



Strasbourg, 13 June 2014

GRETA(2014)15

# **GROUP OF EXPERTS ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS (GRETA)**

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**Reply from Finland  
to the Questionnaire for the evaluation of the implementation  
of the Council of Europe Convention on Action against  
Trafficking in Human Beings by the Parties**

**1st evaluation round**

Submitted on 31 January 2014

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This reply has been made public at the request of the Finnish authorities



## Preliminary Questions

### Question 1

The Unit for Human Rights Courts and Conventions in the Legal Service of the Ministry for Foreign Affairs was responsible for co-ordinating and collecting the replies.

The Legal Service is headed by Ms. Päivi Kaukoranta, Director General for Legal Affairs.

The Unit for Human Rights Courts and Conventions is headed by Mr. Arto Kosonen, Director, Legal Counsellor.

The contact person appointed to liaise with GRETA is Ms. Satu Sistonen, Legal Officer, Unit for Human Rights Courts and Conventions.

### Question 2

The questionnaire was distributed widely to State bodies and agencies.

The following State bodies and agencies contributed to responding to the questionnaire.

#### Body/agency

#### Main responsibilities and/or fields of competence

Ministry for Foreign Affairs

Foreign and security policy, assistance in the coordination of treaties and other international obligations; trade policy and commercial and economic relations; development policy and development cooperation; protection of the interests and rights of Finnish citizens and provision of consular services and corresponding other official services abroad; international judicial and investigation bodies; and Finnish diplomatic and consular missions abroad.

Ministry of Justice

Law drafting in the fields of constitutional law, public law, civil law, and criminal and procedural law; judicial system, prosecution service, enforcement service, legal assistance and other judicial services; criminal policy, crime prevention and criminal sanctions.

Ministry of the Interior

Public order and security, police administration and the private security sector; immigration, international protection, return migration; Finnish citizenship; promotion of ethnic equality and good ethnic relations, and prevention of racism and discrimination on the basis of ethnicity; rescue services; emergency response centres; border security and maritime

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	search and rescue service; domestic preparedness for civilian crisis management.
Ministry of Education and Culture	Education, training and research; the arts, culture, sport and youth work; the Evangelical Lutheran Church, the Orthodox Church and other religious communities.
Ministry of Employment and the Economy	Employment, unemployment and public employment services; working environment issues, collective agreements; regional development; economic and industrial policy; energy policy and coordination of the national preparation and implementation of climate policy, proper functioning of the markets, promotion of competition and consumer policy.
Ministry of Social Affairs and Health	Promotion of health and social welfare, and prevention of illness and social problems; social welfare and healthcare services; health protection, income security; health and safety at work; equality between men and women.
Ombudsman for Minorities	National Rapporteur for Trafficking in Human Beings (see, e.g. the Government's reply to Question 8). The 2013 report of the National Rapporteur is attached to the Government's reply.
Data Protection Ombudsman	Independent authority operating in connection with the Ministry of Justice. The Data Protection Ombudsman and the Office of the Data Protection Ombudsman provide guidance and advice on all issues related to the processing of personal data and control the observance of the law.
Ombudsman for Children	Independent authority within the administrative framework of the Ministry of Social Affairs and Health. The duty of the Ombudsman for Children is to promote the interests of children and the implementation of their rights on a general societal level together with other actors in the field.
Advisory Board for Ethnic Relations	Broad-based expert body set up by the Government. The purpose of the body is to promote interaction between Finland's ethnic minorities and the authorities, NGOs and the political parties in Parliament, equally at the national, regional and local level, and to provide

	the ministries with immigration policy expertise in the interests of furthering an ethnically equal and diversified society.
Statistics Finland	Statistics Finland's task is to compile statistics and reports concerning social conditions, to collect and maintain data files on society, to provide information service and promote the use of statistics, to develop statistical methods and conduct studies supporting the development of statistics, to develop the national statistical service in co-operation with other Government officials, to co-ordinate the national statistical service and to participate in and co-ordinate Finland's international statistical co-operation.
The Government of Åland	The Government of the self-governing province of Finland.
City of Helsinki	The capital of Finland with approximately 600 000 inhabitants (approximately 1.3 million inhabitants in the Helsinki region (Helsinki, Vantaa, Espoo and Kauniainen cities)).
City of Oulu	A city in the Northern part of Finland with approximately 190.000 inhabitants (over 200.000 inhabitants in the Oulu region).
City of Lappeenranta	A city of approximately 72 000 inhabitants located in the Southeastern Finland close to the Russian border.

### **Question 3**

The questionnaire was distributed widely to NGOs and other entities of civil society.

The following NGOs and other civil society entities contributed to responding to the questionnaire.

<u>NGO</u>	<u>Main responsibilities and/or fields of competence</u>
Suomen Kuntaliitto (Local and Regional Government Finland)	The membership of the Association of Finnish Local and Regional Authorities consists of the towns and municipalities in Finland. The Association also provides services to hospital districts, regional councils and joint authorities. The Association's goal is to promote the opportunities for local authorities to operate and co-operate and to enhance their vitality and viability for the benefit of the residents.

Suomen Ammattiliittojen keskusjärjestö SAK (The Central Organisation of Finnish Trade Unions SAK)	SAK is a national confederation of its 21 affiliated trade unions that serves as a stakeholder and lobbying organisation, a movement for social reform, and part of the international trade union movement.
Toimihenkilökeskusjärjestö STTK ry (The Finnish Confederation of Salaried Employees STTK)	STTK is the biggest professional confederation of salaried employees in Finland. It is comprised of 18 trade unions and their 608 000 members.
SOSTE Suomen sosiaali ja terveystyö ry (SOSTE Finnish Society for Social and Health)	The umbrella organisation for nationwide social and health organisations.
Lastensuojelun keskusliitto ry (Central Union for Child Welfare)	Promotes and develops cooperation between NGOs, municipalities and state authorities in the area of child welfare. The key tasks of the CUCW are to promote the best interests of the child, to lobby in decision-making regarding children, and to bring together the child welfare expertise of various parties. The CUCW's members comprise 96 NGOs and 36 municipalities.
Ensi- ja turvakotien liitto ry (The Federation of Mother and Child Homes and Shelters)	National child welfare NGO particularly concerned with helping families in difficult situations and preventing domestic violence. A central organisation for 29 member associations, which, i.e. run shelters, mother and child homes and a large number of community services and projects helping families in difficult situations.
Monikanaiset Liitto ry (Monika Multicultural Women's Association)	NGO operating as the umbrella organisation for several associations for women of ethnic minorities, and supporting efforts to enhance cultural tolerance and promote a safe everyday life for everyone. Expert in addressing issues around multiculturalism, ethnic relations, empowerment, social integration as well as violence towards migrant women.
Naisasialiitto Unioni ry (Feminist Association Unioni)	Politically independent feminist NGO, which aims at improving the status of women and to abolish discrimination on the grounds of sex.
Pelastakaa Lapset ry (Save the Children)	Save the Children Finland is a non-profit NGO devoted to improving the position of the whole child population and advancing due attention to safeguarding children's best interests. Part of Save the Children International.

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Pro-Tukipiste ry	Pro-Tukipiste ry is an independent NGO promoting the status and rights of persons working in the sex industry.
Rikosuhripäivystys (Victim Support Finland)	Victim Support Finland provides support and advice to crime victims as well as to their closed ones and witnesses. VSF also works to improve the status of victims and general awareness of problems concerning crime victims by giving statements and participating in different working groups in cooperation with other NGOs, as well as with authorities. Personal support to crime victims is an essential part of VSF activities.
Suomen Mielenterveysseura ry (Finnish Association for Mental Health)	A public health NGO aiming at promoting mental health of Finnish people and doing preventive work in the field of mental health. Coordinates, i.e. the operation of National Crisis Helpline and the work of 19 crisis centres in Finland. The network of crisis centres offer short-term counselling for persons in crisis. SOS Crisis Centre in Helsinki, in particular, offers crisis help for immigrants.
Suomen Settlementiliitto ry (Finnish Federation of Settlement Houses)	A politically and religiously independent NGO working in the field of cultural and social work. The Federation consists of 34 local settlements and 7 district organisations of Settlement Youth in Finland. The Federation acts in several different fields, including housing services and difficult life situations. The Federation has joined the International Federation of Settlements and Neighborhood Centres also in combating THB.

## **I. Integration of the core concepts and definitions contained in the Convention in the internal law of the parties**

### **Section I.1.**

#### **Integration of the Human Rights approach to action against trafficking in human beings**

#### **Question 4**

In Finland, human rights treaties are brought into force by a Parliament's Act, and they apply and bind as regular law. This is the case also with, e.g. the European Convention on Human Rights and the Council of Europe Convention on Action against Trafficking in Human Beings.

Moreover, the **Constitution of Finland** (the 'Constitution'; *Suomen perustuslaki, Finlands grundlag*; 731/1999) guarantees civil rights and liberties. It includes a catalogue of rights, among which section 7 guarantees everyone the right to life, personal liberty, integrity and security. No other enactment may contradict the Constitution. Furthermore, e.g. according to section 19 of the Constitution, those who cannot obtain the means necessary for a life of dignity have the right to receive indispensable subsistence and care. 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.

In addition, 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 (statements of the Constitutional Law Committee PeVL 17/2006 vp. and PeVL 32/2002 vp.). The Constitutional Law Committee is a preliminary supervisor of the constitutionality of legislation. Its principal function is to issue statements on proposals sent to it for consideration and on the constitutionality of other matters and their bearing on international human rights instruments.

Furthermore, according to section 22 of the Constitution, the public authorities shall guarantee the observance of basic rights and liberties and human rights. This provision emphasises the aim to guarantee basic rights and liberties materially, alongside with the protection related to procedural guarantees. The provision stretches the obligation to guarantee the observance of basic rights and liberties also to human rights guaranteed in international treaties binding on Finland. The provision also corresponds, for this part, to the basic elements of human rights treaties and the interpretation given to them by international supervisory bodies. International human rights obligations set the minimum level in the Finnish legal system. No exceptions that go below this level can be made.

Consequently, the human rights treaties ratified by Finland and the rights guaranteed therein are an integral part of the Finnish legal system.

#### **Question 5**

In relation to section 22 of the Constitution, the means related to the guaranteeing of basic rights and liberties are to be decided on a case by case basis. The key means include, i.e. the enactment of legislation that guarantee and specify the use of a certain right.



Furthermore, as mentioned in the Government's reply to Question 4, human rights treaties such as the European Convention on Human Rights and the Council of Europe Convention on Action against Trafficking in Human Beings apply and bind as regular law. Thus, the human rights treaties can and shall be applied as such as law by courts and authorities.

Moreover, the Constitutional Law Committee has stated that when applying and interpreting legislation, such interpretation should be aimed to be adopted, which promotes the realisation of human rights provisions, i.e. is human rights friendly (statement of the Constitutional Law Committee, PeVL 2/1990 vp.). Such a human rights friendly interpretation can also be deemed to derive from section 22 of the Constitution.

The Chancellor of Justice and the Parliamentary Ombudsman are the supreme guardians of law in Finland. According to sections 108 and 109 of the Constitution, the Chancellor of Justice and the Parliamentary Ombudsman shall, i.e. ensure that the courts of law, the other authorities and the civil servants, public employees and other persons, when the latter are performing a public task, obey the law and fulfil their obligations. In the performance of their duties, the Chancellor of Justice and the Parliamentary Ombudsman monitor the implementation of basic rights and liberties and human rights.

Both the Chancellor of Justice and the Parliamentary Ombudsman supervise the authorities by handling complaints received. They can also intervene on their own initiative. The Chancellor of Justice is entitled to perform inspections of those authorities, institutions, offices and other units that fall within the scope of his supervisory authority. The Ombudsman carries out inspections at offices and institutions, especially prisons, military garrisons and other closed institutions. The Chancellor of Justice can order the initiation of a police or preliminary investigation for the purposes of clarifying a particular matter.

According to the Constitution (section 110) the Chancellor of Justice or the Parliamentary Ombudsman may decide to bring charges against a judge for unlawful conduct in office or prosecute or order that charges be brought also in other matters falling within the purview of their supervision of legality. The Chancellor of Justice and the Parliamentary Ombudsman have the right to receive from public authorities or others performing public duties the information needed for their supervision of legality.

**Section I.2.**

**Comprehensive approach to THB, co-ordination of all actors and actions to prevent and combat THB and to protect its victims, and international co-operation**

**Questions concerning the comprehensive approach to THB (Article 1)****Question 6****Criminalisation and sanctions**

**Criminal Code of Finland** (the ‘Criminal Code’; *rikoslaki, strafflag*; 39/1889)

Chapter 25 - Offences against personal liberty

section 3 - Trafficking in human beings (650/2004)

section 3a - Aggravated trafficking in human beings (650/2004)

Chapter 20 - Sex offences (563/1998)

section 8 – Abuse of a victim of prostitution (743/2006)

**Entry into to country, including residence permits and reflection period**

**Aliens Act** (the ‘Aliens Act’; *ulkomaalaislaki, utlänningslag*; 301/2004)

**Assistance to victims**

**Act on the Reception of Persons Seeking International Protection** (the ‘Reception Act’; *laki kansainvälistä suojelua hakevan vastaanotosta, lag om mottagande av personer som söker internationellt skydd*; 746/2011)

**Municipality of Residence Act** (the ‘Municipality of Residence Act’; *kotikuntalaki, lag om hemmkommun*; 201/1994) (entitlement to public services in the municipality of residence)

**Act on Social and Health Care Planning and Central Government Transfers to Local Government** (*laki sosiaali- ja terveydenhuollon suunnittelusta ja valtion avustuksesta, lag om planering av och statsunderstöd för social- och hälsovården*; 733/1992) (the duty of municipalities to organise services)

**Act on the Promotion of Immigrant Integration** (the ‘Integration Act’; *laki kotoutumisen edistämisestä, lag om främjande av integration*; 1386/2010)

**Question 7**

On 25 August 2005, the Government approved first National Plan of Action against Trafficking in Human Beings. The Plan of Action covered the following areas: 1) identification of the victims of THB; 2) prevention of THB; 3) assistance to the victims of THB; 4) bringing traffickers to

justice; 5) dissemination of information and awareness-raising; 6) implementation of and follow-up to the Plan of Action. Each of these areas dealt with the main measures and also the parties responsible for them (different ministries, parties responsible for arranging and producing services). The Plan of Action also required the steering group set up to monitor the plan's implementation to evaluate the success of the measures and draft a revised Plan of Action.

