



The Finnish National Rapporteur on Trafficking in Human Beings

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The Finnish National Rapporteur on Trafficking in Human Beings – Report 2012

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1. Introduction

Positive development in efforts to combat trafficking in human beings continued in 2011 and the first half of 2012. For example, the system of assistance for victims of human trafficking has been developed, functions better and is more transparent. This can also be seen in the customer figures concerning the official system of victim assistance, with 52 customers included in the system in 2011 and the current number being 97 victims of human trafficking. The National Police Board has completed Police guidelines to support the improved identification of human trafficking. Awareness of human trafficking has increased in Finnish society on the whole and among the various actors involved. Many authorities are now better able to identify victims of human trafficking.

Despite this positive development, the Ombudsman for Minorities has to point out in her capacity as the National Rapporteur on Trafficking in Human Beings that the identification of victims still remains Finland's biggest challenge in anti-trafficking action. At the same time integrated action against human trafficking is still insufficient, and the permanent allocation of coordination responsibility for integrated action (to a national coordinator) is yet to take place. Victim protection and crime solution could also become more efficient if non-governmental organisations' access to resources was secured. Authorities' outreach work also needs to be increased. To achieve permanent results, further attention should be paid to measures that reduce the demand for trafficking and the serious exploitation human beings.

During the reporting period, the Ministry of the Interior and the Ministry of Justice have launched two separate legislative projects aimed to increase the efficiency of action against trafficking in human beings and improve the status of victims and the fulfilment of victims' rights. Current legislation and authorities' practices do not yet appear to provide enough support to the identification of trafficking in human beings and referral of victims to the victim assistance system. The existing legislation is somewhat contradictory, unclear and ambiguous. It is highly positive that legislation relating to human trafficking is now under review by working groups appointed by the Ministry of Justice and the Ministry of the Interior.

The human rights-based approach is an ambitious objective that calls for the examination of processes specifically from the victim perspective. It is important to consider how each measure will remedy the violations of victims' rights, how possible victims will benefit from the measure and how long may the impacts of the measure on victims of human trafficking last? International

experience shows that awareness of efficient victim protection also improves victims' willingness and ability to support the solving of crimes. The Council of Europe Convention on Action against Trafficking in Human Beings and the EU Directive on Human Trafficking both regard human trafficking as a gross violation of the victim's human rights.

For several years, the National Rapporteur on Trafficking in Human Beings has in her opinions emphasised the importance of the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings. The Convention recognises that human trafficking constitutes a violation of human rights and is an offence to the dignity and integrity of the human being. The government proposal concerning the adoption of the Convention was finally submitted to Parliament in November 2011. The National Rapporteur on Trafficking in Human Beings was heard by Parliament's Administration Committee (HaVM 6/2012), Legal Affairs Committee (LaVL 3/2012) and Employment and Equality Committee (TyVL 6/2012) in spring 2012 and the government proposal to Parliament concerning the adoption of the Council of Europe Convention on Action against Trafficking in Human Beings and the acts to bring into force the provisions of the Convention pertaining to legislation as well as the amendment of section 3 of the Act on Business Prohibitions (HE 122/2011) was finally adopted in May 2012.

The new guidelines formulated by the Ministry of Social Affairs and Health for the oversight of non-Finnish workforce contain a memorandum for occupational safety and health inspectors for the identification of victims of human trafficking and their referral to the system of victim assistance. On 1 May 2012 guidelines were published by the National Police Board concerning response to trafficking in human beings and corresponding crime and provision of assistance to victims of trafficking in human beings. Whenever possible, the National Police Board and the Ministry of Social Affairs and Health were assisted by the National Rapporteur on Trafficking in Human Beings in the preparation of the guidelines. It is important that the occupational safety and health authorities have since the publication of the guidelines also identified action against human trafficking as part of their duties.

The report on trafficking in human beings submitted to Parliament by the National Rapporteur on Trafficking in Human Beings in 2010 was the first of its kind and contained several recommendations for the development of legislation and authorities' procedures and practices. Following thorough committee readings, Parliament concurred with the key recommendations of the report and in February 2011 issued a parliamentary communication that obliged the Government to take measures and to report to the Ombudsman

for Minorities by the end of 2011 on the measures required by the report. The Ministry of the Interior coordinated the ministries' reporting on the measures in a commendable manner. This chain consisting of the legislator, those responsible for implementation and those assessing the implementation is still in place and has served as a unique and fast-acting tool for the development of official action against trafficking in human beings. The process has also attracted international interest and appreciation. The next report to Parliament will be completed in 2014. This year's interim report contains analyses of current legal cases in the field of human trafficking. By collecting information about the status of and research into human trafficking as well as the work carried out by national and international actors in the field of human trafficking, the National Rapporteur seeks to support those working against human trafficking in the efficient and integrated implementation of international obligations and national legislation.

2. Needs for legislative development emerged following recommendations issued by Parliament in February 2011

In her first Report on Trafficking in Human Beings (K 17/2010), the Ombudsman for Minorities provided several recommendations for the development of legislation and government procedures and practices. Parliament agreed with the report's key recommendations and in February 2011 issued a communication that obliged the Government to take measures and to report to the Ombudsman for Minorities by the end of 2011 on the measures required by the report (EK 43/2010 and TyVM 13/2010). Increased efficiency in efforts to prevent trafficking in human beings was also included in the Programme of Prime Minister Jyrki Katainen's Government. According to the Government Programme, Finland takes an active part in combating trafficking in human beings. According to the Government Programme, 'Legislation will be developed in order to prevent trafficking in human beings in all of its forms, to protect the victims of human trafficking, and to improve legal protection.' 'Training in issues relating to human trafficking will be provided for authorities, prosecutors and judges. The role of civil society organisations, the Ombudsman for Minorities and the occupational health and safety authorities in the recognition and prevention of human trafficking will be strengthened.' (p. 42 of the Government Programme, 22 June 2011)

The Ministry of the Interior assumed the coordinator role in the monitoring in a commendable manner and has kept the National Rapporteur informed about authorities' measures.

The next part of this report covers the measures included in the coordination report submitted to the National Rapporteur on Trafficking in Human Beings by the Ministry of the Interior for the implementation of the recommendations made by Parliament.

2.1 Working group appointed by the Ministry of the Interior to prepare a separate act concerning the system of assistance for victims of human trafficking

The ministerial working group on internal security decided on 11 November 2011 that the Ministry of the Interior will appoint a working group to prepare a separate act on the system of assistance for victims of human trafficking. It was decided by the ministerial working group that the recommendations of the steering group of the National Plan of Action against Trafficking in Human Beings as well as the report of the parliamentary Employment and Equality

Committee (TyVM 13/2010) must be taken into consideration in conjunction with the legislative project launched by the Ministry of the Interior.

Following that, on 27 January 2012 a working group was appointed by the Ministry of the Interior for the period from 1 February 2012 to 31 December 2013 for the development of separate legislation on trafficking in human beings. The aim is for the government proposal to be submitted during the 2013 autumn session the latest. According to the appointment decision of the Ministry of the Interior, the project must formulate proposals for more specific provisions concerning the system of assistance for victims of human trafficking. The project must also, where necessary, formulate proposals for provisions concerning the identification of victims of human trafficking and the exchange of information relating to cases of human trafficking between authorities and between authorities and other actors participating in assistance work. The project will also assess the economic impacts of the enactment of a special act on human trafficking and the need to appoint a national coordinator of action against human trafficking and the resources required by the coordinator. The National Rapporteur on Trafficking in Human Beings is represented in the working group appointed by the Ministry of the Interior.

According to the National Rapporteur, key issues in the drafting of legislation concerning the system of assistance for victims of human trafficking include, firstly, that the scope of application of the act should be determined specifically enough. The relationship of other social welfare and health care legislation with the victim assistance system should be clear. Issues relevant to this include the division of responsibility between the victim's home municipality and the assistance system. The responsibilities for action between the assistance system and the child protection system must also be clear. In some cases the child protection system may have better opportunities to take action than the assistance system. On the other hand, the assistance system has more expertise relating to the crime of human trafficking and victims' special needs.

It is also important for the functioning of the system of assistance for victims of human trafficking to determine the conditions for inclusion in and removal from the system. In this context a stand should be taken concerning the role played by offences related to human trafficking in the context of inclusion into the system. The Administration Committee report concerning the assistance system (HaVM 23/2006) states that the threshold for access to assistance must also be low enough in situations where there so far is only a suspicion of human trafficking. In its statement (TyVL 21/2006) the Employment and Equality Committee also emphasises that the threshold for removal from the assistance system must be high enough, and customers should not be

automatically removed from the service system because of issues such as the essential elements of the offence of human trafficking not being regarded as being present in criminal investigations. The National Police Board's guidelines concerning response to trafficking in human beings and corresponding crime and provision of assistance to victims of trafficking in human beings (section 2.4) instruct the Police to utilise the services of the assistance system if there are any indications in a case of human trafficking or corresponding crime that involves violence or other exercise of power against the victim of the crime. Despite the general view that the threshold for the assistance system should be low, the situation still remains unclear. Therefore it is also important to assess the role played by the person's need for assistance/security threat in inclusion into the assistance system. For example, as regards children there is not always necessarily any need for victim assistance as they can get the assistance required from other sources.

On 11 November 2011 the ministerial working group on internal security also decided to launch a review of how the maintenance and development of the website to combat human trafficking, www.humantrafficking.fi, should take place on a permanent basis and how the resources required for its maintenance could be directed to the organisation responsible for its maintenance in the future. The site was initially maintained by the National Bureau of Investigation. The transfer of responsibility to the Office of the Ombudsman for Minorities has not been possible due to the absence of a permanent information officer position. In spring 2012 site maintenance responsibility was assigned to the system of assistance for victims of human trafficking at the Joutseno Reception Centre. The assistance system aims to develop the site for it to better support its activities.

