priority attention, unlike the period marked by the arrival of HIV-AIDS. The consequences of this relegation are numerous. The guaranteed rights of persons involved in prostitution remain reserved to a very small minority and are strongly conditioned by the person's administrative position with respect to immigration regulations, cooperation with the judicial services, and cessation of activity in prostitution. No cooperative body, local or national, has been set up to lift the evident and repeated contradictions between the needs of public order and the fight against crime, on one hand, and the needs of public health on the other. Programs for social rehabilitation receive significantly more priority than health programs, and they benefit a very limited number of people.

The authorities do not directly interact with persons involved in prostitution; their intervention occurs through the intermediary of non-profit bodies that they finance. These include specialized support associations that are competent to act in social rehabilitation, and which have been in operation for a relatively long time, broadly set up across the territory; and less numerous health and community-health associations, more recently established, created following the development of the epidemic of HIV-AIDS in the 1990s. All these organizations contribute to offering a range of services to persons involved in prostitution, but because of cultural or financial obstacles they may have difficulty developing an effective, global approach in terms of prevention, access to health-care, social accompaniment, and cultural mediation. Additionally, persons involved in prostitution remain insufficiently associated with the organization and establishment of prevention, including reception and accompaniment, despite efforts made particularly by community associations.

CRUCIAL NEEDS

Since the publication of its opinion on Prevention in 2005²³, the National AIDS Council has observed no improvement in prevention and access to health-care for persons involved in prostitution. The major founding principles of the fight against HIV-AIDS are only imperfectly in effect regarding these populations, despite recurrent and convergent recommendations of international organizations. Development of knowledge, respect for human rights, political leadership to ensure consistent public policy, development of a global approach and support for community approaches are significantly lacking, although these founding principles of the fight against HIV-AIDS considerably contributed to slowing down the epidemic of infection with HIV-AIDS, by significantly improving prevention, screening, access to care and the quality of life of persons living with HIV. The damage caused by this downgrading of these major principles to lower priority levels –and, in some cases, their abandonment – is exacerbated by the fact that prostituted persons are more exposed to health risks because of the extremely complex conditions in which their activity occurs.

The Council intends to report on this situation, and particularly three major aspects: the vulnerability of persons involved in prostitution, the inconsistency of public policy, and the insufficiently integrated and community-based mobilization of associations. Given this assessment, the Council will propose a series of recommendations likely to significantly and durably improve prevention and access to health care for the whole population of persons involved in prostitution²⁴.

²³ National AIDS Council, *Report on Public Policy for Prevention of HIV Infection in Metropolitan France followed by Recommendations for Better enforcement of public policy for prevention of HIV Infection*, *op cit*.

²⁴ In this opinion the National AIDS Council does not intend to examine all forms of the sex trade (pornography industry, erotic entertainment, sex shops), but by the same token it will not limit itself only to street-based prostitution.

PART I - PERSONS EXPOSED TO MULTIPLE FACTORS OF VULNERABILITY

The demographic situation of persons involved in prostitution is poorly understood. Available data highlight the arrival of migrant populations in the last fifteen years, and a new type of supply of commercial sex arising from more common use of the Internet, but they do not define precisely the different populations involved. However, many studies and statements of people involved suggest a situation that has considerably deteriorated. The populations involved are subject to constant shifts in the locations of their activity, and exposed to recurrent forms of vulnerability and violence; more generally they suffer extremely difficult and precarious living and working conditions. Consequently, persons involved in prostitution seem today to be particularly exposed to the risk of infection by HIV-AIDS and STIs. Notably, they are not always able to impose appropriate prevention during commercial sex acts, and they may downgrade the importance of health concerns when faced with threats to their own immediate security.

The living and working conditions of persons involved in prostitution are key factors increasing vulnerability. Traditional street prostitution, in urban environments, has changed enormously, and it has become locally fragmented and shifted its location in recent years. Moreover, certain forms of prostitution have significantly increased, particularly so-called "discreet prostitution" practised in hostess bars or massage parlours, and particularly prostitution practised at home or in hotels following encounters on the Internet. These multiple decentralizing movements reinforce the isolation of persons involved in prostitution and expose them to different forms of vulnerability and violence. Their optimal access to knowledge, prevention tools and health-care is negatively impacted by these changes.

I.1. ACTIVITY IS HIGHLY VARIED

Prostitution does not constitute a homogenous reality, and we may prefer to refer in the plural to "prostitutions", given the growing diversity of situations encountered in the past fifteen years²⁵. This shift in populations has been marked by the progressive arrival of migrant populations of different origins, the development of male prostitution, the appearance of occasional prostitutions and the rise of new information technologies. Some prostituted persons – though the fraction involved is difficult to quantify– exercise their activity freely, but others do so under constraint.

I.1.1 PROSTITUTION IS PLURAL

According to the authorities, between 18,000 and 20,000 persons work in prostitution in France.²⁶ These estimations are established by the police services of the Ministry of the Interior, and they comprise multiple biases. The data fail to reflect reality. In comparison, the Spanish and German authorities estimate that 400,000 persons work in prostitution in their respective territories.

Prostitution remains mostly female, despite the increase of male and transgender prostitution. Persons involved in prostitution are mostly non-French; the proportion of foreigners is 60-80%, according to data from the police and non-governmental organizations. The presence of foreign nationals involved in prostitution is linked to the different cycles of migration that France has experienced since the 1960s²⁷. From that period to the 1990s, women from North Africa and French-speaking sub-Saharan Africa settled in France. In the beginning of the 1990s, many persons who were specifically from Algeria attempted to obtain French territorial asylum in order to escape the political turmoil of their country.

At the end of the 1990s, following the breakup of the Soviet Bloc, populations from Eastern Europe migrated towards France for a variety of reasons. Most of them were from Moldavia, Albania, Russia, then, from the middle of the first decade of this century, from Romania and Bulgaria, and they included Rom ("gypsy") communities. Women from countries in French-speaking Africa, particularly Cameroon, emigrated in the mid-1990s. Those from English-speaking countries, essentially Nigeria, Ghana, le Liberia and Sierra Leone, mostly settled in France in the first few years of this century. The presence of persons involved in prostitution from northern China is more recent, although

²⁵ Handman M.-E., Mossuz-Lavau J., *La prostitution à Paris, op.cit.*, p.13. The situation is described as a "mosaic of realities by Portes M.-D., *Prostitution et politiques européennes, pour une approche anthropologique du droit*, L'Harmattan, 2007, p. 64.

²⁶ CNS hearings ; Sénat, *Compte rendu de la séance du mardi 11 mai 2010*, JORF 12/05/2010, p. 3322. A list of persons interviewed by the National AIDS Council during hearings by the commission on Prostitution is appended to the present Opinion.

²⁷ For a summary, see in particular : Guillemaut F., "Trafics et migrations de femmes, une hypocrisie au service des pays riches", *Hommes et Migrations*, vol. 1248, 2004, pp. 75-87 ; Moujoud N., Teixeira M., "Migration et trafic des femmes", in Handman M.-E., Mossuz-Lavau J. (dir.), *La prostitution à Paris, op.cit.*, pp. 377 sqq.

there is in France a very old community of persons from southern China²⁸. There have also been several waves of emigration of persons involved in prostitution from Latin America since the 1970s.

Factors leading to migration remain overwhelmingly linked to living conditions and the absence of alternatives in the country of origin. The country chosen for migration is determined by free choice to leave, founded on economic²⁹ or socio-cultural factors, improvement in social and cultural capital, and rejection of social norms for gender relationships. In many countries women remain subject to unfavourable conjugal status, particularly in Nigeria, and they also benefit from less access to school and to measures for professional rehabilitation, such as microcredits. Abusive practises such as forced marriage may be further motivations to escape one's home country.³⁰ Thus candidates for migration are often highly motivated, and returns are rare³¹.

It is difficult to precisely establish what proportion of immigration is embarked upon out of free will, within a framework of networks functioning for profit or mutual assistance, and what proportion is fundamentally a question of trafficking of human beings for the purposes of exploitation and prostitution.³² The circulation of persons involved in prostitution across countries is not necessarily dominated by human trafficking.³³ Restrictive policies relating to the entry, residence and work of foreigners in France may encourage migration to become clandestine and dependent on a network³⁴, particularly since migrant persons arriving in France have very limited opportunities for work. Newly arrived women may be obliged to choose between domestic service and sexual services.³⁵ The occupation of an insecure domestic job in mainly female sectors may constitute a first step before entry into prostitution, determined by the desire to flee deplorable working conditions and very low pay.³⁶

The prostitution and protection of minors has become a more specific problem with the arrival of young minors from Eastern Europe³⁷. The sketchy data at the disposal of the authorities suggest a weak presence of minor children in situations of prostitution, of the order of about one hundred persons³⁸; in addition to Eastern Europe, their origins include Africa and, to a lesser degree, Asia. Non-governmental associations, however, suggest that this form of the sex trade is massive under-estimated³⁹, since it considers only street prostitution and does not include prostitution on the Internet and networks linked to paedophile activities.

²⁸ CNS hearings.

²⁹ This factor is particularly significant regarding, for example, Chinese populations from Dongbei province. CNS hearings; Lotus Bus/MDM, *Rapport d'activité*, 2009 ; Cattelain C., Ngugen S., *Les Chinois d'Ile de France et l'infection à VIH. Savoirs, vulnérabilités, risques et soins*, ARCAT, Paris, 2003.

³⁰ See for example: Van Blerk L., « Young sex workers in Ethiopia, linking migration, sex work and AIDS », in Thomas F. et al. (ed.) *Mobility, sexuality and AIDS*, New York, 2010.

³¹ Guillemaut F., "Femmes africaines, migration et travail du sexe", *Sociétés*, vol. 1, n° 99, 2008, pp. 11-26.

³² CNS hearings. See also Moujoud N., Teixeira M., « Migration et trafic des femmes », in *La prostitution à Paris, op.cit.*, p. 377 ; Guillemaut F. "Victimes de trafic ou actrices d'un processus migratoire ? Saisir la voix des femmes migrantes prostituées par la recherche-action", *Terrains et travaux*, vol.10, 2006 ; Musso S., "Les paradoxes de l'invisibilité. Le travail de rue d'une association marseillaise auprès des prostituées maghrébines", *Ethnographiques.org*, vol. 12, February 2007 ; Kempadoo, K., "Trafficking and prostitution reconsidered. New perspectives on migration, sex work and human rights", Boulder, Londres, 2005 ; United Nations Population Fund (UNFPA), *State of the World Population 2006: A Passage to Hope, Women and International Migration*, New York, 2006.

³³ According to a study dating from 2004, 81% of persons arriving in France left their countries voluntarily, while 19% were forced to do so in the context of human trafficking networks. Guillemaut F. (dir.), *Femmes et migrations en Europe, Stratégies et empowerment*, November 2004.

³⁴ CNS hearings by commissions on Prostitution and Migrants; Kempadoo, K. "Trafficking and prostitution reconsidered. New perspectives on migration, sex work and human rights", *op.cit.*

³⁵ CNS hearings. See also: Dussault A.-M. « Le travail domestique et le travail du sexe dans les migrations internationales », in Verschuur C. et Reysoo F. (dir.), *Genre, nouvelle division internationale du travail et migrations, Cahier Genre et Développement*, vol. 5, 2005, Paris, L'Harmattan, pp. 123-136.

³⁶ UNFPA, *Contemporary Slavery*, 2006, http://www.unfpa.org/swp/2006/moving_young_eng/Natalia/Natalia.html; Moujoud N., « Prostitution et migration des Maghrébines », in Handman M.-E., Mossuz-Lavau J.,(dir.) *La prostitution à Paris, op.cit.*, pp.199 sqq. Cattelain et Ngugen, 2003 (rapport Arcat) ; Liane Mozère, « Des domestiques philippines à Paris. Entrepreneuses d'elles-mêmes sur le marché transnational de la domesticité », in Verschuur C. et Reysoo F. (dir.), *Genre, nouvelle division internationale du travail et migrations, op.cit.*, pp. 155-162.

³⁷ O'Deye A., Joseph V., *La prostitution des mineurs à Paris, Données, acteurs et dispositifs existants, rapport final*. October 2006, Cabinet Anthropos, p. 17 sq.

³⁸ In 2005, 60 young girls and 4 boys aged 8 or below were among the 1,200 prostituted persons identified in police procedures. Additionally, 7 minors were among the 895 persons accused of procurement in 2005. In Paris, data produced by the National Police point to 55 cases of prostituted minors, half of them of French nationality (24 girls and 4 boys), and half Romanian (27 minor persons). According to "Social Aid to Children" (L'aide sociale à l'enfance), 0.1% of the 1188 minors they assist were reported by the courts' educational services for participation in "networks of prostitution". In 2005 only 15 minors in situations of prostitution were registered: O'Deye A., Joseph V., *La prostitution des mineurs à Paris, Données, acteurs et dispositifs existants, rapport final, op. cit.*

³⁹ In particular l'Association contre la prostitution des enfants (ACPE), l'Equipe d'action contre le proxénétisme (EACP) and the network of organizations working together to eradicate prostitution and child pornography (ECPACT International).

Concerning the demand for prostitution, a study published in 2004 indicated that in France slightly over one man in ten declared himself to be a client of prostitution (12.7% of the 6,000 men questioned), and almost one-quarter of men (22.5%) was linked to it in that they had either been clients in the past, or envisaged becoming clients in the future.⁴⁰ We should note that the overwhelming majority of clients are men. Events leading these clients to avail themselves of the services of prostituted persons are extremely varied, and the clients do not all belong to any particular social category.⁴¹ Moreover, the frequency of recourse to persons involved in prostitution appears extremely variable. Some clients regularly avail themselves of the sex trade whereas for others this constitutes an occasional experience or even, in certain cases, an "accidental" one.⁴² The reasons leading a person to become a client are also highly variable: solitude or lack of affection, fear of a first sexual act, disappointment with an unsatisfactory sexual relationship, refusal or fear of commitment, etc.⁴³

1.1.2 METHODS AND LOCATIONS ARE INCREASINGLY DIVERSE

Street prostitution, which may also take place in vans, is the best known form of prostitution, but it is similar to other, more discreet forms in bars or massage parlours, or in the framework of the home or hotel after a first connection on the Internet. Prostitution may constitute the principal source of revenue of the prostituted person, in other cases, it may be an occasional, erratic practise, usually unknown to social services and non-profit groups. Prostitution may be exercised independently or within the framework of networks, with or without links to a pimp or procurer. The procurer may also exercise more or less constraint with respect to the persons involved in prostitution, who may indeed exercise their activity independently and/or may benefit from a "protector" whom they may freely choose to pay.⁴⁴

Street prostitution occurs within territories which are delimited according to various factors, including age, seniority, geographic origins, language, drug use, strategies developed to occupy and maintain the places of work, proximity to other forms of the sex trade, and the tolerance of police authorities.⁴⁵ Issues of risk and danger, frequent passage by clients, competition, comfort of working conditions etc are variables that the prostituted persons wish to manage. In recent years certain locations of prostitution have shifted from the broad periphery of cities to a group of discontinuous territories with few amenities, such as forests far from the city centre, that are less accessible and more dangerous. This new multi-centric localisation increases the mobility of persons between cities and these spaces, and increases their isolation despite existing networks. Additionally, movements outside France, particularly to Spain and Belgium, have been observed.⁴⁶

In addition to street prostitution, commercial sex has in recent years developed considerably due to the generalization of use of the Internet. The Internet has been adopted both by new sex workers and by persons involved in prostitution who previously practised their activity on the street⁴⁷. The most visible supply of commercial sex is that of "escorts", who provide a commercial relationship that combines a sexual service with a service of accompaniment, both the duration and the sexual practises being agreed at the time of reservation. Escorting may be a service relationship, a form of domination or a short term relationship that is partly sexual and partly emotional.⁴⁸ Escorts practise this activity independently or within networks which furnish these services in hotels to well-heeled clients. In some cases these networks plan "tours": prostituted persons travel to luxury hotels in

⁴⁰ Legardinier C., Bouamama S. "Les clients en question: étude sociologique et enquête d'opinion publique", Mouvement du Nid, June 2004.

⁴¹ The ANRS study of sexuality in France, published in 2008, suggests however that men who declared that they had paid for sex at least once in their lives were more numerous in the social class "Tradesman, craftsman, head of company" (22.7%) and less numerous in the social class "Intellectual professions, public-sector management, liberal professions" (10.6%).

⁴² Mossuz-Lavau J., "Qui sont les clients?" in Handman M.-E. et Mossuz-Lavau J. (dir.), *La prostitution à Paris, op.cit.*, pp. 295 sqq.

⁴³ Legardinier C., Bouamama S. "Les clients en question: étude sociologique et enquête d'opinion publique", *op. cit.*

⁴⁴ Auditions CNS et Fauguier J., Sargeant M., "Boyfriends, 'pimps' and clients", in Scambler G., Scambler A, *Rethinking Prostitution*, London and New York, Routledge, 1997, p. 121.

⁴⁵ Chimienti M., Földhâzi N., « Géographies du marché du sexe: entre dynamiques urbaines, économiques et politiques », *Sociétés*, 2008/1, vol. 99, pp. 80-90; Séchet R., « La prostitution, enjeu de géographie morale dans la ville entrepreneuriale. Lectures par les géographes anglophones », *L'Espace géographique* 1/2009 vol. 38, p. 59-72; Gaissad L., Deschamps C., "Des sexualités dans l'espace public. Moments "autres" et co-vicinages multiples", *Espace populations sociétés*, 2007/2-3, placed on line 1 December 2009; Sides J., "Excavating the Postwar Sex District in San Francisco", *Journal of Urban History*, March 2006 vol. 32 no. 3 355-379. On Paris, see Redoutey E., « Trottoirs et territoires, les lieux de la prostitution à Paris », in Handman M.-E., Mossuz-Lavau J. (dir.), *La prostitution à Paris, op.cit.*, pp. 39 sq.

⁴⁶ CNS hearings.

⁴⁷ See the example of male prostitution: Sousa A., « La prostitution masculine s'est transformée », *SWAPS*, # 42.

⁴⁸ Bigot S., « La prostitution sur Internet: Entre marchandisation de la sexualité et contractualisation des relations affectives », *Genre, sexualité et société* (en ligne), vol. 2, Autumn 2009, ; « Le sexe et l'argent. Les différentes significations de l'argent dans l'escorting », Lecture at the « Journée Rencontre - débats Regards insolites sur la sexualité » organized by the « Association Pluridisciplinaire de Recherches et d'Etudes sur la Sexualité », ENS, Paris, 14 June 2008.

European cities and at each stop receive a significant number of clients. Recruitment of the prostituted persons, who are mostly from Eastern Europe, and solicitation of the clients, are effected by the intermediary of the Internet.⁴⁹

1.2 AN ALARMING VULNERABILITY

Because of their experiences and the conditions in which they exercise their activity, persons involved in prostitution are particularly exposed to health risks. This exposure is reinforced by prevention that is poorly adapted to conditions on the ground; by deficiencies in screening; by limited access to information and to primary health care; and more generally, by a social environment that is often perceived as hostile. Persons involved in prostitution are often subjected to multiple forms of violence, and they struggle to attain their rights to residency, care and social allowances.

1.2.1 HEALTH VULNERABILITY

The vulnerability that persons involved in prostitution may encounter in terms of health results less from behaviours judged to be "deviant" than from a social environment that may hamper use of prevention tools and lead to risk-taking. Vulnerability with clients, unprotected extra-professional sex acts, a general relaxation of prevention practises, specific practises in terms of hygiene and problems arising from availability of prevention and health-care are all damaging to health. Available data, which stem particularly from the reports of non-profit associations that support prostituted persons, show a diminished ability to understand prevention messages arising from language barriers; a limited prior level of knowledge of HIV and STIs; and living conditions that are not conducive to good reception of the usual communication strategies of prevention.⁵⁰ African women from regions of high prevalence⁵¹ and transgender persons⁵² are populations particularly affected by HIV.