The steering group submitted its proposals for revising the Plan of Action against THB on 5 December 2007. On 25 June 2008, the Government adopted a resolution on the Plan of Action against THB. The revised Plan of Action revises the measures set out in the original plan and supplements the measures on the basis of experience gained in their implementation. The revised Plan of Action against THB provides a comprehensive specification of the measures against THB that are to be implemented in the future in Finland.

The revised Plan of Action pays special attention to the identification of victims of THB. The revised plan also highlights the following: the importance of outreach work by the third sector and initial consultation in reaching and identifying THB victims; the need for more effective use of reflection periods and residence permits granted to victims; development of the National Assistance System for Victims of Trafficking (the 'Assistance System') (see, in particular, the Government's replies under Section II.2) and assistance measures on the basis of individual needs; and combating THB and preventing demand. Greater emphasis is placed on co-operation and a multidisciplinary approach in combating THB. The measures also focus on raising the awareness of THB. Regarding implementation, each ministry is responsible for the measures within its own administrative sector. In accordance with the revised Plan of Action, the position of National Rapporteur on Trafficking in Human Beings has been set up and the legislative amendments and resources required for the National Rapporteur to function have been put in place (see the Government's reply to Question 8 below).

To monitor the implementation of the revised Plan of Action, a multidisciplinary steering group was set up for the period 1 September 2008 - 31 March 2011. The steering group was chaired by the Ministry of the Interior and was comprised of representatives of different ministries and other state and municipal bodies, including the reception centres and the Finnish Immigration Service, NGO representatives and academics. The National Rapporteur on Trafficking in Human Beings had the right to be present in the meetings as an observer. Based on its evaluation of the implementation, the steering group's task was to draw up in co-operation with the National Rapporteur a set of recommended measures 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 special statute on THB. The steering group also put forward about 80 other recommendations concerning the following areas of action against THB: development of victim identification; development of professional outreach work and initial counselling; identification in conjunction with the asylum procedure, refusal of entry and removal from the country; granting of a reflection period and issuing a residence permit; legislation concerning the Assistance System and the operation of the Assistance System; legal and other advice and legal assistance; education and training, access to employment, and integration; prevention of THB crimes; co-operation between public authorities; witness protection and witness support; international agreements; co-operation with Finland's neighbouring areas and development co-operation, as well as crisis management and peacekeeping tasks; visas and residence permits; occupational health and safety (OHS) protection measures and measures to tackle the shadow economy; education, training and research; provision of information; and the National Rapporteur on Trafficking in Human Beings.

The Ombudsman for Minorities published her first report as National Rapporteur in June 2010 (see the Government's reply to Question 8). In the parliamentary communication issued following the

report, Parliament required the Government to take action on matters including preparation of a separate statute on the Assistance System.

On 27 January 2012, the Ministry of the Interior began a project to ascertain how well the legislation on assisting THB victims is functioning and the ways in which it can be improved. The project working group includes representatives from the main ministries involved, the Finnish Immigration Service, the National Police Board, the Joutseno and Oulu Reception Centres, the Office of the Ombudsman for Minorities, the Association of Finnish Local and Regional Authorities, the City of Helsinki, Victim Support Finland, Pro-tukipiste ry and Monika Multicultural Women's Association, Finland.

According to the project working group's report completed in November 2013, the shortcomings identified in the regulation of assistance for victims of THB will first be rectified by supplementing and further specifying the provisions of the Reception Act. The main amendment needs concern the coverage of the regulations in regard to victims of THB who have a municipality of residence, the admittance of victims to the Assistance System and their removal from it, the identification procedure and the competent authorities in the identification process, the position and tasks of the Joutseno Assistance System and the content of assistance. In parallel with this, the competence of different authorities, especially the municipalities, in identifying and assisting victims of THB will be strengthened through the provision of training and guidance. The NGOs' scope of action needs to be improved as well. The second stage will involve preparation of a separate statute on identifying and assisting victims of THB, which will be based on the assessment of the amendments made to the Reception Act and other legislative changes made and measures taken at the first stage.

Legislative drafting has begun on the basis of the working group's report. The aim is to submit a Government proposal to Parliament in the autumn session of 2014. In connection with this, further preparation of other development proposals will also be considered. The working group set up for the reporting stage continues as a steering group for the legislation project.

### **Questions concerning specialised authorities, co-ordination of actors and actions against THB and international co-operation (Articles 29, 32 to 35)**

#### **Question 8**

The responsibility for assisting victims of THB in Finland lies with the Assistance System for Victims of Trafficking, which is located at the Joutseno Reception Centre for asylum seekers. The Assistance System is responsible for arranging assistance measures for presumed victims of THB and for directing victims to make use of these measures. In practice, the Assistance System also performs actions against THB by providing the authorities and other parties with advice and training in regard to THB. The Assistance System provides training for asylum seeker reception centres and other parties on the subjects of THB as a phenomenon and identifying and assisting victims.

In the process for assisting THB victims, the relevant reception centre director will decide for each victim whether the rules on assistance can be applied or not, and whether rules already applied will cease to apply. The reception centre director's decision making is supported by an interprofessional assessment team, which functions in conjunction with the reception centre and also assesses the service needs of victims of THB. In addition to the director, the assessment team

must include at least one social welfare expert and one health care expert, and also a representative from the police and the border inspection authorities.

The tasks of the interprofessional assessment team comprise:

- assessment of victims’ need for assistance and of the application and cessation of rules concerning assistance
- assessment of the placement of victims and their service needs
- assessment of victims’ safety risks and planning of safety measures, and involvement in organising these
- ensuring the flow of information between the authorities and the parties in the Assistance System.

If necessary, the assessment team must consult experts in the form of municipal officials, OHS protection officials, labour market organisations, mental health work and child welfare experts, and any other parties necessary for assisting victims of THB.

The tasks of the Finnish Police are to safeguard the judicial system and social order, maintain public order and security, prevent and investigate crime, and forward investigated cases to a prosecutor for decision. All units of the police are engaged in ensuring that THB crimes are prevented and investigated and that investigated cases are forwarded to a prosecutor for decision. Local police departments have persons appointed in charge of immigration matters whose work, alongside other duties, includes ensuring, under the direction of the National Police Board, that competence is developed in their own unit in areas such as investigating THB crimes. 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. THB issues are covered in the basic training for new police officers and in the training for mid-ranking and for senior police officers. Thus, all police officers receive basic information on combating THB crime and on assisting victims.

As described later in the Government’s reply to Question 26, the Finnish Border Guard trains its personnel in identifying potential THB victims and protecting their human rights.

Regarding the border control authorities and the police, this training is part of their basic training and other training given in conjunction with their work, and so no separate funds are allocated for this.

Training on THB has also been given to both prosecutors and judges. The trainings have been organised with resources from the Ministry of Justice and, therein, the Office of the Prosecutor General.

The Finnish Immigration Service provides also regular training in THB for its personnel and also arranges external training for other parties. On 14 October 2010, the Finnish Immigration Service issued guidelines called “Turvapaikkamenettely tapauksissa, joissa kansainvälistä suojelua Suomesta hakenut henkilö on mahdollinen ihmiskaupan uhri” (“The asylum procedure in cases in which a person seeking international protection in Finland is a potential victim of trafficking in human beings”). The guidelines deal, in particular, with the procedure in cases, in which, according to the Council’s Dublin II Regulation (343/2003), Finland would not be responsible for examining the asylum application lodged by a potential victim of trafficking in human beings. Identification of victims of trafficking in human beings is also discussed in the Asylum Guidelines issued by the Finnish Immigration Service on 8 March 2011 and applied by the Finnish police, too.

In spring 2012, the Regional State Administrative Agencies organised training for inspectors of foreign labour, amongst others. The programme included the identification and combating of THB and the competence of the occupational safety and health authorities in these matters. In 2012, the Department for Occupational Safety and Health at the Ministry of Social Affairs and Health prepared guidelines on the supervision of foreign labour (occupational safety monitoring guidelines 2/2012). Appended to the guidance was a memorandum to guide the work of the inspectors in identifying THB victims and directing them to the Assistance System ('Actions of the OHS protection authorities in identifying THB victims and directing them to the national assistance system'). The guidelines complement the guidelines on the monitoring of discrimination at workplaces 2/2012 as well as the guidelines on the monitoring of foreign labour 2/2012, which are applied, where suitable, in suspicions of THB also.

Budget resources are used for training inspectors of foreign workforce. Some of the budget granted to the OHS protection administration is allocated to OHS divisions of Regional State Administrative Agencies for use in training inspectors.

The Central Organisation of Finnish Trade Unions (SAK) and the Finnish Confederation of Salaried Employees (STTK) have nevertheless pointed out that the possibilities for OHS protection authorities to monitor individual workplaces and intervene in work-related THB has diminished. Securing their ability to operate would, according to the organisations, require additional resources.

The Ministry for Foreign Affairs of Finland is also committed to raising awareness especially within the Ministry itself, training its officials to recognise signs of THB and to work effectively in preventing it. In October 2012, the Ministry organised an event for its personnel on protection for victims of THB.

The role of National Rapporteur on Trafficking in Human Beings was allocated as part of the duties of the Ombudsman for Minorities in 2009. As National Rapporteur, the Ombudsman monitors and reports on THB-related phenomena, the implementation of international obligations and the functioning of the national legislation; issues proposals, recommendations, opinions and advice on action against THB and on implementing victims' rights; and maintains contact with international organisations in THB matters. The Ombudsman for Minorities submits a report on THB and related phenomena annually to the Government and once every four years to Parliament. The Ombudsman may, by law, assist or designate a subordinate official to assist a potential THB victim in securing his or her rights or if necessary obtain legal assistance for the person for this purpose.

In the 2013 report, the National Rapporteur examines the challenges of antitrafficking work with a view to the Council of Europe Convention on Action against Trafficking in Human Beings. The purpose of the report is to raise awareness of the Convention and to promote the practical implementation of its provisions. Another purpose is to prepare for the present evaluation procedure carried out by GRETA.

In the said report, the National Rapporteur considers that Finland's action against trafficking in human beings has progressed in recent years, but much remains to be done in order for Finland to fulfil the requirements of the Convention. According to the National Rapporteur, legislation and official practices do not sufficiently support the identification of victims of human trafficking or their referral to treatment, combating crime or prevention of human trafficking. The Convention emphasises the safeguarding of the rights of victims of human trafficking as the cornerstone of all action. According to the National Rapporteur, this fundamental principle is unfortunately not fully

achieved in Finland. As mentioned in the Government's reply to Question 2, the 2013 report of the National Rapporteur is attached to the Government's reply.

Among the urban municipalities, Helsinki's city council, for example, approved on 15 November 2006 a proposed resolution in which it required the municipal executive to draw up a cross-sectoral action plan to combat THB particularly in order to improve expertise in victim identification and assistance, and to build co-operation with other relevant authorities and NGOs. On 11 June 2007, the municipal executive resolved to advise the City's Department of Social Services and Health Care to investigate how well the Assistance System works in Helsinki and to take steps to improve the system if necessary. The Department of Social Services and Health Care put together a cross-sectoral working group featuring representatives from the Department's different sectors and the City's Human Resources Centre and Administration Centre. The working group operated from 2007 to 2012 and had the following duties: to pursue within the City's administration concrete issues and needs concerning the status of THB victims and services for such persons; to provide topical information and act as an expert group; and to take a view on the development of the service system. The National Rapporteur on Trafficking in Human Beings also attended meetings as an invited expert. The working group convened 2-4 times a year.

The immigration unit (22 employees) of the City of Helsinki's Department of Social Services and Health Care is responsible for co-ordinating the services for victims of THB. Responsibility for organising the services has been the responsibility of the immigration unit and particularly also the City's social and crisis emergency services and child welfare units, in cooperation with the Assistance System. Two separate training events have been held for the staff of the immigration unit, in addition to which they have attended 1-2 day training sessions organised free-of-charge by other parties, national seminars and, since 2008, an international seminar on child trafficking. The costs have been low, at approximately EUR 1,000-2,000 (this does not include the lost work time spent in training).

The City of Oulu has also trained child welfare and immigration service staff in identifying victims of THB and assisting them. Other urban municipalities (e.g. Lappeenranta) have also regarded training and enhancement of expertise as important. In this respect, the City of Helsinki considers that the structures underlying municipalities' activities play a key role in developing expertise; the structures should be built to enable the development of working methods, such as the examination of follow-up data in the city bodies and the development of centralized coordination of assistance work.

The Government of the self-governing province of Finland, Åland, has taken part in different conferences and seminars in the Baltic Sea States with the aim of acquiring new knowledge, distributing and obtaining new experiences concerning work against prostitution and THB for sexual purposes. The Government has also organised two seminars for the target groups of authorities, politicians and voluntary organisations, a training package, which will give both general and specific knowledge, to i.e. improve identification of victims of THB but also to offer the abused emphatic and professional way of care taking. A supplementary training programme will be available in 2014.

## **Question 9**

The Government refers to its reply to Question 7 and the multidisciplinary steering groups set up to monitor the implementation of the original and the revised National Plan of Action against THB.

In Finland, cross-sectoral co-ordination of action against THB is not, however, currently regulated by law or specified in the Government Rules of Procedure. In practice, the issue has been managed in all essential respects primarily by the Ministry of the Interior's Migration Department.

In its report submitted in June 2013, the working group investigating cross-sectoral monitoring and co-ordination of action against THB proposed that a post of THB Co-ordinator should be established for the purposes of cross-sectoral monitoring and co-ordination of action against THB. The post would be established in the Police Department of the Ministry of the Interior. The aim is that the THB Co-ordinator will take up his or her duties in spring 2014.

The aim of setting up the co-ordinator's job is to ensure that there is an allotted party that monitors and co-ordinates official action against THB and promotes implementation of victims' rights cross-sectorally, promotes co-operation between the authorities and third sector actors in combating THB, works with other State authorities and NGOs, and participates in co-ordinating the position of the Finnish Government in matters concerning THB policy. The co-ordinator could represent Finland or arrange such representation in international organisations and other bodies, organise information gathering and report on the implementation of action against THB.