2.2 Ministry of Justice working group to amend the Criminal Code of Finland for the improved identification of victims of human trafficking

According to the decision of the ministerial working group on internal security (dated 11 November 2011) referred to in the previous section of this report, the Ministry of Justice was also to appoint a working group to assess the need to amend the Criminal Code of Finland. The decision was motivated by the recommendations provided in the 2010 report of the National Rapporteur on Trafficking in Human Beings and the Parliament decision (EK 43/2010) concerning the removal of overlapping penal provisions on human trafficking and pandering as well as the strengthening of the legal status of those subjected to pandering by granting them the status of an injured party in the criminal procedure. On 16 November 2011 a working group was appointed by the

Ministry of Justice for the review of human trafficking legislation in the Ministry and the agencies under it for the period between 21 November 2011 and 28 September 2012.

According to the Ministry's working group appointment decision (OM 12/41/2011), the working group was tasked with the review of the compliance of the criminalisation of human trafficking with the new Directive on Human Trafficking (2011/36/EU), the legal significance of the consent of victims of human trafficking, the line between human trafficking and extortionate work discrimination and, relating to this, the accompanying sanctions, concept and status of forced labour in the human trafficking context as well as the protection of persons participating in criminal proceedings relating to human trafficking offences. The working group's tasks also included the assessment of the need for legislative amendments concerning the line between human trafficking and pandering and the preparation of any legislative amendments required as well as the examination of issues relating to the injured person status of those subjected to pandering, including the need for legislative clarification. The needs to amend legislation concerning the line between human trafficking and pandering were to do with issues such as the fact that extortion, coercion or other offences against a person are usually not investigated separately because less severe methods of coercion or pressure are regarded as being included in the statutory definition of pandering. According to the recommendation of the National Rapporteur on Trafficking in Human Beings, essential elements referring to coercion or pressure meaning human trafficking should be removed from the provisions concerning the statutory definition of pandering.

On 28 September 2012 the working group submitted its unanimous proposal for a government proposal to Parliament concerning legislative amendments relating to pandering and human trafficking offences and extortionate work discrimination. These proposals will make the criminalisation of human trafficking more compliant with the criminalisation obligations laid down in international instruments that are binding on Finland and help clarify the distinction between human trafficking offences and pandering offences. The proposals include the removal of 'coercion' from the penal provision concerning pandering and its transfer under the methods of the offence of human trafficking. It is also proposed that violent and comparable methods be removed from the penal provision concerning aggravated pandering as these are already included in the statutory definition of aggravated trafficking in human beings. Also proposed is the improvement of the status of those subjected to pandering in the criminal procedure through a legislative amendment relating to the assignment of an attorney and support person.

In addition, it is proposed that the wording ‘takes control over another person’ in the section providing the definition of human trafficking as an offence (Chapter 25, section 3) to be amended so as to better correspond with essential elements of the offence of human trafficking. It is also proposed that forced labour as an independent purpose of human trafficking be removed and be included in demeaning circumstances. The purpose of this amendment is to clarify the purposes mentioned in the statutory definition of human trafficking which, according to the proposal, would comprise subjection to sexual exploitation or demeaning circumstances such as forced labour or to removal of bodily organs or tissues. It is further proposed that corporate criminal liability cover extortionate work discrimination and that perpetrators of extortionate work discrimination in business activity could be issued a prohibition to pursue a business.

2.3 Police to set up an expert network specialising in human trafficking

According to the coordination report, the Ministry of the Interior is, as recommended by Parliament, responsible for the establishment of a national special unit specialising in investigations into human trafficking and related offences. The establishment of the special Police unit has been criticised among the Police as it is anticipated to centralise competencies too much in one place. The coordination report states that the National Rapporteur on Trafficking in Human Beings further specified her recommendations in her 2011 report, whereby the efficient prevention of human trafficking and related offences can be ensured through a special function such as an expert network. The Police have since decided to establish an expert network that operates under centralised coordination. The competencies will be disseminated throughout the various Police units via the expert network. The efficient prevention of human trafficking and related offences will be taken into consideration in the performance guidance of the National Police Board.

2.4 Guidelines issued by the National Police Board

In cooperation with the National Rapporteur on Trafficking in Human Beings, in spring 2012 the Police produced guidelines concerning response to trafficking in human beings and corresponding crime and provision of assistance to victims of trafficking in human beings to improve the identification of human trafficking victims and human trafficking offences. The guidelines aim to achieve greater uniformity in response to human trafficking and corresponding crime as well as the relating pre-trial investigations and the procedure to identify victims of human trafficking. The guidelines also aim to promote the

equal treatment of possible victims of human trafficking and increase Police awareness about the system of assistance for victims of human trafficking. As regards the prevention of human trafficking offences and the identification of victims, the guidelines state that the Police must through their own actions seek to promote the creation of an atmosphere against trafficking in human beings. All those who have completed police officer training must have the basic capacities to identify victims of human trafficking and guide them to the assistance system. The exposure of human trafficking and corresponding offences requires sustained and efficient action. Where necessary, the Police must allocate resources for the prevention and exposure of and pre-trial investigations into such offences. Police units must ensure that they have sufficient access to special competencies to manage the special features relating to the crime of human trafficking. According to the guidelines, particularly in cases relating to the sale of sexual services and unauthorised or otherwise unlawful use of labour, special attention should be paid to the identification of possible victims of human trafficking. The possibility of human trafficking must also be taken into consideration in the residence permit process, asylum procedure, decisions on refusal of entry and the enforcement of decisions of removal from the country.

2.5 Measures by the Prosecution Service

The recommendation concerning the possible appointment of key prosecutors specialising in human trafficking offences falls under the mandate of the Office of the Prosecutor General. As regards this, the coordination report of the Ministry of the Interior states that human trafficking and pandering fall within the field of specialisation of the group of prosecutors specialising in crimes against women and children. The group consists of five special prosecutors based in the local prosecution offices of Helsinki, Länsi-Uusimaa, Eastern Finland, Ostrobothnia and Tampere Region. The Prosecution Service also has a group of key prosecutors for employment offences, offences in office, offences in military office and corruption offences comprising of five district prosecutors. The group specialises in the employment offences of work discrimination, extortionate work discrimination and trafficking in human beings for labour exploitation.

The duties of the special/key prosecutors include monitoring of legislation, legal praxis and legal literature in their respective fields, following the international developments in their fields and participating in international events, sharing their special competence with other prosecutors, monitoring and developing the consistency and quality of the prosecution function nationwide, providing

prosecutors with training in their respective fields, and carrying out criminal prosecution in their special field's most demanding and precedent-type cases.

The Office of the Prosecutor General organises regularly once a year a course for prosecutors themed on organised crime, illegal immigration and trafficking in human beings, with the National Rapporteur on Trafficking in Human Beings also having acted as a training provider in these.

Due to restricted prosecutor resources and reasons of expediency, some human trafficking cases are also handled by prosecutors other than the special/key prosecutors. According to the coordination report, the centralisation of all human trafficking cases with the special/key prosecutors would not be possible or even sensible. Efforts are made to have prosecutors specialised in the field handle the most demanding cases involving human trafficking.

2.6 Development of employment legislation and monitoring of employment matters relating to non-Finnish workforce

The coordination report of the Ministry of the Interior draws attention to the development of employment legislation and monitoring of employment matters as regards non-Finnish nationals for increased efficiency in the prevention of trafficking in human beings for labour exploitation. According to the report, the Ministry of Social Affairs and Health and the Ministry of Employment and the Economy are responsible for such measures.

According to the coordination report, the divisions of occupational health and safety of the regional state administrative agencies have, in cooperation with the Department of Occupational Safety and Health of the Ministry of Social Affairs and Health, begun the harmonisation of the monitoring of non-Finnish workforce. The Ministry of Social Affairs and Health has drawn up guidelines for the detection of phenomena implying human trafficking during monitoring activities and for related further measures. The National Rapporteur on Trafficking in Human Beings has issued an opinion about the draft guidelines. The Ministry of Social Affairs and Health has opted for a considerably less extensive set of guidelines for occupational safety and health inspectors who may encounter human trafficking in the field than the guidelines issued by the National Police Board. The National Rapporteur will monitor how well the guidelines work and is prepared to support efforts to increase the competence of occupational health and safety personnel and their cooperation with other actors in action against human trafficking. To increase the efficiency of preventive work, occupational safety and health

inspectors and personnel from the Department of Occupational Safety and Health have participated in lectures and training themed on human trafficking. The purpose of Directive 2009/52/EC (OJEU L 168/24, 30 June 2009) providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (the Employer Sanctions Directive) is to prohibit the employment of illegally staying third-country nationals in order to fight illegal immigration. As part of the Directive's implementation, the Ministry of Employment and the Economy has drafted a new chapter, 11 a, for inclusion into the Finnish Employment Contracts Act, laying down provisions on special matters relating to the Directive's scope of application. The bill (HE 3/2012) was passed by Parliament in July 2012, and the amendment entered into force on 1 August 2012.

The new chapter contains provisions on issues including the financial sanctions imposed on employers and the payment of costs arising from the sending of the employee's outstanding remuneration to another country. It also contains provisions concerning the obligations of the contractor and the main contractor and any other subcontractors to pay the financial sanction and other outstanding payments due to employees where a subcontractor acting as the employer has hired a third-country national referred to in the chapter. The amendment also affected the Posted Workers Act in that, following the amendment, the posted worker's employer falls under the obligation to pay the financial sanction laid down in the Employment Contracts Act.

