



GRETA

Group of Experts on Action
against Trafficking in Human Beings

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Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland

First evaluation round

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Preamble

As the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) and the monitoring mechanism to evaluate its implementation are relatively new, it is appropriate to set out their salient features at the beginning of the first report to each Party to the Convention.

The Convention was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008. It is a legally binding instrument which builds on already existing international instruments. At the same time, the Convention goes beyond the minimum standards agreed upon in other international instruments and aims at strengthening the protection afforded by them.

The main added value of the Convention is its human rights perspective and focus on victim protection. The Convention clearly defines trafficking as being first and foremost a violation of human rights and an offence to the dignity and integrity of the human being; greater protection is therefore needed for all of its victims. The Convention also has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

As trafficking in human beings is a world-wide phenomenon, one of the express purposes of the Convention is to promote international co-operation in the efforts to combat trafficking. In this context, it is noteworthy that the Convention is not restricted to Council of Europe member states; non-member states and the European Union also have the possibility of becoming Parties.

To be effective, and given the nature of the phenomenon, a strategy for combating trafficking in human beings must adopt a co-ordinated and multidisciplinary approach, incorporating prevention, protection of victims’ rights and prosecution of traffickers. The Convention contains various provisions in each of these three areas, placing obligations on States to take appropriate measures, in partnership with civil society and in co-operation with other States.

The measures provided for by the Convention in the area of prevention include awareness-raising for persons vulnerable to trafficking; economic and social initiatives to tackle the underlying causes of trafficking; actions aimed at discouraging demand; and putting in place border control measures to prevent and detect trafficking in human beings.

The Convention also provides for a series of measures to protect and promote the rights of victims. Victims of trafficking must be identified and recognised as such in order to avoid police and public authorities treating them as “irregular migrants” or criminals. Victims should be granted physical and psychological assistance and support for their reintegration into society. Further, by virtue of the Convention, victims are entitled to a minimum of 30 days to recover and escape from the influence of the traffickers and to take a decision about their possible co-operation with the authorities. A renewable residence permit should be granted if their personal situation so requires and/or if their continued presence is needed in order to co-operate in a criminal investigation. In addition, the Convention establishes the right of victims to receive compensation and provides for measures for their repatriation and return with due regard to the rights, safety and dignity of the victims.

In the area of substantive and procedural criminal law, the Convention places on Parties a series of obligations aimed at enabling the effective prosecution of traffickers and ensuring that they are punished in a proportionate and dissuasive manner. Particular attention is paid to the issue of victim and witness protection during investigation and court proceedings. Parties should also provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

GRETA is composed of 15 independent and impartial experts chosen for their recognised competence in the fields of human rights, assistance and protection of victims, and action against trafficking in human beings, or because of their professional experience in the areas covered by the Convention. The task of GRETA is to evaluate the implementation of the Convention by the Parties, following a procedure divided into rounds. At the beginning of each round, GRETA defines autonomously the provisions to be monitored and determines the most appropriate means to carry out the evaluation, being guided by the Rules of procedure for evaluating implementation of the Convention adopted at GRETA's 2nd meeting (16-19 June 2009). GRETA has decided that the duration of the first evaluation round shall be four years starting at the beginning of 2010 and finishing at the end of 2013.

In carrying out its monitoring work, GRETA has the right to avail itself of a variety of means for collecting information. As a first step, GRETA sends a detailed questionnaire to the authorities of the Party undergoing evaluation. It may also make additional requests for information. By virtue of the Convention, Parties are obliged to co-operate with GRETA in providing the requested information. Another important source of information is civil society and, indeed, GRETA maintains contacts with non-governmental organisations which can provide relevant information. In addition, GRETA may decide to carry out a visit to the country concerned in order to collect additional information or to evaluate the practical implementation of the adopted measures. This visit allows for direct meetings with the relevant bodies (governmental and non-governmental) and is also an occasion for GRETA to visit facilities where protection and assistance are provided to victims of trafficking and other related structures. Furthermore, GRETA may decide to organise hearings with various actors in the field of action against trafficking in human beings.

GRETA's evaluation reports are thus the result of information gathered from a variety of sources. They contain an analysis of the situation in each Party regarding action taken to combat trafficking in human beings and suggestions concerning the way in which the country may strengthen the implementation of the Convention and deal with any problems identified. In its assessment, GRETA is not bound by the case law of judicial and quasi-judicial bodies acting in the same field, but may use them as a point of departure or reference. The reports are drawn up in a co-operative spirit and are intended to assist States in their efforts; they can offer support for the changes on which the national authorities have already embarked, and lend legitimacy to the direction of national policies. Because of its multidisciplinary and multinational composition, and as a consequence of its independent approach, GRETA provides a professional and impartial international voice in this process.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each Party in plenary session. The report is sent to the relevant government for comments, which are taken into account by GRETA when establishing its final report. This final report is adopted by GRETA in a plenary session and transmitted to the Party concerned, which is invited to submit any final comments. At the expiry of the time-limit of one month for the Party to make comments, the report and conclusions by GRETA, together with eventual comments made by the national authorities, are made public and sent to the Committee of the Parties. In the context of the first evaluation round, this completes GRETA's task in respect of the Party concerned, but it is only the first stage in an on-going dialogue between GRETA and the authorities.

The second pillar of the monitoring mechanism, the Committee of the Parties, is composed of the representatives in the Committee of Ministers of the Parties to the Convention and of representatives of Parties non-members of the Council of Europe. On the basis of GRETA's reports, the Committee of the Parties may adopt recommendations addressed to a Party concerning the measures to be taken to implement GRETA's conclusions.

Executive summary

The Finnish authorities have taken a number of important steps to develop the legal and policy framework for action against trafficking in human beings. The national legal framework in the field of action against trafficking has evolved over the years and further legislation concerning the identification of and assistance to victims of trafficking has recently been adopted.

The first National Action Plan against trafficking in human beings was adopted in 2005 and revised in 2008. Stressing the dynamic nature of the phenomenon of human trafficking, GRETA urges the Finnish authorities to adopt as a matter of priority a new or updated action plan. The multi-disciplinary steering group set up to monitor the implementation of the action plan ended its work in March 2011.

In June 2014, a National Anti-Trafficking Co-ordinator was appointed. GRETA welcomes this development and asks the Finnish authorities to strengthen co-ordination between the national and municipal authorities and NGOs, and to further involve civil society in the development and implementation of anti-trafficking measures. Further, GRETA commends the introduction of an independent National Rapporteur on Trafficking in Human Beings in 2009.

In the area of prevention, several awareness-raising campaigns have taken place in recent years, addressed to the general public and targeted at groups at risk, such as asylum seekers. However, there has been no assessment of the effect of these measures. To discourage demand for the services of trafficked people, the Finnish authorities have criminalised the use of sexual services from a person who has been trafficked. GRETA considers that the authorities should make more efforts to discourage demand resulting in labour exploitation. Further, GRETA recommends that the authorities develop the aspect of prevention through social and economic empowerment measures.

At the time of GRETA's visit, the process of identifying a victim of trafficking was not regulated in Finnish legislation and there was no National Referral Mechanism providing a framework for sharing information between public bodies and NGOs. Legislative amendments adopted in March 2015 should provide clarity as regards the process of identification of victims of trafficking. GRETA urges the Finnish authorities to improve victim identification procedures by introducing a National Referral Mechanism and guaranteeing that in practice identification is dissociated from the victim's co-operation in the investigation. A specific identification mechanism for child victims of trafficking, which involves child specialists and takes into account the best interests of the child, should also be set up.

The responsibility for co-ordinating the provision of assistance to victims of trafficking has been given to the Joutseno Reception Centre for asylum seekers. For victims who have residence in Finland, the provision of assistance is the responsibility of the relevant municipality. GRETA welcomes the setting up of a national assistance system for victims of trafficking and the existence of a statutory basis on which victims can receive assistance. At the same time, GRETA urges the Finnish authorities to ensure that the assistance provided to victims of trafficking is adapted to their specific needs and that minimum standards are guaranteed across the country, regardless of the service provider.

GRETA welcomes the provision in Finnish law for a recovery or reflection period longer than the minimum of 30 days envisaged in the Convention and the recently adopted legislative amendments which introduce a recovery period for victims residing legally in the country. Nevertheless, GRETA urges the Finnish authorities to ensure that all possible victims of trafficking are offered a reflection or recovery period and all the measures of protection and assistance envisaged in the Convention during this period, regardless of the victims' willingness to co-operate with police and judiciary. Further, GRETA considers that the Finnish authorities should ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, including when they are unable to co-operate with the authorities.

There is no data on the number of compensations applied for or paid to victims of trafficking, but it would appear that State compensation has been awarded only in some 10 cases. GRETA urges the Finnish authorities to adopt additional measures to facilitate and guarantee access to compensation for all victims of trafficking, and to include all victims of trafficking in the scope of the Act on Compensation for Crime Damage, regardless of their residence status.

GRETA welcomes the fact that in the past two years there have been several successful prosecutions in cases of trafficking for the purpose of labour exploitation. However, the total number of convictions for human trafficking in Finland is low in relation to the number of victims in the assistance system and the number of human trafficking cases registered by the police. GRETA urges the Finnish authorities to ensure that human trafficking offences for all types of exploitation are proactively investigated and prosecuted promptly, leading to proportionate and dissuasive sanctions, by building further the capacity and specialisation of police officers, prosecutors and judges.

GRETA welcomes the adoption by Parliament of legislation on a witness protection programme and considers that the Finnish authorities should take complementary practical measures to ensure the effective protection of victims of THB during the investigation and to prevent their intimidation during and after court proceedings.

I. Introduction

1. Finland deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 30 May 2012. The Convention entered into force for Finland on 1 September 2012.¹

2. As established in Article 36(1) of the Convention, the Group of Experts on Action against Trafficking in Human Beings (“GRETA”) monitors the implementation of the Convention by the Parties. GRETA does so in conformity with the procedure laid down in Article 38 of the Convention and the Rules on the evaluation procedure of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. For the first evaluation round GRETA drew up a monitoring timetable according to which the Parties to the Convention were divided into groups, Finland being in the fourth group of 10 Parties to be evaluated.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Finland to implement the provisions set out in the Convention. The “Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties – first evaluation round” was sent to Finland on 18 September 2013. The deadline for replying to the questionnaire was 18 January 2014. Finland submitted its reply on 31 January 2014.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Finland, other information collected by GRETA and information received from civil society. In addition, an evaluation visit to Finland took place from 9 to 13 June 2014, carried out by the following delegation:

- Mr Olafs Bruvers, member of GRETA;
- Ms Rita Theodorou Superman, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings;
- Mr Mats Lindberg, Administrator at the Secretariat of the Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation met the Permanent Secretary of the Ministry of the Interior, Ms Päivi Nerg, and senior officials from the Ministries of the Interior, Foreign Affairs, Justice, Employment and the Economy, and Social Affairs and Health. Further, the delegation held consultations with the Ombudsman for Minorities and National Rapporteur on Trafficking in Human Beings, Ms Eva Biaudet, and the Ombudsman for Children, Mr Tuomas Kurttila. Meetings were also held with members of Parliament and representatives of the Prosecution Service and the Supreme Court. The GRETA delegation also met representatives of the municipal social services in Helsinki, Lappeenranta and Vaasa, police officers and prosecutors dealing with trafficking cases in Helsinki and Vaasa, and the Border Guard at Helsinki Airport. GRETA appreciates the atmosphere of openness and close co-operation in which all of these meetings took place.

¹ The Convention as such entered into force on 1 February 2008, following its 10th ratification.

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6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs), the SAK Trade Union Federation, the Confederation of Finnish Industries, the Association of Finnish Local and Regional Authorities, and researchers of the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI). The GRETA delegation also met officials from the local offices of the International Organization for Migration (IOM) and the United Nations Children's Fund (UNICEF). GRETA is grateful for the information provided by all these interlocutors.
7. Further, in the context of the evaluation visit, the GRETA delegation visited the Joutseno Reception Centre for asylum seekers, which co-ordinates the provision of assistance to victims of trafficking in Finland, the Vaasa Reception Centre, and a shelter run by the NGO Monica Multicultural Women's Association.
8. GRETA is grateful for the valuable assistance provided by the contact person appointed by the Finnish authorities, Ms Satu Sistonen, Legal Officer, Unit for Human Rights Courts and Conventions.
9. The draft version of the present report was adopted by GRETA at its 21st meeting (17-21 November 2014) and was submitted to the Finnish authorities for comments on 28 November 2014. The authorities' comments were received on 12 February 2015 and were taken into account by GRETA when drawing up its final evaluation report, which was adopted at GRETA's 22nd meeting (16-20 March 2015).

II. National framework in the field of action against trafficking in human beings in Finland

1. Overview of the current situation in the area of trafficking in human beings in Finland

10. Finland is a country of destination and transit for victims of trafficking in human beings (THB), and to some extent also a country of origin. The statistics on victims of THB provided by the authorities concern victims admitted to the assistance system. According to available data, there were 52 such victims in 2010 (31 women, 13 men, 8 children), 55 in 2011 (29 women, 23 men, 3 children), 53 in 2012 (26 women, 22 men, 5 children) and 55 in 2013 (33 women, 19 men, 3 children).² At the end of 2014 there were 85 victims in the assistance system (57 women, 23 men and 5 children). This figure included 50 victims admitted in 2014, as well as those who remained in the assistance system from earlier years. Approximately 330 persons have been admitted to the assistance system since its setting up in June 2006, of whom about 60% were female. As regards forms of exploitation, some 55% of the victims were subjected to labour-related THB (in particular in the restaurant industry, greenhouses, building sites, factories, and ethnic shops), 40% to sexual exploitation, and the remainder to other, unspecified, forms of exploitation. The main foreign countries of origin of the victims assisted over the period since 2006 were Nigeria (36% of all victims) Vietnam, China, the Philippines, Thailand, Somalia, Estonia, India, the Russian Federation and Bangladesh. While the overwhelming majority of the victims were foreigners, there have also been a number of cases of Finnish citizens trafficked within the country.

11. GRETA notes that the above figures do not reveal the real scale of the phenomenon of THB in Finland, as there are shortcomings in the detection and identification of victims of trafficking (see paragraphs 128-136) and in data collection (see paragraphs 83-84). The Finnish National Rapporteur on THB considers that the actual number of people trafficked to and within Finland is higher than the above-mentioned figures. For example, hundreds of foreign berry pickers come to Finland on a seasonal basis, predominantly from Thailand, and according to the National Rapporteur, there are indicators of trafficking. However, only a few are identified as victims. The National Rapporteur's most recent report to Parliament argues that there are more cases of trafficking for sexual exploitation than suggested by the official statistics, due to the reported failure of the police and the judiciary to distinguish between trafficking and pimping (see also paragraphs 68 and 215).³ Specialised NGOs have also raised concern that possible victims of trafficking for the purpose of sexual exploitation are not identified as such.

² The figures reflect the new cases admitted into the Assistance System each year. The total number of victims profiting from assistance each year is higher.

³ National Rapporteur on Trafficking in Human Beings 2014 report to Parliament, page 121.

2. Overview of the legal and policy framework in the field of action against trafficking in human beings

a. Legal framework

12. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, Finland is Party to the UN Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (ratified in 2006). Finland is also Party to the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, as well as conventions elaborated under the International Labour Organisation (ILO), in particular the Convention concerning Forced or Compulsory Labour (No. 29) and the Convention concerning the Abolition of Forced Labour (No. 105). Further, Finland is party to a number of Council of Europe conventions in the criminal field which are relevant to action against trafficking in human beings (THB).⁴

13. As a member of the European Union (EU), Finland is bound by Directive 2011/36/EU of the European Parliament and of the Council of the EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims;⁵ Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who co-operate with the competent authorities; Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims; and Directive 2012/29/EU of the European Parliament and the Council of the EU of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Framework Decision 2001/220/JHA of 15 March 2001 of the Council of the EU on the standing of victims in criminal proceedings.

14. THB was criminalised in Finland in 2004 when amendments to the Criminal Code (CC) were adopted, introducing Section 3 (Trafficking in human beings) and Section 3a (Aggravated trafficking in human beings) under Chapter 25 (Offences against personal liberty). Another criminal law provision relevant to action against THB was adopted in 2006, namely Chapter 20, Section 8 (exploitation of a victim of prostitution). At the time of GRETA's evaluation visit, amendments to the CC were under preparation in view of clarifying the difference between trafficking for sexual exploitation and pimping. These amendments were adopted by Parliament in December 2014 and entered into force on 1 January 2015 (see paragraph 201).

15. Other laws relevant to action against trafficking include:

- the Act on the Reception of Persons Seeking International Protection (746/2011, hereinafter "International Protection Act"), which contains detailed provisions on the assistance to trafficking victims;
- the Aliens Act (301/2004), which regulates, *inter alia*, the granting of residence permits and a reflection period to victims of THB;
- the Municipality of Residence Act (201/1994), according to which victims of THB residing in Finland are provided with basic health and social services on the same grounds as other residents by the municipality in which they are residing and according to the victim's needs;

⁴ In particular the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30); the 2000 EU Convention on Mutual Legal Assistance in Criminal Matters (the MLA Convention); the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141) and the European Convention on Extradition (ETS No. 24).

⁵ Replacing Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings.