The working group also proposed that a steering group be established to direct the action against THB, which would include senior management from the Ministry of the Interior, the Ministry of Justice, the Ministry of Social Affairs and Health, and the Ministry for Foreign Affairs. The THB Co-ordinator would be appointed a member of the steering group and would also function as presenting officer in the group. The other members of the secretariat in charge of the action against THB would be responsible for the technical duties of secretary in the steering group.

The steering group meetings would be prepared by the secretariat, which would include the THB Co-ordinator and members from the Ministry of the Interior, the Ministry of Justice, the Ministry of Social Affairs and Health and the Ministry for Foreign Affairs. The secretariat's task would be to ensure that the matters to be dealt with are prepared on a cross-sectoral basis. The secretariat's duties would be managed as a part of basic public servant duties. The THB Co-ordinator would be the secretariat's chairman.

The working group also proposed that a co-ordinating network for actions against THB be set up. The network's task would be to ensure that the THB Co-ordinator and the steering group on actions against THB have access to the very latest information on combating THB. The THB Co-ordinator would act as the network's secretary.

On 11 September 2013, the ministerial working group on internal security took a decision on the matter, approving the proposals.

In Åland, the Government of Åland is the coordinating authority. The Government decided on 29 October 2013, in accordance with the Government's framework program concerning equality work for the years 2012-2015, to set up a network of authorities against prostitution and THB for sexual purposes for the years 2013-15. The network shall exchange experiences and act as a strategic resource to strengthen and develop cooperation, in particular, between authorities but also between authorities and voluntary organisations in the work against prostitution and THB for sexual purposes. The director for equality questions in the Government acts as the chairman of the



network. The network has 5 other members who represent, i.e. the police, the social sector, the health care authorities and the Åland Coastguard station.

The City of Oulu has raised the issue of regional cooperation as it finds it important that regional cooperation networks should also be established to assist victims of THB. The Government notes that among the various issues raised in the report of the working group set up to ascertain how well the legislation on assisting THB victims is operating and on the ways in which it can be improved (see, e.g. the Government's reply to Question 7), the working group stated that regional competence in THB question shall be distributed, maintained and strengthened through existing regional networks.

### **Question 10**

The data is currently divided between a number of parties and there is no agreement concerning responsibility for co-ordination.

The THB Co-ordinator's tasks will also include organising information gathering and reporting on implementation of the action against THB to the steering group in the Government and to the ministerial working group on internal security.

In Åland, the police have the responsibility to compile statistics on THB cases. However, no cases have been discovered in Åland.

Some NGOs collect statistical data concerning their respective operations.

### **Question 11**

The working group investigating cross-sectoral monitoring and co-ordination of action against THB also proposed that a co-ordination network for actions against THB be set up. The network would include representatives of the key NGOs in the matter and other important parties concerned.

Moreover, the THB Co-ordinator's task would be to promote co-operation between the authorities and the NGOs and to strengthen the mutual trust between them.

The views of NGOs were also sought when planning the arrangement of the national THB Co-ordinator position.

Certain NGOs, such as Pro-tukipiste ry and Monika Multicultural Women's Association, and Victim Support Finland, have also been represented on the working groups planning and developing the action against THB, such as the steering groups for the original and revised National Plan of Action against THB and the working group set up to ascertain how well the legislation on assisting THB victims is operating and on the ways in which it can be improved (see, e.g. the Government's reply to Question 7). These NGOs were selected for the working groups on the basis of their area of expertise, their experience in client work performed with different target groups and their long history of operation. Some NGOs have also been involved in developing the Assistance System. The Advisory Board for Ethnic Relations finds it positive that the NGOs have been able to participate in the legislative work.

The City of Helsinki, among others, has also been represented in the steering group on the Government's revised Plan of Action against THB and in the Ministry of the Interior's THB

legislation project (the working group set up to ascertain how well the legislation on assisting THB victims is operating and on the ways in which it can be improved).

### **Question 12**

The plans regarding the co-ordinating network for actions against THB include having representatives of key parties concerned, such as the labour market organisations and parties representing victim assistance (for example the Joutseno Reception Centre). Among the ministries, the Ministry of Finance, the Ministry of Employment and the Economy, and the Ministry of Education and Culture at the very least would be invited to the network. The Association of Finnish Local and Regional Authorities would also be invited as a representative of the municipalities.

### **Question 13**

The main multilateral agreements include the Convention on the Stepping Up of Cross-Border Cooperation, Particularly in Combating Terrorism, Cross-Border Crime and Illegal Migration (the Prüm Convention) and its implementing agreement; the Convention on Mutual Assistance and Cooperation between Customs Administrations (the Naples II Convention) concluded between the Member States of the EU; the convention between Finland, Iceland, Norway, Sweden and Denmark on mutual assistance in customs matters; the UN Convention against Transnational Organised Crime (the Palermo Convention) and its additional Protocols against trafficking in persons, smuggling of migrants and illicit manufacturing of and trafficking in firearms, their parts and components and ammunition; the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30); and the 2000 EU Convention on Mutual Legal Assistance in Criminal Matters (the MLA Convention). Finland is also a party to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141) and to the European Convention on Extradition (ETS No. 24).

Inside the EU, co-operation is pursued within the framework of EU legislation and at operational level within Europol. In addition to the above-mentioned MLA Convention, EU legislation also covers matters such as the exchange of information between authorities. It is regulated in the Schengen Convention and in the regulations adopted under it (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 in the Act on its implementation (26/2009). Cross-border operational activities are also specified in the above-mentioned Schengen rules, the Naples II Convention and the 2000 EU Convention on Mutual Legal Assistance in Criminal Matters. 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). At Europol, Finland currently has three contact persons under the Europol Decision (Council Decision 2009/371/JHA Establishing the European Police Force (Europol)): two from the Finnish Police and one from the Finnish Customs. The police, Customs and Border Guard are all competent authorities under the Europol Decision. 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 policy paper for combating organised crime including also to combat THB.

Information exchange is also conducted within the Frontex (the European Border Agency) framework, especially through the Frontex risk analysis network (FRAN). The Border Guard's situation and risk analysis centre acts as the Frontex national contact point for information exchange.

Finland is also a participant in Interpol co-operation, one aspect of which is preventing THB. Information exchange through Interpol is based on the rules of procedure agreed by Interpol member states, under which the information provider's restrictions on use are to be complied with. 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.

Finland and the Baltic countries also cooperate in combating transnational crime, including THB. Finland has three liaison officers in Tallinn representing the Finnish Police, Customs and Border Guard. These liaison officers cover all three Baltic countries.

The main bilateral agreements related to the Article 32 of the Convention are crime prevention agreements that Finland has made 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.

The network formed through the agreements is supplemented by national legislation, in which the main law applied in requesting and providing international legal assistance is the **Act on International Legal Assistance in Criminal Matters** (*laki kansainvälisestä oikeusavusta rikosasioissa, lag om internationell rättshjälp i straffrättsliga ärenden*; 4/1994). Under section 2 of the Act, international legal assistance also includes: notification of any documents related to 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 crime register data. Most of the applications of this Act concern situations in which Finland is requested to provide legal assistance.

Detailed provisions on the implementation of international obligations on extradition for perpetrators of crimes are given in the **Act on Extradition between Finland and Other Nordic Countries** (*laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden pohjoismaiden välillä, lag om utlämning för brott mellan Finland och de övriga nordiska landerna*; 1383/2007) and the **Act on Extradition on the Basis of an Offence between Finland and Other Member States of the European Union** (*laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä, lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen*; 1286/2003), and in the **Extradition Act** (*laki rikoksen johdosta tapahtuvasta luovuttamisesta, lag om utlämning för brott*; 456/1970).

Provisions on the right of the police, Customs and Border Guard to grant another state access to data are laid down specifically in the **Act on the Processing of Personal Data by the Police** (*laki henkilötietojen käsittelystä poliisitoimessa, lag om behandling av personuppgifter i polisens verksamhet*; 761/2003), the **Customs Act** (*tullilaki, tullag*; 1466/1994) and the **Act on the Processing of Personal Data by the Border Guard** (*laki henkilötietojen käsittelystä rajavartiolaitoksessa, lag om behandling av personuppgifter vid gränsbevakningsväsendet*; 579/2005).

The following statutes, *inter alia*, relate to implementation of the EU obligations: the **Act on the Implementation of the Provisions of a Legislative Nature of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union and on the Application of the Convention** (*laki keskinäisestä oikeusavusta rikosasioissa Euroopan unionin jäsenvaltioiden välillä tehdyn yleissopimuksen lainsäädännön alaan kuuluvien määräysten voimaansaattamisesta ja yleissopimuksen soveltamisesta, lag om sättande i kraft av de bestämmelser som hör till området för lagstiftningen i konventionen om ömsesidig rättshjälp i brottmål mellan Europeiska unionens medlemsstater och tillämpning av konventionen*; 148/2004), the **Act on the Execution in the European Union of Orders Freezing Property or Evidence** (*laki omaisuuden tai todistusaineiston jäädyttämistä koskevien päätösten täytäntöönpanosta Euroopan unionissa, lag om verkställighet i Europeiska unionen av frysningsbeslut av egendom eller bevismaterial*; 540/2005) and the **Act on National Implementation of the Provisions of a Legislative Nature of the Framework Decision on the European Evidence Warrant for the Purpose of Obtaining Objects, Documents and Data for Use in Proceedings in Criminal Matters and Application of the Framework Decision** (*laki eurooppalaisesta todisteiden luovuttamismääräyksestä esineiden, asiakirjojen ja tietojen hankkimiseksi rikosasian käsittelyä varten tehdyn puitepäätöksen lainsäädännön alaan kuuluvien säännösten kansallisesta täytäntöönpanosta ja puitepäätöksen soveltamisesta, lag om det nationella genomförandet av de bestämmelser som hör till området för lagstiftningen i rambeslutet om en europeisk bevisinhämtningsorder för att inhämta föremål, handlingar eller uppgifter som ska användas i straffrättsliga förfaranden och om tillämpning av rambeslutet*; 729/2010).

### **Questions 14 and 15**

When Finland grants access to information by other parties, the information is provided within the limits set by Finnish legislation. Finnish legislation does not set any general obstacles to the exchange of information referred to in Article 34 of the Convention. Under section 30 of the **Act on the Openness of Government Activities** (the ‘Act on the Openness of Government Activities’ *laki viranomaisten toiminnan julkisuudesta, lag om offentlighet i myndigheternas verksamhet*; 621/1999), the authorities of a foreign State may be granted access to secret information in cases where this is required by an agreement that is binding on Finland.

The legislation on these matters does not distinguish between whether this access to information is based on a request from abroad or is at the initiative of the information provider. The provisions of the Act on the Processing of Personal Data by the Police, the Customs Act and the Act on the Processing of Personal Data by the Border Guard also apply where access to information is given on the initiative of the provider.

When Finland is a party in receipt of information, the authorities are entitled and obligated to observe the secrecy and other conditions imposed by virtue of section 27 of the Act on International Legal Assistance in Criminal Matters. Under section 27, subsection 2, the authorities must observe not only the laws of Finland but also the conditions set by the party providing legal assistance.

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, and application of the Framework Decision** (*laki Euroopan unionin jäsenvaltioiden lainvalvontaviranomaisten välisen tietojen ja tiedustelutietojen vaihdon*

*yksinkertaistamisesta tehdyn neuvoston puitepäätöksen lainsäädännön alaan kuuluvien säännösten kansallisesta täytäntöönpanosta ja puitepäätöksen soveltamisesta, lag om det nationella genomförandet av de bestämmelser som hör till området för lagstiftningen i rådets rambeslut om förenklat informations- och underrättelseutbyte mellan de brottsbekämpande myndigheterna i Europeiska unionens medlemsstater och om tillämpning av rambeslutet; 26/2009), the competent law enforcement authority must provide access to information and intelligence on a criminal investigation or criminal intelligence operation to the corresponding competent law enforcement authority of another Member State, on its own initiative too, if this can be assumed to further the prevention or investigation of crimes referred to in section 3, subsection 2 of the Act on Extradition on the Basis of an Offence between Finland and Other Member States of the European Union. Access to information and intelligence is given under the conditions laid down in sections 17-19 of the Act on the Processing of Personal Data by the Police, sections 25, 26 and 26a of the Customs Act, and sections 26-28 of the Act on the Processing of Personal Data by the Border Guard.*

The decision-making on giving access to information and intelligence is subject to the provisions of sections 20 and 47a of the Act on the Processing of Personal Data by the Police, section 26a of the Customs Act, section 29 of the Act on the Processing of Personal Data by the Border Guard, and to provisions elsewhere in the law.

Section 52 of the Reception Act also contains provisions, in addition to provisions elsewhere in the law, stating 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 concerning persons seeking international protection, obtaining temporary protection and assisting THB victims. Under section 52, subsection 2, access can also be given to information in computerised form or via a technical user connection. Before access can be given to information via a technical user connection, the party requesting it must present documentation showing that the information will be protected in the manner referred to in section 32, subsection 1 of the **Personal Data Act** (*henkilötietolaki, personuppgiftslag*; 523/1999).

Under section 59 of the Reception Act, the information and documents obtained for the purpose of performing the tasks referred to in the Act must be kept secret in accordance with the provisions of the Act on the Openness of Government Activities.

## **Question 16**

Under section 1 of the **Act on Joint Investigation Teams** (*laki yhteisistä tutkintaryhmistä, lag om gemensamma utredningsgrupper*; 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. The Act has more detailed provisions on, for instance, the composition of the investigation team, the powers of the team and limits on the use of information. Joint investigation teams have been successfully used in certain investigations of THB crimes.

The Government also refers in this respect to the Agreement made in Brussels on 19 December 2003 between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the MLA Convention and the 2001 Protocol thereto.

**Section I.3.****Definition of “THB” and of “victim” in the internal law of the parties****Question 17**

Yes, all three components have been included in Chapter 25, section 3 of the Criminal Code (see, e.g. the Government’s reply to Question 46). Subsection 1, paragraphs 1 to 4 of the said provision, include the ‘means’. The ‘action’ is referred to in the same subsection: taking control over another person, recruiting, transferring, transporting, receiving and harbouring another person, removal of bodily organs or tissues. The ‘purpose’ is also referred to in the same subsection: sexual abuse, forced labour and other demeaning circumstances.