The Ministry of Employment and the Economy also drafted a government proposal for acts on the amendment of Chapter 6, sections 6 and 9 of the Employment Contracts act and the Posted Workers Act (HE 104/2011). This was passed by Parliament on 13 January 2012, and the legislative amendment entered into force on 1 March 2012. The amendment resulted in the inclusion of provisions required for the implementation of the Directive on Temporary Agency Work into the Employment Contracts Act. A provision was added to the Employment Contracts Act concerning the determination of temporary agency workers' working and employment conditions in situations where there is no collective agreement that is binding either on the temporary-work agency or the user undertaking. As regards the Posted Workers Act, the amendments made were those necessary to render the status of posted temporary agency workers equal to that of those hired in Finland as regards the determination of working and employment conditions. The aim was to promote the equal treatment of temporary agency workers and an equal footing between enterprises as regards competition.

In autumn 2011 two working groups were appointed by the Ministry of Employment and the Economy to prepare action against the shadow economy. One of these made preparations for the partial reform of the Act on the Contractor's Obligations and Liability when Work is Contracted Out particularly regarding the construction sector and the other for further measures against the shadow economy in the accommodation and catering sector. The report of the working group focusing on the reform of the Act on the Contractor's Obligations and Liability when Work is Contracted Out relating to construction activity was completed on 19 December 2011. On the basis of the report, a government proposal was submitted to Parliament on 22 March 2012 for the acts on the contractor's obligations and liability when work is contracted out and on amendments to section 49 of the Act on Public Contracts (HE 18/2012). The government proposal was adopted by Parliament on 10 August 2012, and the legislative amendments entered into force on 1 September 2012. The amendments improved construction sector clients' and procurement units' opportunities to ensure that their contractual partners are reliable and comply with working and employment conditions. The legislative amendment also set the requirement that all those working on construction sites now have to display an ID card that also includes their individual Tax Number.

The other working group's task was to explore the opportunities to combat undeclared earnings and other shadow economy in the accommodation and catering sector. It also mapped out the statutory notification obligations of the sector's enterprises and their necessity. The working group submitted its report to the Ministry of Employment and the Economy on 9 January 2012. The report has been used as a basis for further examination of the obligation to provide a receipt and to use type-approved cash registers.

2.7 Speedy amendment of the Aliens Act so that residence permits will no longer be issued employer-specifically

The coordination report of the Ministry of the Interior mentions the speedy amendment of the Aliens Act so that residence permits will no longer be issued employer-specifically. The Ministry of the Interior is responsible for the measure.

The premise of the Aliens Act as well as the Act's statement of reasons is that employees' residence permits are specific to their professional field. Under section 77 of the Aliens Act, an employee's residence permit may for special reasons be restricted to work for a certain employer. According to the statement of reasons for this section, such special reasons may include the work being related to a supply agreement or a short-term piece-work contract.

The coordination report presents doubts among public officials regarding the removal of employer-specific residence permits. They do not regard it as necessary to fully eliminate the possibility of issuing employer-specific residence permits. According to their view, the employer-specific residence permit may prevent exploitation as it makes it more difficult to transfer employees via enterprises that operate seemingly appropriately to other enterprises. The employer-specific residence permit may also be justifiable from the monitoring perspective and consequently help safeguard employees' status and rights. The professional fields and situations relating to employees' residence permits also vary a lot from one area to another, which further emphasises the need for different types of residence permit. According to the public officials' views obtained, guidelines could also be provided for the control of employees' residence permits, including national and regional policies relating to employees' permits. The human trafficking perspective could be taken more clearly into consideration in these contexts such as the consideration of the field- or employer-specificity of residence permits.

In the coordination report, however, the Ministry of the Interior promised to launch as quickly as possible a project for the amendment of the Aliens Act so that residence permits will no longer be issued employer-specifically as required by Parliament. The drafting of a proposal for the amendment of section 77 of the Aliens Act is included in the tasks of the working group appointed by the Ministry of the Interior on 27 January 2012. The same working group was tasked with the formulation of proposals for the introduction of more specific provisions concerning the system of assistance for victims of human trafficking (see section 2.1 above).

Concerns about the occurrence of human trafficking in employment have increased, although so far few cases have been brought before courts of law (see section 4). In the opinion of the National Rapporteur on Trafficking in Human Beings, it is impossible at this point to assess the significance of the views expressed by the public officials on the basis of these cases. International experience indicates that the key issue is to provide possible victims with tools they need to leave an employment relationship where their dependence is exploited by the employer.

2.8 The Council of Europe Convention on Action against Trafficking in Human Beings and the Optional Protocol to the UN Convention on the Rights of the Child on the sale of children ratified

The coordination report of the Ministry of the Interior urged the Ministry for Foreign Affairs to bring the ratification of the Council of Europe Convention

on Action against Trafficking in Human Beings quickly before Parliament. The Convention recognises that human trafficking constitutes a violation of human rights and is an offence to the dignity and integrity of the human being. The purpose of the Convention is to prevent and combat trafficking in human beings, while guaranteeing gender equality. It aims to protect the human rights of victims of trafficking as well as to ensure effective investigation and prosecution. It also determines the basic principles for victim and witness protection and assistance. The primary added value provided by the Convention in relation to other international instruments is in its human rights-based approach and focus on the protection of victims.

The government proposal on the adoption of the Convention was finally submitted to Parliament in November 2011. The National Rapporteur on Trafficking in Human Beings was heard on the matter by Parliament's Administration Committee (HaVM 6/2012), Legal Affairs Committee (LaVL 3/2012) and Employment and Equality Committee (TyVL 6/2012) in spring 2012 (opinion of the National Rapporteur on Trafficking in Human Beings VVT/2012/67). The government proposal to Parliament concerning the adoption of the Council of Europe Convention on Action against trafficking in Human Beings and the acts to bring into force the provisions of the Convention pertaining to legislation as well as the amendment of section 3 of the Act on Business Prohibitions (HE 122/2011) was approved in May 2012.

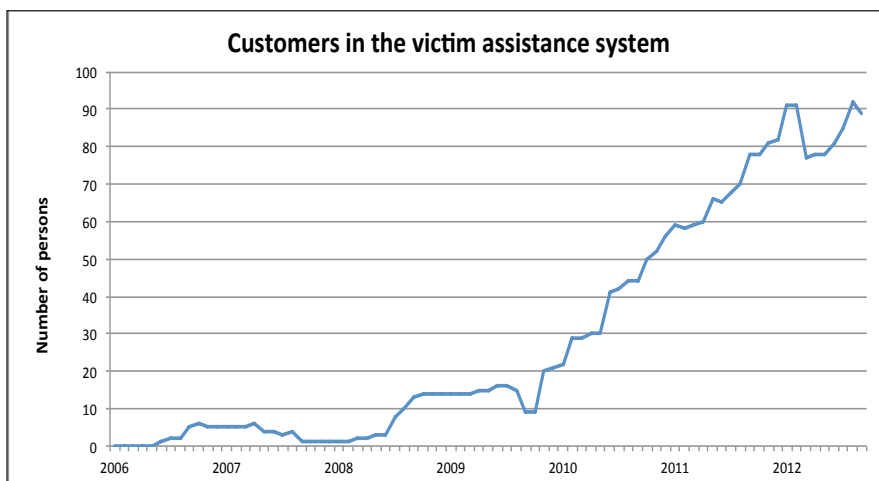
The coordination report also mentions that the government proposal concerning the ratification of the Optional Protocol to the UN Convention on the Rights of the Child on the sale of children was submitted to Parliament in December 2011. The protocol was adopted by Parliament on 13 March 2012. On 11 May 2012 the President of the Republic of Finland ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and approved the bill to bring into force the provisions pertaining to legislation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (HE 141/2011). The protocol obliges the States Parties to prohibit the sale of children and the exploitation of children in child prostitution and child pornography. It contains provisions on the coverage of criminal law and jurisdiction, the extradition of offenders and cooperation between states.

In addition, in February 2012 Finland signed the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, which enables individual and inter-state communications as well as an inquiry procedure for violations of rights set forth in the Convention or in the optional protocols thereto. The ratification of the protocol is yet to be completed.

3 Number of customers in the system of assistance for victims of human trafficking still increasing

The system of assistance for victims of human trafficking is administered by the Joutseno Reception Centre. The system's operations were formerly divided between the Oulu Reception Centre, which focuses on victims who are minors, and the Joutseno Reception Centre, which focuses on adults. In November 2012 the sections of the assistance system administered by the Oulu Reception Centre were transferred to the Joutseno Reception Centre. This change aimed to improve the assistance system through the centralisation of the activities at one location and, consequently, facilitate the system's development.

The below graphs provide statistical data about the referrals and related decisions made regarding access to the system of assistance for victims of human trafficking in 2011. These statistics are based on information obtained from the reception centres and show a continued increase in the number of customers in the system. At the end of 2010 there were 56 customers included in the system, while at the end of 2011 the figure was 82 and in October 2012 as high as 97. According to the reception centre's estimate, an average of 4 to 5 persons a month sought access to the system in 2011. According to the reception centre's view, awareness of the assistance system has been increased by the establishment of the mandate of the National Rapporteur on Trafficking in Human Beings as well as all those working with the assistance system, including the Police, the Border Guard, the reception centres and third-sector actors. It should, however, be taken into consideration when examining the statistics that not all victims wish to seek the services of the assistance system and therefore the number of victims of human trafficking actually identified is higher than indicated by the statistical data concerning the assistance system.