- the Act on Social and Health Care Planning and Central Government Transfers to Local Government (733/1992), which determines the duties of municipal authorities to arrange social and health care for all registered residents, including victims of trafficking. Moreover, the Health Care Act (1326/2010) stipulates that urgent medical health care is to be provided to anyone in need of it, regardless of residence status (see paragraph 116);
- the Act on the Promotion of Immigrant Integration (1386/2010), which regulates the reimbursement of certain costs incurred by municipalities in assisting victims of THB;
- the Child Welfare Act (417/2007).

16. Further legislation on assistance to victims of THB in the form of amendments to the International Protection Act and the Aliens Act was presented to Parliament in November 2014, following the recommendations of a working group commissioned to analyse the assistance needs of victims of THB and to develop proposals in this respect (see paragraphs 138-139). These amendments were adopted in March 2015 and are expected to enter into force in July 2015.

17. The Finnish authorities have referred to a range of other instruments which are of some relevance to action against THB, including the Criminal Procedure Act, the Criminal Investigations Act, the Act on the Openness of Government Activities, the Act on the Publicity of Court Proceedings in General Courts, the Code of Judicial Procedure, the Employment Law, the Employment Contract Law, the Act on the Contractor's Obligations and Liabilities, and the Legal Aid Act.

b. National Action Plans

18. On 25 August 2005, the Government approved its first National Action Plan against Trafficking in Human Beings. It contained measures in the following areas: 1) identification of victims of THB; 2) prevention of THB; 3) assistance to victims of THB; 4) bringing traffickers to justice; 5) dissemination of information and awareness raising; 6) implementation of and follow-up to the Action Plan.

19. A steering group was set up to monitor and evaluate the implementation of the Action Plan. It drafted a revised Action Plan which was adopted by the Government on 25 June 2008. The revised Action Plan sets out adjusted measures based on experience gained and lessons learnt from the implementation of the first Plan. It pays special attention to the identification of victims of THB and highlights the following priorities: 1) outreach work by civil society and initial consultation in reaching and identifying THB victims; 2) more effective use of the reflection period and residence permits granted to victims; 3) the development of a national assistance system for victims of trafficking and assistance measures on the basis of individual needs; and 4) combating THB and preventing demand. In the revised plan greater emphasis is also placed on co-operation and a multidisciplinary approach in combating THB, as well as measures to raise awareness of THB. Each ministry is responsible for implementation measures within its own administrative sector.

20. To monitor the implementation of the revised Action Plan, which remains the most recent action plan, a multidisciplinary steering group was set up for the period 1 September 2008 - 31 March 2011. The steering group, which has not been renewed or replaced since its expiry, was chaired by the Ministry of the Interior and was comprised of representatives of relevant ministries, agencies and municipal bodies, the Finnish Immigration Service, NGOs and researchers. The National Rapporteur on Trafficking in Human Beings (see paragraphs 21-22) had the right to be present at the meetings as an observer. The steering group was tasked to draw up, in co-operation with the National Rapporteur, a set of recommendations for further developing the legislation and measures to combat THB. The primary recommendation of the steering group was that a working group be set up with the aim of preparing a proposal for enacting a comprehensive law on THB, but so far this recommendation has not been heeded.

3. Overview of the institutional framework for action against trafficking in human beings

a. National Rapporteur on Trafficking in Human Beings

21. The function of National Rapporteur on Trafficking in Human Beings was introduced in Finland in 2009 and made a part of the duties of the Finnish Ombudsman for Minorities. The function is presently administratively linked to the Ministry of the Interior (in the future to the Ministry of Justice), but the National Rapporteur is fully independent in her work which involves monitoring and reporting on THB-related phenomena, the implementation of international obligations and the functioning of national legislation. The National Rapporteur issues proposals, recommendations, opinions and advice on action against THB and on implementing victims' rights, and maintains contact with international organisations. The National Rapporteur submits a report on THB and related phenomena annually to the Government and once every four years to Parliament. The National Rapporteur may, based on Article 4 of the Act on the Ombudsman for Minorities and the National Discrimination Tribunal (660/2001), assist or designate a subordinate official to assist a possible victim of THB in exercising his or her rights or obtaining legal assistance. However, her capacity in this respect was limited by the fact that the National Rapporteur was supported by only one full-time expert working on trafficking issues. GRETA commends the setting up of an independent National Rapporteur on THB, which is in line with the spirit and the letter of the Convention.

22. The 2013 annual report of the National Rapporteur focused on Finland's actions against trafficking in human beings in the light of the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings.⁶ The National Rapporteur's second report to Parliament, which was presented on 10 September 2014, examines the extent to which the action against THB demanded by Parliament in the wake of her first report has been adhered to. The report also analyses court practice related to THB and pimping.⁷

b. National Anti-trafficking Co-ordinator

23. With a view to improving co-ordination of anti-trafficking action, a working group consisting of representatives of the Ministry of the Interior, the Ministry of Justice, the Ministry of Social Affairs and Health and of the office of the National Rapporteur was set up on 20 March 2013. The group delivered its final report on 20 June 2013 and recommended the setting up of the function of National Anti-Trafficking Co-ordinator. The first National Co-ordinator was appointed in the spring of 2014 and started work on 1 June 2014.

24. During GRETA's visit to Finland, the newly appointed National Co-ordinator informed the GRETA delegation that he would have the following main tasks:

- cross sector co-ordination and monitoring of the public authorities' anti-THB work and promoting victims' rights;
- promotion of co-operation between civil society and the authorities through the setting up of an agreement which seeks a pragmatic approach;
- co-operation with the authorities and civil society of other countries;
- co-ordination of the positions of the Finnish Government in the international arena as regards THB, with the exception of any THB matter related to international human rights treaties, for which the Ministry of Foreign Affairs is responsible;
- Information gathering and data collection on THB.

⁶ National Rapporteur's Report to Parliament 2013, available at: http://www.ofm.fi/download/48451_lhmiskaupparaportti_2013_englanti_netiti.pdf?5c9d1e64d09ad188

⁷ National Rapporteur's Report to Parliament 2014, page 74 onwards.

25. The National Co-ordinator is based in the Police Department of the Ministry of the Interior. He is supported by a Secretariat of two staff members of the Migration Department of the Ministry of the Interior. A Steering Group consisting of high-level representatives of the key ministries will be set up to direct anti-THB work. The National Co-ordinator will be a member of this group and also its presenting officer. An inter-ministerial secretariat will be set up for the Steering Group. The Steering Group will report to and seek guidance from the Ministerial Group for Internal Security. On 7 January 2015 the National Co-ordinator sent a more specific proposal for a national anti-trafficking co-ordination structure to relevant interlocutors, including civil society actors for comments. According to the draft proposal, the co-ordination secretariat would consist of civil servants already responsible for anti-trafficking activities and therefore no additional budget would be required during the first stages of the co-ordination work. There is no specific budget assigned to the function of National Co-ordinator, but the salary and operational expenses are taken out of the general budget of the Ministry of the Interior. Based on the experiences and lessons from the operation of the National Co-ordinator, it might be decided to prepare regulations and legislative changes to reinforce this function in the future.

c. Immigration Service

26. The Finnish Immigration Service, subordinated to the Ministry of the Interior, deals with applications for asylum and residence permits. It manages 20 reception centres for asylum seekers throughout the country.

27. The Finnish Immigration Service was a member of the multidisciplinary steering group which was set up to monitor the implementation of the revised Action Plan (see paragraph 19-20). Since 2006, it has been assigned the role of co-ordinating the provision of assistance to victims of THB through the Joutseno Reception Centre which operates under its authority (until the end of 2012, the Oulu Reception Centre was also involved and was responsible for the provision of assistance to child victims). Between 2012 and 2014, the Finnish Immigration Service together with the Joutseno and Oulu Reception Centres implemented the Hapke Project which aimed to develop the system of services for vulnerable asylum seekers and victims of THB (see paragraphs 101-102).

d. Law enforcement agencies

28. At the time of GRETA's visit to Finland there was no specialised police structure dealing with THB offences. After the visit, the Finnish authorities informed GRETA that in accordance with a recommendation of the National Rapporteur, the National Police Board had established a national expert network specialised in combating THB. Local police departments have persons in charge of immigration matters whose work includes ensuring, under the direction of the National Police Board, that competence is developed in areas such as investigating THB offences. The National Bureau of Investigation's special team dealing with illegal immigration monitors the THB situation in Finland and maintains an up-to-date picture of the situation.

29. The Finnish Border Guard has the authority to conduct pre-trial investigations into suspected THB cases in the context of border crossing. The border guards receive training in identifying potential THB victims and protecting their rights (see paragraph 74).

e. Prosecution Service

30. Nationwide there are five prosecutors who are specialised in sexual offences against women and children and have acquired expertise in dealing with THB cases, and another 20 who, without formally being specialised, have developed a certain expertise in this area due to their personal interest in it. There are also a number of prosecutors specialised in labour offences and in organised crime. However, there are no prosecutors who are formally specialised in THB.

f. Occupational Safety and Health Service

31. The Occupational Safety and Health Service (OSH) is responsible for inspections at work places in Finland. OSH inspectors are employed by the regional administration offices but work under the overall guidance of the Ministry of Social Affairs and Health. There are a total of 370 OSH inspectors throughout the country, 20 of whom are specialised in the supervision of foreign labour.

32. In 2012, the Department of Occupational Safety and Health of the Ministry of Social Affairs and Health issued guidelines on the supervision of foreign labour which contain a memorandum on the identification of victims of THB and their referral to assistance.⁸ OSH inspectors do not have the competency to investigate suspected THB cases themselves, but should report such cases to the police and refer the persons concerned to the assistance system.

g. Local and regional authorities

33. Pursuant to the Municipality of Residence Act (201/1994), Finnish municipalities are responsible for providing social and health services to victims of THB who have their residence in the municipality. According to the Finnish Association of Local and Regional Authorities, which brings together 320 self-governing units, out of a total of 230 assisted victims of THB, 50 had a municipality of residence in Finland. Assistance services provided by the municipalities take place under the overall co-ordination of the national assistance system based at the Joutseno Reception Centre (see paragraphs 144-149). A number of municipalities, including Helsinki, Oulu and Lappeenranta, as well as the Government of Åland (a self-governing province of Finland), have on their own initiative carried out training in victim identification and/or developed assistance initiatives among relevant municipal staff.

h. NGOs, other members of civil society and international organisations

34. There are a number of NGOs and other civil society actors in Finland contributing to anti-trafficking action. *Pro-tukipiste ry* is an NGO promoting the rights of people working in the sex industry. It offers easily accessible health and social services, as well as legal counselling, to sex workers and detects victims of trafficking as part of its outreach work. It also conducts research into aspects of sex work. *Monikanaiset ry* (Monika Multicultural Women's Association) is an umbrella association promoting cultural tolerance and safety of migrants, including ethnic minorities. As part of its activities, it offers support and services to immigrant women and child victims of violence and identifies possible victims of THB. It also runs a shelter in Helsinki (see paragraph 154) and a telephone hotline available around the clock. *Rikosuhripäivistys* (Victim Support Finland) provides legal advice and professional support to victims of crime and has 29 service points over the country. While it is not involved in the identification of victims of THB, it assists such victims once they have been identified. These three NGOs have developed expertise in anti-trafficking action and are involved in the provision of assistance to victims of THB. They were represented in the working group set up by the Ministry of the Interior in 2012 to reinforce the legal protection of victims of trafficking (see paragraph 138).

35. The largest Finnish labour market organisations, namely the SAK Trade Union Federation and the Confederation of Finnish Industries, have both called for the OSH to be given more resources to detect exploitation of foreign workers, including THB. SAK makes various efforts to tackle exploitation of foreign workers, which is also part of its Strategy 2020. It plans to open an information office for immigrant workers. The Construction Union which belongs to SAK has a special immigration section and the SAK Service Sector Union is participating in an EU-financed anti-THB project launched by the International Trade Union Federation (ITUC). Furthermore, SAK advocates the conclusion of employment contracts for berry pickers and legislative amendments to increase the responsibility of companies using subcontractors. The Confederation of Finnish Industries sees THB as part of the challenge of the grey economy, with construction being one of the most critical sectors.

⁸ Occupational safety monitoring guidelines 2/2012 "Actions of the OSH authorities in identifying victims of THB and directing them to the national assistance system".

36. Since 2010, IOM Helsinki has worked in close co-operation with the Finnish Immigration Service and other stakeholders, and with the financial support of the Ministry of the Interior/European Return Fund, at establishing and developing a voluntary return system. IOM has facilitated the return of 1 200 persons from Finland to date, mainly asylum seekers and undocumented migrants, but also a few victims of trafficking (see paragraph 195).

37. The Finnish Committee for UNICEF in Helsinki does not run programmes in Finland and its activities involve primarily fund raising for other countries. In 2011, a report on child trafficking in Nordic countries was published by UNICEF.⁹

⁹ Child Trafficking in the Nordic Countries: Rethinking Strategies and National Responses. Study prepared by UNICEF Innocenti Research Centre in collaboration with the National Committees for UNICEF in Denmark, Finland, Iceland, Norway and Sweden and published in 2011.

III. Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland

1. Integration of the core concepts and definitions contained in the Convention in the internal law

a. Human rights-based approach to action against trafficking in human beings

38. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”¹⁰.

39. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (the ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights¹¹ (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking.¹²

40. The Convention on Action against Trafficking in Human Beings requires States to set up a comprehensive framework for the prevention of THB, the protection of trafficked persons as victims of a serious human rights violation, and the effective investigation and prosecution of traffickers. Such protection includes steps to secure that all victims of trafficking are properly identified. It also involves measures to empower trafficked persons by enhancing their rights to adequate protection, assistance and redress, including recovery and rehabilitation, in a participatory and non-discriminatory framework. Further, measures to prevent THB should be taken in the field of socio-economic, labour and migration policies.

41. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments.¹³

¹⁰ Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

¹¹ *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, ECHR 2010, paragraph 282.

¹² See: *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005, ECHR 2005 VII; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012, and *C.N. v. United Kingdom*, application No. 4239/08, judgment of 13 November 2012.

¹³ Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

42. In Finland, human rights treaties are brought into force by an Act of Parliament and are an integral part of the Finnish legal system. This is also the case for the Council of Europe Convention on Action against Trafficking in Human Beings. Further, according to Section 22 of the Constitution of Finland, the public authorities shall guarantee the observance of basic rights and liberties and human rights, an obligation including rights as defined in international human rights treaties to which Finland is a party. The Constitutional Law Committee of the Parliament has stated that the instrumental use of a human being as merchandise in a manner specific to trafficking in human beings is clearly degrading to human dignity. The human rights approach to victims of THB is also stated as being the point of departure for the preparation of new legislation on assistance to THB victims.¹⁴

43. The human rights-based approach to action against THB entails transparency and accountability on the part of the State through the adoption of a national policy and action plans for combating trafficking in human beings, the co-ordination of the efforts of all relevant actors, the regular training of relevant professionals, research and data collection, and the provision of adequate funding for the implementation of all these measures. The following sections of this report examine in detail the effectiveness of the policies and measures taken by the Finnish authorities in these fields.

b. Definitions of “trafficking in human beings” and “victim of THB” in Finnish law

i. *Definition of “trafficking in human beings”*

44. In accordance with Article 4(a) of the Convention, trafficking in human beings includes three components: an action (“the recruitment, transportation, transfer, harbouring or receipt of persons”); the use of certain means (“threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”); and the purpose of exploitation (“at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”). In the case of children, pursuant to Article 4(c) of the Convention, it is irrelevant whether the means referred to above have been used.

45. In Finland, THB is criminalised by Chapter 25, Section 3, of the Criminal Code, which provides as follows:

- “1. A person who (1) by abusing the dependent status or vulnerable state of another person, (2) by deceiving another person or by abusing a mistake made by that person, (3) by paying remuneration to a person who has control over another person, or (4) by accepting such remuneration, takes control over another person, recruits, transfers, transports, receives or harbours another person for purposes of sexual exploitation referred to in Chapter 20, Section 9, subsection 1(1) or comparable sexual exploitation, forced labour or other demeaning circumstances or removal of bodily organs or tissues for financial benefit, shall be sentenced for trafficking in human beings to imprisonment for at least four months and at most six years;
2. A person who takes control over another person under 18 years of age or recruits, transfers, transports, receives or harbours that person for the purposes mentioned in subsection 1 shall be sentenced for trafficking in human beings even if none of the means referred to in subsection 1(1) –(4) have been used.”

¹⁴

46. Further, Chapter 25, Section 3a, of the CC entitled “Aggravated trafficking in human beings” provides as follows:

- “1. If in THB (1) violence, threats or deceitfulness is used instead of or in addition to the means referred to in Section 3, (2) grievous bodily harm, a serious illness or a state of mortal danger or comparable particularly grave suffering is intentionally or through gross negligence inflicted on another person, 3) the offence has been committed against a person younger than 18 years of age or against a person whose capacity to defend himself or herself has been substantially diminished, or (4) the offence has been committed within the framework of a criminal organisation referred to in Chapter 17, Section 1a, subsection 4 and the offence is aggravated also when considered as whole, the offender shall be sentenced for aggravated trafficking in human beings to imprisonment for at least two years and at most 10 years;
2. A person who enslaves or keeps another person in servitude, transports or trades in slaves shall be sentenced for aggravated trafficking in human beings if the act is aggravated when assessed as whole.”