RISK PRACTISES

Use of prevention material, principally the male condom, remains a common practise in prostitution for acts of penetration.⁵³ Regarding female prostitution, protection is said to be approximately 90 to 100% during anal and vaginal acts and 66 to 84% during oral-genital practises.⁵⁴ Among the purposes of the condom is that it protects against transmission of HIV-AIDS and STIs, but it also enables the prostituted person to place distance between herself and the client. Its usage preceded the appearance of HIV-AIDS⁵⁵ and has been reinforced with the arrival of the epidemic⁵⁶ despite persistent obstacles. Requests by clients for non-protected sex acts remain significant, and depending on sources are said to represent between 10 and 50% of cases⁵⁷. These requests have increased since the year 2000, along with increasing relaxation of prevention practises⁵⁸. Acceptance of non-protected sex is said to be particularly significant today, because of the financial dependence of persons involved in prostitution, habits

⁴⁹ CNS hearings.

⁵⁰ Cabiria, *Rapport d'activité*, 2008.

⁵¹ Guillemaut F. (dir.), *Etat des lieux des actions de prévention VIH auprès des personnes prostituées : étude préliminaire sur Toulouse, Lyon, Paris, Rennes*, *op.cit.*, p. 56.

⁵² The prevalence of HIV is apparently very high. Some 80% out of one group of 40 active persons is said to be positive. CNS hearings.

⁵³ CNS hearings. See also Cabiria, *Rapport d'Activité* 2008, p. 23. and Gil, F. « Sexualité et prostitution » in Handman M.-E, Mossuz-Lavau J. (dir.) *La prostitution à Paris*, *op.cit.*, p. 365.

⁵⁴ Meystre-Agustoni G. et al., *Comportements par rapport au VIH/sida et aux autres infections sexuellement transmissibles dans l'univers de la prostitution féminine*, Lausanne, Institut universitaire de médecine sociale et préventive, 2008. See also Guillemaut F. (dir.), *La réduction des risques liée au VIH/sida et l'accès aux soins dans le contexte des rapports d'échange économique-sexuels en Guadeloupe*, *op.cit.*, pp. 66 sqq. Estimating usage of condoms from interviews involves a number of potential biases. See for example Ferguson A.-G. and al., "Using diaries to measure parameters of transactional sex : an example from the Trans-Africa highway in Kenya", *Culture Health Sex*, vol 2006 Mar-Apr;8(2):175-85 ; Lowndes C. et al., "Management of sexually transmitted diseases and HIV prevention in men at high risk : targeting clients and non-paying sexual partners of female sex workers in Benin", *AIDS*. 2000 Nov 10;14(16):2523-34; Alary M. et al., "Decline in the prevalence of HIV and sexually transmitted diseases among female sex workers in Cotonou, Benin 1993-1999", *AIDS*. 2002 Feb 15;16(3):463-70.

⁵⁵ See for example: Coppel A. et al., *Recherche-action : prostitution et santé publique. Rapport final*, Centre collaborateur sida, Institut de médecine et d'épidémiologie africaine et tropicale, 1990.

⁵⁶ Mathieu L., *Prostitution et sida, Sociologie d'une épidémie et de sa prévention*, Paris, L'Harmattan, 2000, p. 44 ; Welzer-Lang D., *Prostitution, les uns, les unes et les autres*, Paris, Métailié, 1994, p. 143. Deschamps C., *Le sexe et l'argent des trottoirs*, *op.cit.*, pp. 126 sq.

⁵⁷ Service Droits des femmes et égalité, *Rapport faisant état de la situation démographique sanitaire et sociale des personnes prostituées, ainsi que des moyens dont disposent les associations et les organismes qui leur viennent en aide*, *op.cit.* ; Gil F., "Sexualité et Prostitution" in Handman M.-E, Mossuz-Lavau J. *La prostitution à Paris*, *op.cit.*, p. 365

⁵⁸ National AIDS Council, *Report on Public Policy for Prevention of HIV Infection in Mainland France*, 2005. http://www.cns.sante.fr/IMG/pdf/2005-11-17_rap_en_prevention.pdf

developed with regular clients, more competition arising from the increase of prostitution on offer⁵⁹; overall relaxation of prevention practises, particularly among clients⁶⁰; and an increase in high risk practises, particularly on the Internet. "Extra-ball"⁶¹, "Bareback" sex, "Untranslated French" or CIM⁶², and other terms for sex acts without condoms are often featured in advertisements.⁶³ 12 to 33% of persons are willing to concede to client requests for non-protected sex acts if the client agrees to increase the price paid for the service⁶⁴. Situations described by clients in the course of 2,500 phone calls to the "Sida Info Service" AIDS hotline in 2005 confirm these high-risk acts. In 6 out of 10 cases, potential risk for contamination of HIV and STIs is observed.⁶⁵

Slackening of attention to prevention practises particularly affects men in situations of occasional prostitution⁶⁶. According to a recent study of gay encounters via the Internet⁶⁷, persons who declare having received money, goods or services in exchange for sexual relations more often declare at least one non-protected anal sex act with their partners (61.2% versus 37.5% of the total sample); to declare regular risk practises (36.8% versus 19.6%) or systematic risk practises (19.5% versus 8.1%); and to declare "bareback" practises⁶⁸ (51% versus 28.5%). These persons are also more likely to be seropositive to HIV-AIDS (15.8% versus 11.5%) or to declare that they are no longer certain that they are seronegative (11.5% versus 6%).

Moreover, despite use of the condom, some practises increase the exposure of persons at risk of infection. Many migrant women, especially from sub-Saharan Africa, have recourse to intra-vaginal practises such as vaginal douching or vaginal drying, a term that designates the drying of vaginal mucous through the use of detergent products or cloths, for hygienic purposes (secretions being considered "impure" or dirty) or in order to tighten the vaginal walls⁶⁹. Some women use alum while others employ a rolled-up towelette introduced into the vagina to eliminate the secretions. They do not usually employ lubricating jelly and are thus more likely to experience condom breakage.⁷⁰ These intra-vaginal practises facilitate the development of genital problems (genital infections, extra-uterine pregnancies, pelvic infections)⁷¹ as well as contamination by HIV or STIs⁷².

Poor use of a condom may also result from the consumption of alcohol and drugs during commercial sexual relations, often at the request of the client. This practise increases the risk that prostituted persons will contract an

⁵⁹ European Network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers (Tampep).

⁶⁰ CNS Hearings; see also Fauguier J, Sargeant M., "Boyfriends, 'pimps' and clients", in Scambler G, Scambler A, *Rethinking Prostitution*, *op.cit.*, p. 121.

⁶¹ Several sex acts combined in a single commercial transaction.

⁶² 'Untranslated French', like the acronym CIM for Cum In Mouth, are two of many terms to designate ejaculation in the mouth in the course of fellatio.

⁶³ CNS hearings; Expuesto J., « De la rue au virtuel », *Transversal*, vol. 43, July-August 2008, p. 26.

⁶⁴ Baker, L. M. et al., "General health problems of inner-city sex workers: a pilot study", *Journal of the Medical Library Association*, vol. 91, n°1, January 2003, pp. 67-71, p. 68.

⁶⁵ Carvallo de, E. « Prise de risque des clients de prostituées. Etude de la prise de risque parmi les appelants du numéro gratuit de Sida Info Service, clients de prostituées sur l'année 2005 », Sida Info Service, Service Evaluation Qualité, November 2006.

⁶⁶ Connell J., Hart G., *An Overview of Male Sex Workers in Glasgow and Edinburgh*, Occasional Paper n° 8, MRC Social & Public Policies Unit, Glasgow University 2003.

⁶⁷ The Net Gay Barometer 2009, based on 19,052 questionnaires. 4.2% of respondents said they had received money, goods or services in return for sexual relations. <http://www.gaystudies.org>

⁶⁸ *Barebacking* is a term for non-protected sex acts and, by extension, a movement within the gay community that promotes this kind of sex act and a general cult of sperm.

⁶⁹ Vuylsteke B. et al., "Preventing HIV among sex workers" in Mayer K. H., Pizer H. F. *HIV Prevention*, Elsevier, London, 2009; Fernandez C., « Les pratiques d'assèchement vaginal », in Guillemot F., *Femmes migrantes, Enjeux de l'épidémie à VIH*, *op.cit.*, pp. 148 sq ; Reed B.-D., Ford, K., Wirawan D., "The Bali STD/AIDS study: association between vaginal hygiene practices and STDs among sex workers", *Sexually Transmitted Infections*, 2001;77:46-52 doi:10.1136/sti.77.1.46 ; Wang et al., "Vaginal Douching, Condom Use, and Sexually Transmitted Infections Among Chinese Female Sex Workers", *Sexually Transmitted Diseases*, Sex Transm Dis. 2005 November; 32(11): 696-702.; Fonck et al., "Sexually transmitted infections and vaginal douching in a population of female sex workers in Nairobi, Kenya", *Sexually Transmitted Infections*, 2001 August; 77(4): 271-275.

⁷⁰ Cabiria, *Rapport d'activité*, 2008, pp. 48 sq. In addition, independently of practises of vaginal drying, researchers observe less recourse to lubrication jelly in many circumstances. See for example Lotus-Bus, *Rapport d'activité*, 2008.

⁷¹ Zhang J. et al. "Vaginal Douching and Adverse Health Effects: A Meta-Analysis", *American Journal of Public Health*, 1997 July; 87(7): 1207-1211.

⁷² Mc Clelland et al., "Vaginal washing and increased risk of HIV-1 acquisition among African women: a 10-year prospective study", *AIDS* 2006 Jan 9;20(2):269-73,

STI, since these substances may dry genital mucous and increase its fragility, and because clients who propose sexual relations under the influence of drugs may also have other high-risk behaviours⁷³.

In non-commercial sex within the framework of an established emotional relationship as a couple, persons involved in prostitution rarely employ prevention material, particularly condoms, which are often perceived as a professional tool to establish distance with a client.⁷⁴ Emotional dependence and mutual trust affects the usage of condoms.⁷⁵ Moreover, cultural perceptions may make prevention practises more difficult. Some immigrants feel that use of a condom within even occasional relationships with persons from their home countries is inconceivable.⁷⁶ Some women who work as escorts do not perceive themselves as prostitutes, and do not use condoms because they associate them with a "professional" act that they do not identify with.⁷⁷

LESS ACCESS TO SERVICES

The vulnerability of persons involved in prostitution is reinforced by the lack of information about prevention and health-care, and poor use of prevention material.⁷⁸ The level of information about STIs and hepatitis remains very low, particularly among English-speaking persons from Africa and persons from Eastern Europe. The modes of transmission of infections are understood only sketchily, despite solid knowledge of what constitutes a risk situation. Numerous falsehoods regarding transmission of HIV-AIDS are held to be true (deep kissing, sharing cutlery, mosquito bites, vaginal douching⁷⁹, sex acts with condoms⁸⁰) and the potential gravity of hepatitis appears underestimated.⁸¹ At the same time, the consequences of infection with HIV-AIDS are overestimated, with many migrant persons evaluating infection with HIV-AIDS as synonymous with rapid decline in health leading to rapid and inevitable death.⁸²

Although currently the development of more screening and treatment should be significantly encouraged⁸³, recourse to either appears insufficient among these groups. Proposals to screen for HIV-AIDS⁸⁴, and the number of screening tests undertaken for HIV-AIDS⁸⁵ and forms of hepatitis⁸⁶ remain far too rare. Post-exposure prophylactic treatment (PET) and the use of modes of contraception alternative or complementary to the male condom are unknown to many sex workers, particularly so-called "traditional" sex workers⁸⁷, migrants from Eastern Europe, China and sub-Saharan Africa.⁸⁸ When there has been condom breakage, persons involved in prostitution are not all sufficiently

⁷³ Shira et al., "Correlates of unprotected sex with female sex workers among male clients in Tijuana, Mexico", *Sexually Transmitted Diseases*, 2010 May;37(5):319-24; Shannon, K. et al., "Drug sharing with clients as a risk marker for increased violence and sexual and drug-related harms among survival sex workers", *AIDS care*. 2008 Feb;20(2):228-34.

⁷⁴ See for example Meystre-Agustoni G. et al., in *Raisons de santé*, vol. 139, 2008 ; Mission mobile – Lotus Bus, Promotion de la santé auprès des personnes se prostituant à Montpellier, *Rapport d'activité*, 2009, p. 15 ; Jackson L.A., Sowinski, B and al., "Female Sex Trade Workers, condoms and the Public-Private Divide", p. 83-105 in J. T. Parsons, *Contemporary Research on Sex Work*, 2005 ; Meystre-Agustoni G, Voellinger R. and al., *Comportements par rapport au VIH/sida et aux autres infections sexuellement transmissibles dans l'univers de la prostitution féminine*, op.cit. ; Fauquier J., Sergeant M., "Boyfriends, 'pimps' and clients", in Scambler G., Scambler A. (ed.), *Rethinking Prostitution*, op.cit., p. 128.

⁷⁵ De Carvalho E., Bertin X., Sitbon G., *Prise de risque des clients de prostituées*, Paris, SIS, 2006, p. 19.

⁷⁶ Deschamps, C., *Le sexe et l'argent des trottoirs*, op.cit., p.136

⁷⁷ CNS hearings.

⁷⁸ According to a 2007 study led by Médecins du Monde, which looked at 93 women, 70% of respondents experienced a condom breakage.

⁷⁹ Grimley D.-M. and al. "An intervention to reduce vaginal douching among adolescent and young women: a randomized controlled trial". *Sexually Transmitted Diseases*, 2005 Dec;32(12):752-8.; Mc Clelland et al., Vaginal washing and increased risk of HIV-1 acquisition among African women: a 10-year prospective study", op.cit.

⁸⁰ A study of migrant persons from sub-Saharan Africa living in the Ile-de-France region around Paris indicates that one third of respondents think HIV can be transmitted through mosquito bites or during sex acts involving condoms. Lydié N., *Les populations africaines d'Ile-de-France face au VIH/sida. Connaissances, attitudes, croyances et comportements*, Saint Denis, 2007.

⁸¹ Cabiria, *Rapport d'activité*, 2008, p. 44.

⁸² *Ibid*, p. 63.

⁸³ Patrick Yeni (dir.), *Prise en charge médicale des personnes infectées par le VIH. Recommandations du groupe d'experts*, Paris, La documentation Française, 2010.

⁸⁴ CNS hearings.

⁸⁵ According to a recent study of Chinese prostituted women, following screening tests, 52% of respondents declared no previous screening tests for HIV and felt they were not concerned by HIV-AIDS, which they perceived as a 'foreign' disease. These women came from an age group which has never had access to information on STIs and HIV-AIDS in China. Lotus Bus, *Rapport d'activité*, Médecins du Monde, 2009.

⁸⁶ Les Amis du Bus des Femmes, *Rapport d'activité*, 2007.

⁸⁷ Cabiria, *Rapport d'Activité*, 2008. The study looked at 349 people during mobile reception sessions.

⁸⁸ The previously cited study of migrants from sub-Saharan Africa living in the Ile-de-France indicated that only 57% of them knew of the existence of anti-retroviral treatments. Lydié N., *Les populations africaines d'Ile-de-France face au VIH/sida. Connaissances, attitudes, croyances et comportements*, op.cit.

informed about the existence of PET and its potential benefits in preventing infection with HIV⁸⁹, or they may have no access to it, particularly at night and on weekends⁹⁰. Health care and treatments are subject to the vagaries of prostitutional activity, and living conditions often prevent smooth operation of treatments; for example, life in cheap hotels means these persons may not be able to cook for themselves or eat a cheap and balanced diet, and their daily routine may be highly irregular.⁹¹

In general, persons involved in prostitution do not have sufficient access to the existing offer of health-care. The health system does not provide services adapted to the health needs, the language level, the cultural values and the mobility of prostituted persons. Lack of knowledge of the medical and social mechanisms available in France⁹², insufficient recourse to interpreters within the framework of hospitals despite budgets to provide this, and reticence on the part of hospital personnel regarding certain populations (particularly transgender persons), as well as broader difficulties regarding reception of migrants in health-care structures, particularly for PET, mean they face additional obstacles in accessing proper care.⁹³ In addition, many cases of refusal of care have been observed, because of problems with affiliation with the state's minimal medical assistance program (*Aide médicale d'Etat* or AME)⁹⁴ or because of involvement in prostitution.⁹⁵ Consequently, many persons involved in prostitution do not inform health-care personnel about their involvement with commercial sex.⁹⁶

1.2.2 AGGRAVATED SOCIAL VULNERABILITY

This vulnerability in terms of health is aggravated by other, additional forms of vulnerability, including exposure to violence and diminished access to social welfare assistance (welfare payments, retirement, unemployment benefit, right to housing), as well as difficulties in looking for housing and opening a bank account, and difficulty in accessing salaried employment or suitable professional training. These forms of vulnerability reinforce exposure to risk of infection with HIV and STIs.⁹⁷

LESS ACCESS TO SOCIAL WELFARE ASSISTANCE

Persons involved in prostitution do not benefit from social welfare assistance specifically linked to the exercise of a recognized profession⁹⁸. They must, however, declare their revenue to the tax authorities, as "non-commercial income", and are therefore liable to pay dues for the family welfare scheme (*allocations familiales*). Persons involved in prostitution may benefit from the medical reimbursements due to non-salaried, non-farm workers. Regarding retirement schemes, since 2004 they have been authorized to register at the *Caisse interprofessionnelle de prévoyance et d'assurance vieillesse* (CIPAV), a body that administers professions that fall under no other retirement scheme. In addition, if they are permitted to reside and work in France, persons involved in prostitution are eligible for the minimal social allowances: Active Solidarity Revenue (*Revenu de solidarité active*, RSA), Old Age Minimum, Universal Medical Coverage (*Couverture médicale universelle*, CMU), Disabled Adult Allowance (*Allocation adulte handicapé* AAH), Single Parent Allowance (*Allocation parent isolé*, API) and family benefits. However, although they may have a right to benefit from these measures, such persons do not necessarily have recourse to them, because of their lack of knowledge of these mechanisms⁹⁹ or their perception of their involvement in prostitution as a temporary activity.

Migrant persons involved in prostitution who are in an irregular situation with respect to immigration regulations encounter additional difficulties. They may benefit from a three-month provisional authorisation to reside in France

⁸⁹ Guillemaut F. (dir), *Etat des lieux des actions de prévention VIH auprès des personnes prostituées: étude préliminaire sur Toulouse, Lyon, Paris, Rennes, op.cit.*, p. 53-54.

⁹⁰ CNS hearings.

⁹¹ Cabiria, *Rapport d'Activité*, 2008, pp. 61 sq.

⁹² Lotus Bus, "Enquête auprès des femmes chinoises se prostituant à Paris", in *Dossier de presse, Médecins du Monde*, February 2009.

⁹³ CNS hearings.

⁹⁴ Cf. *infra*.

⁹⁵ Téqui, "Discrimination of sex workers in health care settings in France", *Research for sex work*, vol. 7, June 2004.

⁹⁶ Jeal N., Salisbury C., "Self-reported experiences of health services among female street-bases prostitutes: a cross-sectional survey", *British Journal of General Practices*, Br J Gen Pract. 2004 July 1; 54(504): 515-519.

⁹⁷ Van Wesenbeeck and al., "Contextual and interactional factors influencing condom use in heterosexual prostitution contacts", *Patient Education and Counseling*, Volume 24, Issue 3, <http://www.sciencedirect.com/science/journal/07383991/24/3> December 1994, 307-322; Ntumbanzondo M. et al., "Unprotected intercourse for extra money among commercial sex workers in Kinshasa", *AIDS Care*, 2006 Oct;18(7):777-85.