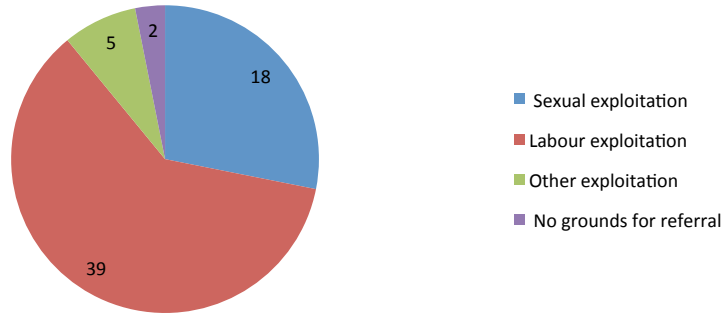
Data for the period between 1 January 2006 and 1 November 2012. (Source: Joutseno Reception Centre)

The difference between referrals concerning labour and sexual exploitation has increased on 2010. In 2011 the majority of the referrals to the assistance system related to labour exploitation. The number of referrals concerning sexual exploitation was smaller in 2011 than in 2010. According to the assistance system, this may be due to victims of labour exploitation being more easily identifiable than those subjected to sexual exploitation. Victims of human trafficking for labour exploitation may also be in a better mental state and therefore able to seek assistance. The increase in the rate of labour-related referrals also shows a need for action to prevent human trafficking for labour exploitation. The decrease in referrals relating to sexual exploitation, however, raises the question of what this is due to, particularly considering that the figures differ considerably from what could have been expected on the basis of international experience. Possible reasons relating to the assistance system may be structural or legislative, but the National Rapporteur on Trafficking in Human Beings also finds that there may be other reasons independent of the assistance system, such as the small number of non-governmental organisations (NGOs) referring victims to the assistance system. The National Rapporteur finds that the reasons for the small number of referrals relating to victims of sexual exploitation should be studied and that this should be taken into particular consideration by the working group of the Ministry of the Interior preparing legislation relating to the assistance system.

The share of authorities among those referring victims to the system increased considerably in 2011. Authorities that most commonly made referrals comprised the Police, the Border Guard and the reception centres. NGOs making referrals include the Finnish Refugee Advice Centre, Pro Centre Finland and Monika – Multicultural Women’s Association in Finland. Until 2010 NGOs accounted

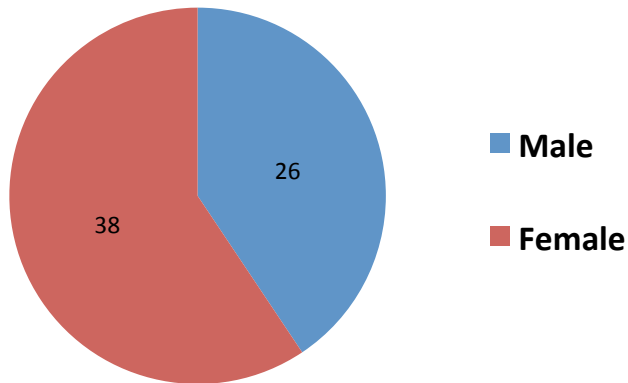
for a small proportion of those making referrals to the assistance system, but in 2010 their share was the highest. Following this, the NGO share has decreased and, by November 2012, NGOs had made 6 referrals while the corresponding figure for authorities was 42. Authorities' increased activity in referrals to the assistance system is welcome, but at the same time the National Rapporteur on Trafficking in Human Beings is concerned about the small share of NGOs. There are relatively few NGOs working to combat human trafficking in Finland. NGOs often have unique capacities for action against human trafficking, and they provide an important contribution to the efforts alongside the authorities. Activities such as the outreach work carried out by NGOs at the grassroots level are valuable. The National Rapporteur finds that NGOs' activities should be secured in order to improve their capacities to identify victims of human trafficking and refer them to the system of assistance. Typical victims of labour exploitation referred to the assistance system come from either Southeast Asia or Finland's neighbouring areas. They either work in Finland legally or totally without a residence or work permit or registration. By Finnish standards their working conditions are substandard, and pay issues are handled fully or partially inappropriately. Especially those entering the country from Finland's neighbouring areas are not subjected to any control or customs formalities when they arrive in Finland from the Schengen area, whereby there is very little government control on employment-related issues. At the general level, the majority of the customers of the assistance system are not asylum-seekers. According to the assistance system's assessment, the majority of the sexually exploited victims of human trafficking do, however, have an asylum-seeker background. Particularly in 2012, the share non-asylum-seekers has decreased among the sexually exploited victims of human trafficking. The National Rapporteur on Trafficking in Human Beings finds it worrying if sexually exploited victims of human trafficking other than those with an asylum-seeker background do not seek access to the assistance system.

Purpose of exploitation specified in referrals to victim assistance system (total number of referrals 64)



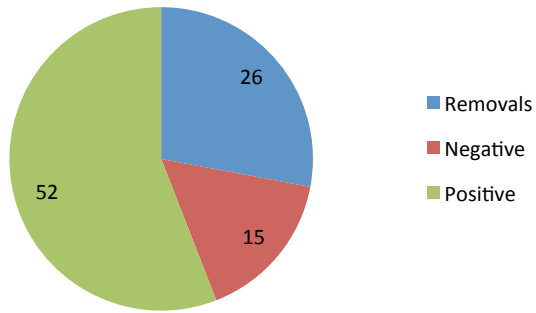
Data for the period between 1 January 2011 and 31 December 2011. (Source: Joutseno Reception Centre)

Referrals to the victim assistance system



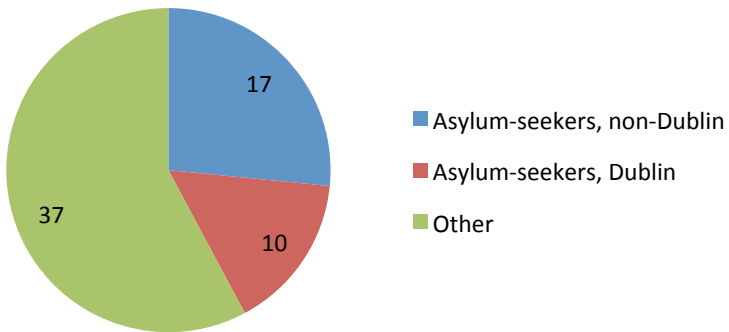
Data for the period between 1 January 2011 and 31 December 2011. (Source: Joutseno Reception Centre)

Decisions made on inclusion in or removal from the victim assistance system

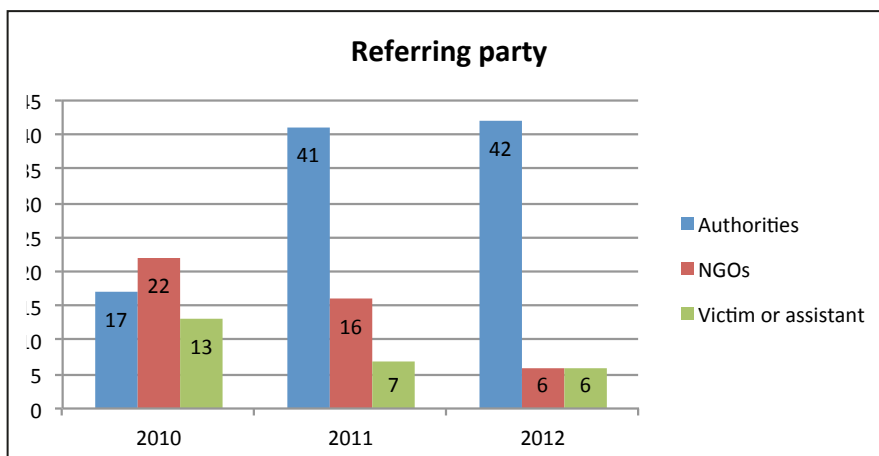


Data for the period between 1 January 2011 and 31 December 2011. (Source: Joutseno Reception Centre)

Background of referred persons



Data for the period between 1 January 2011 and 31 December 2011. (Source: Joutseno Reception Centre)



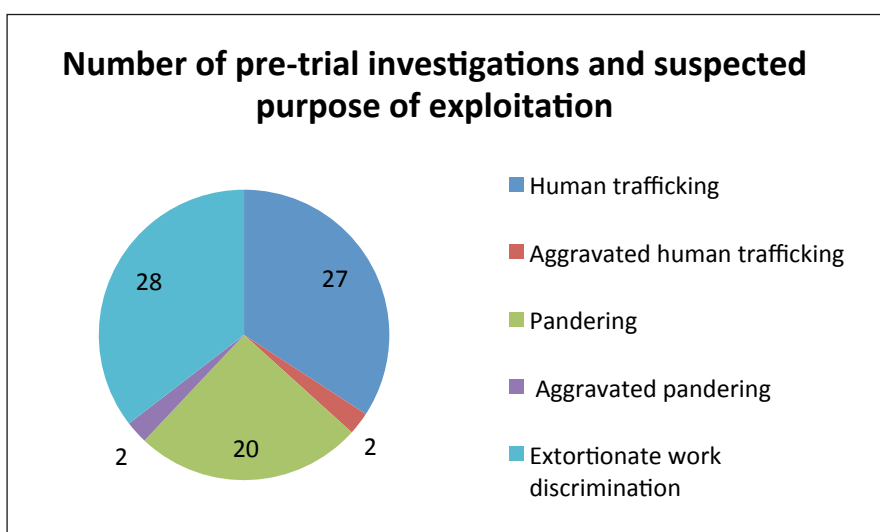
Data for the period between 1 January 2010 and 1 November 2012. (Source: Joutseno Reception Centre)

In 2011 the Oulu Reception Centre, which receives victims of human trafficking who are minors, received four customers. Three of these were victims of sexual exploitation and one a victim of labour exploitation. In 2012 the Oulu Reception Centre has so far included two customers into the assistance system, one of whom is a victim of labour-related and the other of sexual exploitation. The number of minors among the victims of human trafficking included in the assistance system has remained low. Personnel of the assistance system believe this is because Finland is not an actual destination but rather a transit country as regards minor victims of human trafficking.