**Question 18**

All of the above. There are no limitations to the application of the provisions.

**Question 19**

In the Reception Act, a victim of THB means 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.

Under Chapter 25, section 3 of the Criminal Code, a victim of THB is a person who has become a victim of a crime defined as trafficking and aggravated trafficking in human beings (see the Government’s reply to Question 46 below).

The Finnish Immigration Service determines the granting of a residence permit or international protection to a victim of THB who, under the definition in section 3, paragraph 23 of the Aliens Act, is an alien who on reasonable grounds can be suspected of having become a victim of THB. Under subsection 1 paragraph 22 of the same section, THB is defined as trafficking and aggravated trafficking in human beings as referred to in Chapter 25, sections 3 and 3a of the Criminal Code.

**Question 20**

Yes, the Finnish legislation applies to everyone.

When applying the Reception Act, special needs must be taken into account that arise because of factors such as the THB victim’s vulnerable position due to age or physical or mental state, for instance. When providing services and support measures for victims of THB, attention must also be given to the THB victim’s special needs on account of his or her age, unsafe position and physical and mental state. The Act also has special provisions on its application to children, on accommodation and spending money for a child without a guardian, and on designating a representative. Under section 5 of the Act, special attention must be given to the interests of the child and to factors concerning his or her development and health if the victim or suspected victim of THB is less than 18 years of age. When assessing the child’s interests, attention must be given

to the provisions of the **Child Welfare Act** (*lastensuojelulaki, barnskyddslag*; 417/2007) on assessing the interests of a child.

With the exception of the above-mentioned groups, there are no separate regulations concerning assistance for THB victims of different gender. Instead, in accordance with the law, the arrangement of assistance for victims takes into account the individual need for services and support measures arising from the person's vulnerability and position as a victim.

NGOs, such as the Central Union for Child Welfare and Save the Children, and the Ombudsman for Children have highlighted the importance of taking the best interests of the child into account and of assessing the impact on children in all the measures under the Convention and in solutions related to them. Special attention has been given to the need to assess and define the best interests of the child. In this connection, the Ombudsman for Children also emphasises the need to ascertain the opinion of the child. The Ombudsman and NGOs have emphasised that the Convention on the Rights of the Child is also important in the implementation of the Convention. They also draw attention especially to those children who, due to problems with defining their age, are in danger of falling outside the scope of application of the Convention on the Rights of the Child and outside the services and legal safeguards to which they may be entitled. They also note that in this respect the Dublin procedure (see, e.g. the Government reply to Question 35) is especially problematic. The NGOs also draw attention to the needs of THB victims' children and the assistance given to them.

A number of NGOs note that under-age victims of sexual abuse need especially effective protection in order that the abuse to which they are subject can be appropriately investigated. The Central Union for Child Welfare considers that co-operation between authorities of the type illustrated by the project Lastenasiainalo ("Children's Affairs House"), which was launched by the Ministry of Social Affairs and Health, the Ministry of the Interior and the Ministry of Justice, and co-ordinated by the National Institute for Health and Welfare, is a commendable special service, also from the perspective of under-age THB victims. Piloting of the Lastenasiainalo child welfare centre will begin at the start of 2014 and the aim is to begin operation nationwide in 2017. The Lastenasiainalo operating model is based on the idea that in the pre-trial investigation of an offence the investigating and assisting authorities will work closely together as an expert group. The child will not have to go through several interviews but instead the following will all be carried out at the same time: a forensic psychology interview, a somatic study and a child welfare investigation. The child will also have any psychological help needed. The Ombudsman for Children considers also that this model could be useful in victim identification and assistance in cases of child trafficking.

NGOs have also emphasised that those who work with children and young people should be given training in child victim identification and especially in understanding and taking into account children's needs. Training is also needed for occupational groups other than those in contact with foreigners. Special attention has also been given to training for those who act as representatives of children.

In addition, it is considered that helping under-age THB victims should be an integral part of the activities of child welfare authorities in order that children can be helped anywhere in the country, and that children and families have adequate opportunities to obtain the child welfare support measures they need. The co-operation between the Assistance System and child welfare should be improved and made more efficient. Co-operation should be close and the parties involved should have clear responsibilities.

The report of the working group ascertaining how well the legislation on assisting THB victims is functioning and the ways in which it can be improved (see, e.g. the Government's reply to Question 7) recognised similar development needs.

### **Question 21**

Authorities must, in their activities, observe the provision of the Convention that the consent of a victim of trafficking in human beings to exploitation is irrelevant where the consent has been obtained by means of the 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. In addition, authorities must take into account that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is considered trafficking in human beings even if this does not involve any of the means mentioned above.

Section 35 of the Reception Act states that in assisting victims of THB, the services and support measures cannot be provided without the person's consent.



## **II. Implementation by the parties of measures aimed to prevent THB, protect and promote the rights of victims of THB and prosecute traffickers**

### **Section II.1.**

#### **Implementation of measures to prevent THB**

##### **Question 22**

A national website on THB prevention ([www.ihmiskauppa.fi](http://www.ihmiskauppa.fi) [www.människohandel.fi](http://www.människohandel.fi) [www.humantrafficking.fi](http://www.humantrafficking.fi)) was launched in 2010 under the direction of the Ministry of the Interior and in co-operation with the main authorities and third sector actors.

In 2012 and 2013, the Finnish Immigration Service and the Joutseno and Oulu Reception Centres have been implementing a project to develop the system of services for vulnerable asylum seekers (the ‘Hapke project’), in which the target group includes victims of THB. The project has included updating the multilingual website ([www.humantrafficking.fi](http://www.humantrafficking.fi)) that provides information and advice for THB victims. The online information is produced for potential victims of THB and for various other actors who may encounter THB victims in their activities. The project also created a leaflet for asylum seekers (“Working in Finland”), which concentrated on labour rights and the help available. The original leaflet has since been modified to cover all immigrants and has also been distributed to certain Finnish embassies abroad and other interested parties. It is available in eight languages on the Finnish Immigration Service website as well as through the reception centres. Publicity for the leaflet is still ongoing. The Joutseno Reception Centre is due to take responsibility for updating the website after the project ends.

A few years ago, the Police College of Finland and the National Bureau of Investigation produced a video for training purposes which is still in active use and presents two cases of THB in Finland based on actual events. The video lasts about 8 minutes. It can be viewed on the website of the Finnish Police at <http://www.poliisi.fi/poliisi/krp/home.nsf/pages/A95AE1046BA5196FC22571ED004A679A?opendocument>. The same website also has another video dealing with THB which was produced jointly by the National Bureau of Investigation, the Assistance System and U.S. Immigration and Customs Enforcement.

In 2012, the Finnish Police planned and launched a campaign entitled “Olen olemassa” (“I exist”), supported by the National Rapporteur on Trafficking in Human Beings. The series of posters for the campaign was supplied to police departments, other authorities and other parties. The campaign is helping to publicise the National Police Board’s THB guidance on how to intervene in THB and similar offences and assist victims of THB. The police have also been involved in preparing and developing the national THB website ([www.humantrafficking.fi](http://www.humantrafficking.fi)).

The Ombudsman for Minorities, who functions as the National Rapporteur on Trafficking in Human Beings, and the International Organization for Migration (IOM) together launched an anti-THB campaign (“Trafficking is no fairytale”) in December 2012. The campaign included a video of a new version of the famous Finnish tango, Satumaa (“fairytale land”). The campaign also featured two radio commercials and two print advertisements. The campaign’s website is <http://ihmiskauppaiolesatua.fi/>. The campaign was a continuation of the October 2011 THB campaign (“Work that nobody wants to do”), which was launched jointly with the IOM.

The Embassy of Finland in Tallinn is coordinating an information campaign (“Black Future”) in Estonia, which is aimed at tackling the shadow 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.

Certain NGOs, such as Pro-Tukipiste ry also provide information about THB and where to find help as a part of their customer service. No separate funding has been allocated for this. The work is part of the normal activities of the NGO. According to Pro-tukipiste ry, separate funding would be needed for it to launch campaigns.

The Central Union for Child Welfare and Save the Children, among others, feel that more information needs to be provided and collected on THB. They consider that there is a need for campaigns and information, especially for children and young people. The ability of children and young people to protect themselves from subjugation and exploitation must also be strengthened and extended. The Central Union for Child Welfare believes that major campaigns can increase young people's awareness of the right of sexual self-determination. It cites as an example of this the National Institute for Health and Welfare's campaign against sexual violence ("My body. I decide"), the aim of which is to make young people aware of their own sexual rights and of behaviour in breach of their rights.

### **Question 23**

As mentioned above under Question 22, the Finnish Immigration Service and the Joutseno and Oulu Reception Centres are working together on the national Hapke project, a development project concerning the system of service provision for vulnerable asylum seekers in Finland. The project has a special focus on THB. In assessing populations vulnerable to trafficking in Finland, asylum seekers have been identified as one of the key groups. Over 60% of the clients in the Assistance System; see section II.2 below) are asylum seekers.

The project period is 1.7.2012-30.6.2014, and it is partly funded by the European Union Refugee Fund.

In the first part of the project (HAPKE 1), the project has worked with all asylum seeker reception centres in Finland, developing information materials for asylum seekers. The project has also provided training for staff to prevent and identify THB and to competently assist the victims. The project provided personnel of reception centres with tools for identifying victims of human trafficking and entering them into the Assistance System. The project gave the personnel better capabilities to provide advice and information on how to prevent asylum seekers from becoming victims of human trafficking and other abuse. Another focus has been awareness raising among the public and professionals through the website [www.humantrafficking.fi](http://www.humantrafficking.fi) in particular and the leaflet "Working in Finland". In addition to this, more detailed information pages on applying for work and what to do when finding a job were developed for asylum seekers at the reception centres. These are available in eight languages on the Finnish Immigration Service's extranet Manu. The project also developed a more comprehensive staff information package for Manu. All the above materials were created in co-operation with a focus group consisting of asylum seekers and victims of THB. The project also included training on psychosocial support.

The second part of the project (HAPKE 2) involves developing a presentation on guidance for asylum seekers. The presentation covers labour rights and is conversational in style. The Oulu Reception Centre is currently testing the materials with asylum seeker groups. Later these will be shared with all reception centres and become part of the asylum seekers' organised study activities. The guiding emphasis in all the materials has been "You have rights in Finland".

The work being carried out on the website includes developing a flyer for potential victims which can also be printed and is available for anyone to use. This is being carried out in co-operation between the Assistance System, the Finnish Immigration Service, the National Bureau of Investigation, the National Rapporteur on Trafficking in Human Beings, the Central Organisation of Finnish Trade Unions (SAK), and Victim Support Finland. The flyer will be translated into several key languages and will also be available online as a recording. There will be a pocket-sized version available too, for occupational safety and health inspectors to hand out to employees during visits to companies.

The Government refers also to its reply to Question 37 concerning the provision of assistance to victims, which also contributes to the social and economic empowerment of victims.

Some of the measures referred to in Question 23 are covered by general measures intended to prevent social exclusion and marginalisation and to promote the health and welfare of disadvantaged groups. 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, ensuring that income support, municipal services and employment services form a coherent whole, and increasing pluralism and innovation through multiculturalism.

Preventing social exclusion forms part of one of the three core objectives set out in the Government Programme for 2011-2015. The aims of the Government's cross-sectoral action plan for reducing social exclusion, poverty and health problems include strengthening equality among different population groups, preventing exclusion from employment and the labour market and improving the situation of people on low incomes. Exclusion can be prevented by reducing unemployment and poverty and addressing perceptions, problems and disadvantage. The action plan features seven themes aimed at improving equality between various groups in society, promoting health by reducing health differences, preventing exclusion from work and the labour market, improving the position of people with low incomes, reducing social exclusion among children and adolescents, reforming social and health services and improving the effectiveness of work performed by NGOs. These themes include more than 30 spearhead projects defined by the Government. The projects are at different stages of planning and implementation.

Promoting participation is also one of the themes of the National Development Programme for Social Welfare and Health Care (Kaste). The Kaste programme has promoted participation by, for example, revising procedures in adult social work, making it easier to obtain help with mental health and substance abuse problems, and creating new ways of finding employment for young people and adults who are 'poorly employable', and has reduced long-term homelessness. The programme has provided project funding for improvements to services to make them more customer-focused.

Also, at the request of the Ministry of Social Affairs and Health, the National Institute for Health and Welfare is preparing a report on health care services of undocumented persons residing in Finland without a residency permit or health insurance. The report is to be completed in January 2014.

In August 2013, the City of Helsinki's Social Services and Health Care Committee decided, also, to investigate health care service arrangements for people who have no documentation, and to draw up an action plan in 2013 for the arrangement of these services. The City of Helsinki also

provides assistance through its NGO funding system for the main NGOs involved in combating THB and also co-operates with organisations performing outreach work.

According to Pro-tukipiste ry, social and economic measures intended to empower people in a position of vulnerability are poorly resourced in Finland. For example, low-threshold social and health care services are not fully available regionally.

#### **Question 24**

The Government refers to its reply to Question 23 above.

Furthermore, the Government refers to its reply to Question 7 and states that its first National Plan of Action against Trafficking in Human Beings included a large number of measures in the targeted areas, one of which is to prevent THB from occurring in the first place. The corresponding target areas are also included in the revised Plan of Action.

From Finland's perspective, international bilateral and multilateral co-operation is also important in preventing THB, especially Finnish co-operation with neighbouring countries and development co-operation and civilian crisis management. The work of Finnish authorities for preventing THB is, in this respect, too, guided by the Revised National Plan of Action against THB. It sets out preventive measures and is based on a human rights based and victim-centered approach.

In regard to international co-operation, it can be noted, in particular that Finland is implementing its Development Policy Programme of 2012, which emphasises human rights based approach to development. By supporting women's and children's rights and a reduction of extreme poverty, Finland's aim is to support the action against THB. Finland is also supporting various projects of international organisations and civil society concerning THB prevention and protections of THB victims. In its bilateral development collaboration Finland has supported special projects related to THB in, for example, Cambodia, Nigeria and the Western Balkans. Finland's support to UNICEF has been partly channeled through work against THB. One of the emphases in Finland's development policy is primary education, and Finland is a participant in the UNESCO-led 'Education for All' movement. Finland emphasises girls' equal access to education. International collaboration related to work against THB has also been strengthened through so-called Helsinki-process.