47. The three components of the Convention’s definition of THB are thus covered by the combination of Sections 3 and 3a of Chapter 25 of the CC. All actions envisaged by the Convention are present in Section 3 (“taking control over another person, recruiting, transferring, transporting, receiving and harbouring another person”).

48. The means also correspond to those covered by the Convention: Section 3 refers to “abusing the dependent status or vulnerable state of another person, deceiving another person or abusing a mistake made by that person, paying remuneration to a person who has control over another person, or accepting such remuneration”, while Section 3a refers to “violence, threats or deceitfulness”.

49. The forms of exploitation under Section 3 include sexual exploitation, forced labour, other demeaning circumstances and removal of bodily organs or tissues. It is explained in the *travaux préparatoires* to the respective 2004 and 2014 amendments to the CC¹⁵ that the term “other demeaning circumstances” covers practices similar to slavery and may be applied in certain instances to forced begging and forced marriage. To GRETA’s knowledge, there is no case law in Finland regarding THB in connection with forced marriages or forced begging. Slavery is covered by Chapter 25, Section 3a, of the CC and is considered an aggravated form of trafficking.

50. Illegal adoption is criminalised by Chapter 25, Sections 3b and 3c, of the CC, but it is not considered to be THB unless its purpose is sexual or work-related exploitation of the child.

51. The definition of child trafficking in Chapter 25, Section 3, subsection 2, of the CC does not require the use of means, which is in line with the Convention. Child trafficking is considered as an aggravating form of trafficking under Section 3a, which is also in line with the Convention.

52. Pursuant to Article 4(b) of the Convention, the consent of the victim is irrelevant where any of the means set forth in the definition of THB have been used. The irrelevance of the consent of the victim to the intended exploitation is not explicitly stated in the CC, but it is indicated in the *travaux préparatoires* attached to the amendments proposed by the Finnish government to the CC in August 2014¹⁶, that in the Finnish legal tradition, it is not possible for a victim of THB or another serious crime to give his or her consent; therefore the Finnish authorities do not consider it necessary to explicitly state the irrelevance of the consent of a trafficking victim. Nevertheless, **GRETA considers that stating explicitly in legislation the irrelevance of the consent of a victim of trafficking to the intended exploitation can improve the implementation of the anti-trafficking provisions.**

53. Amendments to the CC adopted in December 2014 with a view to ensuring that cases of THB for sexual exploitation are prosecuted as such clarify the difference between trafficking for sexual exploitation and pimping (see paragraph 201).

¹⁵ Government legislative proposals 34/2004, pages 95-97, and 103/2014, pages 24-25.

¹⁶ Government legislative proposal 103/2014, pages 15, 38-39.

54. GRETA notes that the definition of trafficking in human beings in Finnish law is generally in line with the Convention. **GRETA welcomes the adoption of amendments to the Criminal Code aimed at making the distinction between THB and pimping clearer and stresses that it would similarly be useful to make clearer the distinction between THB for the purpose of labour exploitation and extortionate work discrimination.**

55. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 199-205.

ii. Definition of “victim of THB”

56. The Convention defines “victim of THB” as “any natural person who is subjected to THB as defined in Article 4 of the Convention”. Recognition of victims of trafficking as such is essential as it gives rise to their entitlement to the broad range of protection and assistance measures set out in the Convention.

57. In Finnish law, there is no stand-alone definition of a victim of THB, but the Finnish authorities have referred to several relevant provisions. Chapter 1, Section 3, paragraph 23, of the Aliens’ Act provides that a “victim of trafficking in human beings is an alien who, on reasonable grounds, can be suspected of having become a victim of trafficking in human beings”. According to Chapter 1, Section 3, paragraph 7, of the International Protection Act, a victim of THB is a person who has been granted a residence permit under Section 52a of the Aliens Act; who has been granted a reflection period referred to in Section 52b of the same Act or who, based on the circumstances, can otherwise be seen as a victim of THB or in need of special assistance during the investigation of a THB crime.

58. The question of the definition of victim of THB will be further discussed in the sections of this report dealing with the identification of victims and the assistance measures provided to them, along with the related proposals made by GRETA.

- c. Comprehensive approach to action against THB, co-ordination of all actors and actions, and international co-operation

i. Comprehensive approach and co-ordination

59. One of the aims of the Convention is to design a comprehensive framework for the protection of and assistance to victims and witnesses. To be effective, any national action to combat THB must be comprehensive and multi-sectoral, and take on board the required multidisciplinary expertise. Article 29(2) of the Convention requires Parties to take measures to ensure the co-ordination of national policies and actions against THB, including through the setting-up of specific co-ordinating bodies. Further, the Convention refers to the need to co-operate and build strategic partnership with civil society through co-operative frameworks that can help governments fulfil their obligations under the Convention (Article 35).

60. The Finnish authorities have taken a number of important steps to develop the legal and policy framework for action against human trafficking, which is intended to cover all victims of THB subjected to different types of exploitation, both transnationally and nationally. As noted in paragraphs 18-20, the authorities have adopted and subsequently revised a comprehensive national anti-trafficking action plan. However, the action plan was last updated in 2008. GRETA notes that in view of the dynamic nature of the trafficking phenomenon, it is important to periodically assess the implementation of previous measures and re-set priorities in the light of new experience.

61. At the time of GRETA’s visit to Finland, formal co-ordination of public sector work against THB had just begun, following the recent appointment of the National Co-ordinator, but there were not yet any formal mechanisms for involving civil society in anti-THB efforts. As noted in paragraph 20, the multidisciplinary steering group set up to monitor the Revised Action Plan ended its work on 31 March 2011.

62. The efforts of civil society, including NGOs, are essential in the overall fight against THB and the provision of support to victims. However, NGOs suffer from a lack of regular funding for such activities as to date there is not, apart from the occasional project funding, any general NGO funding earmarked for work against THB available. NGOs receive general financial support from the profits of the Finnish Slot Machine Association (RAY), which is a public sector association functioning in compliance with the Lotteries Act, but not for activities such as awareness raising on THB and assisting victims. There are other sources of temporary, project-based, funding. For example, in 2014 the NGO Pro-Tukipiste received funding from the Ministry of Social Affairs and Health, the Helsinki City Social Services (which has also supported other NGOs financially), the Tampere City Board for Services, and the European Commission's Daphne III programme. In this context, it is noteworthy that the Finnish Parliament, as one of four points made in reply to the National Rapporteur's 2014 report to Parliament, called on the Government to ensure long-term financing to NGOs involved in assisting victims of THB.

63. As noted in paragraph 25, following the appointment of the National Co-ordinator, a Steering Group consisting of representatives of the highest level of management (permanent secretaries) of the Ministry of the Interior, the Ministry of Justice, the Ministry of Social Affairs and Health and the Ministry of Foreign Affairs will be set up to direct anti-THB work. An inter-sectoral secretariat headed by the National Co-ordinator and consisting of civil servants from the ministries which form part of the Steering Group will also be set up.

64. In addition, an anti-trafficking network is to be established, in which the most pertinent civil society representatives will be represented, as well as labour market organisations, the Finnish Association of Local and Regional Authorities, the Joutseno Reception Centre, and, in addition to the ministries already involved in the Steering Group, the Ministry of Finance, the Ministry of Employment and the Ministry of Education and Culture. The National Co-ordinator will function as Secretary to the Network.

65. Together with the Steering Group, its Secretariat and the anti-trafficking network, the National Co-ordinator is also expected to prepare an anti-trafficking strategy. Awareness raising is meant to be a central element of this strategy.

66. During its visit to Finland GRETA noted examples of successful co-operation at regional level, such as between the police and the prosecution service in the Vaasa region. The newly-appointed National Co-ordinator informed GRETA that the possibility of introducing regional anti-trafficking co-ordinators had been discussed.

67. According to civil society representatives met by GRETA, there is little awareness of the phenomenon of child trafficking and, while municipal child protection in relation to Finnish children is strong, foreign children in Finland do not, in practice, enjoy the same protection level. The number of identified child victims of THB in Finland is low: according to the statistics in paragraph 10, a total of 19 child victims of THB were taken into the assistance system in the period between 2010 and 2013.

68. As noted in paragraph 10, 55% of the victims of THB who received assistance in Finland since 2006 were subjected to labour exploitation. Concerns have been expressed by the National Rapporteur and civil society actors that trafficking for the purpose of sexual exploitation is not sufficiently detected. GRETA was informed that a provision of the Aliens' Act (Section 148:1) which entitles the police to deport or refuse entry to third-country nationals on the suspicion that they are selling sexual services, has been applied to possible victims of trafficking. In her 2014 report to Parliament, the National Rapporteur recommends the deletion of this provision. The lack of multi-sectoral co-operation in the process of identification of and assistance to victims of THB, in the form of a National Referral Mechanism, is another factor behind the low number of identified victims. Furthermore, according to the National Rapporteur, internal trafficking is an emerging problem and not enough is done to identify other forms of exploitation (such as forced begging).

69. In her second report to the Parliament of Finland, presented on 10 September 2014, the National Rapporteur noted that although there has been significant progress in some areas of public action against THB in Finland since the start of her work in 2009, THB is still not considered a sufficiently serious societal problem for the action against it to be given adequate priority and public resources.¹⁷

70. GRETA welcomes the recent introduction of the post of National Anti-trafficking Co-ordinator which is a prerequisite for achieving the necessary improvements in the overall co-ordination of anti-trafficking action in Finland. At the same time, **GRETA urges the Finnish authorities to adopt as a matter of priority a new or updated action plan and/or strategy against THB, in which priorities, objectives, concrete activities and stakeholders responsible for their implementation are clearly defined and budgetary resources allocated. The action plan/strategy should be accompanied by a mechanism for monitoring its implementation.**

71. GRETA also considers that the Finnish authorities should take additional steps to ensure that national action to combat THB is comprehensive, and in particular to:

- further involve NGOs and other members of civil society in the development and implementation of anti-trafficking measures, including the elaboration of a future national action plan or strategy as well as the evaluation of anti-trafficking efforts; the conclusion of formal Memoranda of Understanding between public bodies and competent NGOs should be encouraged;
- strengthen co-ordination between the national and municipal authorities and NGOs active in the field of action against THB, as well as co-ordination between relevant stakeholders at municipal level;
- formalise co-ordination among different actors in the anti-trafficking area in the identification and referral of victims for assistance;
- pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking and ensuring that the best interests of the child are fully taken into account;
- strengthen action to combat THB for the purpose of sexual exploitation including identification;
- pay increased attention to emerging forms of trafficking in Finland (such as forced begging and forced criminality) and internal trafficking.

72. Further, GRETA invites the Finnish authorities to provide for an independent evaluation of the implementation of the National Action Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat human trafficking.

¹⁷ National Rapporteur's Report to Parliament 2014, page 120.

ii. Training of relevant professionals

73. The Police University College is responsible for police training. About three hours are devoted to THB issues as part of the basic training for new police officers as well as in the continuous training for mid-ranking and senior police officers. THB issues are included in the training on human rights treaties, and in the context of training concerning the offences of illegal immigration and pimping. For police officers in senior or management positions, THB is also covered in the context of operative and international aspects of police activities. In addition, the Police University College and the National Police Board organise annually two to three courses with about 25 participants each on aliens' issues, comprising up to five hours on THB matters. Beyond the previously mentioned training, seminars and targeted training events are held annually (20-300 participants per event). Police representatives also participate in international training events organised by Europol, Cepol, the Nordic Council, FBI and OSCE. Training has also been given by the office of the National Rapporteur to police officers responsible for preliminary investigations, prosecutors and court staff.¹⁸ However, the National Rapporteur considers that there is still insufficient knowledge about THB amongst law enforcement officials, which puts the exercise of trafficking victims' rights at risk.

74. GRETA was informed that for more than 10 years the Finnish Border Guard has been training its personnel in identifying potential victims of THB and protecting their human rights. The training is given as part of the basic training for border guards as well as special training for pre-trial investigation and intelligence personnel. The training package developed by Frontex is being used to train national trainers.

75. The Ministry of Justice informed GRETA that its training unit provides training on THB and victim identification, including on labour-related trafficking, vulnerable victims and sexual exploitation indicators. The first seminar was organised in 2010 and involved 27 judges. In 2011 and 2012, the seminars focused on the grey economy and the distinction between extortionate work discrimination and THB. A total of 40 judges participated in 2011 and 34 in 2012. Further, the topic of THB forms part of the annual training course on European criminal justice. On average, 15 judges and 15 prosecutors participate each year in this training. However, a number of interlocutors opined that there was need for more training of judges on the issue of THB.

76. On average once a year, the Office of the Prosecutor General organises a seminar on THB. A total of 116 persons took part in such seminars since 2006. The training covered topics such as how to obtain and consider evidence, the psychological impact of intimidation, and the meaning of trauma.

77. The Finnish Immigration Service provides regular training on THB for its personnel. All senior advisors interviewing asylum seekers receive 90 minutes of THB training. In 2011, the whole Asylum Unit of the Immigration Service received such training. The team responsible for co-ordinating the provision of assistance to victims of THB at the Joutseno Reception Centre provides training to staff of reception centres and other parties on THB and identifying and assisting victims. For example, within the HAPKE project (see paragraphs 101-102), reception centre social workers, social advisers and nurses underwent six days of training in psycho-social support. Reception centre staff and other stakeholders were also given awareness training on labour trafficking in nine sessions across Finland, with an estimated 170 people participating. There were a further eight workshops for the same target group on how to implement anti-trafficking measures.

78. In the spring of 2012, the Regional State Administrative Agencies organised training for labour inspectors of foreign workforce, but not specifically on detecting THB. Further, GRETA was informed that the Office of the National Rapporteur had provided training with regard to THB to labour inspectors. In October 2014 some 20 OSH inspectors attended training on THB and the identification of victims given by a staff member from the assistance system.

¹⁸ National Rapporteur's Report to Parliament 2014, p. 19.

79. The Ministry for Foreign Affairs of Finland is also committed to raising awareness on THB and provides training to consular officials on how to recognise signs of THB and to prevent THB.

80. Furthermore, some municipalities such as Helsinki, Oulu and Lappeenranta have organised THB-related training, mainly for the staff of the municipal migration services and/or child welfare services to enhance their capacity to identify THB victims.

81. GRETA notes the efforts made in Finland to train different professionals on issues related to human trafficking and considers that the Finnish authorities should take further steps to provide specialised and continuous training to professionals who may come into contact with victims of THB, in particular police officers, prosecutors, judges, labour inspectors, municipal officials, health professionals, social workers and teachers, to enable them to identify victims of trafficking, assist and protect victims including as regards the facilitation of compensation, and secure convictions of traffickers.

iii. Data collection and research

82. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. An essential element is the regular availability of comprehensive statistical information on both trends in human trafficking and on the performance of the main actors in the fight against trafficking. The collation of data from different state institutions and NGOs raises concerns about data protection, especially when personal data are involved. International standards have been set for the collection, storage, transfer, compilation and dissemination of data. In order to ensure full compliance with these standards, Parties are expected to apply appropriate measures and techniques of data protection. An additional requirement for human rights-based anti-trafficking policies is the conduct of research and analysis with special attention to the rights and interests of victims.

83. The task of data collection on THB in Finland has been divided between different institutions. The Ministry of the Interior has been at the forefront of data collection, notably the National Bureau of Investigations (the special team dealing with illegal immigration) and the Migration Service. The assistance system based at the Joutseno Reception Centre collects statistics on the number of victims referred for assistance and actually given assistance. The municipal authorities and NGOs who may detect victims and provide them with assistance also maintain statistical data concerning their respective operations. Nonetheless, until recently there was no agreement concerning the responsibility for co-ordinating data on all aspects of THB and there are some gaps and inconsistencies in the available data. For example, it is not possible to establish the precise number of reflection periods granted. As noted in paragraph 24, data collection on THB is part of the mandate of the new National Co-ordinator and an improvement in the co-ordination of data collection is to be expected.

84. Collected data can be shared between authorities to facilitate work against THB or support its victims. Section 52 of the International Protection Act states that access to information from the "reception client register" and the "representatives register" may be granted, notwithstanding secrecy provisions, to the Finnish Immigration Service, the police, the border inspection authorities, and the Centres for Economic Development, Transport and the Environment, where this information is necessary for them in managing tasks linked to asylum seekers, obtaining temporary protection and assisting victims of THB.

85. For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Finnish authorities to develop and maintain a comprehensive and coherent data collection system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination). The existence of a comprehensive data collection system can assist the preparation, monitoring and evaluating of anti-trafficking policies and would also facilitate the work of the National Rapporteur. Data collection should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.