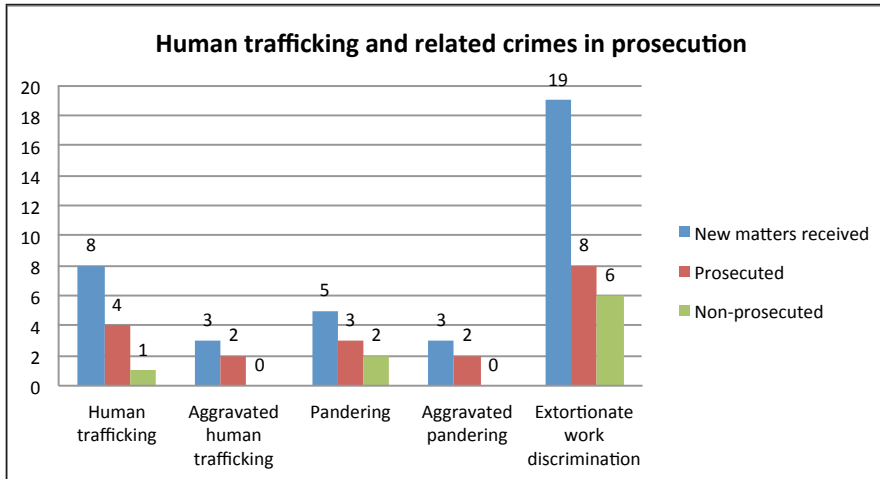
The number of minors exploited for commercial sex is difficult to estimate. There is very little data available. An extensive health survey conducted among young people in Finland does, however, indicate considerable numbers of sexual propositions offering payment. International experience also shows that the phenomenon is related to the more general occurrence of prostitution. The National Rapporteur on Trafficking in Human Beings calls for increased resources for NGOs' and social welfare authorities' outreach social work among young people.

4 Increase in cases in the criminal procedure

The National Rapporteur on Trafficking in Human Beings has sought to promote action against human trafficking through activities including the provision of training for various actors and support to authorities and third-sector organisations in their efforts to develop anti-trafficking work. There was a major increase in investigations into human trafficking offences in 2011. In 2010 the number of offence reports concerning human trafficking totalled 11, while the corresponding figure for 2011 was 27. The increase in the number of pre-trial investigations concerning human trafficking shows that the number of pre-trial investigations carried out in the preceding years did not illustrate the reality of the situation. Human trafficking is not as marginal a phenomenon as implied by the pre-trial investigation figures. Increased identification of human trafficking may be the reason for the increase in the number of pre-trial investigations.



Data for the period between 1 January 2011 and 31 December 2011. (Source: National Bureau of Investigation)



Matters pertaining to pandering offences, human trafficking offences and extortionate work discrimination brought to and decided upon by prosecutors in 2011. Source: Office of the Prosecutor General.

The number of matters considered as human trafficking by courts of law has also increased. By the end of 2011, Finnish courts had heard nine criminal matters under the offence categories of trafficking in human beings or aggravated trafficking in human beings. Five of these pertained to sexual exploitation and four to labour exploitation. The first two convictions for trafficking in human beings for labour exploitation were issued in spring and summer 2012 (Helsinki District Court KäO 12/2880 and Pirkanmaa District Court 12/4042). A conviction for sexual exploitation was also issued in summer 2012 (Helsinki District Court KäO 12/5775). Two recent cases are described below. The first case is significant in that it was the first case in Finland to result in a conviction for human trafficking for labour exploitation. It is a good example of successful pre-trial investigations and indicates an increased understanding of human trafficking as an offence. The second case involves sexual exploitation and highlights the special issues relating to minor victims of human trafficking.

4.1 The nail studio case

Finland's first conviction for human trafficking for labour exploitation was issued by the District Court of Helsinki in March 2012 (Helsinki District Court judgment KäO 12/2880). In the case a Vietnamese couple operating a nail studio had recruited two employees from their home country, Vietnam. The defendants had told the injured parties about opportunities for work in Finland and assisted them in preparations for travel to Finland and applications for a residence permit. An injured party had had to borrow money to finance her

journey to Finland. Following the injured parties' entry into Finland, the injured parties had been received by the defendants and provided accommodation in their home. The injured parties had begun work almost immediately after their arrival in Finland. They had worked six days a week without pay. Their weekly working hours totalled approximately 56. In addition to work performed in the nail studio, the injured parties had to perform domestic work and child care in the defendants' home.

The defendants reported injured party A's salary at €1,400 to the tax authorities. A, however, never received the amount. When A asked for her pay from the defendants, they claimed that the majority went for taxes and the remainder had to cover the living costs arising from her. The defendants further stated that A's pay was used to cover costs relating to her entry into Finland. A was told that Finnish society was good and that she would have a good life here if she sacrificed the first couple of years of her life without pay. A was told that she would have to work four years before she could begin to earn a salary. No agreement was made with injured party B regarding his salary. When he asked the defendants about his pay, they replied that he had incurred so much debt for his travel and other costs relating to his entry into Finland that he would just have to continue his work. He was told the amount of debt would be reviewed in the course of time.

A had become pregnant before she came to Finland. When the defendants found out about this, they suggested an abortion. A, however, decided to keep the child. She continued working normally throughout the pregnancy. She was still working the day when she gave birth in the evening. After the childbirth, A spent three days in hospital and, following this, 17 days at home. After that she returned to work.

In all A worked for the defendants for more than a year before A and B made a joint escape from the defendants. The injured parties had argued with the defendants about pay and refused to have their child sent to Vietnam. The defendants tried to prevent the injured parties from leaving. The injured parties contacted the Police and managed to escape.

Before their escape, injured party A had contacted the Police but had not dared to maintain further contacts with the Police. A was afraid revenge might be taken against B, who was at the time still in Vietnam.

The District Court found the defendants guilty of trafficking in human beings, for which charges against them had primarily been brought. The District Court found that the essential element of a 'dependent status' existed in the

matter as the injured parties had worked without pay for almost a year, with their working hours having practically equalled their waking hours of the day. The injured parties' dependent status was also due to their employment relationship with the defendants and the family relation of one of the injured parties with the defendants. Their dependent status was also due to their debt liability to the defendants and the fact that they lived in the defendants' home. The dependent status of both injured parties was further increased by A having already been pregnant when she arrived in Finland. As regards B, the District Court stated the reasons for his dependent status as follows: 'In this respect the District Court refers to the preparatory work produced for the act, according to which exploitation of a relationship of dependency may also occur when a person is subjected to human trafficking by utilising the dependent status of their close relative'. Therefore the District Court found that B's dependent status had partially been based on the dependent status of his close relative A.

According to the District Court, the injured parties' vulnerable state was due to their poor financial situation. The injured parties had worked for the defendants for almost a year without pay. The injured parties' financial situation was further aggravated by their debt relationship with the defendants. The criterion of a vulnerable state was also regarded as fulfilled as the injured parties did not have any other relatives or support persons than the defendants and the injured parties could not speak Finnish or English.

The District Court found that the defendants had exploited the injured parties in order to use them for forced labour.

B had been already before his arrival in Finland deceived into believing that he would receive a salary for his work. At the beginning of the employment relationship B, who was dependent on the defendants and in a vulnerable state, was further deceived about the salary payment and debt repayment schedule. According to the District Court, these facts proved that there had never been any intention of paying B his salary. Furthermore, B had been subjected to debt bondage through a demand for a considerable fee for employment services. According to the District Court, the above proved that B had, in accordance with ILO's interpretation principles, been required to work under the menace of a penalty.

By the principles of interpretation the District Court refers to the ILO Forced Labour Convention, under which forced labour is defined as all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. In its legal

assessment the District Court mentions the ILO Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 2005, according to which the penalty does not need to be in the form of penal sanctions, but may also take the form of a loss of rights and privileges. Moreover, the menace of a penalty can take multiple different forms. The most extreme form involves the exercise or threat of physical or sexual violence against the victim. In addition to the above, the menace of a penalty may involve restriction of the worker's mobility, induced indebtedness (such as for costs arising for the arrangement of entry into the country or unreasonable accommodation costs) or withholding or non-payment of wages. Debt bondage refers to the exploitation of a worker based on indebtedness where the worker pledges themselves to work against a loan but where the liquidation of the debt does not take place regardless of this work (p. 5 of The Cost of Coercion – Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 2009).

In addition working in the nail studio, A had performed domestic work in the defendants' home. The District Court found that the defendants had de facto restricted A's mobility by ordering her to work practically throughout her waking hours.

As regards A, the District Court provides the following reasons for the existence of forced labour:

The assessment of whether or not the criteria for trafficking in human beings are fulfilled must pay attention to whether or not A had any other real and valid alternative than to agree to the exploitation. On the basis of the aforementioned grounds, it has been established in the matter that A was in a foreign country without being able to speak Finnish or English. She was pregnant and dependent on the accommodation provided by the defendants, and she did not have any other close relatives or support persons. It was discovered by A following her arrival in Finland that she had become indebted on the basis of arrangements made for her entry into Finland and she did not have any money. The District Court finds that A could not leave the situation and she had no other real choice but to agree to continue her work.

