



**Child exploitation,
Forced labour,
Trafficking in human beings,
Modern slavery**

ZERO TOLERANCE

THE CHALLENGES

FACING FRANCE

EUROPE

AND THE WORLD

**CONTRE
LA TRAITE
DES ÊTRES HUMAINS**

www.contrelatraite.org

Recommendations

Made within the framework of the French Presidency of the Council
of the European Union

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1ST SEMESTER 2022

Today, **trafficking in human beings is a growing scourge** in both the European Union and around the world. It takes a variety of forms, including sexual exploitation, forced labour, domestic slavery, coercion to commit crimes, forced begging, forced marriage, trafficking in human tissues or organs, etc.

Since becoming one of the Pathfinder Countries in Alliance 8.7 (named after the UN Sustainable Development Goal 8.7) in 2021, France has been committed to stepping up efforts **to combat child labour, forced labour, human trafficking and modern slavery**. This means taking coordinated action with the other countries concerned, the 25 Alliance 8.7 countries and those that need to be encouraged to join them.

Strong, coordinated **policies**, focused on the victims and survivors of trafficking in human beings, need to be developed in all Member States. **Resources** must be allocated to the **action plans** introduced to overcome this scourge.

The **European Union** has an important role to play in accelerating action to obtain a consistent European policy.

The French Presidency of the European Union is an opportunity, for all of the stakeholders (**Charities, trade unions, companies, French and international institutions**) and in particular **European stakeholders** to drive progress on the cause **by partnering with the victims and survivors**. A rights-based approach centred on the victim and his/her needs is to be preferred to a "security"-minded approach, to restore victims' dignity.

1. Identifying, protecting and supporting the victims
2. Defining migration policies
3. Promoting regulations concerning the internet
4. Paying particular attention to minors and children
5. Acting on the causes of exploitation and the clients

1.1

Identify, protect and support the victims of all forms of exploitation and trafficking

To promote initiatives to assist and care for people who are victims of human trafficking throughout Europe, each EU Member State should, in accordance with its international commitments, set up a **national reference mechanism for victims' identification and support**. In each Member State, the mechanism should be managed by an interministerial mission dedicated specifically to mining, processing and "monitoring" by an independent body¹ capable of gauging progress on the actions taken, using reliable statistics in the area. At European level, these mechanisms should be consistent among the Member States.

The **principle of non-punishment of the victims of trafficking in human beings** must be upheld and applied by all EU Member States so that the victims of trafficking will feel free to speak to investigators and denounce the traffickers without running a risk of being arrested or expelled. Protective measures (physical protection, transfer, anonymity) must be offered and accessible to the victims within the framework of their testimony and filing of a complaint.

Criminal proceedings must give greater consideration to the **victims**, from the initial complaint through to the trial and compensation². This will make it possible to uphold victims' rights and more effectively combat the parties engaged in human trafficking.

All victims of trafficking must be assured of access to **compensation mechanisms**, in practice and by law.

An ad hoc administrator or tutor should be systematically appointed if there is no legal representative or if the legal representative defaults.

More should be done to promote and share **best practices**. More specifically, best practices should be supported and upheld by the European Union's anti-trafficking coordinator and through the civil society platform created by the European Commission, which must encourage bi-annual face-to-face meetings (to keep the network alive) and by videoconference in the interim.

1. As is the Commission Nationale Consultative des Droits de l'Homme in France

2. In France, for example, while the number of criminal proceedings and trials is rising, little is being done to guide and support the victims during the proceedings. Some Charities use their own resources to assist victims, but nothing is systematized. The lack of adjustment in hearings makes it difficult for victims to attend hearings. The fact that the majority of trafficking cases are reclassified and handled by a criminal court results in the absence of an expert appraisal to assess the damages. Civil appraisals are carried out much later than the criminal proceedings. Obtaining compensation is a complicated process (through CIVI, the commission for the compensation of victims of criminal offences, or the AGRASC, the agency for the management and collection of seized and confiscated assets, etc.).



1.2

Identify, protect and support the victims of all forms of exploitation and trafficking

There must be greater cooperation with **civil society** organisations. The latter must be recognised in their role of protecting the victims of trafficking.