Preventing THB is one of Finland's objectives in its Second/Revised National Action Plan of UNSC Resolution 1325. A specific goal mentioned in the Action Plan is to develop the Assistance System in a way that emphasises the help for women and girls who have become victims of THB or who are in danger of becoming a victim once again or for the first time.

In addition to the Convention as well as the Palermo Convention and its Protocols, Finland has ratified other (human rights) treaties relating to THB, such as the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, and the ILO Forced Labour Convention (No. 29) and the Abolition of Forced Labour Convention (No. 105). Finland was actively involved in the negotiation on the terms of reference for a review mechanism for the Palermo Convention, and worked consistently for the adoption of an inclusive approach to the review, i.e. the full participation of civil society in the review mechanism.

As regards visa policies, Finland and the other Schengen states operate common visa policy of the EU, which is central in preventing THB. It aims at recognising THB as early as possible in departure and transfer countries. In the departure countries it is important to raise awareness on THB and legal ways of migration so that persons vulnerable THB know how to avoid traffickers' offers and misleading promises. In this regard, the awareness raising work done by the embassies and consulates is crucial.

THB and related exploitation can also be prevented by discouraging demand for services provided by victims of THB. The penal provisions concerning the purchase of sexual services are referred to below in the reply to Question 47.

Work-related THB often fulfils the constituent elements of extortionate work discrimination (Chapter 47, section 3 a of the Criminal Code). The sentence for extortionate work discrimination is a fine or imprisonment for at most two years if the work discrimination involved placing the job applicant or the employee in a considerably inferior position by exploiting his or her economic or other distress, dependent position, lack of understanding, thoughtlessness or ignorance. The provisions of the Aliens Act allow victims of extortionate work discrimination, as victims of a crime similar to THB, to be covered by the Assistance System.

Work-related THB and the prevention of it is also connected to the **Act on the Contractor's Obligations and Liability when Work is Contracted Out** (the 'Contractor Obligations Act'; *laki tilaajan selvitysvelvollisuudesta ja vastuusta ulkopuolista työvoimaa käytettäessä, lag om beställarens utredningsskyldighet och ansvar vid anlitande av utomstående arbetskraft*; 233/2006), which promotes equal competition between business enterprises and compliance with employment terms. It also requires business enterprises to ensure that any company which enters into subcontracting agreements with them and provides temporary agency workers meets its respective statutory obligations. Contractor responsibility can also be used to prevent labour exploitation that is of a THB nature.

Under the Contractor Obligations Act, the contractor is obliged to ascertain whether the company has been entered in the Prepayment Register, the Employer Register and the VAT Register. The contractor must also ascertain whether the company has paid its taxes and taken out pension insurance, and the nature of the collective agreement applied in the work or the key employment terms. This information must also be acquired on foreign companies. The Act applies to situations where temporary agency workers perform work that lasts more than 10 working days or where the value of the subcontracting agreement exceeds EUR 7,500 (excl. VAT). The contractor is not required to request the information if he can justifiably trust that the party to the agreement will meet its statutory obligations. Such parties will include the state, municipalities, parishes, public limited liability companies, unincorporated state enterprises, companies wholly owned by a municipality or the equivalent foreign enterprises. The required trust is also deemed to be present if the activities of the party to the agreement or the contractual relationship can be regarded as being well established. If the information is not ascertained, the contractor will be ordered to pay a separate penalty for omission, which will be between EUR 1,600 and EUR 16,000. This penalty can also be imposed if the contractor has entered into an agreement with an entrepreneur who has been banned from engaging in business. The penalty can, furthermore, be imposed if, despite acquiring the information, the contractor displays a distinct, callous disregard for the knowledge that his contractual partner is neglecting its employer obligations, for instance. The decision on this penalty is made by a Regional State Administrative Agency.

In construction activity, the information to be ascertained under the Contractor Obligations Act must also be requested in cases where the activity of the company is well established or the contractual relationship between the contractor and the contractual partner is well established. The matters to be ascertained shall also include accident insurance. An elevated penalty for omission is

applied in construction activity, and this can be imposed if the contractor has entered into an agreement with a party that has been banned from engaging in business or is aware that the contractual partner does not intend to comply with its statutory obligations. The elevated penalty for omission will be a minimum of EUR 16,000 and a maximum of EUR 50,000.

**The Act Governing the Use of Individual Tax Numbers and the Public Register of Tax Numbers within the Construction Industry** (*laki veronumerosta ja rakennusalan veronumerorekisteristä, lag om skattenummer och skattenummerregistret för byggbranschen*; 1231/2011) requires the builder, the general contractor and the construction sector employer to check the tax numbers of all persons working on the construction site. Foreign workers without a Finnish personal identity code are also required to apply to the Tax Administration for a Finnish personal identity code and individual tax number before they start their work. Persons working on construction sites must also be entered in the public register of tax numbers, and their individual tax number must be displayed on a name tag with a photograph.

Chapter 12 of the **Act on Public Employment and Enterprise Services** (*laki julkisesta työvoimaja yrityspalvelusta, lag om offentlig arbetskrafts- och företagservice*; 916/2012) protects job applicants from abuses concerning private employment services and temporary agency work. Chapter 12, section 4 of the Act concerns private employment services, i.e. employment services provided by a private or legal person and other services related to jobseeking, as well as temporary agency work. Providers of private employment services must comply with the provisions on equality referred to in Chapter 1, section 7 of the Act, and they must not provide under-age labour for work for which employing such labour is prohibited under the **Young Workers Act** (*laki nuorista työtekijöistä, lag om unga arbetstagare*; 998/1993). For the purposes of monitoring private employment services, the Ministry of Employment and the Economy has the right to gain information on private employment services from providers of such services or from entities representing these providers.

Chapter 12, section 5 of the Act on the Public Employment and Enterprise Services concerns the prohibition of charges for employment services. This states that providers of private employment services must not charge fees (prohibition of charges for employment services) from individual clients for services provided that correspond to employment services referred to in Chapter 3, section 2, provision of information and advice on vacant jobs and jobseeking referred to in Chapter 4, section 1, or to registration as a jobseeker referred to in Chapter 2, section 1. Neither may a charge be collected from a temporary agency worker who, after the termination of an assignment, transfers to the employment of a user enterprise referred to in Chapter 1, section 7 of the **Employment Contracts Act** (*työsopimuslaki, arbetsavtalslag*; 55/2001). The prohibition of charges for employment services does not apply to services offering the possibility for Finnish young people abroad and Foreign young people in Finland to stay in another country in return for performing household work in a family (au pair service).

The sanction for violation of the prohibition of charges for employment services is laid down in Chapter 47, section 6 of the Criminal Code. This states that a person who, in violation of the prohibition of charges for employment services provided in Chapter 12, section 5, subsection 1 of the Act on the Public Employment and Enterprise Services (916/2012), charges a fee from individual customers shall be sentenced for violation of the prohibition of charges for employment services to a fine or to imprisonment for at most one year.

The provisions regulating private employment services are based on the ILO's Private Employment Agencies Convention 181 and the ILO's Maritime Labour Convention. The EU's Temporary Agency Work Directive (2008/104/EC) also includes a provision on the prohibition against charging fees to temporary agency workers.

Implementation of the charging prohibition has proved difficult in cases where private employment service providers or temporary agency work providers charge a fee and are operating abroad, especially outside the EU, and often charge unreasonable employment service fees from jobseekers before their arrival in Finland.

It should also be noted that in connection with Finland's national implementation of the Employer Sanctions Directive in 2012, employer obligations have been extended as required by the Directive, and provisions have been added to the Aliens Act concerning the issuing of residence permits and granting of reflection periods 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. As required by the Directive, these provisions correspond to the provisions concerning residence permits issued to THB victims and the reflection period granted to such victims.

Influencing attitudes towards gender equality is also essential. Gender equality is a fundamental principle in Finnish legislation, which is evident in, for instance, section 6 of the Constitution of Finland and in the **Act on Equality between Women and Men** (*laki naisten ja miesten välisestä tasa-arvosta, lag om jämställdhet mellan kvinnor och män*; 609/1986). Moreover, section 2, subsection 2 of the **Basic Education Act** (the 'Basic Education Act'; *perusopetuslaki, lag om grundläggande utbildning*; 628/1998) also states that education must promote equality in society. Furthermore, section 2.1 of the National Board of Education's National Core Curriculum for Basic Education 2004 ([http://www.oph.fi/english/curricula\\_and\\_qualifications/basic\\_education](http://www.oph.fi/english/curricula_and_qualifications/basic_education)) states that the underlying values of basic education in Finland are human rights, equality, democracy, natural diversity and preservation of environmental viability, and the endorsement of multiculturalism. Basic education promotes responsibility, a sense of community, and respect for the rights and freedoms of the individual. Promotion of gender equality is also mentioned in, for instance, the cross-curricular unit 'growth as a person' and in guidance counselling, social studies, ethics and home economics.

Helsinki's city council has approved a global responsibility strategy, doing so on 26 September 2012. The global responsibility strategy includes action for preventing THB. Specifically, improvements will be sought in procurement managers' general awareness of THB and exploitation of foreign labour, and in the personnel's awareness of the constituent elements of THB and related offences and of the existing assistance opportunities for potential victims. Global issues are considered to affect all spheres of the City's operations, which means that in all these areas there must be an awareness of the risks of THB. The City's leaders and the Equality Committee set up by the city executive highlight the importance of preventing THB and this will also be taken into account in planning the work on equality and in the measures themselves and their monitoring. Helsinki became a signatory to the European Charter for Equality of Women and Men in Local Life in 2008, which also includes an obligation to taken THB into account.

In accordance with their declared position (dated 19 March 2010) on the shadow economy, exploitation of labour and prevention of THB, Finland's labour market organisations have committed themselves to preventing THB and protecting and assisting victims in the manner referred to in Article 5, paragraph 6 of the Convention .

Among the NGOs, the Feminist Association Unioni considers that action to influence the demand for THB is inadequate in Finland and that, for example, opportunities to influence attitudes and to campaign should be investigated.

In Åland, a comprehensive strategy on how the work on preventive measures is built is set out in the Government's framework program concerning equality work for the years 2012-2015. In the view of the Government of Åland, it is important to explore other countries' knowledge and experiences in THB questions, and the Government has therefore established cooperation in THB question with, among others, Finland and Sweden. The Government has organised two seminars in 2012 and 2013 with a special focus on children and women that are exposed to prostitution and THB. Seminars have been attended by experts from Finland, Sweden and Norway. The target group of the seminars has been authorities, politicians and voluntary organisations.

### **Question 25**

Issuing of passports in Finland is regulated in the **Passport Act** (*passilaki, passilag*; 671/2006). A passport includes the following information about the holder: surname, first name, gender, personal identity code, citizenship, place of birth, date of issue and date of expiry of the passport, name of the authority issuing the passport and the passport number. It also includes the signature and a facial image of the holder.

Passports also 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. The storage medium contains a facial image and fingerprints of the passport holder.

Passports have to be applied for in person, and the identity of the applicant has to be verified from an identity document at the time the application is made. If the applicant has no identification documents, the police will see to the identification. When a passport application is made abroad at a Finnish embassy, the authority issuing the passport will verify the identity of the applicant.

Children may not be included in their parents' passports. Each passport is a personal travel document and contains the information of one person (the holder) only.

Provisions on the format of the visa sticker are given in Council Regulation (EC) No 1683/95 on laying down a uniform format for visas.

Under section 1 of the **Identity Card Act** (*henkilökorttilaki, lag om identitetskort*; 829/1999), the police will, upon application, issue proof of identity (personal identity card) to Finnish citizens and, in accordance with the Municipality of Residence Act, to aliens permanently residing in Finland who are entered in the Population Information System and whose identity has been reliably established. When a Citizen Certificate is incorporated in the personal identity card, the card holder can be verified in certified electronic transactions.

The travel documents granted to aliens 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. Provisions on the format, properties and security devices of a residence permit card, the biometric identifiers held in its storage medium and obtaining these, and their limitations and purpose, and the right of holders to check the details about themselves contained in the storage medium are set out in Council Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals and in 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).

Examining the legality and validity of documents is ultimately the concern of the police. Such examination is normally performed in the Crime Laboratory of the National Bureau of Investigation. The Border Guard also have the technical resources to verify the legality and validity of documents.

A register is kept of the travel documents and personal identity documents granted in Finland. All permit data are rapidly verifiable via the computerised register in question. For instance residence permits can be verified from the Register of Aliens. The Register of Aliens contains information on the residents permits granted. Provisions on this are laid down in the **Act on the Register of Aliens** (*laki ulkomaalaisrekisteristä, lag om utlänningsregistret*; 1270/1997). Information on alien's passports and refugee travel documents is held in a sub-register of the Register of Aliens. Information on visa holders may be checked from the EU's Visa Information System (VIS).

Many residence permit applicants, especially asylum seekers, have no document showing proof of identity at the time the application is made. The authorities endeavour to establish the applicant's identity, but in many cases this remains unresolved. In such instances, an entry is made in the travel document (alien's passport or refugee travel document) to the effect that it was not possible to establish the identity.

## **Question 26**

Under the **Criminal Investigations Act** (the 'Criminal Investigations Act'; *esitutkintalaki, förundersökningslag*; 805/2011), the Border Guard has the status of pre-trial investigation authority.

The **Border Guard Act** (the 'Border Guard Act'; *rajavartiolaitolaki, gränsbevakningslag*; 578/2005) which came into effect in 2005 increased the opportunities for the Border Guard to undertake pre-trial investigations. Under section 42, subsection 1 of the Act, the Border Guard, unless otherwise provided in the subsequent parts of the Act, conducts a pre-trial investigation where, on the basis of a notification made to it or otherwise, there is additionally reason to suspect that an offence has been committed involving a violation of provisions or orders on crossing a border under the control of the Border Guard as provided in the Criminal Code or in another manner provided by law, arrangement of illegal entry under Chapter 17, sections 8 and 8a of the same Code and human trafficking relating to the above actions under Chapter 25, sections 3 and 3a of the Code or other offences against liberty under Chapter 25 of the Code. Under a Border Guard Act amendment which came into force in 2010, the Border Guard's authority in combating crime was expanded by granting border guards the right to intercept and monitor telecommunications as provided in the **Coercive Measures Act** (the 'Coercive Measures Act'; *pakkokeinolaki, tvångsmedelslag*; 806/2011) when investigating aggravated arrangement of illegal entry referred to in Chapter 17, section 8a of the Criminal Code and related THB offences as referred to in Chapter 25, section 3 or 3a of the Criminal Code.