⁹⁸ Maffesoli S.-M., « Le traitement juridique de la prostitution », *Sociétés*, vol. 1, n° 99, 2008, pp. 33-46.

⁹⁹ See for example Guillemaut F. (dir.), *La réduction des risques liée au VIH/sida et l'accès aux soins dans le contexte des rapports d'échange économique-sexuels en Guadeloupe, op.cit.*, p. 64. Lack of knowledge about these mechanisms may be linked in some cases to language barriers.

without the authorisation to work.¹⁰⁰ The difficulties that they encounter in accessing medical coverage, whether the CMU or the AME, have been widely observed. Frequent changes in conditions for registration have contributed in recent years to the exclusion of increasing numbers of foreign nationals from the CMU, leading to more attempts to obtain the AME. Thus for one cohort between 2003 and 2005, the level of coverage via the AME rose from 6 to 30%, while CMU coverage dropped from 79 to 30%.¹⁰¹ Entry into the European Union of Bulgaria and Romania notably led to a reduction in rights to the CMU. Because these new EU states had committed themselves to ensuring medical coverage for all their nationals, these individuals could no longer benefit from medical coverage in France under the general scheme, and could only claim rights to the minimal AME.

This increase in the number of beneficiaries of the AME remains problematic. Persons receiving the AME have a less than optimal access to health-care. Approximately one-third of AME beneficiaries have experienced refusal of care from a health professional.¹⁰² Moreover, access to AME has been made more difficult since 2008; requests to register for the AME must now be accompanied by a document attesting to the need for health-care, evaluated by a doctor. Requests for AME on humanitarian grounds are very often refused.¹⁰³ Finally, potential beneficiaries of the AME must provide documented proof that they have resided in France for three months, and this may constitute a major obstacle to access to care.¹⁰⁴ Non-profit organizations observe that persons who wish to ensure that they are effectively registered to receive this assistance must be accompanied and assisted by an experienced community worker. Thus, in the absence of neighbourhood health structures, access to the common-law health system for migrant persons involved in prostitution appears largely hypothetical, limited in the main to hospital emergency rooms.

Regarding housing, non-profit organizations observe that the vast majority of foreign migrants do not benefit from private housing, but are by default domiciled at "letter-box" addresses, because of their lack of residency permits and the mistrust of property owners, who fear they may be accused of procurement or of benefiting from prostitution.¹⁰⁵ Particularly on their arrival in the country, most migrant women live in hotels, in often very dubious conditions of hygiene and sanitation; some return to this situation following brief sojourns in emergency hostels for the homeless or housing centres for social rehabilitation (*Centres d'hébergement et de réinsertion sociale*, CHRS). A small minority manage to sublet private housing. Most persons encountered by non-profit groups do not know that they may claim social welfare allowances such as the RSA, housing aid or exceptional financial aid¹⁰⁶, or that these allowances may be combined.

EXPOSURE TO VIOLENCE

In addition to the difficulties they encounter in accessing their rights to social welfare benefits, persons involved in prostitution and the non-profit groups that offer them support have for many years reported repeated and daily exposure to various forms of violence, whether physical, psychological, symbolic or moral, or linked to imposition of specific living conditions¹⁰⁷. According to a 2004 study, 70% of persons involved in prostitution identified acts of

¹⁰⁰ CNS hearings. See in particular Arap-Rubis, *Rapport moral*, 2008; out of 500 women followed by the association Cabiria in 2005, 5% were in an irregular administrative situation in respect to their residency in France; 66% benefited from a temporary right to reside in France; 81% had no authorization to work. Only 8% of the persons followed up said they had a temporary residency permit with authorisation to work. Cabiria, *Rapport d'activité*, 2004.

¹⁰¹ CNS hearings; Guillemaut F. (dir.), *Etat des lieux des actions de prévention VIH auprès des personnes prostituées : étude préliminaire sur Toulouse, Lyon, Paris, Rennes*, op.cit., pp. 40 sq.

¹⁰² A national study by Médecins du Monde showed that 34% of general practitioners, out of a sample of 700 doctors, refused to treat patients benefiting from the AME. This is almost four times as many as the proportion (10%) of doctors who refuse care to patients who benefit from the CMU. According to several representatives of the medical profession, such refusals are often linked to reluctance on the part of private doctors to manage the arduous administrative mechanisms for payment of appointments for AME patients; these mechanisms are more complex than the norm, and the delay before payment is made is often much longer. Médecins du Monde, "Test de discrimination sur les refus de soins des médecins généralistes pour les bénéficiaires de la CMU ou de l'AME dans dix villes de France", November 2006; See also Inspection générale des affaires sociales (IGAS), Inspection générale des finances (IGF), *Audit de modernisation, Rapport sur la gestion de l'aide médicale d'Etat*, May 2007, pp. 6 sqq; Grisélidis, *Rapport d'activité*, 2007, pp. 57 sq.; Boisguérin B. et Haury B., "Les bénéficiaires de l'AME en contact avec le système de soins", *Etudes et documents*, vol. 645, July 2008.

¹⁰³ Françoise Guillemaut (dir.), *Etat des lieux des actions de prévention VIH auprès des personnes prostituées : étude préliminaire sur Toulouse, Lyon, Paris, Rennes*, December 2008, op.cit., p. 40.

¹⁰⁴ CNS hearings.

¹⁰⁵ CNS hearings; Grisélidis, *Rapport d'activité*, 2008, p. 47; Cabiria, *Rapport d'activité*, 2008, p.100.

¹⁰⁶ Cabiria, *Rapport d'Activité*, 2008, p. 94.

¹⁰⁷ See also Földäzi A., « Activités prostitutionnelles et gestion des violences : les risques du métier », *Genre, sexualité & société*, vol. 2, Autumn 2009. ; Pryn S., *Stigmate et métier. Une approche sociologique de la prostitution de rue*, op.cit., p. 94 sqq.

violence committed against them in the course of the preceding six months¹⁰⁸. This violence took place between prostituted persons, or was perpetrated by pimps, clients, the police or institutions.

Violence on the part of clients is a frequent phenomenon, and stems most often from demands or attempts to impose new sex acts, or demands for reimbursement.¹⁰⁹ Additionally, escorts describe a category of "dominating" clients who are likely to impose a specific type of sexual service, in which the woman's body becomes a form of merchandise that the client is free to dispose of in any way¹¹⁰. According to the non-profit groups that support the human rights of persons involved in prostitution, violence on the part of individuals in the police force has increased in recent years¹¹¹. In addition, in a highly competitive sector of activity subjected to multiple forms of clandestineness, violence may also take place between prostituted persons.¹¹² Thus, fighting words and insults are regularly proffered against newly established persons, or those situated at the lower rungs of social hierarchies.¹¹³ Violence encountered in a context of prostitution is closely linked to the activity that is practised. Prostituted persons carry stigma and dishonour because of their work¹¹⁴. They are not merely affected by such stigma: they in many ways incarnate it.¹¹⁵ Transgender persons¹¹⁶ and MSM¹¹⁷ are apparently even more discriminated against. All these factors are likely to negatively impact the self-esteem of persons involved in prostitution, and they may therefore encourage risk-taking and less attention to the preservation of health.

More specific violence is exercised against migrants. It appears that the arrival of young women from Eastern Europe and English-speaking Africa, who practise sex acts at prices below the average previously established, have revived tensions between persons involved in prostitution, and have made more common a negative and often openly racist discourse by French nationals involved in prostitution against foreigners.¹¹⁸ In addition, other forms of violence arise from the reimbursement of debts originating in the migrant's voyage to France. This debt varies according to the country of origin, the "service" purchased (visa, work contract, passport, travel, illegal and clandestine passage across international borders etc) and the type of negotiation. The size of the debt varies between 2,000 and 50,000 euros; it may result in debt bondage so extensive as amount to a real form of servitude, particularly in the case of Nigerian women linked by "juju"¹¹⁹, and may constitute a threat to the integrity of the person or to his or her family in the country of origin. It is estimated that close to 80% of migrant persons have contracted debts linked to their journey¹²⁰.

¹⁰⁸ Guillemaut F., *Femmes et migrations en Europe, Stratégies et empowerment*, November 2004, p. 106. A n older study dating from 1995 indicated that 41% of sex workers had suffered an attack in the five months preceding the inquiry. "Conditions de vie des personnes prostituées : conséquences sur la prévention de l'infection à VIH", *Revue Epidémiologique et Santé Publique*, 1996. This data is confirmed by several other studies. Thus, for example, in San Francisco, 70% of prostituted persons have been subjected to violence from pimps and or clients: Fauquier, J., Sargeant, M., « Boyfriends, 'pimps' and clients » in Scambler, G., Scambler A. (ed.), *Rethinking Prostitution*, 1997, *op. cit.*, p. 123.

¹⁰⁹ A 1995 study indicated that the client is the principal instigator of violence in 58% of cases. "Conditions de vie des personnes prostituées: conséquences sur la prévention de l'infection à VIH", *Revue Epidémiologique et Santé Publique*, *op.cit.* Canadian data indicates that the violence described by persons involved in prostitution originates from the police in 66% of cases, and from clients in 14%. Bruckert et Parent, *Crime organisé et trafic de personnes au Canada: perceptions et discours*, 2004.

¹¹⁰ Bigot S., « La prostitution sur Internet : Entre marchandisation de la sexualité et contractualisation des relations affectives », *Genre, sexualité et société* (on line), vol. 2, Autumn 2009,

¹¹¹ Commission nationale sur les rapports entre les citoyens et les forces de sécurité sur le contrôle et le traitement de ces rapports par l'institution judiciaire, « Des nouvelles zones de non droit, des prostituées face à l'arbitraire policier », 2006, pp. 11 *sq.*

¹¹² Deschamps C., « Clandestinité et partage de territoire. La prostitution de rue à Paris », *Gradhiva*, n° 33, 2003, p.106.

¹¹³ Pourette D., « Les violences », in Handman M.-T., Mossuz-Lavau J., *La prostitution à Paris*, *op.cit.* p. 326.

¹¹⁴ Pheterson G., *Le prisme de la prostitution*, *op. cit.*, 2001, p. 334.

¹¹⁵ "In every dimension of dishonour, prostitutes reappear as the prototype of the whore. They are perceived as personifying sexual relations (adultery), race (dark), money (dirty), punishment (deserved), disease (sexually transmitted) and knowledge (taboo) », *Ibid*, p. 128, *trans.*

¹¹⁶ CNS hearings.

¹¹⁷ Belza M.J., "Risk of HIV infection among male sex workers in Spain", *Sexually Transmitted Infections*, 2005 February; 81(1): 85-88.

¹¹⁸ *Ibid*, p 327.

¹¹⁹ "Juju" is a ceremony practised before departure to protect the person who is embarking on a voyage. The beneficiary must respect the "juju", especially by paying him a sum of money; the penalty is loss of health. Guillemaut F., « Sexe, juju et migrations. Regard anthropologique sur les processus migratoires de femmes africaines en France », *Recherches sociologiques et anthropologiques*, n° 1, 2008, pp. 10-25.

¹²⁰ Guillemaut F. (dir.), *Femmes et migrations en Europe*, Cabiria, 2007, p.101

PART II - GROWING CONTRADICTIONS BETWEEN PUBLIC POLICIES, TO THE DETRIMENT OF HUMAN RIGHTS

In the past ten years the authorities have pursued different objectives regarding prostitution.¹²¹ They have worked to encourage public tranquillity and emphasized sanctions against visible forms of street prostitution and certain forms of procurement. They have also aimed to fight organized crime and adopted specific measures against human trafficking. Finally, they have mobilized in favour of the protection of minors, the protection of victims of pimps and human traffickers, and in favour of the rehabilitation of persons involved in prostitution. Thus the law of 15 November 2001 on day to day security reinforces the legal penalties for simple procurement.¹²² The law of 4 March 2002 on parental authority forbids the prostitution of minors and specifically incriminates procurement of minors under the age of 15.¹²³ Finally, the law of 18 March 2003 on internal security (the LIS) lays out a number of measures and penalties relating to soliciting, procurement, human trafficking and measures of assistance to victimized persons.¹²⁴

Conceived as part of an effort in favour of public tranquillity, to fight human trafficking and to provide protection, the measures laid out by the LIS have increased the destabilization of persons involved in prostitution, without managing to restore their rights nor to guarantee the stability of the most vulnerable persons among them. This legislation continues to be a source of instability, in particular for foreign nationals. It contributes to down-playing the importance of health and aggravates the exposure of prostituted persons to the risk of transmission of HIV-AIDS and STIs. Neither the coordinating bodies set up or showcased by the authorities, nor the definition of ambitious goals within the framework of local or national public health plans, have to date led to a shift in the negative trends that are unanimously observed by non-profit organizations of support to persons involved in prostitution and by the sole report evaluating the LIS that the government has drawn up.

II.1 RIGHTS ARE AFFIRMED, BUT THEY ARE LIMITED AND INCONSISTENTLY APPLIED

The difficulties encountered by persons involved in prostitution result in part from awkwardly planned public measures such as the offense of "passive soliciting" laid out by the LIS, whose application has been very complex and uneven, both across the country and in time. Additionally, many rights, including those reserved to the victims of pimps and human traffickers (in particular foreign nationals) remain reserved to a minority, because they are limited by problematic conditions. In sum, the current legislation has managed neither to directly protect the victims of human trafficking and procurement, nor to increase the number of pimps and traffickers charged with crimes. The principal result of the law remains a consequential increase in the number of persons involved in prostitution charged with offenses (cf. Table 1).

¹²¹ For a summary of the history of recent legislation relative to prostitution in France and a synthesis of current laws, see the appendix to the present Opinion: *A History of Public Action Regarding Prostitution*

¹²² Law # 2001-1062 of 15 November 2001 on day to day security.

¹²³ Law # 2002-305 of 4 March 2002 on parental authority.

¹²⁴ Law # 2003-239 of 18 March 2003 for Internal Security. The details of its measures are presented in the appendix.

TABLE 1 ACCUSATIONS AND CONVICTIONS FOR SOLICITING AND PROCUREMENT, AND CARE FOR VICTIMS OF PROCUREMENT AND HUMAN TRAFFICKING¹²⁵

Year	2001	2002	2003	2004	2005	2006	2007	2008	2009 ¹²⁶
Legal charges for active and passive soliciting	267	–	–	5152	–	–	–	–	2315
Legal convictions for passive soliciting	–	–	291	747	996	474	535	–	–
Legal convictions for active soliciting	–	–	–	4	0	0	0	0	–
Legal charges for procurement and aggravated procurement	466	643	709	717	–	–	–	–	465
Convictions for procurement and aggravated procurement	–	–	–	554	528	473	592	498	–
Identification of victims of pimps and human traffickers	–	–	–	–	–	1218	–	–	684
Permits for residency for victims	–	–	172	180	–	–	–	–	79
Notification of victims to the Ac-Sé coordination body	–	–	50	–	–	–	–	56	–
Effective reception into the Ac-Sé network	–	–	33	44	–	–	–	–	–

II.1.1 A COMPLEX SET OF REGULATIONS THAT IS LARGELY INCONSISTENT WITH HUMAN RIGHTS

The application of legislation regarding soliciting has considerably increased the pressure on persons involved in prostitution, and undeniably constitutes a factor for destabilization. Additionally, protective regulations for victims of human traffickers and pimps, particularly foreign nationals, was put into effect after long delay, and because of the very limited and conditional characteristics of these rights they address the needs of only a symbolic minority of prostituted persons. Thus measures to protect victims have been unable to blunt the negative effects produced by the application of regulations regarding soliciting.

INCONSISTENT APPLICATION OF THE OFFENSE OF SOLICITING

The application of Article 50 of the LIS has led to a spectacular increase in legal charges for soliciting. According to the data currently available, 5,152 legal procedures for soliciting were initiated by the national police in 2004. In comparison, 267 tickets were issued for soliciting in 2001¹²⁷. However, the number of legal charges for soliciting has tended to decline in recent years. In 2009, by 30 November, a total 2,315 of such charges had been filed.¹²⁸ In contrast the number of legal charges made in National Police procedures significantly increased during 2004¹²⁹ and 2005. In the subsequent two years (2005-2007) police operations were observed to be less numerous, but more tightly targeted¹³⁰. The populations on which they focus are in the main foreign nationals, and the legal charges made tend to relate more to immigration irregularities than to the offense of soliciting. Thus arrests of persons from

¹²⁵ Sources : CNS hearings, Transcripts of the Senate session of 11 May 2010, *Rapport faisant état de la situation démographique, sanitaire et sociale des personnes prostituées ainsi que des moyens dont disposent les associations et les organismes qui leur viennent en aide (2006)*, *Rapport fait au nom de la commission des lois constitutionnelles, de la législation, du suffrage universel, du règlement et d'administration générale sur le projet de loi sur la sécurité intérieure (2002)*, Ministry of Justice.

¹²⁶ Data from 30 November 2009.

¹²⁷ Senate, *Rapport fait au nom de la commission des lois constitutionnelles, de législation, du suffrage universel, du règlement et d'administration générale sur le projet de loi sur la sécurité intérieure par Jean-Patrick Courtois*, n° 36, appended to the transcript of the session of 30 October 2002, p. 74.

¹²⁸ Senate, *Séance du mardi 11 mai 2010*, JORF, 12/05/2010, p. 3323.

¹²⁹ The non-profit group Grisélidis noted in November 2004 a sharp uptick in legal charges filed against prostituted persons in Toulouse, with 34 arrests in the course of a single night, and an average of 8 to 10 arrests per week for 2004 overall. Grisélidis, *Rapport d'activité*, 2006.

¹³⁰ CNS hearings.

Eastern Europe appear to have diminished in 2007, following the entry of Romania and Bulgaria into the European Union.¹³¹ Several non-profit groups have observed no legal charges against non-migrant prostituted persons.¹³²

The number of legal convictions following charges of soliciting has also increased, but it remains significantly lower than the number of charges filed. The figure for convictions for soliciting rose from 291 in 2003 to 996 in 2005, and in the subsequent two years it stabilized at roughly 500 convictions each year. The resulting sentences have generally been less severe than those foreseen in the Penal Code, but they may nonetheless be dissuasive for persons in precarious circumstances. Persons involved in prostitution who are charged with an offense in a legal procedure are on average sentenced to a 400-euro fine.¹³³ The practical difficulties encountered in defining the characteristics of soliciting have led to very different sentences, even in comparable circumstances. The application of Article 50 has been extremely variable over time. Convictions for soliciting were infrequent in the first months following the law; subsequently their number has increased. In several cases the prosecution has filed appeals in order to obtain heavier sentences than those applied by the court of first instance.¹³⁴

Moreover the application of the LIS appears extremely uneven across the territory of France, and dependent on the variable initiatives of local elected officials and representatives of the state. In Paris, the Prefecture of Police created a brigade specifically devoted to recording the offense of soliciting: the Unit for Surveillance and Territorial Investigation (*Unité de surveillance et d'investigation territoriale*, USIT), which has since been disbanded. Repressive activity appears to be extremely variable from one Paris neighbourhood to another, but in some neighbourhoods it remains highly significant, to the point that police services have in several cases arrested persons not involved in prostitution who were waiting for taxis outside Paris discotheques.¹³⁵ The USIT has attempted to precisely list the characteristics of passive soliciting.¹³⁶ Depending on the time-frame, various neighbourhoods or geographic zones have been targeted. Since the end of 2009, for example, persons involved in prostitution located in the Vincennes Forest east of Paris have been the object of numerous arrests and charges, although an effort of coordination had been established to allow the activity to take place in this location year-round, with the exception of specifically negotiated periods.¹³⁷

Outside of Paris, the practise of filing charges for soliciting varies widely from one city to the next. In the Provence Alpes Côtes d'Azur region (PACA), for example, charges for soliciting are extremely rare in the city of Marseille, and are linked to specific annoyances such as loud noise or fights. Legal charges have been far more frequently filed in the neighbouring city of Toulon, leading to a significant decrease in the number of persons involved in prostitution, the closure of a local office of a non-profit organization, and the displacement of prostituted persons to other locations, notably Marseille.¹³⁸ The number of charges filed also varies in time to reflect the arrival or departure of a specific representative of the State. Thus charges filed by police increased spectacularly in Lyon in 2007 with the arrival of a new Prefect. Moreover, independently of the application of the LIS, several cities have established bylaws to regulate the presence and activities of prostituted persons in the public thoroughfare, and/or the parking of vehicles equipped for residence or activity. Thus, in Lyon, the Mayor of the city has signed a number of municipal bylaws¹³⁹ to prohibit soliciting in the city centre and to prohibit parking for vans operated by persons involved in prostitution in certain neighbourhoods or streets¹⁴⁰. In the district of Rennes, the Mayor did not adopt bylaws to regulate the activity of persons involved in prostitution or the parking of their vans; however, following application of the LIS, the police services began to file charges regularly against some three dozen migrant persons involved in prostitution, whose activity in a neighbourhood of the city had raised the ire of its inhabitants.¹⁴¹

¹³¹ CNS hearings.