Resources commensurate with the stakes and goals must be defined to meet requirements in all of the regions and also to produce reliable statistics in Europe on human trafficking, which are indispensable for effective policy making.

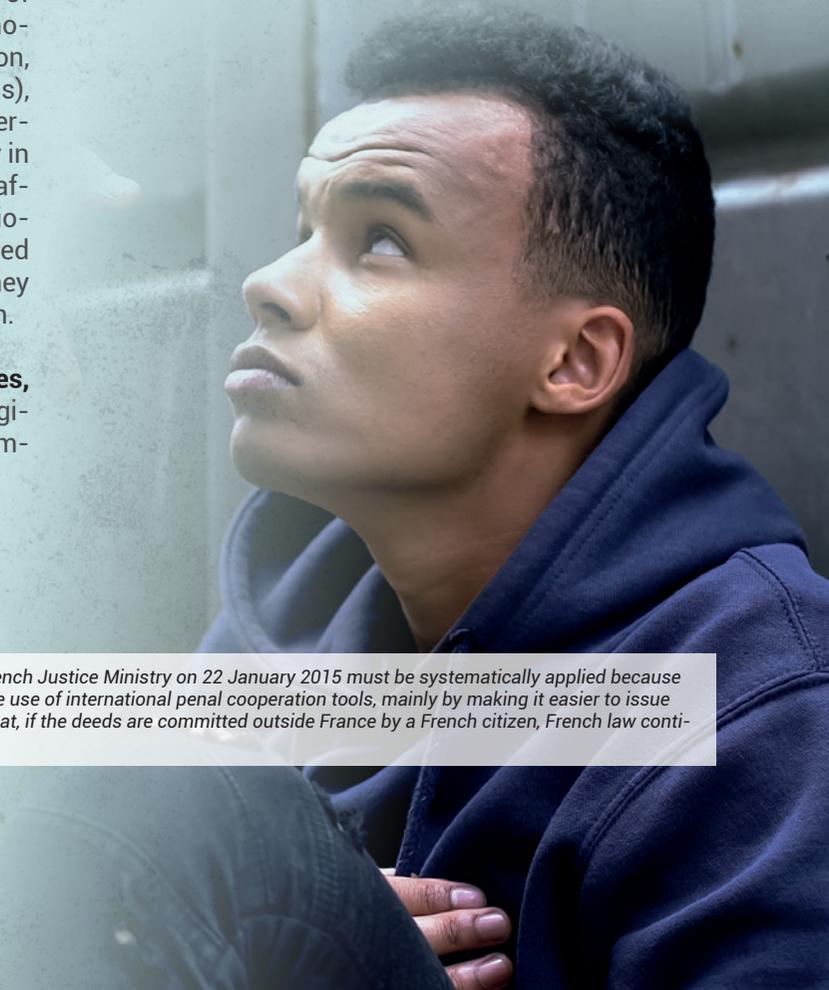
Anti-trafficking laws must be applied consistently in all of the regions concerned, and include holding responsible the “clients” of people in a situation of prostitution³.

The **entire population needs to be made aware** of the problem.

Training for all professionals (working in the police force, justice system, welfare, health, education, etc.) and all voluntary workers in a position to spot situations and report them to the competent authorities, must be developed and made systematic so that trafficking is identified as a phenomenon that takes different forms on the ground, in terms of forms of exploitation (forced labour, servitude, unfit accommodation and working conditions, sexual exploitation, forced begging, forced crime, the removal of organs), but also in terms of the victims targeted and the perpetrators: the victims may be citizens of the country in which they are exploited, in the case of internal trafficking, or foreign nationals in the case of transnational trafficking, and the perpetrators may be organised into Mafia-type networks or criminal gangs, or they may be private citizens acting for opportunistic gain.

Dedicated reception and accommodation centres, where people can recover physically and psychologically, must be set up to provide a safe refuge and comprehensive, suitable support.

3. The legal characterisation of the offence as trafficking in human beings should be more systematic. In France, the penal policy circular issued by the French Justice Ministry on 22 January 2015 must be systematically applied because it results in better protection and reconstruction for the victims. In the event of offences committed abroad, their classification as trafficking also eases the use of international penal cooperation tools, mainly by making it easier to issue European arrest warrants and by simplifying the performance of international letters rogatory. Similarly, Article 225-4-8 of the French Penal Code states that, if the deeds are committed outside France by a French citizen, French law continues to be applicable.