86. There has been considerable research into THB and related issues conducted by various actors in recent years in Finland, including research commissioned by public actors such as ministries appointing working groups (e.g. various working groups led by the Ministry of the Interior) or requesting studies from academic researchers. An example of the latter is the Ministry of Justice requesting academic researchers to evaluate the application of Chapter 20, Section 8, of the CC (exploitation of a victim of prostitution), which is relevant to victims of THB (study published in September 2013).¹⁹

87. One of the key institutions conducting research into THB and related crimes in Finland (and in the Baltic Sea Region) is the Helsinki-based European Institute for Crime Prevention and Control (HEUNI), which is publicly funded and affiliated with the United Nations. HEUNI has for example published three major pieces of research on work-related THB in recent years,²⁰ as well as research on THB for sexual exploitation and organised procuring.²¹ Studies on THB have also been undertaken by other researchers.²²

88. GRETA welcomes the attention given to research into issues related to THB and invites the Finnish authorities to continue conducting and supporting research on THB-related issues as an important source of information on the impact of current policies as well as a basis for future measures. Areas where further research is needed, in order to shed more light on the extent of the problem of THB in Finland, include internal trafficking and emerging forms of trafficking, such as for the purpose of forced begging and forced criminality.

¹⁹ *Seksikaupan kohteen hyväksikäyttö - Seksinostokiellon toimivuuden arviointi*, Ministry of Justice Publication 39/2013.

²⁰ HEUNI Report Series No. 76, *Tuulikaapissa on tulijoita": Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö ravintola- ja siivouspalveluilla*, Anniina Jokinen, Natalia Ollus, Helsinki 2011; HEUNI Report Series No. 75, *Exploitation of migrant workers in Finland, Sweden, Estonia and Lithuania: Uncovering the links between recruitment, irregular employment practices and labour trafficking*, Natalia Ollus, Anniina Jokinen and Matti Joutsen (eds.), Helsinki 2013; HEUNI Report Series No. 68, *Trafficking for Forced labour and Labour Exploitation in Finland, Poland and Estonia*, Anniina Jokinen, Natalia Ollus and Kauko Aromaa (eds.), Helsinki 2011.

²¹ HEUNI Report Series No. 62, *Trafficking for sexual exploitation and organised procuring in Finland*, Minna Viuhko and Anniina Jokinen, Helsinki 2009.

²² E.g. Venla Roth, *Defining Human Trafficking and Identifying Its Victims*, Martinus Nijhoff Publishers 2011.

iv. International co-operation

89. The Convention requires Parties to co-operate with each other “to the widest extent possible” in order to prevent and combat THB, protect and assist victims, and investigate related criminal offences (Article 32).

90. Finland’s international co-operation in the anti-THB area is based mainly on international treaties and co-operation agreements.²³ Co-operation with EU Member States is pursued within the framework of EU legislation and at operational level within Europol. The exchange of information is regulated by the Schengen Convention and the Schengen rules, which were implemented nationally in Finland in 2001, and in the Council Framework Decision 2006/960/JHA on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union and the Act on its implementation. The extradition of persons committing crimes is covered by Council Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States. Information exchange also occurs via Europol, based on the Council Decision establishing Europol (2009/371/JHA). In Finland, the National Bureau of Investigation is the Europol national unit and the channel via which competent authorities communicate. Finland is also a participant in the EU-wide implementation of the provisions of the EU policy paper entitled the EU Internal Security Strategy in Action: Five steps towards a more secure Europe.²⁴ Information exchange is also conducted within the Frontex framework.

91. The National Bureau of Investigation functions as Finland’s national centre for Interpol, via which executive assistance requests are transmitted. Through the mediation of the National Bureau of Investigation, the Interpol channel is also available to the Finnish Customs and the Border Guard.

92. Further, Finland participates in the Baltic Sea Task Force on Organised Crime (BSTF) set up within the framework of the Council of Baltic Sea States (CBSS) and the Task Force against Trafficking in Human Beings (TF-THB).²⁵

93. The main bilateral agreements related to Article 32 of the Convention are crime prevention agreements that Finland has concluded with the following EU Member States: Estonia, Latvia, Lithuania, Poland and Hungary. These bilateral agreements contain provisions on co-operation between the competent authorities to prevent, uncover, combat and investigate crimes. The police and the Border Guard also have certain administrative arrangements for co-operation with foreign states.

94. Pursuant to the Act on International Legal Assistance in Criminal Matters (4/1994 – Section 2), international legal assistance includes notification of any documents related to the handling of a criminal matter; hearing witnesses and experts; use of coercive measures to obtain evidence or ensure implementation of forfeiture; proceeding with prosecution measures; and allowing access to the crime register data.

²³ In addition to the Conventions referred to in paragraphs 12-13, the Convention on the Stepping Up of Cross-Border Co-operation, Particularly in Combating Terrorism, Cross-Border Crime and Illegal Migration (the Prüm Convention) and its implementing agreement; Convention on Mutual Assistance and Cooperation between Customs Administrations (the Naples II Convention) concluded between the Member States of the EU; Convention between Finland, Iceland, Norway, Sweden and Denmark on mutual assistance in customs matters.

²⁴ COM(2010) 673 final

²⁵ BSTF is a network of persons responsible for operational co-operation among the law enforcement bodies of the 11 CBSS member states, see <http://www.cbss.org/safe-secure-region/ftthb/> .

95. Finnish legislation does not set obstacles to the exchange of information referred to in Article 34 of the Convention. Under Section 30 of the 1999 Act on the Openness of Government Activities the authorities of a foreign State may be granted access to classified information in cases where this is required by an agreement that is binding on Finland. Moreover, under Section 6 of the Act on national enforcement of legislation falling within the scope of provisions of the Council Framework Decision on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union, the competent law enforcement authority must provide access to information and intelligence on a criminal investigation or criminal intelligence operation to the law enforcement authority of another Member State, including on its own initiative, if this can be assumed to further the prevention or investigation of crimes. However, GRETA was informed that co-operation with other countries, in particular in Asia, has at times proved time-consuming or not possible to pursue in the absence of any response from the authorities of the countries concerned.

96. Under Section 1 of the Act on Joint Investigation Teams (1313/2002), the competent pre-trial investigation authority may make an agreement with the competent authority of a foreign state to establish a joint investigation team for carrying out the pre-trial investigation of a crime. Joint Investigation Teams (JITs) have been successfully used in the investigation of THB offences, for example with the Czech Republic, Estonia, France and the UK.

97. The Ministry of Foreign Affairs' Department for Development Policy supports development co-operation programmes in a number of countries, as do some other departments and units of that Ministry. According to the Finnish authorities, by supporting women's and children's rights and the reduction of extreme poverty, the programmes aim to support action against THB. Finland also supports various projects of international organisations and civil society concerning THB prevention and protections of victims. Finland has supported projects related to THB in Cambodia, Nigeria and the Western Balkans. For example, funding has been given for a project running from 2014 to 2016 in Albania. The Finnish Evangelical Lutheran Mission has also received support for projects against THB in South-East Asia where it supports former victims of trafficking in their reintegration, including through the provision of vocational training.

98. **GRETA welcomes the efforts made by the Finnish authorities in the area of international co-operation to combat THB and invites the authorities to continue developing international co-operation with a view to preventing THB, assisting victims of trafficking and prosecuting offenders, including through exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin.**

2. Implementation by Finland of measures aimed to prevent trafficking in human beings

99. According to Article 5 of the Convention, Parties must take co-ordinated action to prevent THB, with the involvement of relevant NGOs, other organisations and members of civil society, as appropriate. The Convention requires Parties in particular to take measures to discourage demand, strengthen border controls and ensure the integrity, security and validity of travel or identity documents (Articles 6 to 9).

a. Measures to raise awareness

100. A multilingual website (www.humantrafficking.fi) was launched in 2010 under the direction of the Ministry of the Interior and in co-operation with other relevant authorities and civil society actors. The website provides information on THB and advice for victims of trafficking and those who may encounter such victims.

101. From July 2012 to June 2014, the Finnish Immigration Service and the Joutseno and Oulu Reception Centres implemented a project to develop the system of services for vulnerable asylum seekers (Hapke Project), in which the target group included victims of THB. The project budget was 190 000 euros, of which 75% was funded by the European Union Refugee Fund. Apart from contributing to the above website, the project also created a leaflet for asylum seekers (“Working in Finland”), which provides information on labour rights and the assistance available. The original leaflet has since been modified to cover all immigrants and has been distributed to certain Finnish embassies abroad and other interested parties. It is currently available in 16 languages on the Finnish Immigration Service website as well as through the reception centres. A presentation for asylum seekers concerning labour rights was also developed and sent to all reception centres.

102. As part of the Hapke Project, the Finnish Immigration Service, the National Bureau of Investigation, the National Rapporteur on Trafficking in Human Beings, the SAK trade union federation, and Victim Support Finland, developed an awareness-raising flyer about the risks of THB. It was translated into several languages. A pocket-sized version is foreseen for OSH inspectors to hand out to employees during inspection visits. Some OSH labour inspectors also hand out information printed on their business cards about where THB victims can seek help.

103. In 2012, the Finnish Police launched a campaign entitled “*Olen olemassa*” (“I exist”), supported by the National Rapporteur. Posters for the campaign were supplied to police departments, other authorities and parties. The campaign helped to publicise the National Police Board’s guidance on how to intervene in THB and similar offences and assist victims of THB.

104. The National Rapporteur and the IOM office in Finland launched the joint campaign “Trafficking is no fairy-tale” in December 2012. The campaign included a video based on a new version of a well-known Finnish tango, *Satumaa* (“Fairy-tale land”), which featured a young mother who leaves her daughter in the care of her parents to go and work in Finland to provide for a better living for her family, but ends up as a THB victim of sexual exploitation. The campaign also included two radio commercials and two print advertisements and a dedicated website: <http://ihmiskauppaeiolesatua.fi>. The campaign was a continuation of the October 2011 campaign “Work that nobody wants to do”, which was also launched jointly by the National Rapporteur and the IOM.

105. The Embassy of Finland in Tallinn has been co-ordinating an information campaign (“Black future”) in Estonia, which is aimed at people working in the grey economy, particularly in the construction sector. The campaign provides information on the tax number required for everyone working on construction sites in Finland as well as issues related to workers’ rights.

106. Certain NGOs, such as Pro-Tukipiste, provide information about THB and where to find help as a part of their outreach work. However, no funding has been allocated to NGOs for awareness-raising activities.

107. Despite the efforts described above, the National Rapporteur in her 2014 report to Parliament, refers to prevention as probably the most neglected area of action against THB in Finland. She considers the preventive action that has been undertaken to be scattered. GRETA notes that there has been no assessment of the effect of awareness-raising measures.

108. While welcoming the awareness-raising campaigns and the HAPKE Project, **GRETA considers that there is need for more awareness-raising measures in Finland about the risks of THB and the rights of victims, especially among migrants. GRETA considers that future actions in the area of awareness raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. The success of the efforts is linked to efficient data collection, adequate funding and regular evaluation.**

b. Measures to discourage demand

109. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking.²⁶

110. The use of sexual services of a person who is a victim of THB is criminalised by virtue of Chapter 20, Section 8, of the CC which provides that “a person who, by promising or giving remuneration involving direct economic benefit induces a person referred to as a victim in Chapter 20, Section 9 or 9a or in Chapter 25, Section 3 or 3a (i.e. trafficking in human beings) to engage in sexual intercourse or in a comparable sexual act shall be sentenced, unless the act is punishable pursuant to Section 8a, for exploitation of a victim of prostitution to a fine or imprisonment for at most six months.”

111. There has been a debate over the last few years in Finland about measures to discourage demand, in particular through the criminalisation of the purchase of sexual services. The Ministry of Justice commissioned a study regarding the application of Chapter 20, Section 8, of the CC. The study’s report, published in 2013, recommended introducing the criminalisation of clients of prostitutes (the so-called “Swedish model”).²⁷ However, the political parties in the Government have been split on this issue and for the time being there is no unanimous support for introducing such legislation. In contrast, a Government legislative proposal to amend Chapter 20, Section 8, of the CC, was adopted on 14 March 2015. The adopted amendment makes it possible to prosecute buyers of sexual service who have been negligent by not recognising victims when they should reasonably have been able to conclude that the person selling sex was a THB victim.

112. GRETA recalls that pursuant to Article 19 of the Convention, Parties must consider making it a criminal offence to knowingly use the services of a victim of trafficking. This provision targets the client whether of a victim of trafficking for sexual exploitation or of a victim of forced labour or services, slavery or practices similar to slavery, servitude or organ removal.²⁸ **GRETA considers that the Finnish authorities should make more efforts to discourage demand for the services of trafficked persons for the purpose of labour exploitation, in partnership with the private sector and civil society. In this context, GRETA invites the Finnish authorities to consider establishing as a criminal offence the use of services which are the object of labour exploitation, with the knowledge that the person is a victim of trafficking in human beings.**

c. Economic, social and other initiatives for groups vulnerable to THB

113. In assessing populations vulnerable to trafficking in Finland, asylum seekers have been identified as one of the key groups and indeed over 60% of the persons admitted into the assistance system have been asylum seekers. Measures undertaken in support of vulnerable asylum seekers have already been described in paragraphs 101-102.

114. There are a multitude of national level measures intended to prevent social exclusion and marginalisation and to promote the health and welfare of disadvantaged groups, including those vulnerable to THB. Such measures include reducing poverty, inequality and social exclusion, increasing family welfare, increasing participation in society and providing social and health services for all, including measures targeted at people in vulnerable situations. Other measures include promoting employment as the best safeguard against poverty and social exclusion, developing the labour market, taxation and social protection from the perspective of participation and ensuring that income support, municipal services and employment services form a coherent whole.

²⁶ Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

²⁷ *Seksikaupan kohteen hyväksikäyttö -Seksinostokiellon toimivuuden arviointi*, Ministry of Justice Publication 39/2013.

²⁸ Explanatory Report to the Convention, paragraph 231.

115. The National Development Programme for Social Welfare and Health Care (Kaste) aims to prevent social exclusion by, for example, revising procedures in adult social work, making it easier to obtain help for mental health and substance abuse problems, and creating new ways of finding employment for young people and adults who are 'poorly employable'. The programme has also reduced long-term homelessness.

116. On the municipal level, the City of Helsinki's Social Services and Health Care Committee decided in August 2013 to investigate health care service arrangements for people who have no documentation (a national level report on the same theme has also been prepared and published in 2014). The City of Helsinki subsequently decided to provide health care for undocumented migrants, but at the time of writing the practical arrangements were still being put in place. In the meantime the NGO-run Global Clinic, in operation since 2011, continues to provide free-of-charge health services to undocumented migrants. The medical staff do their work *pro bono*, their equipment is very basic and the limited supply of available medicine is bought with the help of donations. The total financial support provided in 2013 by the City of Helsinki to NGOs providing health and social services, including such working with victims of THB, was about 5 000 000 euros.

117. As noted in paragraph 34, the NGO Pro-tukipiste offers easily accessible social and health care services and legal advice for people working in the sex sector, including possible and identified victims of THB. However, it would appear that social and economic measures intended to empower people in a position of vulnerability are poorly resourced in Finland. For example, easily accessible social and health care services are not available in all regions.

118. GRETA notes the measures taken by the Finnish authorities vis-à-vis groups vulnerable to THB and considers that the authorities should continue to develop the aspect of prevention through social and economic empowerment measures, including by integration of the prevention of human trafficking in the policies for unaccompanied children, asylum seekers and migrant workers.

d. Border measures to prevent THB and measures to enable legal migration

119. The Border Guard Act (578/2005) which came into effect in 2005 increased the opportunities for the Border Guard to undertake pre-trial investigations into violations of the border regime, illegal entry and THB.

120. At the Helsinki Vantaa International airport automatic passport control in the form of automatic gates have been brought into use for a limited number of nationalities considered as low risk in terms of irregular migration or THB. This allows border guard to commit maximum resources to incoming flights which are considered as high risk.

121. According to the Finnish Border Guard, attempts by imposters to use other people's passports are on the increase, especially in the context of trying to enter the Schengen area. Nineteen people were caught in 2013 at Finnish borders, trying to enter Finland with another person's authentic passport, but none of them with Finnish passports. In case of doubt, border guards may request suspect individuals to pass through the automated gates whose biometric testing devices compare the degree of similarity between the passport picture and the person. The border guard at Helsinki Vantaa airport also have other sophisticated equipment to establish the authenticity of travel documents.

122. Information about possibilities for legal immigration to Finland is provided in the local language by the customer service sections at embassies and consulates and through their websites. In addition, the Finnish Immigration Service provides information and advice on legal migration in several different languages at its service points and by phone and via its website.

123. **GRETA considers that the Finnish authorities should continue their efforts to:**

- **detect and prevent THB through border control measures;**
 - **introduce a checklist to identify potential THB-related risks during the visa application system.**
- e. Measures to ensure the quality, security and integrity of travel and identity documents

124. Finnish passports include a storage medium as regulated in Council Regulation (EC) No. 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States.

125. The travel documents granted to foreign citizens in Finland under Chapter 8 of the Aliens Act are the alien's passport and the refugee travel document. In terms of document security and the security of issuance, these documents are equivalent to Finnish citizens' passports. Under Section 33a of the Aliens Act, a residence permit card is issued as proof of a residence permit. The residence permit cards is in compliance with Council Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals and with Council Regulation (EC) No. 380/2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals (the Amending Regulation).

126. Examining the legality and validity of documents is normally performed in the Crime Laboratory of the National Bureau of Investigation. The Border Guard also have the necessary technical resources to verify the legality and validity of documents. The Register of Aliens contains aliens' passports and refugee travel documents.