¹³² CNS hearings ; Cabiria, *Rapport d'activité*, 2008 ; Guillemaut F. (dir.), *État des lieux des actions de prévention VIH auprès des personnes prostituées. Étude préliminaire sur Toulouse, Lyon, Paris, Rennes, op.cit.*

¹³³ Sénat, *Séance du mardi 11 mai 2010, op.cit.*, p. 3309.

¹³⁴ Grisélidis, *Rapport d'activité*, 2006.

¹³⁵ CNS hearings.

¹³⁶ "Some signs are absolutely clear: a waiting position on the boulevard with cars stopping close to the woman; strolling about in a provocative manner; highly deliberate gestures or looks..." in "Bilan de la sécurité à Paris", *Liaisons*, n° 81, January-March 2004, *trans.*

¹³⁷ CNS hearings.

¹³⁸ CNS hearings.

¹³⁹ July 2002, August 2006, October 2006, July 2007, May 2008, December 2009, May 2010. The last ministerial decree on May 17, 2010 regulates the parking of vehicle used for living in the seventh and eighth district of the city of Lyon., *Extrait du registre des Arrêtés du Maire*, Réf. 47300-2010-06.

¹⁴⁰ Thus from May to December 2008, 150 cars had been impounded according to the local organization. Cabiria, *Rapport d'activité*, 2008.

¹⁴¹ Guillemaut F. (dir.), *État des lieux des actions de prévention VIH auprès des personnes prostituées. Étude préliminaire sur Toulouse, Lyon, Paris, Rennes, op.cit.*, appendice 1 ; Sanselme F., « Des riverains à l'épreuve de la prostitution. Fondements pratiques et symboliques de la morale publique », *Les annales de la recherche urbaine*, vol. 95, 2004, pp. 111 *sqq.* ; Rigalleau A., « Prostitution, riverains et action publique : une analyse en terme de territoire », in *Prostitution et action publique*, PUR, Rennes, 2006.

The consequential reinforcement of the means to repress soliciting and procurement has led to a spectacular increase in legal procedures against persons involved in prostitution, but it has not led to significant increases in charges filed against pimps (cf. Table I). In 2003 and 2004, respectively 709 and 717 persons were charged for procurement, compared with 643 in 2002, prior to passage of the law.¹⁴² More recently, for 2009, 465 persons had been charged with procurement by 30 November.¹⁴³ Moreover, in the vast majority of cases these legal charges appear to involve procurement for the help, support, assistance and protection of persons involved in prostitution. Cases of exploitative procurement, as foreseen by paragraphs 2 and 3 of article L225-5 of the Penal Code, have been in the minority.¹⁴⁴

AN ADDITIONAL FACTOR OF DESTABILISATION

The uneven application of the LIS constitutes an additional source of destabilization for prostituted persons. Application of measures regarding soliciting has accelerated the dispersion of persons into increasingly isolated or discreet locations, perceived as likely to shield them from police action, but in which they are more exposed to violence.

Various non-profit groups¹⁴⁵ as well as the National Commission on relationships between citizens and the security forces (*Commission nationale sur les rapports entre les citoyens et les forces de sécurité*)¹⁴⁶ have observed numerous and recurrent abuse of these persons' rights, particularly insults, fighting words, kickbacks and violence. Arrests by police forces are sometimes followed by placement in detention and the use of handcuffs. This detention may involve a simple interview, or may extend to a full body search followed by placement in a cell. In addition, vans, which are often owned by the sex-workers who occupy them, are usually seized when charges of soliciting are filed. Finally, persons involved in prostitution who are arrested by the National Police are registered in the computer file known as the Treatment System for Observed Offenses (*Système de traitement des infractions constatées*, STIC).

Non-profit support groups have observed that following application of the LIS, persons involved in prostitution have been charged with other offenses, including the offense of sexual exhibition¹⁴⁷ and offenses under the traffic code (dangerous or disruptive parking, refusal to comply with an order). Moreover, the difficulty of defining the characteristics of "incitation to commercial sexual relations" means that the conditions of these legal charges may be highly unusual, particularly when the arrests occur directly inside the vans. Among other elements, possession of large amounts of prevention materials has, paradoxically, been considered as constituting confirmation of the practise of soliciting.¹⁴⁸

Finally, the application of the measures regarding soliciting has cast into question the very presence of persons involved in prostitution in the public arena, producing a marginalized and invisible category of the population. According to convergent observations¹⁴⁹, the law has reinforced stigmatization of these persons, and weakened their access to prevention. Interest in issues of safety, the location of their activity and to potential arrests by the police has increased, to the detriment of a focus on prevention. Consequently the time devoted to negotiation of the commercial sex act has diminished. Given the deterioration of their living and working conditions, it may be said that persons involved in prostitution are accorded very few rights.

II.1.2 RIGHTS ARE CONDITIONAL AND RESERVED TO A MINORITY

Some legal rights may be specifically guaranteed, but are open to a very limited number of persons involved in prostitution. They are not linked to the exercise of their activity in prostitution, but to their status as victims, which may be recognized only under specific circumstances. The legal rights are conditioned on the successful realization of administrative procedures whose difficulties may discourage persons from requesting these benefits. Moreover,

¹⁴² *Rapport faisant état de la situation démographique sanitaire et sociale des personnes prostituées, ainsi que des moyens dont disposent les associations et les organismes qui leur viennent en aide, op.cit.*, p. 34.

¹⁴³ CNS hearings.

¹⁴⁴ CNS hearings.

¹⁴⁵ CNS hearings.

¹⁴⁶ Commission nationale sur les rapports entre les citoyens et les forces de sécurité, sur le contrôle et le traitement de ces rapports par l'institution judiciaire, *De nouvelles zones de non droit. Des prostituées face à l'arbitraire policier, op.cit.* Voir également : Ligue des droits de l'homme, section 31, *Violences policières*, Toulouse, 2006.

¹⁴⁷ Article L222-32 of the Penal Code : « *L'exhibition sexuelle imposée à la vue d'autrui dans un lieu accessible aux regards du public est punie d'un an d'emprisonnement et de 15000 euros d'amende.* »

¹⁴⁸ CNS hearings.

¹⁴⁹ CNS hearings.

the application of these legal rights has been problematic, both because of the absence of decrees to regulate their application, and because of varying interpretations in different Prefectures.

RIGHTS ARE STRONGLY CONDITIONED ON VARIOUS CRITERIA

In 2009, 684 victims of human trafficking and procurement were identified by the Police services. In that same year, only 79 residents' permits were issued in consideration of admission of victims to residency in France¹⁵⁰. In Paris and the surrounding region, only one person was permitted to benefit in 2009 from ten years residency card granted following the definitive conviction of a person accused of procurement.¹⁵¹ Admissions to one year residency permit were relatively more numerous in the period immediately following adoption of the LIS, with respectively 172 and 180 admissions to residency in 2003 and 2004, to which should be added 190 and 212 renewals of residency permits in those same years. We were not able to obtain the total number of requests for admission to residency following the procedure.¹⁵²

In order to lay a claim to these legal rights, victims must first accuse the perpetrators of procurement or human trafficking by making a police complaint or filing a witness statement. This leads to a number of questions. Victimized foreign nationals have been dissuaded from presenting requests for residency by their mistrust of the authorities, or because of their fear of reprisals against them or against family members who may have remained in their countries of origin. Conversely, the police authorities have displayed a certain mistrust of these measures, for fear of a flood of witness statements motivated solely by the prospect of obtaining residency permits. Moreover, one condition for obtaining a ten years residency card is the effective conviction of the perpetrator or perpetrators of the crime of procurement or human trafficking, and this may be particularly unjust, in that the result of a legal procedure does not solely depend on the statement of a victim. For all these reasons, the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW)¹⁵³ and the French National Consultative Commission on Human Rights (*Commission nationale consultative des droits de l'homme française*)¹⁵⁴ requested, respectively in 2008 and 2009, that these legal rights, particularly the right of residency, should not be linked to legal charges or convictions of the persons suspected of procurement or human trafficking.

The so-called Palermo Protocol¹⁵⁵, which was ratified by France in 2002, states that the grant of rights to persons who are the victims of human trafficking should not be conditional on an obligation to cooperate. Article 6, which focuses on assistance and protection granted to victims of human trafficking, states that the member states of the European Union (EU) must take measures to ensure the physical, psychological and social rehabilitation of victims of human trafficking. Adequate housing must be furnished, and advice and information must be delivered in a language that they can understand, particularly regarding their legal rights; in addition they must receive medical, psychological and material assistance and gain the possibility to work, to be educated and to be trained. In the current state of its legislation and measures to assist victims France cannot be said to respect the commitments made in the framework of this Protocol.

In addition to the dissuasive character of the legal procedure for the entry and residency of foreigners and asylum-seekers, several obstacles to the issuance of a six-month residency permit have been observed. Persons involved in prostitution have been unable to receive their residency permit on the grounds that they are continuing to pursue their activity as prostitutes, even though they have actively assisted the police in dismantling the prostitution networks that victimized them.¹⁵⁶ The decision to grant or refuse a residency permit for a victimized foreign national is thus entirely a matter for the discretionary power of the Prefect.¹⁵⁷ Moreover, in several Prefectures, victims have not received residency permits but have instead been issued receipts, renewable after three months, which do not give them authorisation to work.¹⁵⁸ Decisions taken in a number of Prefectures appear not to be based on any legal

¹⁵⁰ Senate, *Compte rendu intégral de la séance du mardi 11 mai 2010*, op.cit., p. 3324.

¹⁵¹ CNS hearings.

¹⁵² CNS hearings.

¹⁵³ United Nations Office on Drugs and Crime, United Nations Division for the Advancement of Women: *Legal Approaches to Trafficking as a Form of Violence against Women: Implications for a More Comprehensive Strategy in Legislation on the Elimination of Violence against Women* www.un.org/womenwatch/daw/egm/vaw_legislation_2008/expertpapers/EGMGPLVAV%20Paper%20_Mohamed%20Mattar_.pdf

¹⁵⁴ Commission nationale consultative des droits de l'homme, *Avis sur la traite et l'exploitation des êtres humains en France*, December 2009.

¹⁵⁵ Additional protocol of the UN Convention on Transnational Organized Crime that aims to prevent, repress and punish human trafficking, particularly of women and children, op.cit.

¹⁵⁶ CNS hearings; Commission nationale sur les rapports entre les citoyens et les forces de sécurité, sur le contrôle et le traitement de ces rapports par l'institution judiciaire, *De nouvelles zones de non droit. Des prostituées face à l'arbitraire policier*, op.cit., p.12.

¹⁵⁷ Commission nationale sur les rapports entre les citoyens et les forces de sécurité, sur le contrôle et le traitement de ces rapports par l'institution judiciaire, *De nouvelles zones de non droit. Des prostituées face à l'arbitraire policier*, op.cit., pp. 11 sq.

¹⁵⁸ Guillemaut F. (dir.), *Femmes et migrations en Europe, Stratégies et empowerment*, Cabiria, 2004, pp. 85 sq.

foundation. Finally, the examination of requests by victims in certain Prefectures may be extremely long, lasting several years.¹⁵⁹ Given these observations, non-profit groups that offer support to prostituted persons consider that the measures to grant residency are extremely selective, and that they contribute above all to an increase in arbitrary denunciations and a decrease in fellow-feeling within the community of persons involved in prostitution.¹⁶⁰

Measures to provide safe housing benefit a very limited number of persons involved in prostitution. In 2004, only 44 victims were actually housed in 33 accommodation centres, spread across 24 *departements*, on the grounds of the need for protection and shelter stipulated in the Code of Social Action (*Code de l'action sociale*)¹⁶¹. In 2009, 56 victims were addressed to the national coordination body in charge of reception of victims¹⁶² (cf. *infra*).

In addition to measures to assist with residency, the current regulations provide for assistance for the return to their country of foreign nationals with irregular immigration status or who are destitute¹⁶³. This assistance includes most notably payment by the National Agency for the Reception of Foreigners and Migrants (*Agence Nationale de l'Accueil des Etrangers et des Migrations*, ANAEM) of the beneficiary's travel costs, and financial aid of 2,000 euros per adult¹⁶⁴. In 2004, 6 victims of human trafficking are reported to have benefited from "classic" assistance for return, and following an agreement between France and Bulgaria 11 Bulgarian victims benefited from specific measures to assist their return.¹⁶⁵

These various public policies regarding prostitution, whether they are intended to punish soliciting and procurement or to protect the victims of pimps and human traffickers, give rise to no follow-up, public evaluation or coordination between the different authorities involved.

II.2 REPEATED INCONSISTENCY IN PUBLIC POLICIES

Several sectors of public policy are involved in issues of commercial sex, but the specific question of health does not receive sufficient attention from the authorities. Prostitution is not debated in any specific local or national forum devoted to the subject, which might regularly gather together representatives of the state and the non-governmental organizations that are competent in this field. There are a number of inter-ministerial coordinating bodies, but their missions are distant from questions of health, access to health-care and prevention involving prostituted persons. This absence of a forum in which to discuss and resolve problems is exacerbated by an absence of public expertise and programming. The law stipulates that an annual evaluation should be communicated to the parliamentary assemblies regarding the state of persons involved in prostitution. However, no evaluation has to date been communicated, and only one partial evaluation has been achieved, in 2006. The establishment of public health plans, particularly those intended to fight HIV-AIDS, cannot compensate for the absence of evaluation.

II.2.1 AN ABSENCE OF COORDINATION AND CONSISTENCY AMONG PUBLIC POLICIES

No mechanisms for coordination have been set up to benefit the major actors in the field of prostitution. Several attempts to organize inter-ministerial meetings between the Ministries of Health, the Interior and Justice have failed to take effect. Similar attempts have been made at a regional level, particularly in the Ile de France region, under the aegis of the decentralized health and social services, but the first meetings were never followed up because of ideological disagreements. Working groups do exist, but they do not specifically deal with prostitution, or deal only with a limited aspect of the subject. We should distinguish bodies for inter-ministerial coordination from mechanisms for coordination and cooperation that intervene at a local level.

AN ABSENCE OF COORDINATION AND CONSISTENCY OF PUBLIC ACTION AT THE NATIONAL LEVEL

The situation of persons involved in prostitution is a concern for numerous ministerial sectors. In France, two informal groups have for several years been wholly or partly involved in working on issues regarding prostitution,

¹⁵⁹ CNS hearings.

¹⁶⁰ CNS hearings.

¹⁶¹ *Rapport faisant état de la situation démographique sanitaire et sociale des personnes prostituées, ainsi que des moyens dont disposent les associations et les organismes qui leur viennent en aide*, *op.cit.*, p. 27

¹⁶² Sénat, *Compte rendu intégral de la séance du mardi 11 mai 2010*, *op.cit.*, p. 3324.

¹⁶³ Interministerial missive # DPM/ACI3/2006/522 of 7 December 2006 regarding measures to assist the return of foreign nationals with irregular immigration status or in situations of destitution.

¹⁶⁴ 3,500 euros for a married couple, plus 1,000 per minor child up to the third child, and 500 euros for any subsequent children.

¹⁶⁵ *Rapport faisant état de la situation démographique sanitaire et sociale des personnes prostituées, ainsi que des moyens dont disposent les associations et les organismes qui leur viennent en aide*, *op.cit.*, p. 24 sq.

and provide coordination at an inter-ministerial level. The first is a working group on issues of human trafficking, which is destined to become an independent authority¹⁶⁶; the second is the Ac-Sé group, a coordination body devoted to the reception and accommodation of persons involved in prostitution.

The first working group is led by the Delegation for Victims, under the authority of the Ministry of the Interior, and by the General Delegation for Youth (*Délégation générale de l'aide à la jeunesse*), under the authority of the Ministry of Justice. The mission of this group includes, in particular, the job of drafting recommendations along with a national plan to assist and protect victims. It comprises the representatives of seven ministries (Immigration, Health, Women, Labour, Justice, the Interior) and the representatives of specialized non-profit groups (Fondation Scelles, Amicale du Nid, Les Amis du bus des femmes, Accompagnement Lieux d'accueil, European Association for the Defence of Human Rights). In accordance with commitments made by France, in particular on ratification of the Warsaw Treaty¹⁶⁷, the issue of human trafficking must be the object of high-level coordination in the national government. Thus the authorities envisage the creation of a national coordination body in charge of drafting a national action plan to fight human trafficking, and they plan to create the post of National Rapporteur charged with making recommendations through an annual report.

The second working group is part of the national mechanism for shelter set up by the authorities to house and protect victims of human trafficking and procurement ("Ac-Sé" for *accueil-sécurité*, reception and security). The ALC non-profit group provides most of the coordination work for this mechanism on French soil, in the absence of involvement by the authorities, particularly the General Directorate for Social Cohesion (*Direction générale de la Cohésion sociale*, DGCS).

Questions of health, access to health-care and prevention appear not to have been a priority for these two coordination bodies to date; incidentally, a representative of one of these coordination bodies could not identify the representatives of the Minister in charge of Health.¹⁶⁸ However the two bodies should be playing a major role in health and prevention. The future national coordination body for human trafficking must reinforce the overall rights of victims, in accordance with France's international commitments, particularly in order to restore access to prevention and to care¹⁶⁹. The participation of representatives from non-profit groups, especially those involved in health, should mean that this role is more effectively emphasized.

The second coordination body does indispensable work in sheltering victims of pimps and human traffickers. Its stock of housing on offer appears very limited (See above), and its network across the country is insufficiently developed.

Both these coordination bodies should be reinforced, but they are limited by their very nature. The two groups respond only to problems encountered by victims of procurement and trafficking, or to persons who have been identified as such. Consequently no coordination body is today empowered to follow-up and make recommendations regarding all persons involved in prostitution, irrespective of their status regarding legislation on trafficking and procurement. The services of the Minister in charge of Health, together with those of the Minister in charge of Social Affairs and the Minister of the Interior, have the legitimacy and the ability to take the lead in formulating a much broader coordination.

AN ABSENCE OF COORDINATION AND CONSISTENCY OF PUBLIC POLICIES AT THE LOCAL LEVEL

On the local level, the coordination between various actors – in particular representatives of the government, locally elected officials and non-profit groups – remains problematic.

In some cities, coordination takes place within the framework of local or inter-district councils for security and prevention of delinquency (*Conseils locaux de sécurité et de prévention de la délinquance*, CLSPD). Instituted in 1982 to fight delinquency¹⁷⁰, these local councils were created in July 2002¹⁷¹, then confirmed by the law of 5 March 2007 on the prevention of delinquency¹⁷². Set up at the suggestion of municipalities, these councils are led by the Mayor, or in the case of an inter-departmental council, by the Mayor of one of the departments (districts). They must

¹⁶⁶ Senate, *Compte-rendu intégral de la séance du mardi 11 mai 2010*, *op.cit.*, p. 3324.