The District Court points out that the ILO definition of forced labour requires that the worker has not offered themselves voluntarily for the work. Where the menace of a penalty or threats are used to obtain the worker's consent, their consent cannot be regarded as voluntary. Where a work offer has involved fraud and deception, the worker's consent cannot be regarded as informed

or voluntary, whereby the initial consent is irrelevant (ILO reports 2005, 2009, p. 6). Furthermore, according to the definition provided in the Palermo Protocol, the victim's consent to exploitation is irrelevant if the consent was obtained through means such as deception.

In the nail studio case the District Court found, regarding both of the injured parties, that their initial consent was to be considered irrelevant as deception had been used to obtain it. The National Rapporteur on Trafficking in Human Beings draws attention to the District Court's opinion regarding the irrelevance of consent. In its ruling the District Court finds that the defendants also exploited the injured parties' dependent status and vulnerable state. According to the National Rapporteur, the irrelevance of consent could also have been assessed on the basis of these circumstances and not merely on the basis of deception.

As is shown in the above, in its judgment the District Court utilised international sources of law more extensively than has been the case in previous Finnish judgments pertaining to human trafficking. In addition to national sources of law, the District Court referred to international instruments that are binding on Finland, such as the Palermo Trafficking Protocol, the EU Framework Decision on combating trafficking in human beings, the ILO Forced Labour Convention (1930) and the ILO Abolition of Forced Labour Convention (1957), but also to the ILO report *The Cost of Coercion – Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 2009*. According to the National Rapporteur on Trafficking in Human Beings, the District Court's reference to the report in its ruling shows a more comprehensive understanding of the essential elements of the offence of trafficking in human beings.

The evidence in the matter is based mainly on the testimonies given by the injured parties, defendants and witnesses. However, the National Rapporteur finds it noteworthy that important evidence could also be provided through the interception of telecommunications carried out by the Police. Injured party A contacted the Police before the escape. At that point A was, however, so scared that she did not want to proceed in the matter as she was afraid of the possible problems caused by the defendants to injured party B, who was still in Vietnam. Following her contact, however, the Police began to monitor the situation and used methods including the interception of telecommunications. The interception of telecommunications enabled the Police to obtain evidence including that pertaining to the injured parties' debts to the defendants and the injured parties having according to the defendants lived in miserable circumstances and been mistreated.

4.2 The Romanian girl's case

In June 2012 the District Court of Helsinki took a decision (Helsinki District Court judgment KÄO 12/5775) in a case of human trafficking involving sexual exploitation. The injured party was a 16-year-old Romanian girl who had met the 27-year-old defendant in her home country. The injured party's friend, the friend's boyfriend and the defendant were about to travel to Norway to make money, and the defendant talked the injured party into joining them. In that context the injured party was told that she could work in a bar. The option of prostitution had also come up but had not been discussed any further. The injured party decided to join in. The party travelled to Norway, where they stayed for a while. The defendant had to unexpectedly return to Romania, which is when the rest of the party continued their journey to Finland. As soon as they arrived in Finland, the injured party's friend's boyfriend told the injured party and her friend that they had to work as prostitutes as that was the only way to earn money in Finland. The girls began work the same evening. The friend's boyfriend was in debt, and the money earned through prostitution had to go for the repayment of this debt. Following the completion of these repayments, the girls would be able to keep the money earned by them. This, however, did not happen. The defendant arrived in Finland approximately two weeks after the injured party's arrival and withheld most of the money earned by the injured party. Some was sent by the defendant to his family in Romania and a small fraction to the injured party's mother.

The injured party sold herself on the street for two months, excluding one day when she had stomach pains. She had five to six customers a day. The injured party offered sex in customers' cars. She earned around €250 a day, of which she was allowed to have €10 as food money. Around once a week the defendant required sex from the injured party.

The injured party has a one-year-old child in Romania, and her financial situation was quite stable when she left Romania. Her parents worked abroad and sent her money, clothes and make-up every month. The injured party was not, however, satisfied with her financial situation, and therefore she decided to go to Norway to earn money working in a bar. Although prostitution had been mentioned before they left for Norway, the injured party had not seriously realised she would end up in prostitution. But, when the injured party had to work on the street, she did not dare to object. The defendant and her friend's boyfriend were violent, shouting at the injured party and her friend and threatening them with violence if the injured party was to tell the Police about her work as a prostitute.

The injured party was afraid of the defendant. She wanted to give up prostitution and go back to Romania. She managed to put aside €240 of her earnings for her return journey and planned to escape. This, however, never took place as she was caught by the Police.

The defendant admitted that his conduct fulfilled the criteria of trafficking in human beings. The defendant admitted that he had taken control over a person under the age of 18 with the purpose of subjecting the injured party to sexual exploitation for financial benefit. However, the defendant denied having abused the injured party's vulnerable state or deceived her or abused a mistake made by her. The District Court found that the defendant had deceived the injured party when telling her about the opportunity to work in a bar. The fact that the possibility of prostitution had been mentioned to the injured party by her friend did not according to the District Court eliminate the possibility of deception. In Finland the injured party had been deceived to continue prostitution against her will by promising that she would get the money earned by her following the repayment of the defendant's and her friend's boyfriend's debt. The injured party's lack of money, insufficient language skills and unfamiliar environment as well as her separation from her family had placed her in a vulnerable state.

The District Court found that the defendant's offence fulfilled the criteria of aggravated trafficking in human beings. The defendant had used deceitfulness in that he had promised the injured party work in a bar while she de facto had to work as a prostitute. The defendant had also used physical and mental violence against the injured party. The aggravated nature of the offence was further increased by the injured party's young age, lack of language skills and the fact that she was not allowed to keep the money earned by her and was therefore unable to stop working and return to her home country.

The defendant in the case was sentenced to four years and eight months of unconditional imprisonment. The defendant was further sentenced to pay the injured party a total of €29,000 in compensation for temporary harm, loss of earnings and suffering.

The case is a classic example of human trafficking for sexual exploitation. Its successful outcome in the District Court was largely due to good inter-agency cooperation. The Police, the Finnish Immigration Service, the victim assistance system and the third sector cooperated closely in the case.

In human trafficking cases the mere fact that the victim is a minor places them in a vulnerable state and dependent status. According to the National

Rapporteur on Trafficking in Human Beings, it should be assessed whether the pandering of minors should always be regarded as human trafficking.

Human trafficking may be a highly traumatising experience for the victim, and victims of human trafficking have the right of access to the system of assistance for victims of human trafficking. Victims' traumatic experiences and other factors causing vulnerability or insecurity, such as being a minor, may make victim assistance even more challenging. Assistance is voluntary for human trafficking victims over the age of 18. Decisions concerning the assistance of minor victims of human trafficking are made in accordance with the interests of the child. Where necessary, the protection and restriction methods determined in the Child Welfare Act are employed to safeguard the interests of the child. The authorities must safeguard the prerequisites for children's wellbeing, health, integrity, growth and development. The services available from the assistance system include assisted return (safe journey home and support for reintegration). According to law, minor victims of human trafficking must be appointed a representative. One of the tasks of the assistance system is to prevent the risk of revictimisation.

The National Rapporteur on Human Trafficking is concerned about the extent to which the interests of minor victims of human trafficking are realised in practice. It is not uncommon for foreign victims of human trafficking who have been victimised and undergone traumatic experiences in Finland to wish to return to their home country as soon as possible. In such cases it is, however, important to ensure their access to assistance in their home country as well. With minors it is also particularly important to take the risk of revictimisation into consideration. Child welfare authorities must assess the child's wish to return to their home country from the viewpoint of the overall assessment of the interests of the child. The National Rapporteur finds that the oversight of the interests of the child and their realisation must be examined. The National Rapporteur finds it important to document the determination of the interests of the child in accordance with the UNHCR recommendations to enable future reviews of how the determination took place (United Nations High Commissioner for Refugees: Guidelines on Determining the Best Interests of the Child, Geneva 2008). The operational responsibilities and cooperation between the assistance system and the child protection system must be clear and good. In some cases the child protection system may have better opportunities to take action than the assistance system. On the other hand, the assistance system has more expertise relating to human trafficking offences and the victims' special needs.

When making preparations for the return of all victims of human trafficking, those under and over the age of 18 alike, the risks involved in their return to their home country should be assessed. The mere existence of an assistance system in the victim's home country does not exempt the state from its obligation of assist the victim and ensure their access to assistance. The return should be a safe and sustainable alternative, and international cooperation between assistance systems should be developed. Finland should operate actively at the international level in the development of assistance systems for victims of human trafficking.

5 The right of the National Rapporteur on Trafficking in Human Beings to access information

The National Rapporteur on Trafficking in Human Beings has previously criticised the fact that her right to access secret information from other authorities has not always been realised as laid down in the Act on the Ombudsman for Minorities and the National Discrimination Tribunal (660/2001). Appropriate attendance to duties related to reporting on trafficking in human beings calls for access to up-to-date and sufficient information. The National Rapporteur has had several negotiations with authorities concerning the realisation of her right of access. Access to information has not taken place as hoped. The right to access information has not been realised as regards pre-trial investigation authorities and pre-trial investigations underway or as regards closed hearings of matters in judicial proceedings. She has proposed to the Ministry of the Interior that the realisation of the right to access information be examined and secured in legislation.

The right to access information is a prerequisite for the Ombudsman for Minorities acting as the National Rapporteur on Trafficking in Human Beings to be able to have such influence that Parliament intended when establishing the post. The Employment and Equality Committee of Parliament has also stated that broad access to information supports the coverage and objectivity of reporting and creates a foundation for proposals that improve cooperation between actors and the smoothness of activities (TyVM 15/2008). The Committee has also found that legislative amendments are needed if the right of access to information is not realised under existing provisions.