In combating THB, the Border Guard applies international agreements and EU instruments concerning information exchange and operational co-operation (see the Government's reply to Questions 13, 14 and 15).

For more than ten years the Finnish Border Guard has trained its personnel in identifying potential THB victims and protecting their human rights. The training has been given as part of the basic

training for border guards and also as special training for pre-trial investigation and intelligence personnel.

Frontex has developed a comprehensive training package to support the Member States in fulfilling the task of effectively preventing and combating trafficking in human beings. National trainers are trained by Frontex.

### **Question 27**

Information is provided in the local language by the customer service sections at embassies and consulates and through their websites. The Finnish Border Guard has participated in the training of the staff of the embassies and consulates organised by the Ministry for Foreign Affairs.

In practice, local Schengen co-operation in consulates and embassies in countries of origin also provides a good opportunity to target information provision preventatively at population groups which are in a vulnerable position. To achieve the best results, provision of this information has also been arranged in co-operation with NGOs in the origin country. The common action of Member States is based on the EU's visa regulations.

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.

Section 7 of the Integration Act stipulates that immigrants must be informed about their rights and obligations in Finnish working life and society. In addition, they must be informed about the Finnish service system and the measures under the Integration Act to promote their integration into Finland. Everyone immigrating into Finland receives this basic information. Section 8 of the Integration Act obligates local authorities, Employment and Economic Development Offices and other authorities to give immigrants appropriate guidance and counselling regarding measures and services to promote their integration and regarding working life. Moreover, asylum seekers are informed about the asylum procedure and their rights and obligations during it. The Police or the Border Guard give this information to the asylum seeker when the person files an asylum application. The Finnish Immigration Service or the relevant reception centre, too, may provide the information as soon as possible after the asylum seeker has applied for asylum. The information is given in the asylum seeker's native language or another language that the person may be reasonably presumed to understand. As a rule, the information is provided in writing, so that the police or the Border Guard, when receiving the asylum application, give the asylum seeker a brochure prepared by the Finnish Immigration Service for asylum seekers. The brochure is published at the website of the Service in a number of languages

Rules on recruiting, guidebooks and brochures related to labour immigration by different authorities and other actors have been drafted in several different languages. Authorities inform of the available information and aim to ensure that the materials are updated and kept up-to-date. The development of guidance and advice systems and the related information gathering to websites is being continued, e.g. with the support of the MATTO support structure funded by the European Social Fund.

### **Question 28**

Visas are issued according to the rules and procedures set out in the Visa Code (Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas). Under Article 32 of the Visa Code, a visa is refused in cases such as the following: if the applicant does not provide justification for the purpose and conditions of the intended stay; does not provide proof of sufficient means of subsistence, both for the duration of the intended stay and for the return to his or her country of origin or residence, or for the transit to a third country into which he or she is certain to be admitted, or is not in a position to acquire such means lawfully; or if there are reasonable doubts as to the authenticity of the supporting documents submitted by the applicant or the veracity of their contents, the reliability of the statements made by the applicant or his or her intention to leave the territory of the Member States before the expiry of the visa applied for. Under Article 21 of the Visa Code, the examination of an application for a uniform visa must involve ascertaining whether the applicant fulfils the entry conditions set out in Article 5(1)(a), (c), (d) and (e) of the Schengen Borders Code, and particular consideration must be given to assessing whether the applicant presents a risk of illegal immigration or a risk to the security of the Member States and whether the applicant intends to leave the territory of the Member States before the expiry of the visa applied for. The socio-economic situation of the applicant is also taken into account when considering the risk of illegal immigration. Section 28 of the Aliens Act contains provisions on cancelling a Schengen visa. Under section 28, subsection 2 of the Act, a Schengen visa can be cancelled if the alien is refused entry on grounds referred to in section 148 (see below under this same reply).

In practice, when a Schengen visa is applied for from a consulate or embassy, efforts are made to assess the risk factors associated with the person, such as the risk of illegal immigration and any factors that may indicate THB. All visa applicants who are suspected of being victims of THB are interviewed personally by the consulate or embassy, and the person or company inviting them is also interviewed.

Provisions on refusal of entry to the country are also laid down nationally. Provisions on the requirements for entry are given in section 11 of the Aliens Act, which includes mention of public order and security.

Section 148 of the Aliens Act lays down provisions on the grounds for refusal of entry. Subsection 1, paragraph 8 and 9 of section 148 take account of cases where the grounds for refusal of entry concern individuals who are party to acts which, under the Convention, are punishable by law.

Section 167 of the Aliens Act lays down provisions on the grounds for refusing entry to EU citizens and comparable persons, and section 169 has provisions concerning refusal of entry for Nordic citizens.

Under section 156, subsection 1 of the Aliens Act, a requirement for the entry of an EU citizen and his or her family member into Finland and residence in the country is that they are not considered a danger to public order or public safety. Under section 169, subsection 1 of the Act, citizens of Iceland, Norway, Sweden and Denmark whose residence in Finland has not been registered in the manner laid down in section 157, subsection 3 may be refused entry if they are considered a danger to public order or public safety under section 156 or to public health under section 156a.

As a rule, a person is not allowed to work in Finland if he or she has entered the country with a visa. Instead, an application for a residence permit must be made before entering the country.

Since 2002, the Border Guard has had Immigration Liaison Officers (ILO) in several embassies and consulates. At the moment, there are nine ILOs, in Murmansk, Pedrozavodsk, St. Petersburg and Moscow (Russia); in Tallinn, Estonia; in Riga, Latvia, in Beijing, China; in New Delhi, India;

and in Abuja, Nigeria. ILO's train consular staff and also air carrier staff. ILO's work also otherwise closely with consular staff and have, for example, been able to identify illegal immigrants, potential victims of THB and offenders.

### **Question 29**

The Government refers to its reply to Question 24.

Finland participates in local Schengen co-operation, which primarily involves the exchange of information. The ILO's of the Finnish Border Guard participate also in local Schengen co-operation in the cities of third countries where such meetings are organized. Information is exchanged if such exist.

### **Question 30**

Preventive measures by the police are connected with those described d in the Government's reply to Question 22. No separate budget has been allocated for these measures; instead, they have been implemented as part of other work.

The funds allocated to preventive measures include allocations to Hapke development projects for helping vulnerable asylum seekers.

The funds allocated to Hapke 1 and Hapke 2 projects are detailed below.

#### **Hapke 1**

<b>Funds budgeted:</b>	<b>Project</b>	<b>Preventive work</b>
<b>Total</b>	140,000.00	99,708.98
<b>National proportion 25%</b>		<b>24,927.25</b>

#### **Hapke 2**

<b>Funds budgeted:</b>	<b>Project</b>	<b>Preventive work</b>
<b>Total</b>	99,274.40	80,450.00
<b>National proportion 25%</b>		<b>20,112.50</b>

The Government refers also to its reply to Question 39 below.

### **Question 31**

Assessment of the penal provisions concerning the purchase of sexual services is referred to below in the reply to Question 47.

As regards the Hapke project, an impact assessment has not yet been carried out.

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According to Pro-tukipiste ry, the lack of an assessment of the measures against THB is problematic. In Finland, information is not collected on the actual impact of the measures, though this would be essential for further developing the measures and for the NGOs' social influence work.

## **Section II.2.**

### **Implementation of measures to protect and promote the rights of victims of trafficking in human beings**

#### **General information on protecting and promoting the rights of victims of THB in Finland**

The responsibility for assisting victims of THB and for the regulations on this is principally shared between the Ministry of the Interior, the Ministry of Social Affairs and Health and the Ministry of Employment and the Economy, primarily on the basis of whether the victim of THB has a municipality of residence or not.

Assistance for victims of THB without a municipality of residence is regulated by the Reception Act, for which the Ministry of the Interior is responsible.

The service needs of a THB victim who has a municipality of residence are assessed in accordance with general social welfare and health care legislation and procedures.

The purpose of the Integration Act, for which the Ministry of Employment and the Economy is responsible, is to support and further the integration process and the opportunities for immigrants to play an active role in the functioning of Finnish society. The Integration Act applies to those persons who have a valid residence permit in Finland as referred to in the Aliens Act. The Integration Act also applies to persons whose right of residence is registered or who have been granted a residence card under the Aliens Act. Most victims of THB are in Finland with a residence permit or otherwise legally. The provisions on allocation to a municipality in Chapter 5 of the Integration Act and the provisions on reimbursement of costs under Chapter 6, sections 45-49 of the same Act also apply to persons granted a continuous residence permit on the basis of section 52a, subsection 2 or section 54, subsection 5, of the Aliens Act, i.e. on the basis of becoming a victim of THB. In addition to measures promoting integration, the Integration Act also contains specific provisions on reimbursing municipalities for the costs of services and support measures for victims of THB (section 53), on the representative appointed for an under-age victim of THB who has no guardian (Chapter 7), and on support provided for the return of victims of THB (section 85) and reimbursing municipalities for the costs of this (section 47).

The Assistance System refers customarily to the activities of the Joutseno Reception Centre for asylum seekers in regard to assisting victims of THB. Neither the concept of the Assistance System nor the nature of its activities is defined in the Reception Act.

The Advisory Board for Ethnic Relations has highlighted the challenges connected to the fact that the assistance to victims is regulated by several different Acts, which lead, i.e. to difficulties in applying the relevant provisions. The Board has also pointed out that its member organisations consider that the assistance to victims should be first and foremost victim oriented, and the assistance procedures clear and foreseeable.

As mentioned in more detail in the Government's reply to Question 7, the Ministry of the Interior began on 27 January 2012 a project to ascertain how well the legislation on assisting THB victims is operating and on the ways in which it can be improved. The project tasks are as follows: 1) to ascertain and assess the current state and operation of the existing legislation on victims of THB (especially the Reception Act and the Aliens Act) and to analyse the various alternatives for regulating the assistance for victims of THB in order to improve the system and its impact; 2) to draw up a comparison of the legislation on assisting and supporting victims of THB in the main industrialised countries from the perspective of the project; and 3) on the basis of the

investigations, to draft a proposal for more detailed regulation of the assistance and support for victims of THB. The aim is to submit a Government proposal to Parliament in the autumn session of 2014.

The number of victims resident in municipalities, non-resident and victims seeking asylum during years 2006 to 2013:

	2006	2007	2008	2009	2010	2011	2012	2013*	
<b>Asylum seekers</b>		1	1	5	17	20	12	17	73
<b>Non-residents</b>	1	1	10		20	26	20	14	92
<b>Residents</b>	1		1	12	7	6	16	9	52
<b>Information not available</b>	4		1						5
<b>Total</b>	6	2	13	17	44	52	48	40	222

Source: Joutseno Reception Centre. \*) 1.1.-23.8.2013

### **Question 32**

Finnish legislation does not regulate the process of identifying a victim of THB or define which authority is competent to make the identification. The identification of someone as a THB victim becomes clearer during the assistance process, i.e. when the victim is taken into the Assistance System as a presumed victim of THB in accordance with the low threshold principle.

Finland does not use a single commonly approved list of indicators. Instead, different parties – such as the pre-trial investigation authorities, the Finnish Immigration Service and NGOs – use their own lists for victim identification, and these lists are fairly similar to each other.

The potential victim of THB is first met either by the authorities (e.g. law enforcement, OHS protection, immigration, child welfare, social welfare or health care) or a third sector actor (NGO or other party). Victims or their assistants may themselves decide to contact the authorities, and observations about potential victims of THB may be submitted by any private individual. The Assistance System has a telephone number for this purpose and the number is answered around the clock.

The pre-trial investigation authorities form an opinion about the person's potential status as victim 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, NGOs and other actors.

The Finnish Immigration Service determines the granting of a residence permit or international protection to a victim of THB who, under the definition in Chapter 1, section 3, paragraph 23 of the Aliens Act, is an alien who on reasonable grounds can be suspected of having become a victim of THB. Under paragraph 22 of the same section, THB is defined as trafficking and aggravated trafficking in human beings as referred to in Chapter 25, sections 3 and 3a of the Criminal Code.

The OHS authorities do not have competence to investigate suspicions of THB as a criminal matter. In situations where THB is suspected, the OHS authorities must act similarly to situations

of other criminal matters and report the suspicion to the police as instructed by the guidelines on the monitoring of occupational health and safety. The inspectors may also provide the police and the Border Guard with information on any indications of THB.

According to the guidelines for inspectors on identifying victims of THB, possible victims of THB that are exposed upon workplace inspections or otherwise are directed to the Assistance System for victims of THB. The situation of the victim should be examined rapidly in order for the matter to be directed to the Assistance System as soon as all the relevant information is obtained from the victim. Where necessary, the OHS authorities can act on behalf of the victim in order to be admitted to the Assistance System. Directing a victim into the Assistance System requires the consent of the victim.

Third sector actors, such as NGOs, observe and identify potential victims of THB as part of their basic work. Identification by a third sector party can occur in practice as part of the low threshold advice and support services of NGOs and via outreach work. NGOs have a significant role in identifying victims who are afraid to make the first contact with the authorities or who fear the consequences of making contact. Identification work is also performed by NGOs co-operating with and consulting each other and in collaboration with the authorities in cases where a person refuses any co-operation with the authorities.

NGOs use different identification processes. The process followed by Pro-tukipiste ry, for example, begins when signs of the constituent elements of THB are observed in the information provided by a client. The client is given information about the Assistance System, the criminal process and the possibility of residence in the country, based on the client's needs and the questions asked by the client. With the client'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 even at the stage when the client is considering admission to it. When the client is admitted to the Assistance System, a decision is also made on possible further co-operation with Pro-tukipiste ry concerning arranging services for the client. According to Pro-tukipiste ry, the most problematic and poorly resourced area is the work carried out with clients who are not then admitted to or do not wish to be admitted to the Assistance System. It believes that for such clients there is a high risk of becoming a victim again or for the first time in either THB or other serious crimes.