-2-

Define migration policies in the EU that help to prevent and eradicate exploitation and trafficking in the context of migrations, while making a distinction between the crimes of illicit trafficking of migrants and trafficking in human beings

Mechanisms for cooperation between European Union Member States must be introduced for effective solidarity that fosters equitable procedures, high-level protection, and conditions of reception that are worthy of the name.

On an international scale, initiatives should be aimed at the **non-member states of the European Union** from which the victims come, or to which they are transferred, in order to raise public awareness of the trafficking phenomenon, reduce the population's vulnerability, give victims the means to rebuild their lives, prevent trafficking by working on the primary causes of trafficking in human beings, and, finally, support local stakeholders' efforts to introduce and apply suitable legislation to combat trafficking and support the victims. **International programmes to support local initiatives** to identify, defend and support the victims of trafficking and raise awareness of the trafficking phenomenon must be supported by the European Union.

The European Union Member States must **construct an EU migration policy** that guarantees **respect for human rights and fundamental freedoms**, is focused on people's **dignity** and works to prevent trafficking in human being and protect people who are the victims of trafficking.

Each European Union Member State should make a contribution towards implementation of the **Global Compact for Safe, Orderly and Regular Migration**, one of whose 23 objectives is to establish a harmonized international policy to combat trafficking in human beings.

The Dublin III Regulation must be reformed to allow victims of trafficking to enjoy the protection of asylum in a country of their choice that provides the best possible protection from human trafficking networks.

Policies and practices of systematic refoulement of migrants at borders must be halted because they expose migrants to a risk of trafficking or of being captured again by a trafficking network. Protected migration routes must be created.

Border policy must give preference **to detecting and supporting the victims of trafficking**, instead of systematically tightening controls and criminalising the victims under pretext of fighting trafficking.

Unaccompanied minors must be given unconditional material, psychological and educational support, be cared for on the same basis as national children cared for by child protection services, with special attention paid to the needs arising from their vulnerabilities, and in compliance with the presumption of minority.



3

Promote, within the EU, regulations on the internet aimed at preventing the proliferation of trade based on the exploitation of human beings, even if they are from other parts of the world.

The **European directive on the duty of care/ due diligence** must be adopted, and must include digital companies as explicitly being part of the supply chain. Digital companies are to be understood to include companies that offer their services exclusively online (e.g. hosting companies) and companies that use digital technology (e.g. companies in the tourism sector, such as AirBnB, Booking.com, etc.). Accordingly, tighter duties to mitigate should exist for certain companies, in particular social networks and classified advertising sites.

The **Digital Service Act (DSA)** should take precedence over the Electronic Commerce Directive, which has been overtaken by the scope and scale of the online environment. **Digital companies' liability must be clarified**, in particular (but not exclusively) for the platforms that host advertisements seeking to recruit victims that will subsequently be exploited. It is no longer possible for platforms to hide behind a claim that they were unaware of the advertisements in question, in particular when the latter enable them to get rich and that human content moderation exists. The issue of the **mandatory withdrawal of illicit content** (in particular involving sexual exploitation) is also at stake in the adoption of the DSA.

Pornography is a key issue behind efforts to combat the trafficking of human beings, whether major or minor. Digital companies that offer pornography are involved in the trafficking of human beings for the purposes of forced labour and sexual exploitation, and sometimes even in indecent accommodation and working conditions.

Cooperation between the police, digital companies and hotline-type platforms (such as INHOPE or IWF) must be tightened with the European Union to effectively fight for the withdrawal of illicit content.

Remote-controlled operation (e.g. livestreaming) involving people inside or outside the European Union, by a person or company domiciled in the European Union, must be liable to prosecution.

Demand for, and seeking to use the services of trafficking victims must be liable to **prevention or prosecution, as applicable**.



-4.1-

Pay particular attention to children, young minors and women who are exploited in private homes or used by criminal networks or in labour platforms

whether in any form of sexual exploitation, including prostitution, in the construction industry, in au pair work, in delivery services, in cleaning services, to beg or to commit crimes, etc.