¹⁶⁷ See appendix.

¹⁶⁸ CNS hearings.

¹⁶⁹ Senate, *Compte-rendu intégral de la séance du mardi 11 mai 2010*, *op.cit.*, p. 3325.

¹⁷⁰ Gilbert Bonnemaïson, Commission des maires sur la sécurité, *Face à la délinquance : prévention, répression, solidarité*, December 1982.

¹⁷¹ Decree # 2002-999 of 17 July 2002 regarding local mechanisms for security and cooperation for prevention and the fight against delinquency.

¹⁷² Law# 2007-297 of 5 March 2007 on the prevention of delinquency.

include the Prefect and the local prosecutor, and they are intended to contribute to cooperation and coordination of the work of all actors involved in the prevention of delinquency and the fight against crime. They gather elected officials, government services, and representatives of the professions and non-governmental actors involved in security issues. Prostitution may be a working theme for actors in local prevention¹⁷³. Several non-profit organizations who support persons involved in prostitution, or who work in community health, have participated in these CLSPD, but most have not been invited to participate or are no longer invited.

In many cases, much of the work of coordination occurs outside the CLSPD, in the framework of more or less formal contacts between non-governmental groups, the Prefecture, representatives of the police, persons in charge of urban development, the representatives of neighbourhood committees (*Comités d'intérêt de quartier*, CIQ) or local committees (*Comités d'intérêts locaux*, CIL). In Lyon, for example, discussions regarding the situation of persons involved in prostitution were organized by the Prefect in November 2009, within the framework of meetings entitled "Freedoms and Safety". The priority of these meetings appears to have been questions of public order and tranquillity, and they did not directly examine issues relating to the security of persons involved in prostitution. Moreover, difficulties encountered in coordinating the work of various sectors of government services have been accentuated by divergent opinions within these same services, particularly between Prefectures and DDASS bodies, as was the case in the city of Lyon for several years¹⁷⁴.

II.2.2 AN ABSENCE OF PROSPECTIVE AND RETROSPECTIVE EVALUATION

The limits of cooperation regarding issues involving prostitution on both the local and national levels have to date been the subject of no evaluation by the authorities. Only the annual reports of non-profit groups involved in community health bear witness to the complexity of local situations and to the vulnerability of persons involved in prostitution. Despite a number of alarming signals, the government has not taken any measures since 2006 to proceed to an evaluation of the health and social situation of persons involved in prostitution, even though this is its legal obligation.

AN ABSENCE OF RETROSPECTIVE EVALUATION

Article 52 of the LIS stipulates that the government must, at the opening of the ordinary parliamentary session register a report at the offices of both the National Assembly and the Senate that evaluates the change in the demographic, health and social situation of persons involved in prostitution, as well as the means available to the bodies who assist them. As previously discussed, only one report, coordinated by the Service for the Rights of Women and Equality (*Service droits des femmes et égalité*) has to date been registered, in March 2006¹⁷⁵.

This report observes that persons involved in prostitution are in extremely precarious situations, "probably previous to the application of the LIS measures relating to soliciting, although they have aggravated and complicated the social and health situations of persons involved in prostitution"¹⁷⁶.

On the specific question of health, the report issues no new data. It notes that "published data regarding the health of persons involved in prostitution in France are rare, limited to street prostitution and most often unable to provide an overview of this phenomenon's multiple realities"¹⁷⁷. Regarding HIV-AIDS, the report indicates that "there is currently no recent public data ... concerning the level of HIV infection among persons involved in prostitution in France," and reproduces *in extenso* two paragraphs of the 2005-2008 National Plan for HIV-AIDS (*Plan national de lutte contre le VIH/sida*, PNLS)¹⁷⁸. The first paragraph refers to a review of the literature dating back to 1998, which indicates levels of prevalence in Western countries that vary from 0% to 74%. The second refers to "information from the personnel of non-profit support groups who intervene at locations where prostitution takes place, which lead to fears that levels of infection with HIV and STIs may rise"; it gives no further or more precise information. The final paragraph on HIV emphasizes the striking vulnerability of persons involved in prostitution and quotes the nine factors identified by UNAIDS in 2003. Thus this report is based on no observation and is limited to presenting data that is partial, out of date, and not specific to France; there is little concern for an updated picture or thoughtful

¹⁷³ CNS hearings.

¹⁷⁴ Guillemaut F. (dir.), *État des lieux des actions de prévention VIH auprès des personnes prostituées. Étude préliminaire sur Toulouse, Lyon, Paris, Rennes, op.cit.*

¹⁷⁵ *Rapport faisant état de la situation démographique, sanitaire et sociale des personnes prostituées ainsi que des moyens dont disposent les associations et les organismes qui leur viennent en aide, op. cit.*

¹⁷⁶ *Ibid*, p. 15.

¹⁷⁷ *Ibid*, p. 16.

¹⁷⁸ *Ibid*, p. 17.

perspective and it is unable to deliver a convincing description of the demographic, health and social situation of persons involved in prostitution.

In response to this absence of evaluation, the government has recently announced that it plans to schedule an evaluation regarding the coordination of the fight against human trafficking, the identification of victims, their protection and care, and the identification and punishment of the perpetrators of the traffic in human beings.¹⁷⁹ This future evaluation will be performed annually by the National Rapporteur charged with issues of human trafficking. Thus the government, through its Minister of the Interior, plans to create new knowledge tools regarding the fight on human trafficking, but it does not appear willing to proceed to evaluations of the social and health aspects of prostitution that have already been stipulated by the law through Article 52. Moreover, this restrictive approach, which focuses only on human trafficking, will not enable insight into the situation of a large number of persons involved in prostitution. This absence of evaluation appears all the more deplorable today in that the authorities in charge of health have since 2005 been unable to provide adequate follow-up of their action in favour of persons involved in prostitution, within the framework of the definition and evaluation of their national plans.

DETAILED PLANS THAT ARE NEITHER PUT INTO EFFECT NOR EVALUATED

In the framework of its National Plans, the Ministry of Health has adopted goals for action in favour of persons in situations of prostitution. Thus the 2001-2004 PNLs planned to reinforce community action in favour of persons involved in prostitution, to develop of new tools for intervention, to organise national meetings and a forum for inter-ministerial cooperation, to set up neighbourhood partnerships, notably with District Commissions on Violence against Women (*Commissions départementales d'action contre les violences faites aux femmes*), to propose training programs and to lead prevention campaigns for minors¹⁸⁰. However, although community health programs did benefit from the support of the Ministry, the principal measures regarding government action to assist persons involved in prostitutions were never followed through.

The 2005-2007 National Plan for HIV-AIDS and STIs recommended that community programs should be continued and adapted to new challenges: the vulnerability and precarious conditions of the persons involved; the banalisation of HIV; and the rise of a more repressive context. For these reasons the text argued that a focus on health should be integrated into programs aimed at persons involved in prostitution, and that observation of their state of health should receive greater emphasis. These recommendations were not itemized, and were included in a section on prevention for population groups in specific contexts of vulnerability: persons involved in prostitution, drug-users, detainees and prisoners, and transsexual persons. The 2005-2008 PNLs was the subject of an internal evaluation performed by the DGS in 2009.¹⁸¹ The summary of the evaluation indicates that the legislative context (LIS) made it difficult to set up actions for prevention and accessibility of the tools of prevention for persons involved in prostitution. No plan was adopted for 2009, and by mid-September 2010, the 2010-2014 National Plan for HIV-AIDS and STIs had still not been released.

The Ministry of Health also set up a 2004-2006 plan regarding the fight against HIV-AIDS for foreign nationals living in France. This recommends that the specific situation of migrant persons involved in prostitution should be taken into account.¹⁸² It recommended neighbourhood actions to increase trust and to facilitate access to health care for persons involved in prostitution. The report led to an external evaluation commissioned by the DGS. This called for clarification of the targets and objectives of the program, and mentioned sub-groups that should be considered a priority, which did not include persons involved in prostitution.¹⁸³ A DGS circular dated 23 October 2007 extended the national program for foreign nationals and migrants for the years 2007-2008, and indicated that action in favour of persons working as prostitutes should be developed.¹⁸⁴

The various national programs present rational objectives regarding persons involved in prostitution. However these plans remain relatively general, and receive insufficient follow-up and evaluation. Moreover, they appear difficult to apply without a preliminary re-examination of various public policies (particularly penal policies) which pursue

¹⁷⁹ Senate, *Compte-rendu intégral de la séance du mardi 11 mai 2010*, *op.cit.*, p. 3 324.

¹⁸⁰ Ministry of Health, General Directorate for Health, *Plan national de lutte contre le VIH/sida 2001/2004*, p. 22 sq.

¹⁸¹ General Directorate for Health, *Synthèse de l'évaluation du Programme national de lutte contre le sida et les IST 2005-2008*, October 2008, p. 6

¹⁸² Ministry of Health, General Directorate for Health, *Programme national de lutte contre le VIH/sida en direction des étrangers / migrants vivant en France 2004/2006*, p. 9.

¹⁸³ Ministry of Health, General Directorate for Health, *Évaluation du programme national de lutte contre le VIH/sida en direction des étrangers/migrants vivant en France, mis en œuvre depuis 2004 et recommandations pour le développement ou la réorientation de certains axes au titre du programme prévu pour 2007-2008*, June 2007, p. 9.

¹⁸⁴ Circular # DGS/R12/2007/383 of 23 October 2007 regarding the national policy for prevention of infections by HIV and STIs among migrants and foreign nationals.

contradictory goals. Reform that is limited to policy regarding prevention and access to care, without examination of other sectors of public policy, could have only limited impact.

On a regional level, the regional programs for access to health and care (*Programmes régionaux d'accès à la santé et aux soins*, PRAPS) must be empowered to set up actions to assist persons involved in prostitution. Set up by the 29 July 1998 law on the fight against exclusion¹⁸⁵, the PRAPS are a tool for cooperation and coordination that can gather together multiple partners: local councils and government services, non-governmental groups, social welfare and social benefit bodies, hospitals, complementary insurance companies, and professional bodies. According to a summary of evaluations, the PRAPS are a mechanism that is capable of motivating truly transversal action, and can help remove some of the walls between the sectors of health and social welfare on the one hand, and the decentralized services of the national government, local authorities, and non-state actors on the other.¹⁸⁶ However, the PRAPS are under-funded¹⁸⁷ in the light of the diversity of their missions.¹⁸⁸ Moreover, unlike the preceding (so-called "second-generation") regulations regarding the PRAPS¹⁸⁹, the latest circular to address the subject does not list persons involved in prostitution among its "priority" target populations¹⁹⁰.

¹⁸⁵ Law # 98-657 of 29 July 1998 on the fight against social exclusion. See also circulaire DGS/SP2/99/110 of 23 February 1999 regarding setting up regional programs for access to prevention and to care for persons in precarious circumstances.

¹⁸⁶ Inspection générale des affaires sociales, *Synthèse des bilans de la loi d'orientation du 29 juillet 1998 relative à la lutte contre les exclusions*, May 2004, p. 93.

¹⁸⁷ The draft budget for 2010 foresees mobilizing 10.06 million euros in the framework of setting up the PRAPS. The first evaluation report, by consultant Bernard Brunhes in July 2003, emphasized that uncertainty about the duration of action set up by the PRAPS meant that their realization could be problematic, particularly because of associated financing mechanisms.

¹⁸⁸ Circular # DGS/2007/430 of 7 December 2007 particularly notes guaranteed access to health care and to social benefits, the health of schoolchildren, the reduction of some environmental risks, action in favor of travelers and nomads, youth, single-parent families, detainees and those leaving prison, and foreign nationals, with particular attention to elderly immigrants living alone.

¹⁸⁹ Circulaire # DGS/SD6D/2002/100 of 19 February 2002, particularly the guidance regulations *PRAPS 2^{ème} génération*, "Publics, pathologies et dispositifs à analyser dans le cadre des PRAPS II".

¹⁹⁰ See circular # DGS/2007/430 of 7 December 2007, notably appendix IIIa "Les publics prioritaires".

PART III - NON-PROFIT ACTORS ARE STRONGLY SUPPORTIVE BUT THEIR STRATEGY IS INSUFFICIENTLY COORDINATED, INTEGRATED AND COMMUNITY-FOCUSED

Since the order and decree of 25 November 1960¹⁹¹, the State has broadly speaking disengaged from direct action in favour of persons involved in prostitution. However, it gives financial support to the non-profit private sector in the form of lump-sum subsidies or grants given to shelters and rehabilitation centres. Thus the non-profit sector has developed specific expertise to respond to the needs of these populations, and to facilitate the reception, accompaniment, shelter and rehabilitation of persons involved in prostitution. Non-profit associations originating in the social-welfare sector have, historically, developed a close-knit network of operations, and they are particularly involved in housing issues.¹⁹²

With the rise of the epidemic of HIV-AIDS infection, new non-profit groups began to appear in the late 1980s, with the specific aim of promoting access to prevention, health-care and legal rights in a context shaped by the rise of the epidemic and of its associated stigma. These mainly health-focused groups, which gradually spread to the main French urban areas, were often created by persons either involved themselves in prostitution or associated with them, and their missions progressively widened to include questions of social welfare and access to social benefit programs. Conversely, non-profit groups founded in a social-welfare tradition do not all adopt a similar approach, by which is meant an integrated approach founded on multiple expertise; neither do they all promote the direct participation of members of the community of persons involved in prostitution; and they have only partially modified their range of mission. Government policy does not correct this flaw but emphasizes it, by delivering the majority of its grants and subsidies to programs that focus on giving safety and shelter to a limited number of victims of pimps and human traffickers rather than to programs that are founded on an integrated approach to assist the wider community of persons involved in prostitution.

III.1 NON-PROFIT ASSOCIATIONS ARE DIVIDED AND FAIL TO ADOPT AN INTEGRATED, COMMUNITY-BASED APPROACH

In 2004, 66 professional non-profit associations were working to support persons involved in prostitution. In addition there were 26 "militant" associations comprising mainly volunteers, although some employed a few (sometimes only one) permanent salaried workers. The missions pursued by these groups mostly involved rehabilitation into society or questions of health.

TABLE 2 PROFESSIONAL ASSOCIATIONS, BY MAIN MISSION (2004)¹⁹³

Mission	Number
Social rehabilitation and housing	29
Community health	5
Health	15
Women's rights	9
The fight against social exclusion	8

These associations, whether professional or militant, differ in their approach to the place of prostitution in society, the participation of members of the community in their ruling bodies, as well as with regard to the objectives, methods and underlying principles of their work.

¹⁹¹ Order # 60-1246 of 25 November 1960, and decree # 60-1248, of 25 November 1960.

¹⁹² Note that decree # 76-256 of 15 June 1976 allows centers for housing and social rehabilitation (CHRS) to shelter persons involved in prostitution in the framework of social welfare assistance, if they do not dispose of sufficient revenue.

¹⁹³ *Rapport faisant état de la situation démographique, sanitaire et sociale des personnes prostituées ainsi que des moyens dont disposent les associations et les organismes qui leur viennent en aide*, op. cit., p. 21.

III.1.1 TRADITIONS OF NON-PROFIT WORK IN THIS SECTOR DIFFER STRONGLY

Until the early 1990s, work by non-profit groups to support persons involved in prostitution was mostly performed by associations dominated by a focus on social welfare; they were long-established, well anchored in close-knit networks, and mobilized for the social and professional rehabilitation of persons involved in prostitution. Most of these associations comprise either "militant" volunteers, or social workers. With the appearance of HIV-AIDS, projects for community health began to surface in Paris, then in some regional urban centres at the end of the 1980s, and were rapidly financed by the public sector in the framework of the fight against HIV¹⁹⁴. Furthermore, several associations similar to the first category appeared in the first few years of this century in response to the adoption of the LIS.

ASSOCIATIONS FOR SOCIAL REHABILITATION

Most of the social work that focuses on persons involved in prostitution is performed by non-governmental organizations whose mission it is to receive, accompany, and rehabilitate prostituted persons.

These associations differ. The oldest among them is Mouvement du Nid, set up in 1937 by Father André-Marie Talvas (1907-1992), a worker-priest linked to the Social Catholic movement. A member of the International Abolitionist Federation (IAF), this organization aims to fight "forms of modern slavery" and promotes "a society without prostitution". It works to sensitize the authorities and professionals involved, and in the field it operates closely with persons involved in prostitutions, clients and pimps. Although it is particularly well grounded and supported by the public sector in the North of France¹⁹⁵, this association has a national network present in 32 French regions or districts. It includes roughly 250 active militants, 3,000 sympathisers and 19 full-time employees¹⁹⁶, and publishes a quarterly magazine, *Prostitution et Société*.¹⁹⁷

Amicale du Nid was set up in 1971 following a split with Mouvement du Nid. It is a secular organization comprising professional social workers¹⁹⁸. Its mission is to develop contacts, presence and reception for persons involved in prostitution, and to help organize their rehabilitation. The association manages some fifteen establishments (hostels, workshops, open-custody services) and includes some 200 employees, most of them social workers and educators who work in 8 locations, 3 of them in the Paris region.¹⁹⁹ Both the "Amicale" and "Mouvement" groups are considered to be "abolitionist", but they differ in their composition and methodology.

Accompagnement Lieu d'accueil (ALC), in Nice, is the second major professional association specialized in reception and shelter. Founded in 1958, ALC created its first shelter centre in 1962 and today works in 8 centres in the region of Nice. In 2002 ALC created the national mechanism to welcome and shelter victims of human trafficking: the Ac-Sé network. This network seeks to provide security as well as shelter: the locations where victims are sheltered remain confidential, they are housed in non-specialized structures that are not identifiable as such, and they employ a team of social workers well informed about the potential risks and necessary precautionary measures.²⁰⁰

¹⁹⁴ Mathieu L., *Prostitution et sida, op.cit.*, p. 144.

¹⁹⁵ Pryn S., *Stigmate et métier. Une approche sociologique de la prostitution de rue, op.cit.*, p. 64 sqq.

¹⁹⁶ CNS hearing.

¹⁹⁷ www.mouvementdunid.org

¹⁹⁸ CNS hearing.

¹⁹⁹ www.amicaledunid.org

²⁰⁰ www.association-alc.net

NON-PROFIT GROUPS ARISING FROM THE COMMUNITY

With the appearance of the HIV-AIDS infection, persons involved in prostitution slowly began to develop their own non-profit groups focusing on health. Although the first epidemiological data de-linked prostitution and transmission of HIV, at one point it seemed possible that restrictive health regulations of prostitution might be imposed and enforced. Instead, the authorities opted for an alternative solution: promotion of the new community-health groups.

Since the late 1980s, various strategies have been employed in the countries of the European Union to fight HIV and STIs in the context of prostitution²⁰¹. They include proposals to register and target persons involved in prostitution; funding of services through existing NGOs accustomed to working with persons involved in prostitution; and promotion of health and prevention by prostituted persons in the framework of representative associations²⁰². The latter strategy was adopted in France in the early 1990s, particularly because of pressure from the persons involved in prostitution themselves. Thus the prevention of HIV-AIDS in the context of prostitution results from the creation of new non-profit groups and the mobilisation of completely new community projects, rather than from specific regulation or from adaptive change in the character and mission of pre-existing NGOs.

The new groups are innovative in that they are representative. Members of the community are involved in actions of prevention and access to health-care. Unlike some rehabilitation groups, associations of community health refuse to make normative judgments about commercial sex. On the contrary, their aim is to make the conditions in which it is supplied as risk-free as possible for the persons involved in prostitution themselves.