Pro-tukipiste ry, for example, has pointed out that from the NGOs' point of view it is unclear which authority should declare the 'ultimate' or formal identification of a THB victim, and which procedure should be used. Pro-tukipiste ry also considers it to be rather 'hit and miss' whether a person is identified as a THB victim and whether this leads to the receipt of assistance. This is due to factors such as shortcomings in the process of identification and assistance. The NGO's, e.g. Pro-Tukipiste ry and the Feminist Association Unioni have pointed out that difficulties in the identification process may result in the fact that a number of victims are left unidentified, especially in relation to exploitation connected, in particular, to prostitution.

Pro-tukipiste ry also notes that its funding for action against THB received from the Slot Machine Association is intended for organisational activities to combat THB. The type of funding intended directly for client work in victim identification and in support services at the stage when the client is not yet, or in any capacity whatsoever, a client of the official Assistance System or has been removed from the system, has not been obtained. This identification stage work would require specific additional resources, as the identification process takes a lot of time and work, and is a stage that requires expertise in assisting THB victims.



The Finnish Association for Mental Health, among others, has pointed out the importance of dissemination of information about THB and of training of organisations in order for them to be able to identify (potential) victims and, subsequently, offer them advice about the Assistance System.

### **Question 33**

Finnish legislation does not provide a generally applicable definition of ‘victim of THB’.

However, the Reception Act does provide a definition (for the purposes of the Act) of a victim of THB (section 3, subsection 1, paragraph 7), summarized as follows:

1. A person who has been granted a residence permit under section 52a of the Aliens Act;
2. A person who has been granted a reflection period;
3. A person who, based on the circumstances, can otherwise be seen as a victim of THB; or
4. A person who needs special assistance while the crime of human trafficking is being investigated.

The last three of these are used as grounds for admitting a victim to the Assistance System for Victims of Trafficking.

### **Question 34**

Under section 35 of the Reception Act, public authorities, NGOs and other parties can propose that the Assistance System begins assisting the THB victims that they have encountered. Pursuant to section 36 of the Reception Act, the reception centre director takes the decision on whether to start applying the provisions on assistance. The Assistance System bases its decision about admission to the system on the definition of victims of THB given in the Reception Act (section 3, subsection 1, paragraph 7).

In practice, everyone who has been proposed for admission to the Assistance System has been issued an affirmative or negative admission decision, including those who have a municipality of residence in Finland.

Pursuant to section 37 of the Reception Act, the reception centre director’s decision making is supported by the interprofessional assessment team, which functions in conjunction with the reception centre and also assesses the service needs of victims of THB (see the Government’s reply to Question 8). Where necessary, the interprofessional assessment team can also consult outside experts such as the OHS protection authorities or child welfare experts. The decision on starting to apply the provisions on assistance does not in itself signify a right to residence or employment in the country.

The threshold for admission to the Assistance System is kept low. A potential victim can be admitted to the system to find out whether or not he or she is a victim of THB.

Reasons are given for the decisions of the Assistance System, and there exists a right of appeal to the administrative court.

### **Question 35**

As stated above in the Government's reply to Question 32, Finnish legislation does not regulate the process of identifying a victim of THB. However, Article 10 of the Convention is taken into account when a decision over a person's deportation or removal from the country is made and the person is a potential victim of THB.

Finnish legislation does not contain a direct prohibition on a person's removal from the country during the process of his or her identification as a victim of THB. However, section 146 of the Aliens Act requires that before a person can be removed from the country, overall consideration must be given to the facts and circumstances of the matter. In practice, this means that the personal situation of the individual will be fully considered, even if it is clear that the person does not have a document proving his or her right to be in Finland (visa or residence permit) and has not applied for such a document. Non-refoulement is also always considered when a decision over a person's removal from the country is made. Therefore, it should not be possible for a victim of THB to be removed from Finland without due consideration of the person's victim status and the conditions which he or she would face in his or her home country.

A victim of THB caught staying illegally in Finland can, under section 52b of the Aliens Act, be granted a reflection period of at least thirty days and at most six months. Under section 40, subsection 1, paragraph 7 of the Act, residence during a reflection period constitutes legal residence in the country. No decision on removal from the country can therefore be made during the reflection period. Neither can a previously made decision on removal from the country be put into effect.

The police guidance requires that account also be taken of the THB potential when executing decisions on removal from the country. As a rule, any claim about becoming a victim of THB must always be investigated, unless it has already clearly emerged earlier that the claim cannot hold true. Based on the information obtained, there may be reason to refrain from putting the decision into effect until the matter concerning admission to the Assistance System has been dealt with.

Carrying out returns under the Dublin II Regulation (343/2003) is made difficult by the absence in Finland of any definition of the identification procedure for victims of THB. The principle is that nobody is removed from the country before identification has been fully carried out. If the Finnish Immigration Service makes a decision not to examine an application and transfer the person to the Member State responsible for examining the application, it will do this without hearing the asylum applicant personally. If there are indications of THB, the Finnish Immigration Service will request the police or the Border Guard to examine further. Indication of THB is one of the criteria taken into consideration when assessing whether Finland should apply Article 3(2) of the Dublin II Regulation and examine the application, even if it is not obliged to do so under the Regulation. The assessment is made on an individual basis. Unaccompanied minors who are potential victims of THB will not be transferred to another Member State without a very important reason. Such applications are examined on their merits in Finland. Unless there is information indicating otherwise, the Finnish Immigration Service and the police responsible for removal from the country assume that the asylum seeker can receive assistance intended for THB victims in other states that apply the Dublin II Regulation. If a potential victim of THB is transferred to the Member State responsible for examining the asylum application, that Member State shall be informed that the person has already received services provided for THB victims in Finland. Informing the receiving Member State will require the consent of the person concerned.

Among the labour market organisations, the Central Organisation of Finnish Trade Unions (SAK) and the Finnish Confederation of Salaried Employees (STTK) also draw attention to aspects of the Dublin procedure that require further examination.

### **Question 36**

The Assistance System has encountered situations where a victim has first received assistance in another country in another assistance system and has then come to Finland and received help from the Finnish Assistance System. However, in Finland there is no official way of recognising this status because Finnish legislation does not specify the process of identifying a victim of THB.

### **Question 37**

A right to residence (visa, residence permit and type, registration of residence right, residence card) under the Aliens Act will determine the right of a victim of THB to obtain a municipality of residence in Finland. Having a municipality of residence or not will, in turn, determine the parties responsible for arranging the available assistance and for meeting the costs of this.

The Assistance System is responsible overall for arranging the services and support measures and for the costs of this for Assistance System clients who have no municipality of residence in Finland under the Municipality of Residence Act. The Assistance System co-operates with other authorities and Finnish and international NGOs engaged in victim assistance.

Under section 33 of the Reception Act, the Assistance System can provide the following services and support measures:

- 1) legal guidance
- 2) crisis support
- 3) social services
- 4) health care
- 5) translation and interpretation services
- 6) accommodation
- 7) reception allowance or social assistance
- 8) assisted voluntary return
- 9) other necessary care or guidance or protection.

When providing services and support measures, attention must be given to the THB victim's special needs on account of his or her age, unsafe position and physical and mental state, and to the safety of the THB victim and of persons arranging the services and support measures. According to section 39 of the Integration Act, a representative may be appointed for a child victim of THB if the child is in Finland without a guardian or other legal representative.

The aim of the Assistance System is to ensure income security and care for victims of THB that meets their needs in terms of timing, circumstances and content. THB victims can be provided, for example, with any crisis support they need as soon as it is known that there are indications that the person is a victim. As necessary, the crisis support can include physical safety, accommodation, food, income security and medical treatment, as well as the opportunity for confidential discussion with experts. In addition to the legal advice given, for example, in legal processes concerning THB and in residence permit and employment matters, victims can also obtain advice helping them to make use of the Assistance System and supporting them in planning their own lives.

Accommodation can be arranged in shelters or as supported accommodation outside the reception centre. For minors without a guardian, accommodation suitable to their age and needs will be arranged. In urgent cases there may also be a need to arrange urgent temporary accommodation in the locality concerned or in another safe location. Victims also have the opportunity to obtain support services for, for example, re-integration and return arrangements.

According to the **Criminal Procedure Act** (the 'Criminal Procedure Act'; *laki oikeudenkäynnistä rikosasioissa, lag om rättegång i brottmål*; 689/1997) the court may appoint an attorney and a support person for the victim for the pre-trial investigation and the trial. The attorney helps the victim during the judicial treatment of the case and the support person provides mental support. The attorney and the support person are appointed regardless of the income of the victim. Their fees and expenses are paid by the state. For other type of legal procedures the victim may get legal aid according to the **Legal Aid Act** (*oikeusapulaki, rättshjälpslag*; 257/2002). The amount for the legal aid depends on the income of the person concerned. In addition to legal aid, the document charges and the possible costs of interpretation and translation are waived for a recipient of legal aid.

All children residing in Finland are entitled to pre-primary education and basic education free of charge. According to section 16 of the Constitution everyone has the right to basic education free of charge. Section 4 of the Basic Education Act obligates every local authority to arrange basic education for children of compulsory school age residing in its area and pre-primary education during the year preceding compulsory schooling. "Compulsory schooling" refers to completing the basic education syllabus. In practice, compulsory schooling is completed at the age of 17. Thereafter, local authorities have no obligation to arrange education, but they may continue to do so. Adult education centres, too, provide basic education to people over the compulsory school age. In practice, the models for teaching immigrants also apply to victims of trafficking in human beings. Immigrants in all age groups are taught Finnish or Swedish. At the same time, they are supported in preserving their native language and cultural identity. The teaching of immigrants is arranged for instance as part of other pre-primary education, as instruction preparatory to basic education, as teaching of Finnish or Swedish as a second language, as remedial teaching, as teaching of immigrants' native language, as teaching of other religions, as preparatory education for vocational training, and as integration education and teaching of illiterates.

If the victim of THB has a municipality of residence, the services that he or she needs can be obtained from that municipality. Under the provisions of the Municipality of Residence Act, 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 victims' special needs. The municipality's obligation to arrange social and health services is regulated in detail and the sector is also subject to guidelines from the Ministry of Social Affairs and Health. The victims are also provided with a rehabilitation programme in accordance with section 12 of the Integration Act. The municipality of residence will also provide special services beyond the basic services to meet the special needs of THB victims. Municipalities are reimbursed by the Government for the costs of such special services for victims of THB. The basic health and social services available to all residents of a municipality (including residents who are victims of THB) include assistance with housing, standard health services, translation and interpretation services in accordance with obligations arising in Finnish law, and discussion and planning with a social welfare officer. Victims may be granted social assistance under the **Act on Social Assistance** (*laki toimeentulotuesta, lag om utkomststöd*; 1412/1997). Social assistance is granted on application by the reception centre. In 2013 the Ministry of Social Affairs and Health published a new guide on social assistance, which explains the rights of different immigrant groups, including

THB victims, to social assistance in more detail. For children who have a municipality of residence, the municipality is also obliged to provide education.

For victims of THB in the municipality who are not resident there, the municipality is obliged to arrange any emergency medical treatment and also emergency financial aid (under the Act on Social Assistance).

The Joutseno Assistance System and the municipalities co-operate with each other in assisting victims of THB who have a municipality of residence. The Assistance System has provided service guidance and practical guidance to ensure that victims have access to the basic public services of their municipality of residence. The Assistance System has also contributed to matters such as the preparation of safety risk assessments and safety plans, organising appropriate accommodation and everyday living arrangements, the provision of legal advice and crisis help, and arranging psychotherapy to help improve the functional capacity and wellbeing of THB victims. The Assistance System has, in addition, provided guidance and advice to the authorities in the THB victim's municipality of residence on particular aspects of THB and has assessed service needs connected with the victim's position (e.g. in issues related to organising safe accommodation). The Assistance System has also provided municipal authorities with other information and advice concerning residence rights, for instance. The City of Helsinki, for example, considers, however, that the assessment of the needs of the victims and the arrangement of appropriate services in municipalities could be improved.

In addition to what has been mentioned above, the provision of assistance to victims in the municipalities is governed by, i.e. the following legislation. The Municipality of Residence Act determines if a person is to be granted services by the public system. Providing health insurance coverage is determined based on the **Health Insurance Act** (*sairausvakuutuslaki; sjukförsäkringslag; 1224/2004*) - a person may, however, be entitled to public services and/or health insurance medical care compensation, if EU legislation or an international social security agreement so requires. A home municipality or health insurance is not required in such cases. The duties of municipal authorities throughout Finland to arrange social and health care are stipulated by the Act on Social and Health Care Planning and Central Government Transfers to Local Government, which sets out the social services that municipalities must provide. The provision of health services are covered by the **Health Care Act** (*terveydenhuoltolaki, hälso- och sjukvårdslag; 1326/2010*), the **Primary Health Care Act** (*kansanterveyslaki, folkhälsolag; 66/1972*) and the **Act on Specialised Medical Care** (*erikoissairaanhoidolaki, lag om specialiserad sjukvård; 1062/1989*). The status and rights of medical patients and clients of social services are protected by the **Act on the Status and Rights of Patients** (*laki potilaan asemasta ja oikeuksista; lag om patientens ställning och rättigheter; 785/1992*) and the **Act on the Status and Rights of Social Welfare Clients** (*laki sosiaalihuollon asiakkaan asemasta ja oikeuksista; lag om klientens ställning och rättigheter inom socialvården; 812/2000*)), respectively.

Among the urban municipalities, Oulu is an example of those that have conducted THB victim assistance through tripartite co-operation involving the city's child welfare and immigrant services, the pre-trial investigation authorities and the Oulu Reception Centre's assistance system. In the case of under-age THB victims, Oulu has sought to provide services that are as good as possible in view of the child's needs, and some of these children have been taken urgently into care.

In Helsinki, the number of THB victims or persons approved for the Assistance System, and their family members, who were within the sphere of the City's services was thirteen (13) in 2010, nine (9) in 2011 and fourteen (14) in 2012.

In the town of Lappeenranta, for example, there have been altogether three people in the THB victim system. THB victims have received integration support services from the South Karelia Social and Health Care District's immigration services section and other necessary social and health care services on a client-oriented basis. These services have included practical guidance and advice concerning the person's new home town, assistance in managing matters in different departments and services, counselling and guidance, psychosocial support and other social and health care services. These have taken into account the person's special situation, as is the case with other clients where there are special considerations regarding the circumstances. Employment services have also been available. Regarding safety, in many cases a ban on releasing the person's contact details has been in place.