3. Implementation by Finland of measures to protect and promote the rights of victims of trafficking in human beings

- a. Identification of victims of trafficking in human beings

127. Article 10 of the Convention requires Parties to adopt measures to identify victims. In order to do so, Parties must provide their competent authorities with persons who are trained and qualified in preventing and combating THB and in identifying and helping victims, including children. Identifying a trafficking victim is a process which takes time, and therefore the Convention provides for the rights of potential victims by establishing that when the competent authorities have reasonable grounds to believe that a person has been a victim of trafficking, s/he must not be removed from the country until the identification process is completed and must receive the assistance required by the Convention.

128. At the time of GRETA's visit to Finland, Finnish legislation did not regulate the process of identifying a victim of THB or define which authority is competent to make formal identification. There was no National Referral Mechanism to provide a framework for public bodies, local authorities and NGOs within which to share information about possible victims, co-ordinate their identification and refer them to assistance. In practice, the identification of a potential victim of THB can be done by the police, the border police, immigration officials, labour inspectors, child welfare or social welfare officials or by a civil society actor (NGO or other). Different agencies and NGOs use their own lists of indicators for victim identification. Victims may themselves decide to contact the authorities and signals about possible victims of THB may be submitted by any private individual. There are two telephone helplines available on a 24-hour basis, one run by the assistance system based at the Joutseno Reception Centre and specialised for THB cases,²⁹ and another one operated by the NGO Monika Multicultural Women's Association, which is not specifically for THB cases but can also be used for this purpose.

²⁹

The number (0295463177) is advertised through posters, leaflets and the website www.ihmiskauppa.fi

129. The pre-trial investigation authorities form an opinion about the person's potential status as a victim of THB when deciding to begin a pre-trial investigation of alleged THB (exceeding the 'reason to suspect' threshold of the Criminal Investigations Act), and when granting a reflection period under the Aliens Act to a victim of THB who is residing illegally in the country. The pre-trial investigation authorities are not required to make a written proposal for admitting a victim to the assistance system, as are other authorities and NGOs.

130. Occupational Safety and Health Service (OSH) inspectors have the right to conduct inspections anywhere where work is carried out or it may be presumed to be carried out, including in places of agricultural work. Inspections may also take place in private homes if it is necessary for preventing a danger to the life of or considerable health hazard for the worker. As noted in paragraph 32, OSH inspectors do not have competence to investigate THB offences. OSH inspectors have been issued with guidelines on how to act in situations where THB is suspected. They must report the case to the police and provide them with information on any indications of THB. They can also refer possible victims of THB to the assistance system, with the person's consent. Some foreign employees have been referred to the assistance system by OSH labour inspectors but there is no correlating information on whether these suspicions have led to an investigation or not and whether such investigation has been conducted as trafficking in human beings or extortionate work discrimination. Joint raids at work places are sometimes organised by the police and the OSH and some have resulted in the identification of victims of THB. Both the SAK Trade Union Federation and the Confederation of Finnish Industries have stressed the need for more resources to be allocated to OSH inspectors.

131. NGOs and other civil society actors may detect possible victims of THB as part of their outreach or support activities. NGOs play a significant role in identifying victims who are afraid to make first contact with the authorities or fear the consequences of making such contact. By way of example, identification by the NGO Pro-tukipiste, which offers easily accessible health and social services to sex workers, begins when signs of elements of THB are observed in the information provided by a client. The person concerned is given information about the assistance system, the criminal process and the possibility of residence in the country and, with the person's consent, a proposal is made concerning his or her inclusion in the assistance system. Consultation with the assistance system is often on an anonymous basis. When the victim is admitted to the assistance system, a decision is also made on possible further co-operation with Pro-tukipiste concerning the provision of services for the victim. However, Pro-tukipiste does not receive funding for victim identification and support services at the stage when a person is not yet admitted into the official assistance system or when s/he has been removed from the system.

132. NGOs have expressed concerns about the lack of clarity as to which authority is competent to formally identify victims of THB. According to the National Rapporteur and NGOs, the absence of a formalised national identification and referral procedure with clear rules, responsibilities and identification indicators results in victims of THB not being identified as such, especially in relation to exploitation connected to prostitution, and not receiving protection and assistance. Persons who are not admitted or do not wish to be admitted to the assistance system run the risk of continuing being abused.

133. The National Rapporteur has pointed out certain gaps in the identification of victims of THB for the purpose of sexual exploitation in Finland. One type of business which shows characteristics of THB for sexual exploitation is that of Thai massage parlours. In the last four years the police have investigated some 10 cases of suspected pimping linked to Thai massage parlours. While it is difficult for prosecutors to gather sufficient proof for a verdict in court, in one case the Helsinki Appeal Court established that the payment of the massage fee was in reality a precondition for the purchase of sex, and that it benefitted the owner of the establishment who was convicted of a pimping offence. According to the National Rapporteur, there are indicators suggesting that some of the women working in massage parlours may be victims of THB as they usually do not speak Finnish, are often accommodated on the massage parlour premises and are indebted to the owner of the parlour due to various fictitious charges (e.g. for residence permits or internet access).³⁰ The National Rapporteur has also referred to a case involving a number of Nigerian women which was investigated by the police under a pimping heading but the women in question were deported from Finland after the preliminary investigation and the prosecutor dropped the charges against the suspected pimp. According to the National Rapporteur, this case showed traits of THB and the police should have used lists of THB indicators during their questioning.³¹

134. Seasonal berry pickers coming to Finland from abroad, predominantly from Thailand, could in certain circumstances be considered as victims of trafficking. Finnish legislation allows berry pickers to enter Finland to pick berries and to sell them to large companies. A number of mainly Thai middle men are involved in the recruitment of berry pickers and in providing services such as travel arrangements, accommodation and transport against a fee. At times of poor harvests berry pickers may end up making significant financial losses and run up debts in their home countries. The Finnish Ministry of Employment and the Economy and the Ministry of Foreign Affairs have commissioned research into the situation of berry pickers and how their protection could be improved. A key recommendation in the report that resulted is that berry pickers who are granted visas to come to Finland should have an employment contract with a berry processing company rather than being considered as independent entrepreneurs.³²

135. In relation to the identification of victims of THB among asylum seekers, the competent body to decide upon asylum claims is the Finnish Immigration Service. GRETA was informed that in 2013, the average processing time was 122 days though cases involving children are prioritised to be dealt with quicker. Should a suspicion arise that an asylum seeker might be a victim of THB, immigration officials use indicators similar to those used by the police. As noted in paragraph 77, immigration officials receive regular training on THB.

136. As noted in paragraph 67, the number of identified child victims of THB in Finland is low both relatively and in absolute terms. Most of the identified child victims of THB sought asylum in Finland. There is insufficient awareness of trafficking in children and no agreed nationwide procedure for the identification of child victims of THB. There is at times some uncertainty between the authorities and various child protection officials as to what they are allowed to share with each other without breaking confidentiality or data protection rules and therefore co-ordination and uniformity of procedures could be improved in relation to possible child victims. During the visit, the GRETA delegation was informed of a case involving Romanian children begging in Finland with possible elements of THB in the investigation of which the Finnish authorities co-operated with their Romanian counterparts (the children had returned to Romania in the meantime).

³⁰ National Rapporteur's report to Parliament 2014, pages 56-60.

³¹ National Rapporteur's report to Parliament 2014, pages 64-65.

³² Markku Wallin, *Ehdotuksia ulkomaalaisten marjanpöimijöiden olosuhteisiin liittyvien epäkohtien korjaamiseksi*, a report published on 28 February 2014.

140. **GRETA urges the Finnish authorities to improve identification procedures in order to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures provided for by the Convention, in particular by:**

- **introducing a clear national identification and referral mechanism which defines the roles and responsibilities of different stakeholders and promotes a multi-agency approach to victim identification by involving NGOs, labour inspectors, social workers, health-care staff, municipal staff and other relevant actors;**
- **providing frontline staff with operational indicators, guidance, training and toolkits to be used in the identification process; these indicators should be harmonised and shared between the various stakeholders concerned and be regularly updated in order to reflect the changing nature of human trafficking;**
- **guaranteeing that in practice identification is dissociated from the victim's co-operation in the investigation;**
- **improving the proactive detection of victims of THB, the gathering of intelligence and the sharing of information between relevant actors, in particular as regards sexual exploitation and new forms of trafficking, such as forced begging;**
- **setting up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking, involves child specialists, ensures that the best interests of the child are the primary considerations and strengthens the detection of victims of THB among unaccompanied minors.**

b. Assistance to victims

141. The Convention requires Parties to take measures to assist victims in their physical, psychological and social recovery, taking account of the victim's safety and protection needs, in co-operation with NGOs and other organisations engaged in assistance to victims. This assistance must be provided on a consensual and informed basis, taking account of the special needs of persons in a vulnerable position, as well as children, and it must not be made conditional on the victim's willingness to act as a witness (Article 12). The need to take account of victims' needs is also referred to in the Convention's provisions concerning temporary residence permits (Article 14) and the rights of child victims of trafficking (Article 12(7)). The Convention also establishes that the assistance to victims of THB must include appropriate and secure accommodation.

142. In Finland, the provision of assistance to victims of THB is regulated by the International Protection Act, Section 35 of which states that public authorities, NGOs and other parties can refer possible victims of THB to the assistance system. Under Section 33 of the International Protection Act, the assistance system provides the following services and support measures: legal advice; emergency aid (including therapy); social services; health care; translation and interpretation services; accommodation; reception allowance or income support; assisted voluntary return, as well as other necessary care or protection.

143. An assistance system for victims of THB was set up in 2006 under the co-ordination of the Finnish Immigration Service. Since 12 November 2012, the responsibility for co-ordinating the provision of assistance to all victims of THB throughout Finland has been given to the Joutseno Reception Centre for asylum seekers.³⁶ There is a dedicated team dealing with victims of THB, composed of five staff members and headed by the Director of the Joutseno Reception Centre.

³⁶ Between 2006 and November 2012, the Oulu Reception Centre was responsible for co-ordinating the provision of assistance to child victims of THB.

144. Victims and presumed victims of THB are referred to the Joutseno Reception Centre in order for a decision to be made concerning admission to the assistance system. Motions for acceptance into the assistance system can be filed by an official, a service provider or an individual victim, but in all cases the victim's consent is required. Most of the victims of THB proposed for assistance since 2006 have been referred by Government agencies (some 200 persons), NGOs have referred some 60 persons, lawyers some 80 persons, and there have been some 40 self-referrals. In 2014, the majority of victims of sexual exploitation supported by the assistance system have been exploited outside Finland, whereas the majority of victims of labour exploitation have been exploited in Finland

145. When a motion for assistance is received, the case is assessed and, if necessary, the person is interviewed. Decisions about admission into the assistance system are made by the Director of the Joutseno Reception Centre, who is assisted by a multidisciplinary assessment team. In 2013, this team comprised 11 persons, including representatives of law enforcement agencies, the Immigration Service, the child welfare services, as well as a nurse from the Joutseno Reception Centre. Where necessary, the multidisciplinary assessment team can also consult outside experts such as OSH officials, child welfare experts, municipal officials or health-care staff. The tasks of the multidisciplinary assessment team comprise assessment of the victim's needs for assistance and protection, risk and safety assessment, and placement of the victim in appropriate accommodation.

146. According to the Finnish authorities, the threshold for admission to the assistance system is kept low and admission to the system is not dependent on whether there is a criminal investigation or upon the nationality/residence status of the victim (Finnish and EU citizens can also be assisted). Data provided by the Joutseno Reception Centre indicated that in 2010, there were 55 applications for admission into the assistance system (52 persons were actually admitted), in 2011, there were 64 applications and 52 admissions, in 2012, 61 applications and 53 admissions, and in 2013, 128 applications and 55 admissions. However, according to the National Rapporteur, about a third of all applications are rejected.³⁷ In case of refusal to admit a person to the assistance system, the grounds for the decision are given to the person concerned in writing and there is a possibility to appeal the decision to the administrative court (though no such appeals have apparently been successful).

147. The assistance team based at Joutseno is responsible for arranging assistance measures for victims of THB and for directing victims to different service providers. The team also offers advice to different stakeholders and provides training on the subject of THB to relevant officials. In this context the team's staff frequently travels to other destinations in Finland to provide advice to the staff of other reception centres.

148. The actual provision and funding of services to victims of THB depends on whether the victim has residence in Finland or not. In the former case, the assistance system based at Joutseno is responsible for arranging the services and covering their cost. GRETA was informed that in 2013, a total of 900 000 euros from the Joutseno Reception Centre's budget was spent on assistance services for victims of THB throughout the country.

149. If the victim of THB has residence in Finland, it is the responsibility of the municipality of residence to provide and fund the necessary services. Under the Municipality of Residence Act, victims of THB residing in Finland are entitled to basic health and social services on the same grounds as other residents. Victims are also entitled to a rehabilitation programme in accordance with Section 12 of the Integration Act. The municipality of residence can also provide special services beyond the basic services to meet the special needs of victims of THB, which are reimbursed by the Government. Further, victims may be granted income support pursuant to the Act on Social Assistance (1412/1997). However, GRETA was informed that the current legislation is not clear about the roles and division of responsibilities between municipalities and the Joutseno Reception Centre.

³⁷ According to the National Rapporteur, out of 395 persons referred to the assistance system between 2006 and June 2014, only 255 were accepted.

150. Only about 18% of all victims of THB assisted since 2006 had residence in Finland and were therefore assisted by the municipalities. In Helsinki, the number of victims of THB assisted through the municipality and their family members was 13 in 2010, 9 in 2011 and 14 in 2012. In the town of Lappeenranta, three victims of THB have been assisted by the municipal services in recent years. The Joutseno-based assistance system and the municipalities co-operate with each other in assisting victims of THB (e.g. in the preparation of risk assessments, organising appropriate accommodation, provision of legal advice or arranging psychotherapy). Reference can be made to the municipality of Oulu where victim assistance is provided through tripartite co-operation involving the city's child welfare and immigrant services, the pre-trial investigation authorities and the Oulu Reception Centre. Some municipalities use NGOs as service providers. However, the level of awareness about THB is reportedly low in many municipalities since most of them have never encountered any victims.

151. The assistance system also relies on NGOs for the provision of support services to victims of THB on the basis of agreements whereby the Joutseno Reception Centre reimburses NGOs for the cost of such support. Reference has already been made to the services provided by Pro-tukipiste and Monika Multicultural Women's Association (see paragraph 34). The Finnish Association for Mental Health and its SOS Crisis Centre offer short-term crisis intervention and psychological support for victims of THB. Victim Support Finland provides victims with advice concerning their legal rights and the legal procedure, and may also supply a person to act as personal support before, during and after the legal process. Further, the Federation of Mother and Child Homes and Shelters can provide accommodation to victims of THB in a number of shelters for victims of domestic violence and other abuse across the country.

152. There are no specialised shelters for victims of THB in Finland. Accommodation for victims is chosen depending on the gender, age and needs of the person. As the majority of victims have been asylum seekers, accommodation is primarily provided in reception centres for asylum seekers run by the Immigration Service (unless there are specific security or other considerations). Victims can also be accommodated in safe houses/shelters for victims of violence or supported housing provided by the municipal authorities.

153. The GRETA delegation visited the Joutseno Reception Centre, which is located in Eastern Finland some 10 km from the border with the Russian Federation. The centre occupies the premises of a former prison and is intended for the reception of asylum seekers. There were 10 victims of THB accommodated at Joutseno at the time of GRETA's visit (eight women, some with their children, and two men). The delegation was shown a separate building on the premises of the Joutseno Reception Centre used to accommodate victims of THB, with four self-contained flats which offered adequate material conditions. The GRETA delegation was informed that victims of THB have access to different workshops, language classes and sports activities, and can work and study outside the centre. Victims' children can attend schools in the community.

154. The GRETA delegation also visited a shelter run by the NGO Monika Multicultural Women's Association. The shelter, comprising a total of 10 flats, is specialised in providing crisis accommodation to migrant women and receives both victims of domestic violence and victims of trafficking, as well as their children. It is staffed 24 hours per day, all staff members have been trained in social work and can, pooling their linguistic knowledge, communicate with clients in some 17 different languages. The shelter offers very good material conditions. The GRETA delegation was informed that the funding of health care and legal advice for victims of THB is provided by the Joutseno Reception Centre, which also pays each victim a monthly allowance of 290 euros. The municipality also provides some funding, but there are reportedly disagreements as to who is responsible for covering which service.

155. When it comes to child victims of THB, the Child Welfare Act provisions apply. Section 25 of the Child Welfare Act lays down the duty for different actors working with children and families to notify the municipal body responsible for social services without delay and notwithstanding confidentiality regulations if, in the course of their work, they discover that there is a child for whom it is necessary to investigate the need for child welfare on account of the child's need for care, circumstances endangering the child's development, or the child's behaviour. These actors also have a duty to notify the police when they have cause to suspect the sexual exploitation of a child. All children residing in Finland are entitled to education free of charge and it is the responsibility of the local authorities to arrange education for children up to the age of 17.

156. Pursuant to Section 39 of the Act on the Reception of Persons Seeking International Protection, a representative must be appointed without delay for a child victim of THB if the child is in Finland without a guardian or other legal representative. Until such time as another guardian has been appointed, the director of the responsible reception centre serves as representative.