The first community-health association is Bus des femmes, which was established in 1989 by epidemiologists from EuroHIV, the European Center for the Epidemiological Monitoring of AIDS, and by persons involved in prostitution on the rue Saint Denis in Paris, who wanted more information about HIV-AIDS.²⁰³ A number of sex-workers joined the association, which in 1990 began an exemplary program of mobile assistance, with a bus that circulated between various prostitution locations in the Paris region in order to contact persons involved in prostitution, to offer them a space in which to meet, exchange views and gather information, and to supply them with prevention material. The French Association to Fight AIDS (*Association française de lutte contre le sida* AFLS), which at the time was a major actor in this sector, financed most of these projects.

Community health associations then began to spring up in a number of cities during the 1990s and in the first few years of this century. Among them were Autres Regards in Marseille²⁰⁴, Cabiria in Lyon²⁰⁵, Entr'Actes-GPAL in Lille²⁰⁶, and Grisélidis in Toulouse²⁰⁷. Other groups aimed at populations that encountered specific difficulties, such as transgender persons, appeared during the 1990s²⁰⁸, in addition to as non-community health programs, mostly led by the NGO *Médecins du Monde* (Doctors of the World)²⁰⁹. Although the AFLS closed down in 1994, and decentralization meant that the DDASS bodies developed a more powerful role in the distribution of subsidies, this configuration did not significantly change.

Municipal bylaws regarding prostitution, and public discussions about the LIS and its application, have contributed to reinforcing the mobilisation of persons involved in prostitution regarding their legal rights. With a precedent in 1975, this has since 2002 taken various forms, with street demonstration, a major forum (the Audience on Prostitution), and the creation of associations focused on the legal rights of prostituted persons. There is some overlap, in that community health associations may participate in the leadership of rights-based associations.

These rights-based associations were created by the persons involved in prostitution, in order to protest the criminalization of soliciting and the application of such measures by the authorities. They include France Prostitution,

²⁰¹ Mak R., "Projects for sex workers in Europe", *Genitourinary Medicine*, 1997;73:155-156.

²⁰² European project for AIDS prevention in prostitution (EUROPAP), *European intervention projects aids prevention for prostitutes*, Departement of Public Health, University of Ghent, 1995.

²⁰³ <http://lesamisdubusdesfemmes.com/>

²⁰⁴ <http://www.autresregards.org/>

²⁰⁵ <http://cabiria.pagesperso-orange.fr/>

²⁰⁶ <http://www.entractes-gpal.org/>

²⁰⁷ <http://www.griselidis.com/>

²⁰⁸ Prevention, Action Health and Work for Transgenders, (*Prévention, Action, Santé et Travail pour les Transgenres*, PASTT).

²⁰⁹ Thus the Médecins du Monde Lotus Bus project has been working since 2002 with migrant women from China who work as prostitutes in Paris. Projects have also been developed in Nantes, Montpellier, Poitiers and Rouen.

Hétaïra en Colère (specifically located in the east of Paris), Les Putes in 2006²¹⁰ and, as of March 2009, the "Union of Sex Work" (*Syndicat du travail sexuel*, STRASS). The STRASS promotes the concept of a professional status that will guarantee social benefits, retirement, and access to all legal rights for sex workers.²¹¹ In addition, pro-sex feminist militants have formed a number of associations, such as Femmes publiques²¹² and Femmes de droit/Droit des femmes, which since 2003 has grouped persons involved in prostitution and researchers. The inter-association group Droits et prostitution ("Rights and Prostitution") was created in 2002, before the LIS was passed, in order to give voice to persons involved in prostitution and to attempt to list the consequences of various public measures with effects on prostitution.

III.1.2 MISSIONS SHOULD BE DIVERSIFIED, WITHIN AN OVERALL INTEGRATED APPROACH

Associations involved in community health began to diversify their missions a few years following their creation, in order to apply an integrated approach that linked actions involving health issues together with actions involving issues of social welfare. Associations traditionally involved in social work committed themselves variously to actions promoting access to prevention and to health-care. The integrated approach remains fully justified given the increasingly precarious conditions of persons involved in prostitution in terms of health (exposure to STIs and HIV, psychological issues etc), and in terms of social and economic issues (absence of stable housing, social welfare benefits, irregular immigration status). The integrated approach has been tested, particularly in the fight against HIV-AIDS, and is widely recognized.²¹³ It rests on actions that are likely to directly encourage access to prevention and treatment, and through structural programs, to contribute to a more confident and safer environment for persons involved in prostitution, thus permitting them to become more receptive to safer sex practises and to control of the risk of infection with HIV.²¹⁴

AN INTEGRATED APPROACH BASED ON THE INTERVENTION OF COMMUNITY MEMBERS

The majority of health associations include persons currently or formerly involved in prostitution,²¹⁵ indeed they were in some cases instrumental in forming the associations. They are members of the boards of directors as well as members of staff, and may be managers or responsible for prevention work on the ground, for cultural mediation or for research studies. Some associations are careful to establish joint representation of both sex workers and non-sex workers within their ruling bodies and various teams of employees. The mobilization of members of the community in favour of prevention facilitates contact with persons involved in prostitution and assists in gaining their trust, particularly in the case of persons who are isolated or distrustful of organizations. Moreover, it contributes, within the community, to consolidating links of solidarity and fellow-feeling that have often deteriorated in recent years. Community commitment has a manifest impact on prevention practises and the fight against HIV-AIDS and STIs.²¹⁶

Community associations may set up several types of action programs. Outreach programs mobilize to contact persons involved in prostitution at the location where they work, in order to encourage them to participate in prevention. They furnish information about HIV-AIDS and STIs, screening, and post-exposure treatment, and they may organize discussion groups. They also distribute prevention material: male and female condoms, lubrication jelly, dental dams, antiseptic towelettes, and risk-reduction material for drug users (injection kits and sniff kits). These associations also effect a range of services during the day-time, particularly in terms of medical follow-up (contraceptives, nutrition), psychological help, and legal, social, cultural and linguistic assistance, in order to empower persons involved in prostitutions to re-appropriate their legal rights and acquire a certain stability. They frequently accompany persons to health-care institutions, lawyers, appointments with police or other judicial authorities, and because of the lack of available services they may directly assist with language translation for

²¹⁰ Maitresse Nikita, Schaffauser T., *Fières d'être putes*, Paris, L'Altiplano, 2007.

²¹¹ <http://www.strass-syndicat.org/>

²¹² The first meeting took place in December 2002, and the statutes were registered in March 2003. Deschamps C., "Mobilisation parisienne des prostitué(e)s", in Handman M.-E., Mossuz-Lavau J. (dir.), *La prostitution à Paris, op.cit.*, p. 92.

²¹³ Vuylsteke B. et al, "Preventing HIV among sex workers" in Mayer K. H., Pizer H. F. (ed.) *HIV Prevention, op.cit.*, pp. 385 sqq. The International AIDS Conference in Vienna in 2010 recalled that several studies have demonstrated the efficacy of programs based on an integrated approach to reduce transmission of HIV-AIDS and increase recourse to screening and the use of condoms. Programs that support an integrated approach have demonstrated manifest benefit, particularly in Central Asia, Ukraine and India.

²¹⁴ See for example Busza J., "How Does 'Risk Group' Perceive Risk? Voices of Vietnamese Sex Workers in Cambodia" in Parsons J. T. (ed.), *Contemporary Research on Sex Work*, (2005) 17 (1 & 2) 65-82..

²¹⁵ Rekart M.L., "Sex-work harm reduction", *Lancet*, Volume 366, Issue 9503, <http://www.thelancet.com/journals/lancet/issue/vol366no9503/PIIS0140-6736%2805%29X6172-4> ; 2123 - 2134, 17 December 2005.

²¹⁶ See for example Halli, S.S. et al., "The role of collectives in STI and HIV/AIDS prevention among female sex workers in Karnataka, India", *AIDS Care*, 2006 Oct;18(7):739-49,

migrant persons, particularly Chinese-, Spanish- and Portuguese-speakers. In addition to the necessary work of cultural and linguistic mediation, these associations must respond to the very precarious situations of persons involved in prostitution, proposing a very wide range of services that may go so far as to include administrative domiciliation, emergency shelter, the provision of meals, assistance with the resolution of situations of massive financial debts and the translation of administrative documents.²¹⁷

In addition to this range of tasks, community associations perform research studies on specific questions involving persons involved in prostitution, or particular populations among them. Thus, work is currently underway to study prostitution on the Internet; indoor prostitution in general; prostitution and HIV in Guadeloupe; male prostitution; and prostitution and drug-use.

Hence these associations respond to demands that are highly variable, in addition to the episodic demands of occasional or regular visitors, unpredictable emergencies and requests for follow-up. They guarantee constant reception and contact, and a continuous supply of information regarding HIV, STIs and hepatitis, as well as distribution of prevention and screening material, orientation for primary health-care and follow-up regarding welfare benefits.

UNEVEN DIVERSIFICATION OF THE MISSIONS OF TRADITIONAL SOCIAL-WELFARE ASSOCIATIONS

Despite the highly specific characteristics of their original missions, some traditional social-welfare associations have also diversified their programs in order to respond to changes in the needs encountered by the populations they serve. Thus a decade after the discovery of HIV-AIDS, several associations providing reception, shelter and rehabilitation had set up programs for prevention of HIV-AIDS, STIs and hepatitis, particularly in response to demand by prostituted persons themselves.²¹⁸ In 1995, Amicale du Nid adopted measures similar to those instituted by Les Amis du Bus des femmes, using an itinerant bus to move around and assist with prevention. Several associations specialized in social welfare assistance also provide various quantities of prevention material²¹⁹, and during their interviews with persons involved in prostitution, in partnership with health or community-health associations, the question of prevention and screening for HIV-AIDS and STIs is discussed.

Some associations working in reception, shelter and rehabilitation recommend a more transversal approach, and develop specifically health-based programs, such as the *Intermède* program led by Amicale du Nid. This project employs a bus and a phone hot-line to establish relationships of confidence with persons involved in prostitution, targeting HIV-AIDS and STIs. Unlike community-health associations, Intermède does not mobilize persons involved in prostitution to do the work of prevention, but deploys a mixed team of nurse and social worker.

It is difficult to precisely evaluate the nature and importance of prevention work performed by traditional social-work associations. Some of these associations do not pursue a clear strategy regarding prevention of HIV-AIDS and STIs. Thus Mouvement du Nid does not distribute condoms, but only offers them if requested by the persons involved in prostitution whom the group encounters.²²⁰ There may be specific difficulties linked to problematic training of social workers regarding health issues. The diversification of missions, which is also a result of the competitive dynamic between these bodies²²¹, is also limited by budget factors and issues related to the doctrine and ideologies of the associations in question.

III.2 COOPERATION IS WEAK, NATION-WIDE STRATEGY IS ABSENT

Services provided to persons involved in prostitution are geographically limited. Associations that subscribe to an integrated approach are generally rooted in large urban areas, and despite the inflation of their perimeter of intervention, they do not have access to budgets permitting an extension of their work throughout the country or to all forms of prostitution. Thus the services provided in Paris are adequate, but these mechanisms are difficult to extend to a broader scale, particularly in several specific regions. The authorities have not set up targeted strategies to boost access to health-care and prevention, although more significant mobilization has begun on questions of social welfare.

²¹⁷ CNS hearings and reports by health and community health associations.

²¹⁸ CNS hearings.

²¹⁹ In 2008, for example, ALC distributed 60,000 condoms: ALC, *Rapport d'activité*, 2008.

²²⁰ CNS hearings.

²²¹ Mathieu L., *Prostitution et sida*, *op.cit.*, p. 235.

III.2.1 COOPERATION IS INADEQUATE

Cooperation between the associations and the various private or public actors should enable an improvement of the services supplied to persons involved in prostitution, beyond the limits of the larger cities, and should also create conditions for positive intervention on the environment of persons involved in prostitution. However, despite some positive characteristics, this cooperation remains limited.

FEW COOPERATIVE ARRANGEMENTS BETWEEN ASSOCIATIONS

Because of their often discordant ethical principles, there is often a complex relationship between community-health associations and associations for the shelter and rehabilitation of persons involved in prostitution. The main disagreements crystallize around the status given to persons involved in prostitution. They often hamper attempts to set up networks for action in the context of large urban areas.

The creation of community-health associations is itself witness to the difficult relationships between organizations that support persons involved in prostitution, particularly in Lyon and Lille. Thus in Lyon, the local community-health association was obliged to acquire independence from Amicale du Nid so that it could develop²²². Associations in Lille have encountered a similar situation. Groupement de prévention et d'action lilloise (GPAL), an association that has focused on prevention, attempted to work in tandem with Mouvement du Nid, an organization that has a strong presence in Lille. Because it became impossible to continue this cooperative arrangement, GPAL turned to the Lille outpost of the association Aides. Several years later, the creation of the association Entr'Actes formalized this distance with Mouvement du Nid and was indeed motivated by a desire to demarcate the group clearly from the approach adopted by Mouvement du Nid.

Comparable tensions can be observed today. Some rehabilitation associations say they prefer partnerships with community health associations from abroad, because of the persistent disputes with French associations.²²³ Community-health associations continue to be highly suspicious of the methods adopted by rehabilitation groups. Thus the ProSanté study²²⁴ conducted by the National Federation for Contact and Social Rehabilitation (*Fédération nationale d'accueil et de réinsertion sociale*, FNARS) regarding the health of persons involved in prostitution²²⁵ does not benefit from the support of health and community-health associations. The study, which is taking place in some 20 centres involved in reception, accompaniment, shelter and social rehabilitation, as well as in CDAGs and CIDDISTs throughout France, is intended to improve knowledge about the state of health of persons involved in prostitution, and to identify the obstacles that prevent real access to health-care, legal rights and social benefits. The community-health groups have either not been invited to associate with the study or did not wish to do so, since they were not involved in the preparation or administration of the questionnaire; this was not set up along community lines and includes significant biases.²²⁶ Moreover, these associations already have access to a considerable amount of data that has not to date been recorded by the authorities.

VERY LIMITED PUBLIC/PRIVATE COOPERATION

The associations also envisage a limited number of cooperative arrangements with public bodies, so as to intervene positively on the environment of persons involved in prostitution. Notably, a partnership agreement has been signed between a health-care institution – Hospital Ambroise Paré – and an association that supports transgender persons, PASST, in order to improve contact with and care for transgender persons. But overall, these partnerships are few and far between. Moreover, cooperation between the associations and police services is extremely limited, and does not permit the associations to improve their work.

III.2.2 AN ABSENCE OF NATION-WIDE STRATEGIES

Health and community-health associations do not benefit from an ambitious financial commitment on the part of the authorities. Their budgets are limited and vary widely according to the region, and they are obliged to mobilize a

²²² In 1994, Amicale du Nid piloted a research study on new territories of prostitution under the leadership of Daniel Welzer-Lang. The report, which included a section on the fight against HIV-AIDS, recommended setting up a location for mobile reception. Following the report, Amicale du Nid created the association Cabiria in order to manage the new mechanism and integrate new supportive partnerships with associations and institutions. Disagreements then surfaced between the new members of Cabiria and Amicale du Nid regarding the participation of persons involved in prostitution in the mechanisms for prevention. Deschamps C., *Le sexe et l'argent des trottoirs*, 2006, *op.cit.*, p. 202.

²²³ CNS hearings.

²²⁴ FNARS/InVS, *Etude sur l'état de santé, l'accès aux soins et l'accès aux droits des personnes en situation de prostitution*.

²²⁵ CNS hearings.

²²⁶ CNS hearings.

number of private and public funding sources. Conversely, associations that focus mainly on social welfare programs appear to be far better funded.

FUNDING FOR HEALTH ASSOCIATIONS IS COMPLEX AND INSUFFICIENT

Associations that support persons involved in prostitution have in recent years been faced with an increase in their work load. Displacement of persons involved in prostitution from city centres to areas around the city limits requires longer journeys by the night buses. Difficulties encountered in access to welfare benefits or involving relationships with the police forces have meant that health and community-health associations in particular have been obliged to emphasize certain areas of expertise, particularly in terms of social welfare benefits and mediation. The associations themselves note their structural weakness in certain regards, such as training and the difficulty of maintaining their levels of employment without firing employees, and regarding hiring practises for prevention officers, especially members of the community.²²⁷

Health and community-health associations that prefer an integrated approach must rely on funding that is neither sufficient nor consistent. Despite the extension and increasing complexity of the missions of these groups, the financial means placed at their disposal by the government and decentralized government services have remained stable, and in certain cases and certain budgetary periods, has been decreased or even eliminated completely.

Health and community-health associations benefit firstly from credits originating in the "Health" mission of the State, via Regional Groupings for Public Health (*Groupements régionaux de santé publique*, GRSP) and, today, the Regional Health Agencies (*Agences régionales de santé*, ARS). These credits are mostly allocated for programs to fight HIV-AIDS, STIs and hepatitis, as stipulated in Action 13 of Programme 204 for the prevention of infectious risks and risks linked to health-care. Additionally, credits that correspond to a very limited part of the budget of these associations are granted under the aegis of health of populations in difficult circumstances, in the framework of the PRAPS, programs to fight violence, and programs for mother-child health and access to contraception. These credits fall under Action 12 of Programme 204 for access to health and education for health. An approximately 20% decrease in credits allocated by the GRSP has been noted.²²⁸

Health and community-health associations may benefit from credits allocated by other missions in order to finance programs undertaken as part of their integrative approach. The missions addressed are "Town and Housing", "Solidarity, Rehabilitation and Equal Opportunity", and "Sport, Youth and Associations" (*Ville et logement, Solidarité, insertion et égalité des chances* and *Sport, jeunesse et vie associative*). The credits allocated are extremely limited; they represent a marginal fraction of the budgets of community-health associations. In addition, credits attributed through the mission "Solidarity, Rehabilitation and Equal Opportunity" have either declined in recent years, or are subject to non-renewal, or systematic refusals.²²⁹

The focus on social welfare of the missions pursued by health and community-health associations have not always been recognized at the local level by the Departmental Directorates of Social Action (*Directions départementales de l'action sociale*, DDASS); and the Departmental Directorates of Social Cohesion, (*Directions départementales de la cohésion sociale*, DDCS) that are planned to succeed them seem unlikely to reverse this. Several DDCSs do not wish to institute or to continue partnerships with health or community-health associations. In some cases they intend to preserve a single partnership with the local association traditionally competent in matters of contact and social rehabilitation; in others, they prefer to give priority to actions focused on social rehabilitation, whereas health and community-health associations usually focus more on programs to access social welfare benefits. In this regard the National AIDS Council regrets that it was unable to interview the General Directorate of Social Cohesion (*Direction générale de la cohésion sociale* (DGCS) despite several invitations addressed to its director.

In order to compensate for the paucity of State financing, the associations rely heavily on private credits, notably from Sidaction. Private-sector financing for several years constituted more than half the budget of these associations, and today private funding represents 30 to 40% of their annual budget²³⁰.

In addition, associations are obligated to have recourse to numerous additional sources of financing, most of them fluctuating widely; on average the major associations find they must seek funds from no fewer than ten to fifteen sources. Local government bodies, European structural funds and health insurance organizations participate in

²²⁷ CNS hearings.

²²⁸ Guillemaut F. (dir.), *État des lieux des actions de prévention VIH auprès des personnes prostituées. Étude préliminaire sur Toulouse, Lyon, Paris, Rennes, op.cit.*

²²⁹ CNS hearings.

²³⁰ CNS hearings.

funding health and community-health associations. Thus they must give a significant part of their time, budget and energy to the management and follow-up of their own financing, representing the equivalent of more than one full time job devoted to the preparation and follow-up of requests for finance²³¹. With the exception of the subsidy issued by Sidaction, which is linked to a two-year agreement, all other subsidies are issued for a single year.