The situation has become somewhat clearer during 2012. The National Police Board's guidelines concerning response to trafficking in human beings and corresponding crime and provision of assistance to victims of trafficking in human beings issued in spring 2012 recommend that the head of the investigation notify the Ombudsman for Minorities of any pre-trial investigations into human trafficking offences no later than at the stage where the Police begin the hearing of the victims of the alleged offence. The guidelines also state that the Ombudsman for Minorities must, on the Ombudsman's request, as a rule be provided without delay with detailed information necessary for the performance of the Ombudsman's duties, unless prevented by investigative reasons. The Ombudsman must also be sent copies of pre-trial investigation records at the same time as the parties to the case and the prosecutor. The guidelines harmonise and clarify

the relationship between the Police and the Ombudsman for Minorities and improve general awareness among the Police of the Ombudsman's statutory right to access information. However, the National Rapporteur on Trafficking in Human Beings points out that the recommendation included in the guidelines concerning the self-initiated notifications by the Police has not been realised during the first six months as the Ombudsman for Minorities has not received the information without asking for it separately. Therefore the National Rapporteur finds that the Police should ensure the comprehensive provision of information about the guidelines and monitor compliance with all of the recommendations and obligations included in the guidelines.

The National Rapporteur finds that the right of access to information should also be mentioned in the separate act on human trafficking drafted by the Ministry of the Interior.

6 Provision of information and training and other activities

The success of multisectoral action against human trafficking calls for coordination and resource direction. At the moment there is no permanent central government actor responsible for coordination. The need for a national coordinator is assessed by a legislative project working group appointed by the Ministry of the Interior on 27 January 2012 to draft a separate act on human trafficking. The National Rapporteur on Trafficking in Human Beings, who is an independent evaluator of central government policies, legislation and practices against human trafficking, cannot assume the task of operational steering.

The National Rapporteur has received requests for information regarding a variety of issues, such as for research and data collection. Information has been requested by other authorities, third-sector actors, foreign organisations, the media and researchers. The National Rapporteur has not compiled statistics regarding contacts by the media, but there have been dozens of such occasions and these have related to current cases under investigation, human trafficking as a phenomenon as well as legislative projects.

Over the year under review, in addition to the above-mentioned legislative drafting working groups of the Ministry of the Interior and the Ministry of Justice, the National Rapporteur has participated in the work of the CAHVIO working group appointed by the Ministry for Foreign Affairs on 30 October 2011. The working group's task is to prepare a government proposal to Parliament for the adoption of the Council of Europe Convention on preventing and combating violence against women and domestic violence and the act on the implementation of the provisions of a legislative nature in the Convention. The purpose of the Convention is to design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence. The aim is to ratify the Convention during the current Government's term in office.

During the year the National Rapporteur has issued several opinions about Finland's human trafficking situation and related development outlooks as well as about legislation and guidelines under preparation. Over several years, the National Rapporteur has in her opinions emphasised the importance of the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings as the Convention recognises that human trafficking constitutes a violation of human rights and an offence to the dignity and integrity of the human being. The government proposal concerning the adoption of the Convention was finally submitted to Parliament in November

2011. The National Rapporteur on Trafficking in Human Beings was heard by Parliament's Administration Committee, Legal Affairs Committee and Employment and Equality Committee in spring 2012, and the government proposal was adopted in May 2012. The National Rapporteur has also issued opinions on the National Police Board's guidelines concerning response to trafficking in human beings and corresponding crime and provision of assistance to victims of trafficking in human beings and the guidelines of the Ministry of Social Affairs and Health for occupational safety and health inspectors.

A fixed-term researcher/project coordinator employed by the Office of the Ombudsman for Minorities has participated in the planning of a joint Nordic conference organised by the Ombudsman and the Nordic Council of Ministers on human trafficking and the exploitation of the workforce. The conference will take place in Helsinki in November 2012. The researcher has also followed current court cases relating to human trafficking.

In relation to her role as the Rapporteur on Trafficking in Human Beings, the Ombudsman for Minorities increased the provision of information about human trafficking in a determined manner during the reporting year. Information and training events have been organised for the media. One of the main information events was the campaign themed on human trafficking organised in October 2011 in cooperation with the International Organization for Migration (IOM). The aim was to increase awareness of human trafficking in Finland and improve capacities for the identification of human trafficking. Entitled Work that nobody wants to do, the campaign was visible in print media around Finland, online, on the radio and in Helsinki also through outdoor advertising for one week in October. The campaign was part of the programme of the European Day against Human Trafficking on 8 October. Designed in cooperation with Advertising Agency King, the campaign won the AdProfit award for the best social campaign. The campaign also took second place in the social advertising category of the Finnish Marketing Association's annual awards for print advertising.

A similar media campaign is also planned for the end of 2012 in cooperation with the IOM and Advertising Agency King. While the 2011 campaign focused on increasing awareness about human trafficking and its special characteristics, the 2012 campaign, Human trafficking is no fairytale, will continue to unravel the problems faced in action against human trafficking and make the phenomenon better known among the public. In addition to this, the National Rapporteur has supported the I exist campaign designed by the Police College of Finland and implemented by the National Police Board. The series of posters produced for the campaign has been distributed

to Finnish police stations. The campaign helps increase awareness about the National Police Board's guidelines concerning response to trafficking in human beings and corresponding crime and provision of assistance to victims of trafficking in human beings.

The demand for training is increasing all the time at a rate exceeding the National Rapporteur's resources. The National Rapporteur has provided training for those including prosecutors and judges, the Police, students of the Police College of Finland, Border Guard employees and, in cooperation with the third sector, organisations including the Finnish Immigration Service. Cooperation with the third sector has also been extensive and systematic in other respects. The National Rapporteur has also been actively in touch with the Police in conjunction with cases under investigation and in other contexts. The police departments and stations selected have been those that either are investigating current human trafficking cases or have investigated several of them before. At times the Police have contacted the National Rapporteur for information about human trafficking as a phenomenon, and the National Rapporteur intends to intensify such cooperation in the future.

The National Rapporteur has promoted international action against human trafficking by participating in activities such as those of the Informal Network of National Rapporteurs and Equivalent Mechanisms set up by the European Commission. Venla Roth, Senior Officer responsible for issues relating to human trafficking reporting at the Office of the Ombudsman for Minorities, is also a member of the EU Group of Experts on trafficking in human beings.

The National Rapporteur has contributed to the European Commission report on the functioning and development needs of the new Directive on Human Trafficking (Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA). The National Rapporteur has also monitored the work to develop the EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016, COM(2012) 286 final, formulated following the Directive. The European Police College (CEPOL) has created an online training package to carry out and support the implementation of the Directive, with the Finnish National Rapporteur on Trafficking in Human Beings also participating in its production. The National Rapporteur has also participated in the EU-supported training programme 'Towards a European approach to juridical training on trafficking in human beings'.

The National Rapporteur also supported the research project on trafficking for labour exploitation of the Council of the Baltic Sea States, which resulted in the production of country-specific reports. The Finnish report is entitled Report on Cooperation between Stakeholders at the National level in Finland to Address Trafficking for Labour Exploitation.

In June 2011 the National Rapporteur on Trafficking in Human Beings was awarded by the US Department of State for her work against human trafficking. In the Trafficking in Persons (TIP) Report released by the US Department of State, Finland received excellent feedback for tackling its trafficking problem in its unvarnished form.

The National Rapporteur will continue to follow very much the same lines in the work carried out this coming year. The Ombudsman for Minorities has applied for European Union funding for action against human trafficking for 2013–2014. The aim is to implement a project to support the development of intersectoral cooperation mechanisms for Finnish action against human trafficking. Project funds would also be used to support pre-trial investigation authorities in the implementation of their guidelines. Next year will also see the beginning of research and analyses for the human trafficking report to be submitted to Parliament in 2014.

7 Powers and duties of the Ombudsman for Minorities as the National Rapporteur on Trafficking in Human Beings

Under section 1 of the Act on the Ombudsman for Minorities and the National Discrimination Tribunal (660/2001), the duties of the Ombudsman for Minorities include preventing ethnic discrimination, promoting good ethnic relations, safeguarding the status and rights of ethnic minorities and foreigners, supervising compliance with the principle of ethnic non-discrimination and reporting on trafficking in human beings. The Ombudsman for Minorities is an independent and autonomous actor. Within the context associated with reporting on trafficking in human beings, the Ombudsman for Minorities is referred to as the National Rapporteur on Trafficking in Human Beings. Under section 2 of the Act, the duty of the Ombudsman for Minorities as the National Rapporteur on Trafficking in Human Beings is to:

- a) monitor phenomena relating to human trafficking, the fulfilment of international obligations and the effectiveness of national legislation;
- b) issue proposals, recommendations, opinions and advice relevant to the fight against human trafficking and to the realisation of the rights of victims;
- c) keep in contact with international organisations in human trafficking issues.

Under section 3 of the Act, the National Rapporteur on Trafficking in Human Beings is to submit a report on human trafficking and related phenomena annually to the Government and every four years to Parliament. Under section 4 of the Act, the National Rapporteur on Trafficking in Human Beings may assist, or appoint a subordinate official to assist, victims of ethnic discrimination or possible victims of human trafficking in securing their rights. Where necessary, the National Rapporteur may obtain legal assistance for such persons if the National Rapporteur considers that the matter is of considerable importance for the prevention of ethnic discrimination or the securing of the rights of a possible victim of human trafficking.