157. According to the Finnish authorities, efforts are made to take the best interests of the child into account through the involvement of the multidisciplinary team and co-operation with child protection and other relevant authorities. The Oulu Reception Centre (which previously had responsibility for THB child victims) in co-operation with the multidisciplinary assessment team produced written instructions for how to proceed in helping THB child victims.³⁸ There have been more children of adult victims benefitting from assistance measures than actual child victims of THB, but the legal status of children of identified adult victims is unclear and they do not appear in the statistics of the assistance system.³⁹

158. The National Rapporteur's 2014 report to Parliament highlighted as one of the biggest challenges the referral of victims to the assistance system. Only a few victims of sexual exploitation which had taken place in Finland have been referred to the assistance system. Furthermore, the municipal authorities rarely refer THB victims to the assistance system. According to the National Rapporteur, the ability of child welfare authorities to offer help and support to exploited children or to the children of THB victims has proven to be insufficient.⁴⁰

159. According to NGOs, victims do not always receive assistance that corresponds to their needs. In particular, there are problems with the timely provision of psychiatric and psychosocial support and a shortage of psychotherapists able to deal with trauma. Legal assistance and psychological support in connection with legal proceedings, as well as access to the labour market and education are other areas where shortcomings occur. The crisis-stage housing for victims is poorly resourced and in need of development. Also, linguistically disadvantaged victims not familiar with Finnish society and its health care and social services, are often insufficiently informed about available forms of support.

160. There was a proposal in the conclusions of the working group appointed to prepare the legislative amendments to give those NGOs most active in assisting THB victims a certain status and link this to funding, but the proposal was not retained in the amendments.

161. GRETA welcomes the setting up of the national assistance system for victims of THB in Finland and the existence of a statutory basis on which victims of THB can receive assistance.

162. At the same time, GRETA urges the Finnish authorities to ensure that the assistance provided to victims of THB is adapted to their specific needs and that minimum standards are guaranteed across the country, regardless of the service provider. When specialised assistance is delegated to NGOs, the State has an obligation to provide adequate funding. Particular attention should be paid to providing appropriate assistance to child victims of THB, including unaccompanied minors.

³⁸ Ministry of the Interior Publication 32/2013, page 63.

³⁹ Ibidem.

⁴⁰ National Rapporteur's Report to Parliament 2014, page 34.

163. **Further, GRETA considers that the Finnish authorities should provide regular specialised training to all professionals responsible for the provision of assistance and protection measures to victims of trafficking.**

c. Recovery and reflection period

164. As victims of trafficking are extremely vulnerable after the trauma they have experienced, Article 13 of the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The recovery and reflection period, in itself, is not conditional on co-operation with the investigative or prosecution authorities and should not be confused with the issue of a residence permit under Article 14(1) of the Convention. Pursuant to the Convention, the recovery and reflection period should be granted when there are reasonable grounds to believe that the person concerned is a victim of trafficking, i.e. before the identification procedure has been completed. During this period, Parties must authorise the person concerned to stay on their territory and expulsion orders cannot be enforced.

165. Under Section 52b of the Aliens Act, a victim of THB can be granted a reflection period of no less than 30 days and no more than 6 months. When considering the length of the reflection period, the authorities take into account the victim's situation, including factors such as state of health and opportunity to get away from the influence of those guilty of offences, and the needs of the pre-trial investigation.

166. Under Section 40, subsection 1, paragraph 7 of the Aliens Act, residence during the reflection period is considered legal residence in the country. No decision on removal from the country can therefore be made during this period, neither can a previously made decision on removal from the country be put into effect. The reflection period does not include the right to work.

167. During the reflection period the victim of THB must decide whether he or she will co-operate with the authorities. The reflection period can be suspended if the victim of THB has voluntarily and on his or her own initiative re-established relations with those suspected of THB or if this is necessary on the grounds mentioned in Section 36, subsection 1 of the Aliens Act (threat to public order, safety, etc.).

168. Decisions concerning the reflection period are made by the police or the border guard. The victim is notified in writing about the granting or termination of a reflection period. This notification must indicate the purpose, starting date and duration of the reflection period or the grounds for terminating it.

169. Since 1 May 2012 the police and border guard have been required to register any reflection periods granted by them. A total of 10 reflection periods were granted in 2013 and none in 2014. The authorities pointed out that reflection periods are only granted to foreign nationals without a legal residence status in Finland. Some interlocutors met by GRETA opined that that police officers and border guard are reluctant to issue reflection periods when investigating THB offences crimes because they want to reach results in their investigations as soon as possible and minimise the risk of the suspected traffickers influencing their victims or otherwise covering their tracks.

170. The amendments to the International Protection Law adopted in March 2015 include a reference to victims of trafficking in the title of the law. The amendments introduce a recovery period which may be granted to victims who are admitted into the assistance system, if they are residing legally in Finland but do not want to co-operate with the police. Such a period is to be granted for 30 days, extendable by another 60 days. The assistance system is also given the right to grant a reflection period under certain circumstances. The Director of the Joutseno Reception Centre will be obliged to inform the police about the victim after the expiration of the recovery period or earlier in case of a threat to the victim's life, health or freedom.

171. It should also be noted that in connection with Finland's implementation of the EU Employer Sanctions Directive in 2012, employer obligations have been extended and provisions have been added to the Aliens Act concerning granting of a reflection period to third-country citizens who have been illegally residing and working in the country where the case involves working conditions indicating specific exploitation or where the person was under age when working illegally.

172. GRETA welcomes the provision in Finnish law and in the recently adopted legislative amendments which have the potential to strengthen the protection of victims of trafficking of a recovery and reflection period longer than the minimum of 30 days envisaged in the Convention. **GRETA urges the Finnish authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that all possible victims of trafficking are offered a reflection and recovery period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Police and border guard officers should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators.**

d. Residence permits

173. Article 14(1) of the Convention provides for two possibilities when it comes to the issuing of renewable residence permits to victims of trafficking: on the basis of their personal situation and/or their co-operation with the competent authorities in the investigation or criminal proceedings.

174. Section 52a of the Aliens Act stipulates the issuing of a residence permit for victims of THB on the following conditions:

- “1) the residence of the victim in Finland is justified on account of the pre-trial investigation or court proceedings concerning trafficking in human beings;
- 2) the victim is prepared to co-operate with the authorities so that those suspected of trafficking in human beings can be caught; and
- 3) the victim no longer has any ties with those suspected of trafficking in human beings.”

175. The Finnish Immigration Service establishes whether there are reasonable grounds to believe that the applicant is a victim of THB and whether s/he can be issued with a residence permit on the basis of Section 52a of the Aliens Act. Issuing the residence permit is not conditional on another authority identifying the person as a victim of THB. However, the Finnish Immigration Service requests the view of the police or the Border Guard as to whether the issuance of a residence permit is considered justified on the grounds of a pre-trial investigation or court proceedings. According to the *travaux préparatoires* concerning the Aliens Act,⁴¹ the police should identify in their statement all the arguments for or against the issuance of a residence permit. The Border Guard's view is taken into account in the statement if it has carried out investigation and granted a reflection period.

176. It should be noted that according to Section 52d of the Aliens Act, a third-country national working illegally in Finland is issued with a temporary residence permit if: 1) he or she has, while working, been a minor or his or her employment is connected with working conditions indicating particular exploitation; 2) his or her residence in Finland is justified on account of pre-trial investigation or court proceedings; 3) he or she is prepared to co-operate with authorities so that the suspected employers can be caught; and 4) he or she no longer has any ties with the suspects.

177. Under Section 79 of the Aliens Act, a person who has been granted a residence permit under Section 52a or 52d of the Act has the right to gainful employment.

⁴¹

Government legislative proposal 32/2006, <http://www.finlex.fi/fi/esitykset/he/2006/20060032.pdf>

178. A victim of THB is issued with a residence permit for at least six months and for a maximum of one year. A new fixed-term residence permit is issued if the requirements under which the previous one was issued are still met. A victim is issued a continuous residence permit after continuous residence of two years in the country if the circumstances on the basis of which s/he was issued with the previous fixed-term permit are still valid. If the victim is in a particularly vulnerable position, the residence permit may be issued on a continuous basis (Section 52a, subsection 3 of the Aliens Act), in which case co-operation is not required.

179. If a victim of THB has applied for international protection, the Finnish Immigration Service establishes whether the prerequisites for granting international protection are met pursuant to Section 87 of the Aliens Act (on asylum) and Section 88 (on subsidiary protection). If these prerequisites are not met, the Finnish Immigration Service examines in the same procedure whether there are grounds for issuing a victim with a residence permit for a victim of THB (Section 52a of the Aliens Act) or on compassionate grounds (Section 52 of the Aliens Act).

180. A victim of THB may also be granted a residence permit on other grounds, i.e. family ties, work or studies. EU citizens residing in Finland for more than three months must register their residence. If the requirements for registering (i.e. sufficient income) are not met, EU citizens may also apply for a residence permit on the grounds of being a victim of THB.

181. In 2011 only one victim of THB was issued a residence permit on the grounds of being a THB victim and in 2012, there were 10 such victims. In addition, 11 residence permits were issued in 2012 to victims of THB for the purpose of their co-operation with the competent authorities. In 2011 two persons (with their children) were granted residence permits on compassionate grounds as there were some indications of THB, but not all the criteria for granting a residence permit on the grounds of being a victim of THB were fulfilled. In the period 2010-2014 a total of five persons were granted subsidiary protection and eight persons were granted asylum.

182. GRETA considers that the Finnish authorities should ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, including when they are unable to co-operate with the authorities.

e. Compensation and legal redress

183. Article 15 of the Convention establishes the obligation for Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. Parties must also provide for the right of victims of trafficking to compensation from the perpetrators as well as adopt legislative or other measures to guarantee compensation for victims from the State. A human rights-based approach to action against THB entails the effective prosecution of traffickers, putting the emphasis on the right to effective remedy for the victim. Further, Article 15(1) of the Convention establishes that victims of trafficking must have access to information on relevant judicial and administrative proceedings in a language which they can understand.

184. According to the Criminal Procedure Act (689/1997), the court may appoint an *ex officio* lawyer and a support person for the victim during the pre-trial investigation and the trial, regardless of the victim's income. For other types of legal procedures the victim may get legal aid according to the Legal Aid Act (257/2002). The amount of legal aid depends on the income of the person concerned. In addition to legal aid, the document charges and possible costs of interpretation and translation are waived for a recipient of legal aid.

185. In Finland, a victim of THB can claim compensation from the offender in criminal proceedings or in separate civil court proceedings. The right to compensation is determined by the general Tort Liability Act (412/1974), according to which a victim may receive compensation for personal damages and other losses as well as for suffering. According to the Criminal Investigations Act (804/2011), any private law claim of the injured party must be clarified in the criminal investigation and in this context the police inform the injured party about his or her possible right to compensation.

186. A victim of THB can also claim compensation from the State under the Act on Compensation for Crime Damage (1204/2005), which allows the victim to receive compensation in a reasonable time without having to wait for the offender to pay it. However, a victim of crime can only be compensated by the State if the crime has been registered with the authorities. A victim can apply for State compensation within three years from a court decision or within 10 years of the crime if there was no prosecution. Compensation may be awarded in relation to personal injuries, suffering, damage to property, but also economic damage such as lost earnings, though only when the economic damage has been significant and has occurred as a result of the vulnerability of the victim. Compensation for economic damage is usually paid by the State Treasury only in part as the State Treasury is not obliged to pay out the full amounts referred to in court decisions. A victim of THB can also claim lost earnings through the State Centres for Economic Development, Transport and the Environment. The application has to be launched within six months of the missing payment. It is not known whether a victim of THB has ever tried to claim lost earnings in this way, but should such a claim succeed, the amount obtained would be deducted from any State Treasury compensation. Compensation for certain expenses such as medical expenses resulting from THB should in the first instance be sought from the Social Insurance Institution of Finland (KELA).

187. Regardless of which public institution pays the compensation, the State always tries to collect the compensation from the offender. Compensation is not paid if the victim, at the moment of launching the application for compensation or at the time of the crime, was not officially resident in Finland or in another EU Member State. However, compensation for crimes suffered abroad is possible under certain circumstances if the victim was officially resident in Finland at the time of the crime.

188. There is no official data on the number of compensations applied for or paid to victims of THB in Finland, but it would appear that on average, there has been one application per year and that State compensation has been awarded only in some 10 cases of THB, all but one of which were related to labour exploitation. In the one case of THB for the purpose of sexual exploitation the amount of State compensation was higher than in the labour-related cases. The Act on Compensation for Crime Damage foresees higher amounts of compensation for the kind of suffering related to sexual exploitation (maximum 8800 Euros for adults and 15 000 Euros if the victim was a minor at the time of the offence) than that related to forced labour (where the general limit of 3300 Euros applies). The state compensation amounts are reviewed and, if necessary, adjusted every third year (for inflation etc.). In work-related THB cases in which there has been a court conviction, the victims have usually additionally been awarded lost earnings.

189. Despite the existence of legal possibilities for THB victims to obtain compensation, only a small number of victims of trafficking have actually been awarded compensation, suggesting that the effective access to compensation is limited in practice. It is noteworthy that while in THB cases the victim is treated as an injured party and can seek compensation, in cases of pimping or extortionate labour exploitation victims are considered as witnesses and therefore not entitled to compensation.

190. **GRETA urges the Finnish authorities to adopt additional measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to:**

- **ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;**
- **enable victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation and by adding compensation issues into existing training programmes for law enforcement officials and the judiciary;**
- **include all victims of trafficking in the scope of the Act on Compensation for Crime Damage, irrespective of residence status;**
- **enable victims of trafficking who have left Finland to benefit from the possibilities to claim compensation.**

191. Further, GRETA invites the Finnish authorities to develop the system for recording compensation claims of and awards to victims of trafficking.

f. Repatriation and return of victims

192. Article 16 of the Convention requires Parties to establish repatriation programmes which aim at avoiding re-victimisation and involve relevant national or international institutions and NGOs, as well as to make efforts to favour the reintegration of victims into the society of the State of return. Parties must also make available to victims of trafficking contact information or structures that can assist them in the country of return, such as law enforcement offices, NGOs, legal professionals and social welfare agencies. The return of victims of trafficking must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim of THB. Furthermore a victim may not be returned where such action would be in contravention of the State's obligation of international protection, recognised in Article 40(4) of the Convention.

193. Section 85 of the Integration Act lays down provisions on reimbursing reasonable travel and removal expenses for victims of THB who have a continuous residence permit and are returning voluntarily to their home country or the country from which they departed on a non-temporary basis. The municipality can furthermore pay such returnees financial support, to cover expenses incurred upon their return, corresponding to the basic amount of social assistance for at most two months, in the case of one person, and at most four months for a family. Under Section 47 of the Integration Act, municipalities are compensated for the costs incurred in supporting the return of victims.

194. Under Section 31 of the International Protection Act, a victim of THB who has no municipality of residence in Finland can be reimbursed for reasonable travel and removal expenses to his or her home country or other country to which his or her entry is guaranteed, and can be paid assistance corresponding to the basic amount of social assistance for at most two months, in the case of one person, and at most four months for a family. The assistance system operated by the Joutseno Reception Centre supports the safe return of victims of THB who have no municipality of residence in Finland and has also supported the return of EU citizens to their home countries (those who are not entitled to the assisted voluntary return programme operated by the IOM, see paragraph 36). Where necessary, the assistance system may also, with the victim's consent, contact the structure responsible for assisting THB victims in the home country or a country that applies the Dublin III Regulation, in order to ensure further assistance and support.

195. In 2010, the IOM and the Finnish Immigration Service launched a voluntary return programme for third-country nationals, including victims of THB. Under this programme, the IOM provides assistance in obtaining travel documents, covers the travel expenses and may also grant financial support for reintegration. In recent years the IOM has assisted the return of one to three victims of THB per year.

196. On 31 October 2012, the Ministry of the Interior set up a legislative project for consolidating the system of assisted voluntary return. Draft amendments to the International Protection Act and the Aliens' Act were prepared and the Government consulted relevant institutions, civil society and international organisations such as the IOM. The draft amendments (HE 170/2014 vp) were submitted to Parliament on 25 September 2014 and adopted on 6 March 2015. The IOM has welcomed the creation of a permanent legal framework for Assisted Voluntary Return but has expressed concern that it would apply only to asylum seekers and that victims who are EU nationals would not be entitled to assisted voluntary return.

197. **GRETA considers that the Finnish authorities should take further steps to:**

- ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this implies protection from retaliation and re-trafficking;
- make efforts to develop co-operation with countries of origin of victims of trafficking in order to ensure proper risk assessment and safe return of victims, as well as their effective reintegration.

4. Implementation by Finland of measures concerning substantive criminal law, investigation, prosecution and procedural law

a. Substantive criminal law

198. Pursuant to Article 18 of the Convention, Parties have the obligation to establish THB as a criminal offence when committed intentionally. Further, the Convention requires Parties to consider taking measures to criminalise the use of services which are the object of exploitation, with the knowledge that the person is a victim of THB (Article 19). In addition, forging travel or identity documents, removing, concealing or destroying them, as well as procuring or providing them, must also be established as criminal offences, when committed intentionally and for the purpose of enabling THB (Article 20).