In the EU, minors represent a quarter of all victims of trafficking. Minors are particularly vulnerable to trafficking, which generally involves mechanisms of ascendancy or even coercion through threats or physical violence. Minors are even more vulnerable when they need money, have grown up in dysfunctional families, are migrating or isolated. All minors must receive **suitable protection, given their minority, and specific care**⁴, on the same basis as nationals, **with no discrimination**. The child's greatest interest must systematically be evaluated and assessed in accordance with General Observation No. 14 of the UN High Commissioner for Human Rights. It is even more important that minors who have been the victim of or who are at risk of trafficking in human beings receive special attention and unconditional protection⁵.

All minor victims of trafficking, whatever their gender and sexual orientation, present on the territory of a European Union Member State must be given care within the framework of the said country's child protection system. To this end, action must systematically be taken at the borders and throughout the national territory to detect and identify the victims of trafficking. Any refusal to provide care for a minor is unacceptable.

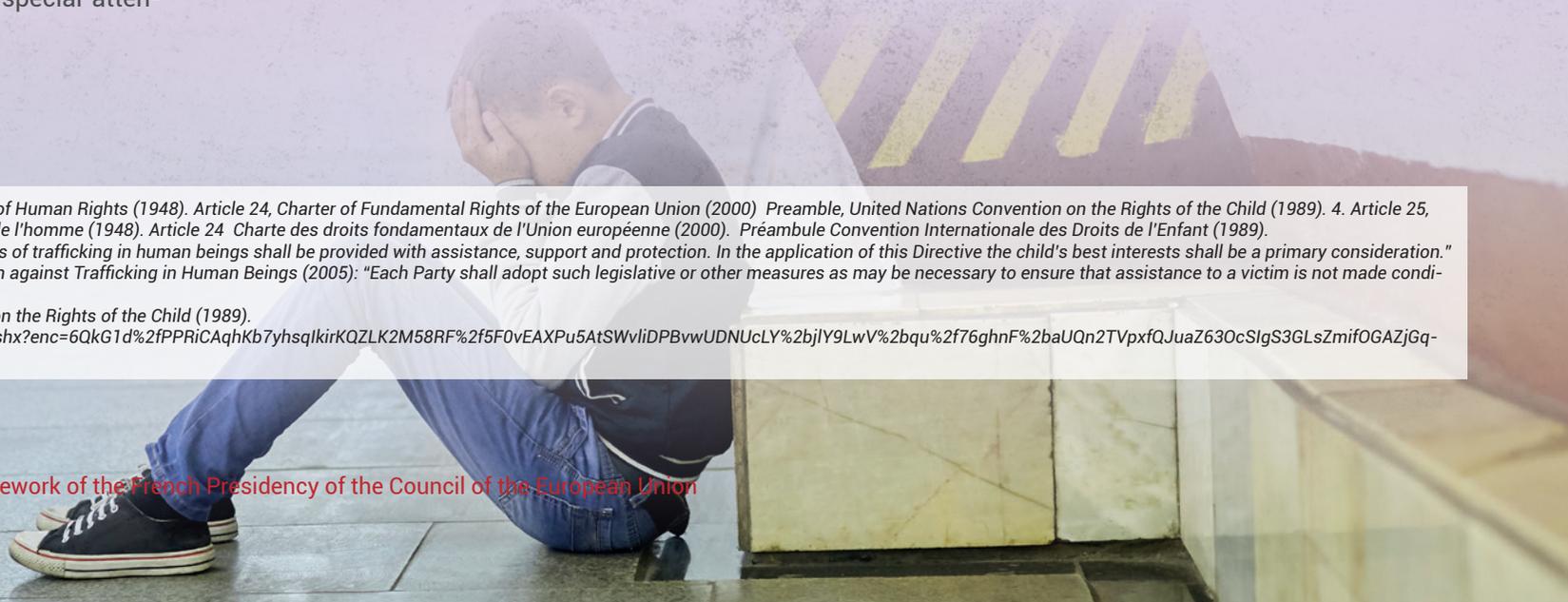
Because **they are isolated and migrating**, unaccompanied foreign minors are particularly vulnerable and exposed to the risk of trafficking in human beings. They must therefore be given the same protection as any other child who is permanently or temporarily homeless for any reason whatsoever⁶. They must also, without delay and systematically, be assigned a legal representative and accommodation in conditions that are appropriate and that meet their needs. In particular, they must be taken into unconditional, temporary, emergency care and, as a matter of priority, given secure, suitable accommodation.