Moreover, INPES grants of prevention material appear to be both quantitatively and qualitatively inadequate. Several associations, particularly in the Paris region, have reported deliveries of defective condoms in recent years.²³² According to INPES, the budget for purchasing prevention material has increased in recent years, and the agency distributes prevention material in bulk, with no instructions and minimal packaging, but in good condition. Thus the material is cheaper to purchase and, according to INPES, this means that the quantity distributed is not restricted.

SUPPORT IS UNEVEN, TO THE DETRIMENT OF THE INTEGRATED AND COMMUNITY-BASED APPROACH

The authorities have chosen to give their financial priority to social-welfare programs to assist persons involved in prostitution, particularly supporting mechanisms for emergency shelter, social and professional rehabilitation, and the prevention of prostitution. Thus, according to the only available evaluation for 2004), credits for social welfare programs were in excess of 10 million euros: they include more than 6.7 million credits at decentralized levels, more than 360,000 euros from the national level, under the aegis of the political mission in favour of social inclusion of the LOLF²³³, and in addition 3.55 million euros in credits for the overall budget of Centres for Housing and Social Rehabilitation (*Centres d'hébergement et de réinsertion sociale*, CHRS) including seven specialized structures under the statute of the CHRS, which shelter persons involved in prostitution or who have chosen to cease that activity.

In comparison with the considerable budgets dedicated to social welfare programs, which benefit relatively modest cohorts in the case of certain associations, the budgets devoted to health programs appear very weak. Thus roughly 1.5 million euros was budgeted in 2004 for the fight against HIV-AIDS, STIs and hepatitis in the context of prostitution by the centralized and decentralized services of the government.²³⁴ Some thirty projects were financed, but there were strong regional disparities regarding the importance of these projects and budgets. It would be preferable to ensure that this financing become more balanced, with greater and more consistent support to health and community-health associations, which have proven their usefulness and efficacy.

The opinion of the National AIDS Council is based on observation of the health and social situation of persons involved in prostitution and the policies and support mechanisms that affect them. Local situations, and the policies led by public and private actors, have not been evaluated in detail. Similarly, the changing aspects of relevant local and regional institutions, now and in the near future – most notably the new organization of health with planned reforms of the CIDDISTs and CDAGs, and the experimental creation of centres for sexual health²³⁵ – have not been directly addressed. More reflection on this should however be encouraged as a priority, to guarantee a better range of services and limit regional disparities.

The Council has not addressed at length the various forms of regulation in other countries, notably in the European Union. Legislations vary widely from one country to the next. While many countries punish prostitution or recourse to prostitution via the criminalization of clients, or limit its locations and hours of activity, other countries prefer to register persons involved in prostitution on lists managed by the health authorities. Finally, a few countries directly accord legal rights to persons involved in prostitution, comparable to those given to other professions, with a guarantee of professional status. There is currently no active plan to lay down common regulations throughout the states of the European Union regarding prostitution, although the EU has promoted common regulations regarding the fight against human trafficking, in which rights are guaranteed to victims and transcribed in national legislation. It would be preferable if the European Union could embark on a rational and detailed evaluation of national policies regarding prostitution, and could recommend the effective guarantee of fundamental rights and equal access to prevention and health-care for persons involved in prostitution.

²³¹ CNS hearings.

²³² CNS hearings.

²³³ Chapter 4681, articles 10 et 20.

²³⁴ *Rapport faisant état de la situation démographique, sanitaire et sociale des personnes prostituées ainsi que des moyens dont disposent les associations et les organismes qui leur viennent en aide*, op. cit., p. 40.

²³⁵ Jourdain Menninnger D., Lecoq G., *Evaluation de la mise en œuvre de la recentralisation de la lutte contre les infections sexuellement transmissibles (IST)*, Inspection générale des affaires sociales, August 2010, p. 7.

RECOMMENDATIONS

Persons involved in prostitution operate in an extremely unfavourable environment, which is an obstacle to any kind of prevention work and which undeniably blocks their access to health-care. The National AIDS Council calls for **priority to be given** to compensating the delays created in France in the accompaniment, follow-up and guarantee of legal rights to persons involved in prostitution, in order to give them more visibility and to guarantee their effective access to prevention and health-care.

Like other vulnerable populations who are particularly exposed to the risk of infection with HIV-AIDS and STIs, persons involved in prostitution should benefit from attention and specific measures within the framework of multi-annual programs to fight infectious diseases. They should be guaranteed a range of **legal rights identical to those of the general public** and should be recognized as having **specific expertise in terms of prevention**. Persons involved in prostitution have demonstrated that they can take a major role in prevention and access to health-care, and they should remain the principal organizers and/or the preferred partners of health programs.

The Council has organized its recommendations along the lines of **five inalienable principles of the fight against HIV-AIDS**: these are consistent public policy; reinforced legal rights; improved knowledge; promotion of an integrated approach and support for community-led efforts. The goal is to guarantee **universal and unconditional access** to a range of services throughout France: prevention, screening, access to health-care, access to welfare benefits, access to knowledge.

REINFORCING LEGAL RIGHTS

Persons involved in prostitution should have access to the same legal rights as are guaranteed to the general public.

The Council asks that **all legal rights** be guaranteed to persons involved in prostitution regarding **health care, social welfare benefits, residency and housing**.

The Council recommends **a review of measures regarding soliciting contained in the law on internal security**. The application of common law relative to damage to public morality and tranquillity may be sufficient, justifying the abandonment of the offense of soliciting which has been the source of discrimination.

The Council calls for **a specific evaluation of the application of the offense of aiding, assisting or protecting the prostitution of another person**. This evaluation should weigh the impact of this measure on the fight against procurement, and the preservation of the right to stable housing of persons involved in prostitution.

The Council asks that **unconditional legal rights be guaranteed to prostituted persons who are victims of exploitation and human trafficking**, regardless of their immigration status. In this regard the Council recommends that France take into account the opinion on human trafficking and exploitation issued by the National Consultative Commission for Human Rights (2009).

The Council recalls that **pursuit of activity as a prostitute should not constitute motivation for refusal** to deliver a valid permit to work and reside in France, so long as the person is entitled to any other form of residency permit.

ENSURING CONSISTENT PUBLIC POLICIES

A new form of governance should be established, based on high-level national and political mobilisation and increased cooperation and follow-up among all actors.

The Council recommends a high-level initiative in favour of persons involved in prostitution. **A national conference under the leadership of the Minister in charge of Health** and in the presence of the whole range of political actors, including the other Ministries involved, representatives from associations and members of the community with expertise regarding health, should be envisaged without delay.

The National Conference should examine **the need to reinforce health and community-health programs** that benefit persons involved in prostitution.

The Council also deems it necessary that **inter-ministerial meetings be set up** and that **a circular co-signed by all the Ministries involved should be adopted** to spur the adoption in every region of legal rights and access to health-care and to prevention of persons involved in prostitution. The Council notes that an inter-ministerial circular was proposed by the 2001–2004 National Program to fight HIV-AIDS, but was never effected.

Additionally, the Council recommends **recruitment of a national coordinator in charge of "health of persons involved in prostitution" within the General Directorate of Health (DGS)**, who will be in charge of coordinating the evaluation of public action, consolidating the network of associations, and defending the needs of persons involved in prostitution in terms of access to care and prevention with respect to regional health agencies (ARS) and in the relevant Ministries, based on detailed knowledge of the situation on the ground.

PROMOTING AN INTEGRATED APPROACH

An integrated approach should respond to all the needs indispensable to persons involved in prostitution.

The Council calls for **guaranteed services throughout France adapted to the needs** of persons involved in prostitution, including populations that are isolated or hard to access; they include counselling, distribution of diversified, good-quality prevention material in sufficient quantities, effective access to screening and post-exposure treatment (PET), health-care for STIs, primary health-care, sexual health services, risk reduction, social welfare benefits and cultural mediation.

In addition to the prevention of infection, the Council invites the authorities to improve significantly access to care for persons involved in prostitution, particularly **psychological follow-up, gynaecological follow-up, and access to vaccination**.

An integrated approach should be guaranteed via **constant and predictable financing through private-sector organizations working in concert with public-sector bodies, notably CDAG, CIDDIST, the services for access to health care (*Permanences d'accès aux soins de santé*, PASS) and vaccination centres**. The centres for sexual health that have been envisaged on an experimental basis constitute a good opportunity for developing a more integrated approach to care.

Recourse to assistance outside the institutions, particular to encourage screening, **should be significantly reinforced**.

SUPPORTING COMMUNITY EFFORTS

Persons involved in prostitution have a decisive role in prevention.

The Council recommends reinforcement of **community-based action to encourage self-organization of persons involved in prostitution and to respond as closely as possible to their needs and concerns**.

Community programs should especially address **populations that traditionally benefit less from neighbourhood programs**: escorts, masseuses, prostituted persons working "on tour" and populations who encounter specific needs such as **migrant persons and transgender persons**.

Community programs are provided by persons involved in prostitution, and may pursue multiple missions of prevention, mediation and/or training. Persons from the community may facilitate access to health-care, prevention and legal rights for their peers, and contribute to sensitizing actors who intervene in the community of persons involved in prostitution, particularly doctors, emergency doctors and social workers – particularly those present in Centres for Housing and Social Rehabilitation (CHRS) – as well as the relevant police forces.

In order to effect these missions, these persons should **benefit from suitable training**, and salaried jobs as agents for mediation, prevention and training should be provided within non-governmental organizations.

IMPROVING KNOWLEDGE

There should be greater promotion of information in favour of persons involved in prostitution at the local level.

The National AIDS Council recommends **an increase in credits allocated to research studies** in the framework of health and community-health associations, and social welfare and rehabilitation associations, for support to persons involved in prostitution, as well as their various branches around the country, **in order to promote more knowledge, particularly of less visible forms of prostitution.**

Interviews at a local level that focus on qualitative information, and which are led by **clearly identified interviewers who are recognized as bona fide by the persons involved in prostitution,** should be given priority, in order to maximize the trust and commitment of the persons concerned.

In order to synthesize all the relevant studies and identify goals, the Council recommends an **annual national summary of data provided by all non-governmental organizations and research bodies** that are involved in issues relating to prostitution. This summary should also detail the impact of public programs involving prostitution.

APPENDIX: HISTORY OF PUBLIC POLICY REGARDING PROSTITUTION

Historically, France has taken a highly restrictive approach to prostitution known as regulationism which rested on mechanisms for the surveillance of the health of persons involved in prostitution, and to a lesser extent on specialized establishments, as well as on coercive mechanisms set up by the administrative authorities. Several laws and regulations adopted following World War II and in the early 1960s gradually began to question this doctrine, tending towards an abolitionist approach. Contemporary legislation continues along these lines, but its priority is public order.

COERCIVE SANITARY REGULATIONS: "RÈGLEMENTARISME"

In the late 18th century the French authorities established specific regulations independent of the common law in order to control commercial sex. This regulationist approach was initiated during the Directory (1795-1799), and by the 19th century it was perceived as the most restrictive approach in Europe. Subsequently it was widely spread and known as the "French system". Political authorities exercised a sanitary surveillance of prostitution in order to respond to the spread of syphilis, since persons involved in prostitution were considered to transmit infections²³⁶. They benefited from particular attention from the medical authorities, particularly during the latter part of the 19th century.

Legal texts dating from before the French Revolution, alongside laws passed during the Revolution and others voted under the July Monarchy (1830-1848) meant that persons involved in prostitution were subject to an exceptional body of laws, not congruent with common law, involving a number of obligations sanctioned by the administrative authorities²³⁷, under the responsibility of the Police Prefect of Paris or the Mayors of large provincial towns. Persons who intended to work as prostitutes were obliged to register at municipal offices and to submit to regular gynaecological checks, following which their continued employment as prostitutes was approved or refused. Doctors were obligated to declare all new diseases and patients had to sign a document informing them that infection of another person, or exposure of another person to infection, was punishable by three years' imprisonment.

In addition to the fight against venereal disease, the authorities were motivated by the goal of eliminating the most visible public manifestations of prostitution. They thus strictly limited the locations in which commercial sex was authorized to take place. Thus, progressively, the sex trade came to be restricted only to brothels; exit from brothels was limited and their organization was highly regulated. They could not be situated near schools or churches, and their windows were to be barred or fitted with non-transparent glass²³⁸. The benefits of this regulation were relatively disappointing. Regulationism did not manage to stop transmission of STIs and it encountered opposition from professional bodies which profited from prostitution. Thus the union of hotel-owners opposed any obstruction to the exercise of prostitution in public hotels.

Despite its modest results, the sanitary regulation of prostitution continued to gain pace until the end of World War II, with increasing control by the medical authorities. The decree of 29 November 1939²³⁹ on the prophylaxis of venereal diseases made provision for the prevention of contagion, compulsory examination and health-care and the possibility for doctors to report their patients' pathology against their will. Persons involved in prostitution who refused to see the doctor regularly exposed themselves to up to three months in prison. This regulation was overseen by a medical authority: a sanitary inspector or other specialized doctor named by the Minister for Public Health. Moreover, the decree set up an offense of soliciting, which was punished by a fine of the third category.

A NEW POLICY FRAMEWORK: ABOLITIONISM

In 1960, when France ratified the 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, it committed itself to changing its restrictive sanitary regulations regarding prostitution.²⁴⁰ Commercial sex became a completely private activity, sanitary preoccupations were abandoned, and

²³⁶ The link between prostitution and venereal disease has been popular in medical science since the mid-19th century. See Maugère A., *Les politiques de la prostitution, du Moyen-Âge au XX^e siècle*, *op.cit.*, pp. 93 *sqq.* More recently, see Pheterson, G., *Le prisme de la prostitution*, *op.cit.*, pp. 49 *sqq.*

²³⁷ Berlière J.-M., *La police des mœurs sous la III^e République*, Paris, Seuil, 1992.

²³⁸ Corbin A., *Les filles de nocés. Misère sexuelle et prostitution au XIX^e siècle*, Paris, *op.cit.*

²³⁹ JORF of 07/12/1939 p. 13748.

²⁴⁰ The Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others approved by the General Assembly of the United Nations in its resolution 317 (IV) of 2 December 1949, which entered into effect on 25 July 1951 <http://www2.ohchr.org/french/law/exploitation.html>, was ratified by France by virtue of law # 60-759 of 28 July 1960. The order #60-12345 of 25

STIs no longer gave rise to specific surveillance. Prostitution was now deemed to be incompatible with the dignity and value of the human being, and persons involved in prostitution gradually came to be seen as social misfits, then victims. Under the Third and Fourth Republics, various laws heralded the gradual abandonment of regulations that framed the practice of prostitution. The fight against pimps and human traffickers and, later, the social rehabilitation of persons involved in prostitution became exclusive goals which were seen as precursors of a future disappearance of prostitution.

From the late 19th century, legislators had begun to manifest the desire to fight certain forms of prostitution: prostitution of others in the public thoroughfare; prostitution of others under constraint; and the prostitution of minors. An 1885 law regarding recidivism penalized the prostitution of others on the public thoroughfare and applied to it the same sentences as were stipulated against vagabonds²⁴¹. Moreover, in a context marked by the fight against the "white slave trade"²⁴² and the traffic in commercial sex, discussed in international conferences, Parliament adopted in 1903 a law that penalized the prostitution of others under constraint, including that which occurred inside a "house of debauchery"²⁴³. Finally, a 1908 law addressed the prostitution of minors and stipulated that at the initiative of judicial authorities detention might be necessary, though this could be applied only with difficulty in the absence of *ad hoc* centres to receive detainees.

The fight against different forms of prostitution and the prostitution of others continued after World War II. The so-called "Marthe Richard" law of 13 April 1946 is emblematic of this approach²⁴⁴. It eliminated the listing of prostitutes on special police registries, stipulated penalties for the offense of soliciting, prohibited contractual relationships by prostitutes in the interest of their activity and created establishments for the re-education and rehabilitation of prostitutes. An additional law of 24 April 1946 inaugurated a sanitary and social file of persons involved in prostitution. Regulationism continued for two decades after the war²⁴⁵, before being abandoned in 1960. At the time of its elimination, the sanitary and social file ensured that 30,000 persons involved in prostitution were under surveillance.

Since the adoption of the Marthe Richard law there have been a number of changes. Firstly, the definition of soliciting was made more precise. The order of 23 December 1958 abrogated the measures adopted on 13 April 1946 and laid down two penalties for soliciting²⁴⁶ and "indecent attitude on the public thoroughfare".²⁴⁷ The latter was termed "passive" soliciting. Subsequently, punishments for pimps were increased in accordance with France's international commitments, and the repression of soliciting was reinforced. Two laws in July 1960 authorized the government to ratify the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others which was adopted by the General Assembly of the United Nations in 1949²⁴⁸, and to take measures necessary to fight procurement²⁴⁹.

The 1949 Convention is clearly conceived as part of an abolitionist approach. It considers in its preamble that "prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community". Its first article condemns the encouragement and exploitation of persons for the purposes of prostitution. The Convention requests parties to it to eliminate registries and declarations. Following ratification of

November 1960 modified measures of the Penal Code in the light of this Convention. Additionally, France ratified several texts relating to the slave trade: the Convention to Suppress the Slave Trade adopted on 25 September 1926, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted on 7 September 1956.

²⁴¹ Law of 27 May 1885.

²⁴² Chaumont J.-M., *Le mythe de la traite des blanches. Enquête sur la fabrication d'un fléau*, Paris, La Découverte, 2009.

²⁴³ Law of 3 April 1903.

²⁴⁴ Law # 46-685 of 13 April 1946 relative to the closure of houses of tolerance and the reinforcement of the fight against procurement, JORF of 14/04/1946 p. 3138-3139.

²⁴⁵ Law # 48-1086 of 8 July 1948 on the screening and treatment of contagious venereal diseases (JORF of 09/07/1948 p. 6642) provides that every individual registered in the sanitary and social file on prostitution is placed under sanitary surveillance. He or she is obligated to submit to periodic medical checks. In case of a contagious venereal accident, his or her hospitalisation may be ordered as a matter of urgency.

²⁴⁶ "Will be punished by imprisonment of ten days to one month and the fine stipulated for tickets of the fifth category, or only one or other of these punishments, those who by gesture, word, writings or any other means, public proceed to solicit persons of either sex with the intention of provoking them to debauchery."

²⁴⁷ "Will be punished by the fine stipulated for tickets of the third class those whose attitude on the public thoroughfare is of a nature likely to provoke debauchery".

²⁴⁸ Law # 60-754 of 28 July 1960 authorising ratification of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others adopted by the General Assembly of the United Nations on 02/12/1949.

²⁴⁹ Law # 60-773 of 30 July 1960 authorising the government to take measures necessary to fighting certain social ills by application of article 38 of the Constitution.

the Convention, the order of 25 November 1960 on the fight against procurement, together with a decree of the same date, increased punishments for procurement and the sentences for soliciting in the public thoroughfare, and set out measures to provide mechanisms to shelter and rehabilitate persons in situations of prostitution.²⁵⁰

Several regulatory and legislative measures were adopted during the following decade to supplement these measures regarding the fight on procurement.²⁵¹

In the early 2000s, several laws again reinforced the fight against procurement and protection of minors in situations of prostitution. The law of 15 November 2001 on day to day security strengthened sentences for simple procurement.²⁵² The law of 4 March 2002 on parental authority prohibited the prostitution of minors and specifically criminalized procurement of minors under the age of 15.²⁵³ Finally the so-called LIS law of 18 March 2003 on Internal Security lays down several measures regarding soliciting, procurement and human trafficking.²⁵⁴ The LIS clearly continues a trend established by previous texts, in reinforcing the repression of procurement and the promotion of guarantees given to victims of human trafficking. However it departs from precedent regarding soliciting, since previously certain forms of soliciting were no longer considered as offenses.