199. Chapter 25, Section 3, of the CC provides for imprisonment of at least four months and at most six years for THB. The aggravating circumstances provided in Section 3a include: (1) violence, threats or deceit used instead of or in addition to the means referred to in Section 3, (2) grievous bodily harm, a serious illness or a state of mortal danger or comparable particularly grave suffering which is intentionally or through gross negligence inflicted on another person, (3) the offence being committed against a child or a person whose capacity to defend himself or herself has been substantially diminished, (4) the offence being committed within the framework of a criminal organisation as referred to in Chapter 17, Section 1a, subsection 4 of the CC. In the presence of aggravating circumstances, the sanction is imprisonment for at least two years and at most 10 years.

200. Further, a person guilty of or party to an offence (or an attempt at it) under Chapter 25, Section 3 or 3a of the Criminal Code may have a ban on business operation inflicted on him, based on the law on Bans on Business Operations (1059/1985).

201. As noted in paragraph 14, in December 2014 Parliament approved the Government's legislative proposal to clarify the difference between trafficking offences and pimping. One of the changes introduced is the means of "pressure" under Chapter 25, Section 3, of the CC. Furthermore, the references to grievous bodily harm, a serious illness or a state of mortal danger or comparable particularly grave suffering hitherto listed as characteristics of aggravated pimping in the CC were deleted. Also, the term "to take control of another person" were replaced by "to subjugate another person", thereby extending the coverage of Chapter 25, Section 3, of the CC to situations in which the victim has not lost his or her liberty. These amendments are expected to result in THB crimes being investigated and prosecuted as such, rather than as pimping. The amendments also introduced the possibility to appoint a legal counsel at the stage of police investigation.

202. As noted in paragraph 110, the use of sexual services of a person who is a victim of THB is criminalised under Chapter 20, Section 8, of the CC. In March 2015 the Parliament adopted an amendment which provides that a person who, by promising or giving remuneration involving direct economic benefit induces another person to engage in sexual intercourse or in a comparable sexual act, even if he or she is aware or has reason to believe that the other person is a victim of THB or pimping, is liable to conviction for the offence of exploitation of a victim of prostitution. The amendment is expected to enter into force on 1 June 2015 or 1 January 2016.

203. The confiscation of proceeds of crimes is regulated by Sections 3 and 4 of Chapter 10 of the CC. In addition, Chapters 3 and 4 of the Coercive Measures Act contain provisions on prohibition of transfer of criminal assets, confiscation for security and seizure. Based on these provisions, the availability of a suspect's assets can be secured, should a subsequent court decision provide that the sentenced person's assets should be transferred to the State or used to pay fines or compensation. Though no official statistics exist on the matter, the Finnish authorities have indicated that criminal assets have been confiscated in a number of THB cases. For instance dwellings and a car were confiscated during the investigation of suspected trafficking for forced labour in ethnic restaurants. Some injured parties have reportedly received compensation for outstanding pay of about 1 000 000 Euros and damages of about 200 000 Euros. In a case against a timber company the defendant's house was confiscated and the injured parties received hundreds of thousands of Euros in damages.

204. The acts described in Article 20c of the Convention are covered by several provisions of the CC. Retaining, removing, concealing, damaging or destroying a travel or identity document of another person are criminal offences under Chapter 28, Sections 1, 2, 4, 5 and 11 of the CC, as well as under Chapter 32, Section 1 and Chapter 35, Sections 1 and 2. Punishments range from fines to a maximum of four years of imprisonment.

205. The liability of legal persons is regulated in Chapter 9 of the CC. With regard to the offences referred to in the Convention, a legal person is criminally liable under the provisions on THB and aggravated THB and also under the provision on receiving offences. A corporation, foundation or other legal entity in the operations of which an offence has been committed may on the request of the public prosecutor be sentenced to a corporate fine if such a sanction has been provided in the CC for the offence in question. No statistics exist as to sanctions imposed on legal persons for involvement in THB offences.

b. Non-punishment of victims of trafficking in human beings

206. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so.

207. There are general provisions in the CC on the possibility of not prosecuting or punishing persons for offences they have committed, e.g. in cases where the act is deemed comparable to an excusable act (Chapter 6, Section 12, of the CC). There is also a general principle that criminal responsibility may be avoided in cases where the person had no real possibility to act differently in the situation, which is the case when a person has been compelled to commit an offence. Furthermore, there are some specific provisions on the possibility of not imposing penalties on victims of THB. Under Chapter 17, Section 7, of the CC, a foreigner who has committed a border offence due to the fact that s/he has been subjected to THB shall not be punished for it.

208. The National Rapporteur, in her second report to Parliament submitted on 10 September 2014, suggests abolishing the provision in the 2003 Public Order Act which prohibits the sale of sexual services in public places because people in a position of vulnerability who are possibly THB victims should be spared control measures by public authorities. In the same vein, she suggests deleting the reference in the Aliens' Act to the suspected sale of sexual services as a ground for deporting or refusing entry to persons who may have been forced to sell sex.

209. **GRETA considers that, in order to ensure compliance with Article 26 of the Convention, the Finnish authorities should adopt a provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so. Public prosecutors should be issued guidance and encouraged to be proactive in establishing if an accused is a potential victim of trafficking. While the identification procedure is on-going, potential victims of trafficking should not be punished for unlawful acts related to public order or immigration legislation.**

c. Investigation, prosecution and procedural law

210. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB (Article 1(1)(b)). In this context, Parties are required to co-operate with each other regarding investigations and/or criminal proceedings related to THB (Article 32). Further, the Convention establishes that the investigation or prosecution of THB offences must not be dependent on victims' reports, and that associations or NGOs aimed at fighting THB or protecting human rights must be able to assist and support victims during criminal proceedings, in accordance with the conditions established in the internal law and with the victim's consent (Article 27).

211. The investigation related to THB offences is initiated by the police or border guard and the prosecutor decides on the pressing of charges. The victim may also initiate proceedings in the event that the prosecutor decides not to press charges or the police or border guard decide not to investigate a case.

212. Under the 2011 Coercive Measures Act, the Finnish police and border guard have the right to use special investigative techniques such as phone tapping, electronic surveillance, undercover operations and controlled purchase. According to the authorities, the most frequently used forms of special investigation techniques in the pre-trial investigation of THB cases are surveillance, the use of covert human intelligence sources, telecommunications interception (listening to phone conversations or monitoring text messages), search of premises, search of data contained in a technical device and financial investigation.

213. According to several interlocutors met by GRETA in Finland, pre-trial investigations and court proceedings in THB cases tend to be rather long. The average duration of police investigations in THB cases varied between 84 days in 2010 and 592 days in 2013, and was even longer in cases of aggravated THB (862 days in 2014).⁴² The Finnish authorities have pointed out that in general, the nature of the offence of THB makes the pre-trial investigation demanding, international co-operation and exchange of information are often needed, and this prolongs the investigation.

214. In 2011 there were 6 court decisions in THB cases (one resulting in a sentence), in 2012, 12 decisions (three resulting in sentences), in 2013, 10 decisions (out of which four for aggravated THB), and in 2014 two decisions (one for aggravated THB). These were decisions by district courts, some of which have been appealed though the precise number is not available.

⁴² The average duration naturally depends on the number of cases which have been brought to a conclusion in the year in question. For example, the long average duration of 682 days given for the investigation of a case of aggravated trafficking in 2014 is explained by the fact that this case, the investigation of which started in 2012, was the only such investigation brought to a conclusion in 2014, whereas the average duration of concluded investigations into aggravated THB seems to lie somewhere around 200 days on average in previous years.

215. The first convictions for work-related trafficking in human beings were pronounced in 2012 and since then such cases have exceeded the number of cases of THB for the purpose of sexual exploitation. According to the National Rapporteur, as the distinction between pimping and THB for the purpose of sexual exploitation is not very clear in Finnish legislation, prosecutors tend to pursue borderline cases as pimping because it is easier to get convictions.⁴³ In this context, it is noteworthy that if from the point of view of punishing the perpetrator, there is not much difference as both crimes carry similar sentences, from the victim's point of view there is an important difference: if the offence is investigated as pimping, the victim is treated as a witness and not as an injured party as is the case for THB offences. This can affect the access to rights such as residence permit and compensation. It is also noteworthy that the intention of the legislator was that if a pimping case shows elements of THB, it should be pursued as the latter. In a National Police Board instruction it is stressed that if indicators of THB are found in the pre-trial investigation, the case should, as a rule, be investigated under a THB heading. The newly adopted legislative amendments make the distinction between pimping and THB clearer.

216. A report by HEUNI highlights that there is an important difference whether a case is investigated as work-related THB or extortionate work discrimination, as THB is considered an offence against personal liberty which carries with it imprisonment, whereas extortionate work discrimination is punished by a fine.⁴⁴ According to HEUNI and the National Rapporteur, the CC provisions are sufficient and an explicit definition of forced labour does not need to be added to Finnish legislation. However, the absence of guidance on how to interpret the relevant provisions when trying to establish whether a given offence is a matter of extortionate work discrimination or THB poses problems.

217. While the overwhelming majority of victims of THB identified in Finland have been foreign citizens, a significant share of THB cases which have resulted in convictions concern trafficking within Finland, with both the victims and the perpetrators being Finnish citizens. One of these cases, which came to the Helsinki District Court in December 2011, involved a model agency which hired young Finnish women with promises of model work, while in reality they were subjected to sexual exploitation. The owner of the agency was charged with three accounts of THB and was sentenced to imprisonment by the Helsinki District Court and after appeal in the Helsinki Appeal Court. The case is under appeal at the Supreme Court.

218. On 31 October 2014, the Supreme Court issued its first-ever decision in a case where the defendant had been convicted for aggravated THB by the Pirkanmaa District Court, the Turku Appeal Court had changed the sentence to aggravated pimping, and the Supreme Court changed it back to aggravated THB. Both the defendant and the victim were Finnish women, the defendant being 18 and the victim 17 years old at the time of the crime. One of the key elements in the Supreme Court's argumentation was that while the victim had not physically been deprived of her liberty, the defendant had nonetheless taken her under her control and used deceit by falsely claiming that there were threats from third parties to harm the victim and her family if she did not agree to prostitute herself, with most of the resulting income being taken by the defendant. In addition to this case, the Supreme Court has given leave to appeal in two THB cases which are currently pending.

219. According to the Criminal Investigations Act, a counsel or a support person for the injured party has the right to be present when his or her client is questioned, unless the person in charge of the investigation prohibits this for important reasons related to the pre-trial investigation (section 31 of the Act). The support person may also be present during the court proceedings (Chapter 2, sections 1a, 3 and 9 of the Criminal Procedure Act). A support person may be a representative of an NGO, an association or a group. Staff of Monika Multicultural Women's Association and the Victim Support Finland are among those who operate as support persons throughout the criminal proceedings.

⁴³ National Rapporteur's Report to Parliament 2014, page 69.

⁴⁴ HEUNI publications Nos. 75 and 76: Exploitation of migrant workers in Finland, Sweden, Estonia and Lithuania: Uncovering the links between recruitment, irregular employment practices and labour trafficking, and *Tuulikaapissa on Tulijoita: Työperäinen ihmiskauppa ja ulkomaalaistentyöntekijöiden hyväksikäyttö ravintola ja siivouspalveluilla*.

220. GRETA welcomes the fact that in the past two years there have been several successful prosecutions in cases of THB for labour exploitation. However, the total number of convictions for human trafficking in Finland is low in relation to the number of victims in the assistance system and the number of THB cases registered by the police. **GRETA urges the Finnish authorities to ensure that THB offences for all types of exploitation are proactively investigated and prosecuted promptly, leading to proportionate and dissuasive sanctions, by building further the capacity and specialisation of police officers, prosecutors and judges.**

d. Protection of victims and witnesses

221. By virtue of Article 28 the Convention, Parties must take measures to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after the investigation and prosecution of perpetrators. This protection can be of various types (physical, relocation, identity change, etc.) and is to be provided to victims of trafficking, to those who report it or otherwise co-operate with the investigating or prosecuting authorities, to witnesses who give testimony and, when necessary, to members of the families of those listed above. Further, Article 30 of the Convention includes a provision requiring Parties to take measures to protect victims' private life and identity and to provide for their safety and protection from intimidation in the course of judicial proceedings, including special protection measures for child victims of THB.

222. In Finland, there are several measures that can be taken to protect the safety of victims before, during and after legal proceedings. Threatening a witness is criminalised under Chapter 15, Section 9, of the CC. The Code of Judicial Procedure (4/1734) allows for the hearing of the victim to be held without the presence of the suspected offender or another person if this is appropriate and necessary, in order to protect the person being heard (Chapter 17, Section 34). It is also possible that the victim may be heard by video conference or other appropriate technical means of communication (Chapter 17, Section 34a). Provisions relating to protecting the safety of victims, such as provisions relating to preventing harassment, safety of persons attending judicial proceedings and notifying of the release of a person deprived of his or her liberty, are also included in the Act on Restraining Orders (898/1998) and the Police Act (493/1995).

223. Under Section 6 of the Act on the Publicity of Court Proceedings in General Courts (370/2007), it is possible for the court to order the identity of the injured party in a criminal case that concerns a particularly sensitive aspect of his or her private life to be kept secret. It is also possible for the court to order that the oral proceedings shall be held in full or to the necessary extent without the presence of the public if sensitive information regarding matters relating to the private life, health, disability or social welfare of a person is presented in the case (section 15). Under Section 9, subsection 1, paragraph 2 of the Act, a judicial proceedings document is to be kept secret to the extent that it contains sensitive information regarding matters relating to the private life, health, disability or social welfare of a person.

224. Relevant regulation is also included in the Act on the Population Information System and the Identification Services of the Population Register Centre (661/2009). In particular, under Section 12 of the said Act, it is possible to change a personal identity code in situations where this is absolutely essential to protect the person in circumstances in which his or her health or safety are subject to a clear and lasting threat. The Names Act (694/1985) contains provisions on making changes to a first name or surname.

225. Finland did not previously have legislation on witness protection or an associated programme, but in May 2014 the Government submitted to Parliament a draft Act (HE 65/2014 vp) on a witness protection programme and Parliament adopted the amendments in January 2015. The Act as adopted will include provisions on the requirements for initiating and discontinuing a witness protection programme, on the competent authorities and on certain protection measures. These measures may relate to giving the protected person a new temporary identity, a new place of residence and protection through various forms of technical equipment such as video surveillance of the accommodation used for the protected person. A foreigner will also be able to profit from the witness protection programme. Some minor amendments and additions to the Aliens' Act were adopted at the same time as the witness protection law, e.g. the introduction of the possibility for police to grant a continuous residence permit for persons covered by the witness protection programme. Amendments to other pieces of legislation were also adopted to enable the proper implementation of the new witness protection law.

226. GRETA welcomes the adoption by Parliament of legislation on a witness protection programme and considers that the Finnish authorities should take complementary practical measures to ensure the effective protection of victims of THB during the investigation and to prevent their intimidation during and after court proceedings.

5. Concluding remarks

227. GRETA welcomes the steps taken by the Finnish authorities to combat trafficking in human beings and support victims of trafficking, through the adoption of relevant legislation, the setting up of a national assistance system for victims of trafficking, the appointment of an independent National Rapporteur and, more recently, a National Co-ordinator.

228. However, several important challenges remain to be tackled through legislative, policy or practical measures, in order to meet the requirements of the human rights-based and victim-centred approach followed by the Convention (see paragraphs 38-41). It is incumbent on the authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures provided for under the Convention and Finnish law. Further, while there is a possibility in law for victims to be granted a recovery and reflection period, a residence permit and compensation, the authorities must ensure victims' effective access to these entitlements.

229. GRETA also draws attention to the need for adapting the existing anti-trafficking policies with a view to paying increased attention to emerging forms of trafficking in Finland and strengthening action against trafficking for the purpose of sexual exploitation. Additional prevention and protection measures should also be taken in order to address the particular vulnerability of children to trafficking. Strengthened co-operation and co-ordination between the national and municipal authorities and NGOs will contribute to building strategic partnerships against human trafficking.

230. Increasing the number of convictions for human trafficking offences and securing proportionate and dissuasive sanctions is another area where further action is needed in order to fully apply the human rights-based and victim-centred approach promoted by the Convention.

231. All professionals who may come into contact with victims of human trafficking, including law enforcement officials, prosecutors, judges, labour inspectors and social workers, must be continuously informed and trained about the need to apply a human rights-based approach to action against human trafficking on the basis of the Convention and the case law of the European Court of Human Rights.

232. GRETA invites the Finnish authorities to keep it informed on a regular basis of developments in the implementation of the Convention and in particular as regards the achievements of the new anti-trafficking co-ordinator and the implementation of the recently adopted legislative amendments of relevance to anti-trafficking work and protection of victims.

Appendix I: List of GRETA's proposals

Definition of "trafficking in human beings"

1. GRETA considers that stating explicitly in legislation the irrelevance of the consent of a victim of trafficking to the intended exploitation can improve the implementation of the anti-trafficking provisions.
2. GRETA welcomes the adoption of amendments to the Criminal Code aimed at making the distinction between THB and pimping clearer and stresses that it would similarly be useful to make clearer the distinction between THB for the purpose of labour exploitation and extortionate work discrimination.