4. Article 25, Paragraph 2 of the Universal Declaration of Human Rights (1948). Article 24, Charter of Fundamental Rights of the European Union (2000) Preamble, United Nations Convention on the Rights of the Child (1989). 4. Article 25, Paragraphe 2 de la Déclaration Universelle des droits de l'homme (1948). Article 24 Charte des droits fondamentaux de l'Union européenne (2000). Préambule Convention Internationale des Droits de l'Enfant (1989).

5. Art. 13 of Directive 2011/36/EU (2011): "Child victims of trafficking in human beings shall be provided with assistance, support and protection. In the application of this Directive the child's best interests shall be a primary consideration." Art. 12-6 of the Council of Europe Convention on Action against Trafficking in Human Beings (2005): "Each Party shall adopt such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness."

6. Article 22, Paragraph 2, United Nations Convention on the Rights of the Child (1989).

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsqkirKQZLK2M58RF%2f5F0vEAXPu5AtSWviDPBvwUDNUcLY%2bjY9LwV%2bqu%2f76ghnF%2baUQn2TVpxfQJuaZ630cSlgS3GLsZmifOGAZjGq-ixsZ>



4.2

Pay particular attention to children, young minors and women who are exploited in private homes or used by criminal networks or in labour platforms

whether in any form of sexual exploitation, including prostitution, in the construction industry, in au pair work, in delivery services, in cleaning services, to beg or to commit crimes, etc.

All minors, whether they are with their family, isolated or receiving temporary care within a child protection structure, and whatever their nationality, must unconditionally receive the same **protection inherent to their quality as a child**. As such, they must be protected from any form of trafficking in human beings. They safety and their physical, sexual and mental health must be protected by their right to an environment propitious to their healthy, happy development⁷.

The **incarceration** of minors who are victims of trafficking and who are thought to have committed acts of delinquency **must be deemed unconscionable**. That is not a way of protecting these minors. Instead, specialised housing must be developed for minor victims of trafficking to protect them (by removing them from the environment that exploited them, and providing psychological support), but also to facilitate the work of the justice system (by enabling the minors to speak openly).

EU Member States must allocate resources to **training the professionals** in contact with these children and in particular child welfare services and professional working in the justice system, the police and the health sector.

EU Member States must establish ways and means of reaching out to **homeless minors living outside the bounds of law** (in a squatter settlement, in the street, in camps), or who are migrating, in order to spot them as soon as possible and avert possible situations of exploitation.

The situation of **young majors** must be addressed so that the outreach to victims supported by social services does not suddenly come to an end when they reach majority.

Special care and attention for women and girls

In the EU, women and girls represent 75% of trafficking victims (EU Strategy 2021-2025). The sexual exploitation of women, whatever form it takes, is definitely a form of violence against women that infringes human rights. It is also a form of discrimination. The Council of Europe Convention on preventing and combating violence against women and domestic violence, known as the Istanbul Convention, which was opened to signature on 11 May 2011, must be ratified and applied by all of the Member States.

7. The Lanzarote Convention, the Warsaw Convention, the Budapest Convention and the Istanbul Convention, all ratified by all of the Council of Europe member States, together with the EU Directives 2011-36-EU, 2011-93-EU and 2012-29-EU, must be applied in full.



5

Introduce regulations in the EU and with third countries that make it possible

to act on the causes of exploitation and the clients who benefit from it.

Discourage demand⁸ by raising public awareness and by making the clients responsible

justice, health, rehabilitation

With regard to exploitation at work:

« Everyone has the right to work, to free choice of employment, to just and favourable conditions of work (...) ensuring for himself and his family an existence worthy of human dignity » (Article 23 of the Universal Declaration of Human Rights).