THREE CONTEMPORARY GOALS FOR PUBLIC POLICY

The authorities promote three responses to the question of prostitution. In the short term, the fight against visible forms of prostitution, particularly soliciting and procurement. In the medium term, the fight against international crime and illegal migration, alongside mobilisation in favour of protection of the victims of human trafficking and procurement, and the rehabilitation of persons involved in prostitution.

- **Prostitution and public tranquillity**

The authorities aim to promote public tranquillity and plan increasing repression of soliciting. The LIS is emblematic of this trend. Soliciting, like abusive assembly in the common areas of apartment buildings, the exploitation of beggars or illicit installation on property belonging to others, is a form of "delinquency that affects daily life, troubling the tranquillity of citizens and mocking their right to security"²⁵⁵. The objective is the disappearance of visible forms of street prostitution.

The new law, and more precisely the constitution of the offense of soliciting, does not confront the existence of prostitution, which remains licit. It represses more severely that form of prostitution which involves public soliciting, including passive soliciting. The criminalization of soliciting has a long history, but it had previously been partially abandoned. Thus passive soliciting was no longer punished following the abrogation of the former Penal Code on 1 March 1994. At the time, the government cited "the lack of precision of the elements characterising this offense, which led to its uneven and random application by the police services"²⁵⁶.

The re-establishment of the offense of passive soliciting, and more generally the reinforcement of the repression of soliciting that is symbolized by the LIS, confirms and amplifies a trend that was already perceptible before the law was adopted. The LIS echoes bylaws issued by several Mayors to limit the presence of persons involved in prostitution on public thoroughfares – the most visible forms of prostitution – particularly in urban centres subject to renewal. It accompanies a range of measures intended to convert locations occupied by the sex trade and other forms of activity deemed to be undesirable, such as begging²⁵⁷. As of 2002, the Ministry of the Interior stated that Mayors were entitled to cite "the proximity of educational establishments, places of worship, war memorials, parks frequented by families, large amounts of private housing and the novel character of prostitution in the streets concerned"²⁵⁸.

²⁵⁰ Order # 60-1245 of 25 November 1960 regarding the fight on procurement, JO 27-11-1960 p. 10605 ; Circular of 25 November 1960 regarding the repression of procurement, published in the JO on 27 November 1960, p.10609-10610.

²⁵¹ Circular # 97 of 25 August 1970 regarding the fight against prostitution and procurement, Bulletin officiel du ministère chargé des affaires sociales n° 70/37, text 15074; law # 75-299 of 9 April 1975 permitting associations constituted for the fight against procurement to exercise civil action.

²⁵² Law # 2001-1062 of 15 November 2001 on day to day security.

²⁵³ Law # 2002-305 of 4 March 2002 on parental authority.

²⁵⁴ Law # 2003-239 of 18 March 2003 on internal security.

²⁵⁵ Draft law # 30 on internal security presented by the Minister of the Interior, Sénat, 23 October 2002.

²⁵⁶ Ministerial response to the Minister for Justice, n° 19596, published in the JO of the National Assembly of 9/01/95, p. 212.

²⁵⁷ Rigalleau A., « Prostitution, riverains et action publique : une analyse en terme de territoire », in *Prostitution et action publique, op.cit.*

²⁵⁸ Circular of the Ministry of the Interior of 23 August 2002 regarding municipal orders on prostitution in the public thoroughfare.

Moreover the legal authorities have taken action, based on the Penal Code, to punish street prostitution. Thus judges have had recourse to legal precedents and provisions relating to active soliciting, and to those relating to sexual exhibition, although they had lapsed into obsolescence²⁵⁹.

The LIS reinstates the offense of passive soliciting through its Article 5, which inserts into the Penal Code a new article, 225-10-1, relative to public soliciting, which had previously been sanctioned (when "active" by a fine laid out in Article R625-8. Soliciting is now defined as "the fact of proceeding publicly to solicit another party, by all means, including even passive attitude, in order to incite the party to sexual relations in exchange for remuneration or the promise of remuneration, and is punished by two months' imprisonment and a fine of 3,750 euros."

To justify this reinstatement of the criminalization of passive soliciting, the authorities cite, in addition to issues of public tranquillity, the necessary recognition of a new offense destined to protect victims of pimp networks and return them to their original countries.²⁶⁰ According to the legislator, the constitution of the offense of passive soliciting should eliminate the arbitrary exercise of power; the police forces being the sole forces competent to operate the distinction between active and passive soliciting.²⁶¹ The circular of application of the LIS states that soliciting "is likely to lead to the disturbance of public order, notably in terms of tranquillity, salubrity and public security (...) the repression of these facts deprives pimps of their source of profit and thus confounds the traffic in human beings²⁶² ».

• Prostitution and organized crime

The authorities have also focused their action on a second objective: the fight against procurement and human trafficking, in accordance with the European and international commitments adopted by France. This goal, which France first adopted in 1960 by ratifying the 1949 United Nations Convention, was renewed and made more specific in the early 2000s with the ratification of the so-called Palermo Protocol²⁶³. Since the end of the 1990s it has also been a priority of the European Union²⁶⁴, particularly as a result of initiatives taken by the European Parliament²⁶⁵ and the Council of Europe²⁶⁶. In France, a draft law adopted on first reading in January 2002 defined for the first time the fight against human trafficking²⁶⁷, following a parliamentary report on slavery²⁶⁸. In 2003, an article specifically addressing human trafficking was inserted into the LIS.

Human trafficking is defined in Article L225-4-1 of the Penal Code as "the fact of recruiting, transporting, transferring, housing or receiving a person in exchange for remuneration or any other advantage, or for a promise of future remuneration or advantage, in order to place that person at the disposal of a third party, even unidentified, in order that the offenses of procurement, aggression or sexual attack be committed against him or her, or for purposes of exploitation of begging, or for working or living conditions contrary to human dignity, or for the purpose of obliging this person to commit any crime or offense."

The LIS distinguishes procurement from human trafficking. Procurement is defined in Article L225-5 of the Penal Code as the fact of, i) assisting or protecting the prostitution of another person; ii) profiting from the prostitution of another person, sharing the revenue of or receiving grant from a person who habitually practises prostitution; iii) employing or inciting a person to practise prostitution, or exercising pressure on a person to commit or continue to commit acts of prostitution.

²⁵⁹ Article 222-32 of the Penal Code.

²⁶⁰ The then-Minister of the Interior told the Senate on 13 November 2002, "We did not create an offense with the intention of punishing the unhappy women who, it's true, are more often victimized than guilty? If we created this offense, it was on the contrary in order to protect them." Senate, JORF, 14/11/2002.

²⁶¹ Senate, session of 14 November 2002.

²⁶² Circular 1 CRIM-03-7/E8-03.06/03.

²⁶³ The additional protocol to the United Nations Convention against Transnational Organized Crime which aimed to prevent, repress and punish human trafficking, especially in women and children, was signed in 2000 and ratified by France by virtue of law# 2002-1041 of 6 August 2002.

²⁶⁴ Framework decision 2002/629/JAI regarding the fight against human decision, adopted 19 July 2002. Recall that a framework decision was adopted unanimously and is binding. It was adopted based on title VI of the treaty of the European Union regarding police and judicial cooperation on penal questions.

²⁶⁵ Resolution of 18 January 1996 on human trafficking; Resolution of 16 December 1997 on the presentation of the Commission regarding the traffic in women for sexual exploitation (Waddington report adopted in the resolution), COM(96)0567 - C4-0638/96.

²⁶⁶ Convention of the Council of Europe on action against Trafficking in Human Beings <http://conventions.coe.int/Treaty/en/Treaties/Html/197.htm>

²⁶⁷ Adopted draft law n° 765 reinforcing action against the different forms of slavery currently in effect. 24 January 2002.

²⁶⁸ Information report by the common information mission on different forms of modern slavery, # 3459, 12 December 2001,

The legislator also assimilates into the term "procurement" persons who are in different positions: intermediaries, persons who facilitate the documentation of falsified revenue, who live with a person involved in prostitution and cannot document income to justify their lifestyle. Moreover, Article 51 of the LIS assimilates to procurement the fact of "selling, renting to, or holding at the disposition of in any way, to one or several persons, vehicles of any nature, in the knowledge that they will be committing acts of prostitution within them." The circular of application of the LIS notes that this provision criminalizes "an increasingly widespread form of procurement which constitutes an extension of procurement in hotels, permitting prostitutes to exercise their activity in vehicles, notably vans equipped for the purpose".²⁶⁹

- **Prostitution and social rehabilitation**

The authorities also have a third objective: the social rehabilitation of persons engaged in prostitution, and the protection of victims of procurement and human trafficking.

In accordance with the dispositions of the order of 23 November 1960, inserted into the Code of Social Action and Families (*Code de l'action sociale et des familles*²⁷⁰), it is the mission of the State, in each district, to seek out and receive persons in danger of prostitution and to furnish the assistance which they may need, notably in securing for them placement in Centres for Housing and Social Rehabilitation (*Centres d'hébergement et de réinsertion sociale*, CHRS) or in Services for Prevention and Social Re-adaptation (*Services de prévention et de réadaptation sociale*, SPRS) created by the order and decree of 25 November 1960²⁷¹. Twelve *départements*, or districts, possessed a SPRS and most of these SPRS could not be maintained when decentralization laws transferred to the *départements* most of the responsibility for programs involving social welfare.

With the adoption of the LIS, the action of the authorities and associations for social rehabilitation became specifically oriented toward the protection of victims of human trafficking. Article 42 of the LIS stipulates that "any person who is victim of the exploitation of prostitution must benefit from a system of protection and assistance that is guaranteed and coordinated by the administrative bodies of government, in active collaboration with the various services of social intervention". Article 43 adds to Article L345-1 of the Code of Social Action and Families the following: "placement in centres for housing and social rehabilitation are open to victims of human trafficking in secure conditions".

Additionally, admission to residence, protection and shelter is guaranteed to foreign nationals who are victims of human trafficking and procurement, under certain conditions. Article 76 of the LIS states "unless his or her presence constitutes a threat to public order, a temporary authorisation of residence may be issued to the foreign national who files a legal complaint against a person accused of committing in his or her regard the offenses stipulated under Articles 225-4-1 to 225-4-6, and 225-5 to 225-10, of the Penal Code, or who bears witness in a court proceeding concerning a person accused of committing these same offenses. This temporary authorisation of residence denotes the right to work. If the accused person is definitively judged guilty, a residency permit may be issued to the foreign national who filed the legal complaint or who bore witness in the case. A decree of the Council of State will detail the conditions for the application of the present article"²⁷².

Admission to residency of victims of human trafficking must be guaranteed by all member states of the European Union. A directive by the Council of the European Union of 29 April 2004 envisaged temporary residency permits for foreign nationals victimized by human traffickers.²⁷³ This text fixed the minimum period for residency permits issued to victims who cooperate with the authorities at six months; it stipulated that a person who had not yet decided whether to cooperate with the authorities should benefit from a period of one month to think through the decision. During this time the victim cannot be deported and must be guaranteed assistance, including psychological help, and if he or she does not dispose of sufficient revenue, living conditions sufficient to ensure subsistence and access to emergency medical care.

²⁶⁹ Circular # CRIM 2003-07 E8/03-06-2003.

²⁷⁰ Article L. 121-9 of the Code of Social Action and Families; Circular # 88-06 of 7 March 1988 regarding the prevention of prostitution and the rehabilitation of persons involved in prostitution, Bulletin Officiel of the Ministry in charge of Social affairs # 88/13, p. 151.

²⁷¹ Order # 60-1246 of 25 November 1960 and decree # 60-1248 of 25 November 1960.

²⁷² Article L316-1 of the Code for the Entry and Residency of Foreigners and the Right to Asylum (*Code de l'entrée et du séjour des étrangers et du droit d'asile*).

²⁷³ Directive 2004/81/EC, of the Council of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, JOUE L261 du 06/08/2004 p. 19. See also the legislative resolution of the European Parliament on the proposed directive of the Council on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, COM(2002) 71 - C5-0085/2002 - 2002/0043(CNS).

France has been tardy in aligning its regulations with European law in this respect. A circular of 31 October 2005 envisages the possibility of issuing temporary authorisations for residence to foreign nationals who file legal complaint against a person whom they accuse of committing offenses of human trafficking or procurement, or who bear witness in a legal proceeding.²⁷⁴ The benefit of help and assistance stipulated by the European directive is not listed in this circular. A decree of 13 September 2007 details the conditions for admission to residency, but also those regarding protection, reception and shelter of foreign nationals victimized by human trafficking and procurement.²⁷⁵ A residency permit bearing the phrase "private and family life", of a minimum six months duration, is issued by the Prefect to the foreign national who satisfies the conditions [envisaged in law] and who has cut all ties with the perpetrators of the offenses (...)²⁷⁶. The foreign national benefits from a reflection period of 30 days. Given the objective of action against human trafficking networks and procurement, the decree aims to create conditions for a special link with victims, and to facilitate the work of investigators.

²⁷⁴ Circular # NOR/INT/D/05/00097/C on conditions for the examination of requests for admission to residency by foreign nationals with irregular immigration status in the framework of the measures of the Code for the Entry and Residency of Foreigners and the Right to Asylum.

²⁷⁵ Decree # 2007-1352 of 13 September 2007 regarding admission to residency, protection, reception and shelter for foreign nationals victimized by human trafficking and procurement, modifying the Code for the Entry and Residency of Foreigners and the Right to Asylum

²⁷⁶ Article R316-3 of the Code for the Entry and Residency of Foreigners and the Right to Asylum.

LIST OF ABBREVIATIONS

AAH	<i>Allocation adulte handicapé</i> , Disabled Adult Allowance
ACPE	<i>Association contre la prostitution des enfants</i> , Association against Child Prostitution
Ac-Sé	<i>Accueil sécurisant</i> , Secure Reception
AFLS	<i>Association française de lutte contre le sida</i> , French Association for Action Against AIDS
AIDS	Acquired immune deficiency syndrome
ALC	<i>Accompagnement lieu d'accueil</i> , Accompaniment Place of Reception
AME	<i>Aide médicale d'Etat</i> , State Medical Aid
ANAEM	<i>Agence nationale de l'accueil des étrangers et des migrations</i> , National Agency for the Reception of Foreign Nationals and for Migrations
ANRS	<i>Agence nationale de recherche sur le sida</i> , National Agency for Research on AIDS
API	<i>Allocation parent isolé</i> , Single Parent Benefit
ARCAT	<i>Association pour la recherche et la communication pour l'accès aux traitements</i> , Association for Research and Communication for Access to Treatment
ARS	<i>Agence régionale de santé</i> , Regional Agency for Health
CDAG	<i>Centre de dépistage anonyme et gratuit</i> , Centre for Free and Anonymous Screening
CESES	<i>Centre européen de surveillance épidémiologique du sida</i> , European Centre for the Epidemiological Monitoring of AIDS
CEDAW	Convention on the elimination of all forms of discrimination against women
CHRS	<i>Centre d'hébergement et de réinsertion sociale</i> , Centre for Housing and Social Rehabilitation
CIDDIST	<i>Centre d'information, de dépistage et de diagnostic des infections sexuellement transmissibles</i> , Centre for information, screening and diagnosis of sexually transmitted infections
CIL	<i>Comité d'intérêt local</i> , Local Interest Committee
CIPAV	<i>Caisse interprofessionnelle de prévoyance et d'assurance vieillesse</i> , Interprofessional Program for Health insurance and Retirement Benefit
CIQ	<i>Comité d'intérêt de quartier</i> , Neighbourhood Interest Committee
CLSPD	<i>Conseil local de sécurité et de prévention de la délinquance</i> , Local Council for Security and Prevention of Delinquency
CMU	<i>Couverture médicale universelle</i> , Universal Medical Coverage
CNS	<i>Conseil national du sida</i> , National AIDS Council
DDASS	<i>Direction départementale des affaires sanitaires et sociales</i> , Departmental Directorate for Health and Social Affairs
DDCS	<i>Direction départementale de la cohésion sociale</i> , Departmental Directorate for Social Cohesion
DGCS	<i>Direction générale de la cohésion sociale</i> , General Directorate for Social Cohesion
DGS	<i>Direction générale de la santé</i> , General Directorate for Health
DPM	<i>Direction de la population et des migrations</i> , Directorate for Population and Migrations
EACP	<i>Equipe d'action contre le proxénétisme</i> , Team for Action against Procurement
ECPACT	End child prostitution and children pornography and trafficking of children for sexual purposes
ENS	Ecole normale supérieure
EU	European Union
EUROPAP	European project for Aids Prevention in Prostitution

FNARS	<i>Fédération nationale des associations d'accueil et de réinsertion sociale</i> , National Federation of Associations for Reception and Social Rehabilitation
GPAL	<i>Groupement de Prévention et d'Accueil Lillois</i> Group for Prevention and Reception in Lille
GRSP	<i>Groupement régional de santé publique</i> , Regional Pole for Public Health
HIV	Human immunodeficiency virus
IAF	International Abolitionist Federation
IGAS	<i>Inspection générale des affaires sociales</i> , General Inspection for Social Affairs
IGF	<i>Inspection générale des finances</i> , General Inspection for Finances
INPES	<i>Institut national de prévention et d'éducation pour la santé</i> , National Institute for Prevention and Education for Health
InVS	<i>Institut national de veille sanitaire</i> , National Institute for Health Surveillance
JAI	<i>Justice et affaires intérieures</i> , Justice and Interior Affairs
JO	<i>Journal officiel</i> , Official Record of Parliament
JORF	<i>Journal officiel de la République française</i> , Official Record of the French Republic
JOUE	<i>Journal officiel de l'Union européenne</i> , Official Journal of the European Union
LISST/CERS	<i>Laboratoire Interdisciplinaire Solidarités, Sociétés, Territoires /Centre d'études des rationalités et des savoirs</i> , Interdisciplinary Laboratory for Solidarity, Society, Territory/ Centre for the study of reason and knowledge
LIS	Law on Internal Security
MSM	Men who have sex with men
NGO	Non-governmental organization
PACA	Provence-Alpes-Côte d'Azur
PASS	<i>Permanence d'accès aux soins de santé</i> , Pole for Access to Health-Care
PASTT	<i>Groupe de prévention et d'action pour la santé et le travail des transsexuels anciennement Prévention Action Santé Travail Transgenre</i> , Group for Prevention and Action for the Health and Work of Transsexuals
PET	Post-exposure treatment
PNLS	<i>Plan national de lutte contre le sida et les IST</i> , National Plan for HIV-AIDS and STIs
RPAPC	<i>Plan régional d'accès à la prévention et aux soins des personnes les plus démunies</i> , Regional Programme for access to prevention and care for the most destitute
RSA	Active Solidarity Revenue
STIC	<i>Système de traitement des infractions constatées</i> , Treatment System for Observed Offenses
STRASS	<i>Syndicat du travail sexuel</i> , Union for Sex Work
STI	Sexually Transmitted Infection
TAMPEP	European network for HIV/STI Prevention and Health Promotion Among Migrant Sex Workers
THB	Traffic in human beings
UNFPA	United nations population fund
USTI	Unit for Surveillance and Territorial Investigation
WHO	World Health Organisation

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- 11.02.2010 **Direction régionale de la police judiciaire (Ile-de-France)** - Christian Kalck (head of the Brigade for Repression of Pimps), Capitaine Fournier.
Direction générale de la santé - Dr Christine Barbier (division for promotion of health, unit for population health), Dr Lionel Lavin (division for prevention of infectious risks, unit for HIV/STIs/Hepatitis).
Direction générale de la police nationale - Jean-Marc Souvira (head of the Central Office for the Repression of Human Trafficking).
Grisélidis - Eva Clouet et Véronique Boyer (mission officers for "Prostitution and internet")

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