Comprehensive approach and co-ordination

3. GRETA urges the Finnish authorities to adopt as a matter of priority a new or updated action plan and/or strategy against THB, in which priorities, objectives, concrete activities and stakeholders responsible for their implementation are clearly defined and budgetary resources allocated. The action plan/strategy should be accompanied by a mechanism for monitoring of its implementation.
4. GRETA also considers that the Finnish authorities should take additional steps to ensure that national action to combat THB is comprehensive, and in particular to:
 - further involve NGOs and other members of civil society in the development and implementation of anti-trafficking measures, including the elaboration of a future national action plan or strategy as well as the evaluation of anti-trafficking efforts; the conclusion of formal Memoranda of Understanding between public bodies and competent NGOs should be encouraged;
 - strengthen co-ordination between the national and municipal authorities and NGOs active in the field of action against THB, as well as co-ordination between relevant stakeholders at municipal level;
 - formalise co-ordination among different actors in the anti-trafficking area in the identification and referral of victims for assistance;
 - pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking and ensuring that the best interests of the child are fully taken into account;
 - strengthen action to combat THB for the purpose of sexual exploitation including identification;
 - pay increased attention to emerging forms of trafficking in Finland (such as forced begging and forced criminality) and internal trafficking.
5. Further, GRETA invites the Finnish authorities to provide for an independent evaluation of the implementation of the National Action Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat human trafficking.

Training of relevant professionals

6. GRETA notes the efforts made in Finland to train different professionals on issues related to human trafficking and considers that the Finnish authorities should take further steps to provide specialised and continuous training to professionals who may come into contact with victims of THB, in particular police officers, prosecutors, judges, labour inspectors, municipal officials, health professionals, social workers and teachers, to enable them to identify victims of trafficking, assist and protect victims including as regards the facilitation of compensation, and secure convictions of traffickers.

Data collection and research

7. For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Finnish authorities to develop and maintain a comprehensive and coherent data collection system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination). The existence of a comprehensive data collection system can assist the preparation, monitoring and evaluating of anti-trafficking policies and would also facilitate the work of the National Rapporteur. Data collection should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.

8. GRETA welcomes the attention given to research into issues related to THB and invites the Finnish authorities to continue conducting and supporting research on THB-related issues as an important source of information on the impact of current policies as well as a basis for future measures. Areas where further research is needed, in order to shed more light on the extent of the problem of THB in Finland, include internal trafficking and emerging forms of trafficking, such as for the purpose of forced begging and forced criminality.

International co-operation

9. GRETA welcomes the efforts made by the Finnish authorities in the area of international co-operation to combat THB and invites the authorities to continue developing international co-operation with a view to preventing THB, assisting victims of trafficking and prosecuting offenders, including through exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin.

Measures to raise awareness

10. GRETA considers that there is need for more awareness-raising measures in Finland about the risks of THB and the rights of victims, especially among migrants. GRETA considers that future actions in the area of awareness raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. The success of the efforts is linked to efficient data collection, adequate funding and regular evaluation.

Measures to discourage demand

11. GRETA considers that the Finnish authorities should make more efforts to discourage demand for the services of trafficked persons for the purpose of labour exploitation, in partnership with the private sector and civil society. In this context, GRETA invites the Finnish authorities to consider establishing as a criminal offence the use of services which are the object of labour exploitation, with the knowledge that the person is a victim of trafficking in human beings.

Economic, social and other initiatives for groups vulnerable to THB

12. GRETA notes the measures taken by the Finnish authorities vis-à-vis groups vulnerable to THB and considers that the authorities should continue to develop the aspect of prevention through social and economic empowerment measures, including by integration of the prevention of human trafficking in the policies for unaccompanied children, asylum seekers and migrant workers.

Border measures to prevent THB and measures to enable legal migration

13. GRETA considers that the Finnish authorities should continue their efforts to:
- detect and prevent THB through border control measures;
 - introduce a checklist to identify potential THB-related risks during the visa application system.

Identification of victims of trafficking in human beings

14. GRETA urges the Finnish authorities to improve identification procedures in order to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures provided for by the Convention, in particular by:

- introducing a clear national identification and referral mechanism which defines the roles and responsibilities of different stakeholders and promotes a multi-agency approach to victim identification by involving NGOs, labour inspectors, social workers, health-care staff, municipal staff and other relevant actors;
- providing frontline staff with operational indicators, guidance, training and toolkits to be used in the identification process; these indicators should be harmonised and shared between the various stakeholders concerned and be regularly updated in order to reflect the changing nature of human trafficking;
- guaranteeing that in practice identification is dissociated from the victim's co-operation in the investigation;
- improving the proactive detection of victims of THB, the gathering of intelligence and the sharing of information between relevant actors, in particular as regards sexual exploitation and new forms of trafficking, such as forced begging;
- setting up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking, involves child specialists, ensures that the best interests of the child are the primary considerations and strengthens the detection of victims of THB among unaccompanied minors.

Assistance to victims

15. GRETA urges the Finnish authorities to ensure that the assistance provided to victims of THB is adapted to their specific needs and that minimum standards are guaranteed across the country, regardless of the service provider. When specialised assistance is delegated to NGOs, the State has an obligation to provide adequate funding. Particular attention should be paid to providing appropriate assistance to child victims of THB, including unaccompanied minors.

16. Further, GRETA considers that the Finnish authorities should provide regular specialised training to all professionals responsible for the provision of assistance and protection measures to victims of trafficking.

Recovery and reflection period

17. GRETA urges the Finnish authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that all possible victims of trafficking are offered a reflection and recovery period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Police and border guard officers should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators.

Residence permits

18. GRETA considers that the Finnish authorities should ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, including when they are unable to cooperate with the authorities.

Compensation and legal redress

19. GRETA urges the Finnish authorities to adopt additional measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to:

- ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;
- enable victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation and by adding compensation issues into existing training programmes for law enforcement officials and the judiciary;
- include all victims of trafficking in the scope of the Act on Compensation for Crime Damage, irrespective of residence status;
- enable victims of trafficking who have left Finland to benefit from the possibilities to claim compensation;

20. Further, GRETA invites the Finnish authorities to develop the system for recording compensation claims of and awards to victims of trafficking.

Repatriation and return of victims

21. GRETA considers that the Finnish authorities should take further steps to:

- ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this implies protection from retaliation and re-trafficking;
- make efforts to develop co-operation with countries of origin of victims of trafficking in order to ensure proper risk assessment and safe return of victims, as well as their effective reintegration.

Non-punishment of victims of trafficking in human beings

22. GRETA considers that, in order to ensure compliance with Article 26 of the Convention, the Finnish authorities should adopt a provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so. Public prosecutors should be issued guidance and encouraged to be proactive in establishing if an accused is a potential victim of trafficking. While the identification procedure is on-going, potential victims of trafficking should not be punished for unlawful acts related to public order or immigration legislation.

Investigation, prosecution and procedural law

23. GRETA urges the Finnish authorities to ensure that THB offences for all types of exploitation are proactively investigated and prosecuted promptly, leading to proportionate and dissuasive sanctions, by building further the capacity and specialisation of police officers, prosecutors and judges.

Protection of victims and witnesses

24. GRETA welcomes the adoption by Parliament of legislation on a witness protection programme and considers that the Finnish authorities should take complementary practical measures to ensure the effective protection of victims of THB during the investigation and to prevent their intimidation during and after court proceedings.

Appendix II: List of public bodies and intergovernmental and non-governmental organisations with which GRETA held consultations

Public bodies

- Ministry of Foreign Affairs
- Ministry of the Interior
- Ministry of Justice
- Ministry of Social Affairs and Health
- Ministry of Employment and the Economy
- Immigration Service
- National Police Board
- National Bureau of Investigation
- Border Guards
- Prosecution Service
- Joutseno Reception Centre
- Vaasa Reception Centre
- City of Lappeenranta
- City of Vaasa
- Parliament
- Supreme Court
- National Rapporteur on Trafficking in Human Beings
- Ombudsman for Children

Intergovernmental organisations

- International Organization for Migration (IOM)
- UNICEF
- European Institute for Crime Prevention and Control, affiliated with the United Nations⁴⁵

Non-governmental organisations

- Pro-Tukipiste
- Monica Multicultural Women's Association
- Victim Support Finland
- Finnish Federation of Settlement Houses
- Save the Children
- Federation of Mother and Child Homes
- Nytkis
- Feminist Association Unioni
- Exit
- Association of Local and Regional Authorities
- SAK Trade Union Federation
- The Industry Federation

⁴⁵ Operates under the auspices of the Government of Finland and the United Nations

Government's comments

The following comments do not form part of GRETA's analysis concerning the situation in Finland

GRETA engaged in a dialogue with the Finnish authorities on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version.

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Finnish authorities on 9 April 2015 and invited them to submit any final comments. The comments of the authorities of Finland, submitted on 11 May 2015, are reproduced hereafter.

Final comments of the Government of Finland
on the final report drawn up by the Group of Experts on Action against
Trafficking in Human Beings concerning the implementation of the Council of
Europe Convention on Action against Trafficking in Human Beings by Finland

The Government acknowledges the receipt of the final report drawn up by the Group of Experts on Action against Trafficking in Human Beings (GRETA) concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland, which was adopted by GRETA at its 22nd meeting, held from 16-20 March 2015.

Having regard to Article 38, paragraph 6, of the Convention and Rule 14 of GRETA's Rules of Procedure for evaluating implementation of the Convention, the Finnish authorities have now been invited to submit any final comments they may have on the report.

In this connection, the Government wishes to note that it has also been requested to provide comments on the draft version of the report approved by GRETA at its 21st meeting, held from 17 to 21 November 2014. At the same time the Government provided replies to the requests for information made throughout the draft report. The Government submitted also further additional information requested by the Secretariat.

Following the invitation by GRETA, the Government would like to submit the following final comments on the final report. These comments are made in a chronological order.

Final report

Paragraph 12: The Government wishes to inform that Finland has on 17 April 2015 deposited its instrument of acceptance concerning the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210). The Convention will enter into force in respect of Finland 1 August 2015.

Para 21: The Government wishes to inform that a new Non-Discrimination Act (1325/2014), which reformed the provisions on non-discrimination, entered into force on 1 January 2015. As a result of the reform, the Ombudsman for Minorities was replaced by a Non-Discrimination Ombudsman and the Ombudsman as well as the Ombudsman's Office was brought under the administrative branch of the Ministry of Justice.

Paragraph 15: The Government recalls its comments on the draft report and wishes to recall that the obligation of the municipalities to provide social and health services is not set out in the Act on Social and Health Care Planning and Central Government Transfers to Local Government (733/1992), but in separate pieces of legislation, as follows.

Pursuant to Article 19 of the Constitution of Finland (731/1999), the public authorities shall guarantee for everyone, as provided in more detail by an Act, adequate social, health and medical services and promote the health of the population.

Furthermore, the Health Care Act (1326/2010) stipulates that urgent medical health care is to be provided to anyone in need of it, regardless of residence status.

In addition, provisions on the municipalities' obligation to provide social and health services are contained, e.g., in Social Welfare Act (1301/2014), Primary Health Care Act (66/1972), Act on Specialized Medical Care (1062/1989) and Mental Health Act (1116/1990).

Moreover, according to Section 3 of the Act on Social and Health Care Planning and Central Government Transfers to Local Government, the municipalities must provide funding for the social and health care, for which a certain government transfer is explicitly made.

Paragraph 27: The Government wishes to clarify that, more precisely, since 2006, the Joutseno Reception Centre, which is nowadays steered by the Finnish Immigration Service, has been assigned the role of coordinating the provision of assistance to victims of THB.

The Government underlines that at the time of introducing the Assistance System, the Ministry of Labour was responsible for the Centre. The Finnish Immigration Service took over the steering of the Centre only after the reception activities had been transferred to the Ministry of the Interior in 2008.

Paragraph 24, 63 and 64: As the work with the establishment of National Anti-Trafficking Co-ordination Structure has further progressed, the Government would like to clarify the Structure as it has evolved during the preparations. In addition to the Anti-Trafficking Coordinator, the structure includes a Ministerial working group on internal security or an equivalent ministerial group of the new Government to be formed after the Parliamentary elections in April 2015, a Meeting of Permanent Secretaries (an already existing Government structure), the Co-ordination Secretariat (new structure) and the Networking (new).

The abovementioned Ministerial working group shall give the Structure political guidance when required. The Meeting of Permanent Secretaries consists of permanent secretaries of all Ministries. Using an already existing steering structure was preferred as opposed to setting up a specific new steering body. The Anti-Trafficking Coordinator will be present in the Meeting of Permanent Secretaries when matters related to this co-ordination are being discussed. As a new structure the Co-ordination Secretariat will be formed. The eventual meetings of the Secretariat are chaired by the Anti-Trafficking Coordinator who leads the Secretariat. The Secretariat will not be a heavy administrative structure and therefore will e.g. rely in most cases on electronic communication for its co-ordination tasks. It will be evaluated later on if the Secretariat needs special technical secretary services.

The networking activities (Networking) will link many important organizations and the Structure. These organizations are responsible for practical anti-trafficking activities both within the public administration and the civil society. Also some key experts from the municipalities will be invited to join these activities. The Networking will not consist of regularly organized meetings. It will aim to promotion of cooperation between different public and civil society organizations. The Coordination Secretariat shall discuss the Networking and different options related to its content before the actual start of the networking activities.

Paragraph 67 and 136: The Government wishes to observe that also foreign children in Finland enjoy the protection provided pursuant to the Child Welfare Act (417/2007). Child welfare services are offered and available to all.

Moreover, as to the uncertainty between child protection officials and other relevant authorities on the sharing of child-related information, the Government wishes to inform that a new Social Welfare Act (1301/2014) is entering into force gradually starting from 1 January 2015, aiming e.g. to ensure a low threshold for seeking assistance and guaranteeing that families receive timely and requisite child protection services.

The Government wishes to inform, furthermore, that a National Action Plan on the actions to be taken between 2014 and 2019 for the improvement of the child welfare system has been drawn up. These actions include guidance and training to authorities on their obligations, the exchange of child welfare information, as well as ways to investigate and take into account the needs of immigrant children and families.

The division of responsibilities between the professionals in contact with children and families will furthermore be clarified in an on-going development project for child protection for the years 2013-2015, implemented by the National Institute for Health and Welfare. The effects of and follow-up to child protection work will be reinforced and research in child protection and its co-ordination strengthened.

Finally, the National Institute for Health and Welfare is preparing a manual and online training for professionals working with children on information exchange between the relevant actors. The manual and training are expected to be in use by 2016.

Paragraph 102: The Government recalls, furthermore, that, as pointed out in its comments on the draft report, the business cards mentioned in this paragraph contain only the contact information of the relevant regional administration office. Thus, what is stated in the final report, *i.e.* that some OSH labour inspectors also hand out information printed on their business cards about where THB victims can seek help, is not entirely correct.

Paragraph 116: With regard to the provision of services to victims of THB in an irregular situation, the Government wishes to recall its comments to the draft report and observes that a Government Bill (HE 343/2014 vp) on the obligation of local authorities to arrange certain health care services for certain groups of migrants in an irregular situation was submitted to Parliament in December 2014. The Bill lapsed as the Parliament was not able to adopt it before the Parliamentary elections of April 2015.

Paragraph 117: The Government wishes to observe that the Finnish social and health care system is based on the principle of universal coverage. The principle of positive discrimination is applied in the provision of health and social services in order to provide additional support if special needs appear. The Government acknowledges, however, that since large geographical areas of the country are scarcely populated, distances may as such be challenging in terms of the access to services.

Paragraph 169: The Government wishes to recall its comments on the draft report and to emphasize that according to the applicable legislation a reflection period may be granted only to those THB victims who reside in Finland illegally. However, since most of the persons identified by the police in Finland as THB victims are residing legally in Finland, the current legislation does not permit the authorities to grant a reflection period. Neither, according to the applicable legislation, does the reflection period delay the pre-trial investigation.

The Government wishes to note, moreover, that a legislative amendment to take effect on 1 July 2015 will permit the authorities to grant all THB victims (i.e. also to those residing legally in Finland) either a reflection period or a recovery period during which the police is not permitted to interview the victims.

Paragraph 172: The Government wishes to inform that the instructions of the National Police Board for the handling of THB cases contains detailed advice on how to grant and record a reflection period. The Board will update the instructions to comply with the new legislation on assistance to THB victims that will take effect on 1 July 2015. At the same time, the Board will issue instructions on the recovery period.

Paragraph 202: The Government wishes to clarify that Chapter 20, Section 8 of the Criminal Code concerning the purchase of sexual services was specifically amended by introducing (only) the criminalisation of an act where the perpetrator "has reason to believe". Cases involving consciousness and showing intention were already covered by Section 8.

This amendment of the Criminal Code will enter force on 1 June 2015.

GRETA's proposals (Appendix 1)

Proposal 1 and 22: The Government wishes to reiterate its replies to questions concerning the consent of a victim and a provision on the non-punishment of victims in GRETA's first evaluation round questionnaire and to recall that in Finland these issues are determined by principles of law and that special provisions on THB have not been considered warranted. Since no corresponding provisions exist on other (serious) criminal offences, either, specific provisions on THB would strongly depart from the common line.

Moreover, the Government observes that, in the light of their wording, Article 4, subparagraph b and Article 26 of the Convention do not specifically require legislative measures. Neither has the lack of legislation on the subject resulted in practices contrary to the aforesaid provisions.