Certain sectors of employment experience serious infringements of these principles, in particular in the mining, agri-food and textile industries, but also in employment agencies (in particular recruitment agencies), small and medium-sized enterprises and in the building trade. In order **to protect individuals from infringements, guarantee decent employment and eradicate the phenomenon of trafficking in human beings** for the purposes of exploitation through work on an international and European scale, it is necessary **to put an end to human rights infringements in the operations of multinational companies** and those of **their subsidiaries, subcontractors, suppliers and any other stakeholders in the production and distribution chains**, by harmonising and reinforcing companies' control and social responsibility mechanisms.

Appropriate **binding standards** must be adopted in Europe, in particular by multinational companies, to ensure that victims of trafficking can obtain effective and efficient justice.

The European Union must strongly support the process **aimed at internationalising the duty of care** by making an ambitious contribution to drawing up the treaty on multinationals and human rights currently under negotiation at the United Nations.

Special attention must be paid to the situation of **posted workers** to ensure their protection as workers, along with satisfactory working conditions and access to any information necessary to **claim their rights** as posted workers, in their native language.

8. Recommendation 38 of the 2020 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (Article 6 of the Convention)



28 CHARITIES WORKING TOGETHER *to combat trafficking in human beings*

The members of the collective « Ensemble contre la traite des êtres humains »

Action Catholique des Femmes, AFJ, Agir Contre la Prostitution des Enfants, Agir Ensemble pour les Droits de l'Homme, Amicale du Nid, Armée du Salut, Association pour la Réadaptation Sociale, Aux Captifs la libération, Comité Contre l'Esclavage Moderne, Comité Protestant évangélique pour la Dignité Humaine, Congrégation Notre Dame de Charité du Bon Pasteur, Conseil Français des Associations pour les Droits de l'Enfant, ECPAT France, Fédération des Acteurs de la solidarité (FAS), Fédération de l'Entraide Protestante, Espoir CFDJ-Service Jeunes errants, Fondation Jean et Jeanne Scelles, Hors la rue, Justice et Paix France, Koutcha, La Cimade, La Voix de l'enfant, Les Champs de Booz, Mouvement du Nid, Organisation Internationale Contre l'Esclavage Moderne, Planète Enfants et Développement, SOS Esclaves, and Secours Catholique Caritas France, which coordinates the Collective.

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The Collective « Ensemble contre la traite des êtres humains » is a network

It's a network created to more effectively combat all forms of denial of human rights. It was created by Secours Catholique in 2007 and has a membership of 28 French Charities and federations of Charities that are directly or indirectly involved with trafficking victims in France, in transit countries or in their home countries. The collective is determined to combat the practice of treating workers as merchandise. It addresses a dual objective: raise the general public's awareness of this complex issue, and prompt French and global political decision-makers to take a strong stand on this form of crime. It covers different types of trafficking, including trafficking for sexual exploitation, domestic slavery, forced labour, forced begging, forced crime, servile marriage, removal of organs, etc.



The collective's website

www.contrelatraite.org

in tandem with a monthly newsletter, to which readers can subscribe on the website

Its spheres of action

Awareness-raising among groups at risk of trafficking, awareness-raising among the general public, support for victims, national and international networking, advocacy in France, Europe and worldwide to prompt changes in international texts and national laws to protect and help the victims.

In June 2016/2017, the collective "Ensemble contre la traite des êtres humains" contributed alongside the French government to establishing the first statistical study of trafficking in human beings in France: an opportunity to shed light on this phenomenon, which is all too often concealed, to the detriment of the people concerned. It is maintaining its commitment and continuing its work in this field.

In 2019, over two years since the end of the first Plan, it asked the government to allocate resources to the second national tri-annual action plan, presented in October, to secure its implementation.

The collective "Ensemble contre la traite des êtres humains" draws on the life experience, talents and potential of the people of all ages and all nationalities who have been victims of trafficking. By combating this crime against humanity, it strives to give each and every person access to their common law rights, and refuses any form of exploitation of human beings by another human being. A number of the organisations that belong to this collective of French Charities also have an international dimension, which is essential for combating this problem. In recent years, the collective and its Charities have played a large part in the initiative aimed at establishing a national plan to combat the prostitution of minors and, within the framework of Alliance 8.7, to lay the groundwork for France's strategy to combat child labour, forced labour, trafficking in human beings and modern slavery.



Recommendations

Made within the framework of the French Presidency of the Council of the European Union