3.4.3. Human trafficking

Jurisprudence from France shows that human trafficking may constitute a cause for exclusion under Article 12(2)(c), especially when carried out by the state or within a systematic framework. In *M. v OFPRA* (2 January 2020), the French CDNA ruled that “given the nature and gravity of the practices associated with human trafficking, human trafficking in all its forms must be considered as potentially constituting an act contrary to the purposes and principles of the UN, especially when it occurs within a state or systemic framework”.

In this particular case, the court considered that the Amazonian Guard under Gaddafi’s regime in Libya constituted an organised system of human trafficking involving young women, including minors who were coerced and exploited into sexual servitude, and thus carried out serious and continuous violations of human rights to qualify as acts contrary to the purposes and principles of the UN. As highlighted in Section 3.1, the EUAA guidance sets out the concept of "serious and sustained violations of human rights" as a distinct basis for exclusion under Article 12(2)(c), separate from the concept of peace and security.

However, national courts have rarely identified this category when assessing case law on this ground. The CNDA's reasoning thus offers a practical illustration of how the concept should be understood. The seriousness requirement was satisfied by the nature of the rights violated, as the court grounded its conclusion in the non-derogable prohibition against slavery, forced labour and servitude, treating violations of rights of this character as inherently reaching the gravity threshold without requiring a direct connection to international peace and security. The sustained character of the violations was established by the systematic and institutionalised nature of the exploitation carried out within a state structure and maintained over several decades, rather than by the accumulation of individual acts.

Additionally, the state or state-like power element, noted in the EUAA and UNHCR guidance as characteristic of acts falling within this provision, was clearly present. In this regard, the Amazonian Guard operated as a component of Gaddafi's regime, and the exploitation was attributable to and enabled by the state authority.

Notably, the French CNDA's reasoning in the human trafficking case grounds its conclusion not only in a specific Security Council resolution but in a combination of UN General Assembly resolutions, international conventions on trafficking, the Council of Europe's Warsaw Convention and EU Directive 2011/36/EU on human trafficking. This approach treats the purposes and principles of the UN as a broader normative concept capable of being elaborated through the full range of international legal instruments, rather than as a category whose content is determined exclusively by Security Council resolutions.

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