Section 7 of the Act contains provisions on the Ombudsman's right to obtain information. The Ombudsman for Minorities has the right, notwithstanding secrecy provisions, to obtain free of charge from other authorities any information necessary to carry out the duties laid down for the Ombudsman in the Act and the Aliens Act (301/2004). Notwithstanding what is provided elsewhere in the law on secrecy and the supply of information, the Ombudsman

for Minorities also has the right, in her capacity as the National Rapporteur on Trafficking in Human Beings, to obtain information from service providers who take part in the provisions of services and support measures referred to in section 33 of the Act on the Integration of Immigrants and the Reception of Asylum Seekers (746/2011) or who receive state aid intended for combating human trafficking. However, the Ombudsman for Minorities has the right to obtain personal data on an individual victim of human trafficking from these actors only if obtaining such information is necessary to perform the duties laid down in the Act on the Ombudsman for Minorities and the National Discrimination Tribunal.

According to the government proposal on national reporting on trafficking in human beings (HE 193/2008), the duties of the Ombudsman for Minorities in her role as the National Rapporteur on Trafficking in Human Beings include collecting data on the phenomenon of human trafficking from the authorities and, under certain conditions, also from service providers, as well as analysing this data. The Ombudsman's duties as the National Rapporteur further include monitoring tasks in order to pinpoint shortcomings in action against trafficking in human beings. The National Rapporteur may comment on deficiencies detected and provide those carrying out duties related to human trafficking with advice. The National Rapporteur monitors the fulfilment of international obligations and the effectiveness of national legislation relating to human trafficking. By acting as an independent monitoring party, the National Rapporteur also supports the implementation of the National Plan of Action against Trafficking in Human Beings and legislative development.

The government proposal also notes that the National Rapporteur on Trafficking in Human Beings has powers to monitor human trafficking on a broad scale: she reports not only on actual human trafficking offences (human trafficking and aggravated human trafficking) but also on phenomena and offences closely related to human trafficking (extortionate work discrimination, aggravated pandering and aggravated facilitation of illegal entry in particular). A broad perspective on human trafficking reporting helps clarify the boundaries between various phenomena and offence categories and therefore also facilitate the identification of trafficking victims in a greater number of cases. In its report on the National Rapporteur on Trafficking in Human Beings (TyVM 15/2008), the parliamentary Employment and Equality Committee considers that identifying trafficking in human beings is vital so that the victims will receive the kind of protection that is intended for victims of human trafficking. This also increases the efficiency of efforts to eradicate human trafficking and associated cross-border crime. The report further emphasises the fact that the National Rapporteur on Human Trafficking can play a significant role in promoting

action against human trafficking in Finland by closely liaising with the authorities and third-sector actors, collecting reliable data and bringing up problems and development needs.

The Committee points out that responsibility for action against trafficking in human beings ultimately rests with the Government, but through her inquiries, international contacts and development proposals the independent National Rapporteur monitoring the action can help the Government comprehend the phenomenon and direct actions. The Committee regards it important that the National Rapporteur has extensive rights to access information. According to the Committee, these rights support the extensive coverage and objective nature of reporting and lay a foundation for the submission of development proposals that improve cooperation between various actors and ensure smooth action.

8 Strategy of the National Rapporteur on Trafficking in Human Beings

The aims of the National Rapporteur on Trafficking in Human Beings are to prevent human trafficking, improve the status of trafficking victims and monitor the fulfilment of the victims' rights. Other aims include to identify and develop more effective methods for action against human trafficking and bringing offenders to justice, and to report on issues related to human trafficking to Parliament and the Government. The National Rapporteur also seeks to promote the identification of victims of human trafficking and increase the recognition of the undesirable phenomena associated with human trafficking as a social problem. The National Rapporteur monitors the processes relating to legislation and administrative procedures that are relevant to the fulfilment of the rights of human trafficking victims.

In her attendance to her duties, the National Rapporteur emphasises the provision of information and training in issues such as the contents of legislation related to human trafficking, the manifestations of human trafficking and the rights of human trafficking victims. The National Rapporteur aims to influence the prevailing attitudes in society. In her work, she seeks to pinpoint those who play a key role in the identification of human trafficking and its victims as well as in victim assistance and counter-crime action and cooperate closely with them. The National Rapporteur may also assist victims of human trafficking. Autonomy, independence and transparency are important requirements for the performance of duties relating to reporting on human trafficking. Independence and autonomy boost confidence in and the credibility of the National Rapporteur and improve her ability to analyse the status of action against human trafficking and make proposals for improvements as a player outside the government.

There is a focus in the activities of the National Rapporteur on Trafficking in Human Beings on the victim's rights perspective. The National Rapporteur views action against human trafficking from this perspective and seeks to detect any obstacles to the fulfilment of victims' rights. This perspective influences the types of legislative and practical issues the National Rapporteur pays attention to and the kinds of development proposals she submits. International obligations and recommendations are important yardsticks for these assessments. The National Rapporteur's aim is to highlight the victim's perspective and the impacts of legislation, practices or failures to address issues on victims of human trafficking and the fulfilment of their rights.

The role of the National Rapporteur on Trafficking in Human Beings can be summarised as follows:

1. reporting on trafficking in human beings and related phenomena,
2. the status of action against trafficking in human beings and the fulfilment of victims' rights, and monitoring of the impacts of reporting,
3. overseeing action against trafficking in human beings and promoting action against trafficking in human beings.

The most important task of the National Rapporteur on Trafficking in Human Beings is to report to political decision-makers on the human trafficking situation and the legislative and practical challenges faced in anti-trafficking action in Finland. The National Rapporteur performs her reporting tasks through the provision of advice and guidelines to those working in the field of human trafficking and with victims of human trafficking and through customer service provision. Although included in her statutory rights, the National Rapporteur will only provide assistance to victims in exceptional circumstances, particularly in cases where no other legal assistance is available to the victim. At her discretion and on request, the National Rapporteur may issue expert opinions on customer matters. Oversight of action against human trafficking is important not only to safeguard the rights of individual trafficking victims but also because through her oversight the National Rapporteur can also promote and oversee action against human trafficking and report on it at a more general level. The National Rapporteur on Trafficking in Human Beings also addresses, on her own initiative, problems detected by her in issues such as investigations into human trafficking offences or the treatment of victims.

The National Rapporteur seeks to promote action against human trafficking through a variety of means. For example, the National Rapporteur provides training about human trafficking and related phenomena, issues recommendations for the development of action against human trafficking and publishes articles about human trafficking. Awareness of human trafficking is increased through ways including seminars, discussion events and information campaigns. The National Rapporteur gathers information about best practices for action against human trafficking used outside Finland and passes this information on to Finnish actors, interviews victims of human trafficking about their experiences in Finland, promotes the capacities of non-governmental organisations, and visits workplaces where exploitation relating to human trafficking may occur. The National Rapporteur supports the authorities and third-sector actors in their efforts to develop their action against human

trafficking. So far the primary target groups for training provision have been legal-aid counsels, pre-trial investigation authorities, prosecutors and court personnel. The National Rapporteur also actively provides the media with information about her activities. The promotion of action against human trafficking carried out by the National Rapporteur on Trafficking in Human Beings is particularly important because the central government does not yet have an anti-trafficking coordinator or other similar actor who could assume responsibility for the promotion and steering of action against human trafficking at the operational level.

9. Future outlook for action against human trafficking

The past year saw major positive developments in action against human trafficking. The report of the Ministry of Justice working group concerning amendments to the statutory definitions of the essential elements of pandering, extortionate work discrimination and human trafficking offences was completed, the Police and occupational health and safety authorities drew up guidelines for the identification of human trafficking and related further measures, the number of pre-trial investigations into human trafficking cases increased considerably and the first two convictions for human trafficking for labour exploitation were issued. Nevertheless, a lot still remains to be done. During the next reporting period the National Rapporteur on Trafficking in Human Beings will pay particular attention to the development of legislation relating to the victim assistance system and ensuring access among those including the child protection system and social welfare and health care personnel to sufficient guidelines for the identification of human trafficking victims and their referral to the assistance system. The National Rapporteur will also monitor the functioning and impacts of the guidelines issued by the Police and occupational health and safety authorities.

To develop action against human trafficking, the National Rapporteur on Trafficking in Human Beings issues the following recommendations:

Subjects of pandering should as a rule be assigned an attorney. Access to an attorney has clearly encouraged victims to seek inclusion into the assistance system and victims' awareness of their rights.

1. The working group on human trafficking appointed by the Ministry of the Interior should perform its work thoroughly and in this utilise international experience, and its term should be extended if necessary.
2. The capacities of occupational health and safety authorities to identify and take action against cases of human trafficking for labour exploitation should be improved.
3. The Police should ensure the comprehensive provision of information about its guidelines concerning human trafficking and monitor compliance with the recommendations and obligations included in the guidelines.
4. The competencies of those participating in the provision of assistance to minor victims of human trafficking should be increased. Cooperation

between the assistance system and the child protection system should be increased, and their responsibilities for action should be clarified.

5. The determination of the interests of the child should be documented in accordance with the UNHCR recommendations.
6. Because the mere fact that the victim is a minor places them in a vulnerable state and dependent status, it should be assessed whether the pandering of a minor should always be regarded as human trafficking.
7. The return of human trafficking victims to their home country should be a safe and sustainable alternative, and international cooperation between assistance systems should be developed. Finland should operate actively at the international level in the development of assistance systems for victims of human trafficking.
8. Action against human trafficking taken by the third sector should be strengthened.
9. Social welfare and health care actors should be provided with training in the identification of human trafficking, and they should have the tools required to address human trafficking.

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