The Assistance System can provide the services and support measures itself or it can buy them from public or private service providers. The Assistance System has purchased THB victim support from third sector actors on the basis of service agreements made between the Joutseno Assistance System and NGOs.

The municipalities may also purchase specialised services, if necessary, from the private sector.

For example, Pro-tukipiste ry offers low-threshold professional social and health care services and legal advice for people working in the sexual and erotic services sector and for potential and identified THB victims. It also offers specialised services for victims of THB crimes, some of whom do not wish to be or cannot be admitted to the official Assistance System for THB victims. The services are anonymous, confidential and free of charge to the client. The work is based on the client's needs and includes a lot of guidance on services and network co-operation with other organisations and authorities. Pro-tukipiste ry has developed its process of THB victim identification within low-threshold service units. It has premises in Helsinki and Tampere and has applied to the Slot Machine Association for 2014 funding to set up a service unit in Turku.

Psychological support is also available from other organisations, such as the Monika Multicultural Women's Association. The Association seeks to serve its clients in a language that they can understand. The Finnish Association for Mental Health and its SOS Crisis Centre also offer short-term crisis intervention and short-term psychological support for THB victims during the reflection period and after being identified as a victim. However, there is no special funding for the assistance of victims, as such, in the said organisations.

Victim Support Finland is among the NGOs that provide support and assistance to victims (e.g. psychosocial support) to assist in their social recovery. It also provides victims with advice concerning their legal rights and the legal procedure, and the different services available to them. It offers THB victims the same services as any other crime victims, independent of their nationality or resident status. Victim Support Finland may also supply a person to act as personal support before, during and after the legal process. This includes provision of assistance and information concerning the legal procedure and the victim's legal rights as well as direct assistance to get all services available to crime victims during the legal process.

Other NGOs providing assistance include the Federation of Mother and Child Homes and Shelters, which is a central organisation for member associations which run shelters for victims of domestic violence. During the past few years these shelters have included a number of THB victims. The Federation considers that there is a need to distribute more information to the staff of the shelters about the phenomenon of THB, about identification and assistance systems and about how to help clients who experience this kind of violence, and information to other parties about how the

shelters work and how the shelters can be used in assisting victims. The Federation also brings up the question of maintaining the shelters as part of the system of assistance.

Also different settlement houses run by the members of the Finnish Federation of Settlement Houses provide support or assistance to victims to ease their social recovery and advice concerning legal rights and the legal procedure as well as information concerning other assistances available to victims.

Pro-tukipiste ry and other NGOs have noted that victims do not always get help that corresponds to their needs. There are problems in the way psychiatric support and psychosocial support are obtained in particular. Pro-tukipiste ry gives special attention to assistance for victims of sexual abuse or other serious violence. According Pro-Tukipiste ry, there are also particular challenges relating to legal assistance, obtaining reflection periods, and entry into labour market and education.

Monika Multicultural Women's Association believes that when assessing suitable accommodation for victims, it is especially important to take safety into account. It considers that a secret address is the only solution. Also Pro-tukipiste ry considers that crisis-stage housing for victims is poorly resourced and in need of development.

Several NGOs have stressed the fact that the financing of the work done by NGOs is inadequate and that role of NGOs in identifying victims, guiding victims to support services and providing services is undefined. There is no funding allocated in the State budget to actions against TBH taken by NGOs. No funding is provided for the work done with victims that the authorities are not aware of in situations, for example where the victim does not venture to seek help from the assistance system as they are not prepared to cooperate with law enforcement authorities. These shortcomings were also identified in the report of the working group ascertaining how well the legislation on assisting THB victims is functioning and the ways in which it can be improved and, as mentioned, e.g. in the Government's reply to Question 7, one of the aims of the ongoing legislative work is to improve the scope of action of NGOs. The aim is also to provide long-lasting financing for the work done by NGOs.

### **Question 38**

There are no differences.

### **Question 39**

Under section 7 of the Reception Act, the State is responsible for the funding and costs of assisting victims of THB within the budget framework. It is the responsibility of the Finnish Immigration Service to pay compensation to producers of services under section 7 of the Reception Act for assisting victims of THB who have no municipality of residence in Finland as referred to in the Municipality of Residence Act. Upon application, the Finnish Immigration Service will pay the fees of a representative of a child who has no guardian and no residence permit in Finland, on the basis of the time used in the representative's activities and will pay compensation for the expenses of representing the child.

The State budgets appropriations annually for arranging assistance for victims of THB, as part of the reception for asylum seekers. In 2012, the operating expenses for assisting THB victims totalled EUR 291,000. The Assistance System had 96 clients at the end of 2012. A total of

approximately EUR 1.2 million was used for the costs of assisting victims, and most of this, or about EUR 902,100, was for assisting THB victims aged 18 and above.

The largest single client expenditure item was property costs, which came to EUR 437,700. These property costs included safe residence and rental of other dwellings.

The client expenditure for under-age THB victims totalled EUR 265,516, and this consisted mainly of services purchased from social welfare, child welfare and legal advice and interpretation. At the end of 2012 there was one under-age victim of THB in the Assistance System. For 2013, a work input of about 4.5 person-years is allocated to the Assistance System, and the operating expenses of the Joutseno Reception Centre for assisting THB victims will rise to an estimated EUR 325,000.

There is no special funding for basic public services provided by municipalities for victims of THB. All services are organised through the normal service structure, and the funding for these services is part of the general funding provided by the State to municipalities for provision of basic public services.

Special funding is available within the Ministry of Employment and the Economy for special services provided by municipalities for resident victims of THB (beyond services at the basic level). Section 53 of the Integration Act allows municipalities to be reimbursed for the costs incurred in providing services and support measures for victims of THB. Under this provision, municipalities are reimbursed for costs incurred in arranging health care and social welfare services, interpretation, and guaranteeing personal safety, which arise from the special needs associated with the status of the THB victim referred to in Chapter 4 of the Reception Act, and other measures and services arranged on account of the special needs associated with the status of victim. The Centre for Economic Development, Transport and the Environment must request the opinion of the reception centre director in charge of assisting victims of THB about whether the costs for which compensation has been sought were incurred in arranging measures and services associated with the status of THB victim. In 2012, the Ministry reimbursed a total of EUR 48,000 for the costs of special services for resident victims of THB.

Work undertaken by NGOs to prevent THB and to identify and reach victims is in practice achieved through project funding. Funding of victim assistance measures is based on client-specific agreements made with the Joutseno Assistance System.

#### **Question 40**

Under section 52b of the Aliens Act, a victim of THB can be granted a reflection period of no less than thirty days and no more than six months before a residence permit is issued as laid down in section 52a. The reflection period is not fixed in duration. When considering the length of the reflection period, the authorities must take into account the victim's situation at that moment, 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. The reflection period may be no more than six months.

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 the reflection 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.

During the reflection period the victim of THB must decide whether he or she will co-operate with the authorities as referred to in section 52a, subsection 1, paragraph 2 of the Aliens Act. 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 Act.

Decisions on granting and suspending a reflection period are made by the police or the border inspection authorities. The THB victim is notified in writing about the granting or suspension of the reflection period. This notification must indicate the purpose, starting date and duration of the reflection period, and the possibility that it could be suspended and the grounds for doing so.

Under section 3 of the Reception Act, the provisions on assisting victims of THB also apply to persons who are granted the reflection period referred to in section 52b of the Aliens Act.

### **Question 41**

#### **Grounds for issuing residence permits; types of residence permit**

Section 52a of the Aliens Act on issuing a residence permit for victims of THB contains provisions equivalent to those in Council Directive 2004/81/EC on various matters including residence permits issued to third-country nationals who are victims of THB. Section 52 (residence permits on compassionate grounds) and section 52a correspond to the Convention's requirements on issuing a renewable residence permit to victims of THB. Section 52a also corresponds to Article 14(1b), and section 52 partially to Article 14(1a), of the Convention.

The Finnish Immigration Service establishes whether there are reasonable grounds to suspect that the applicant is a victim of THB and whether he or she 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 basis of section 52a, subsection 1 of the Aliens Act on the grounds of a pre-trial investigation or court proceedings. According to the legislative history concerning the Aliens Act, the police should identify in their statement all the issues 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 investigations and granted a reflection period. In conjunction with the processing of an application for a residence permit on the grounds of THB or international protection, the basis for issuing a (potential) victim of THB with a residence permit on compassionate grounds (Aliens Act, section 52) is also investigated.

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. The requirements for registering, i.e. sufficient income, are not always met, in which case an EU citizen may also apply for a residence permit on the grounds of being a victim of THB.

If a (potential) victim of THB has applied for international protection, the primary purpose of the investigation is to establish whether the prerequisites for granting international protection are met (Aliens Act, section 87 on asylum and section 88 on subsidiary protection). If these prerequisites are not met, the Finnish Immigration Service will investigate in the same procedure whether there

are grounds for issuing a (potential) victim with a residence permit for a victim of THB (Aliens Act, section 52a) or a residence permit on compassionate grounds (Aliens Act, section 52).

It should be noted also that according to section 52d of the Aliens Act, a national of a third country working illegally in Finland are issued with a temporary resident permit if he or she has resided, while working, in the country illegally, and 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 cooperate with authorities so that the suspected employers can be caught; and if 4) he or she no longer has any ties with the potential suspects.

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

#### Duration and extension of residence permits

As a rule, a residence permit for a victim of THB is issued as a temporary permit (section 52a, subsection 1 of the Aliens Act), and its issuance is conditional on, for instance, the willingness of the victim of THB to co-operate with the authorities. If the victim is in a particularly vulnerable position, the residence permit may be issued on a continuous basis (section 52a, subsection 2 of the Aliens Act), in which case co-operation is not required.

Under section 53 of the Aliens Act, first fixed-term residence permits are issued for one year, though for no longer than the validity period of the applicant's travel document, unless requested for a shorter period.

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 alien was issued with his or her previous fixed-term residence permit are still met. A THB victim issued with a temporary residence permit is issued a continuous residence permit after continuous residence of two years in the country if the circumstances on the basis of which he or she was issued with the previous fixed-term permit are still valid.

#### Question 42

A victim of THB can claim compensation from the offender in criminal proceedings or in separate court proceedings. The right to compensation is determined by the general **Tort Liability Act** (*vahingonkorvauslaki, skadeståndslag*; 412/1974), according to which a victim may receive compensation for personal damages and other losses and also for suffering.

A victim of THB can claim compensation directly from the State under the **Act on Compensation for Crime Damage** (*rikosvahinkolaki, brottsskadslag*; 1204/2005). This allows the victim to receive the compensation in a reasonable time without having to wait for the offender to pay it. In such cases the State will collect the compensation from the offender.

#### Question 43

Under section 31 of the Reception Act, a victim of THB who has no municipality of residence in Finland as referred to in the Municipality of Residence Act 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.

Section 85 of the Integration Act lays down provisions on reimbursing reasonable travel and removal expenses for, for example, victims of THB who have a continuous residence permit and are returning voluntarily to their home country or country of origin on a non-temporary basis. Under section 47 of the Integration Act, municipalities are compensated for the costs incurred in supporting return migration as referred to in section 85 of the Act.

In 2010, the International Organization for Migration (IOM) and the Finnish Immigration Service launched a voluntary return programme development project (Vapaaehtoisen paluuhjelman kehittäminen Suomessa) which was aimed at developing and establishing support services for persons who voluntarily return to their country of origin ('voluntary returnees'). Expenses eligible for support can be incurred by, for instance, victims of THB who are not EU citizens and who do not have a valid residence permit in the EU and who wish to return voluntarily to their home country or another country that they may enter. The IOM can assist a returnee with his or her travel arrangements and obtaining travel documents, and may meet his or her travel expenses. The IOM may also grant a returnee financial support for reintegration. Assistance may also be given for returnees at airports in the country of departure, transit or arrival if they require help in checking in or transferring to another flight, for example. Depending on the destination country, the IOM may also provide any necessary assistance with arrangements for internal travel in the destination country. Each year the IOM assists several returning THB victims.

On the basis of the Reception Act, the Assistance System in Joutseno supports the safe return of THB victims who have been its clients and have no municipality of residence in Finland. In practice, the Assistance System has each year also supported several EU citizens in their return to their home countries, because they have been unable to return with IOM support. Where necessary, the Assistance System may also, with the client's consent, contact the party responsible for assisting THB victims in the client's home country or in a country that applies the EU's Dublin II Regulation, in order to ensure further assistance and support. The client's return can thus be arranged so that he or she is accompanied at the airport in Finland and is met at the airport in his or her home country by a party assisting THB victims. The issues are particularly challenging when there is a need to support the safe return of an under-age victim of THB. Such cases include preventing a return to the status of victim after a child is returned to his or her guardians or to a child welfare institution in his or her home country, and arranging adequate and reliable support and monitoring.

On 31 October 2012, the Ministry of the Interior set up a legislative project for consolidating the system of voluntary return. The aim of the project is to formulate proposals for legal amendments needed to consolidate the voluntary return system. The project does not cover the return migration of persons with a municipality of residence who fall within the scope of the Integration Act.

#### **Question 44**

The Assistance System has not encountered such situations. It is possible that a victim of THB could continue to have victim status after repatriation to Finland. Finnish legislation does not exclude such a situation.

#### **Question 45**

Under section 36 of the Reception Act, the reception centre director takes the decision on whether to stop applying the provisions on assistance. To help in this decision, he or she may consult the interprofessional assessment team. The reasons for discontinuing assistance for a person once the operation of the Assistance System is in place have mainly been the receipt of a residence permit or similar, departure from the country, supported return, refusal of entry, view of the police or the prosecutor that the case is not one of THB, and the personal wish or the behaviour of the person.

**Section II.3.****Implementation of measures concerning substantive criminal law, investigation, prosecution and procedural law****Question 46**

THB is criminalised by a specific provision of the Criminal Code. In addition, the Criminal Code includes a provision on aggravated THB that applies to the most serious THB cases. The aforementioned provisions of the Criminal Code are as follows.

*Chapter 25**section 3 - Trafficking in human beings (650/2004)**subsection 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 abuse referred to in Chapter 20, section 9, subsection 1(1) or comparable sexual abuse, 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.

*subsection 2*

Also 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.

*subsection 3*

An attempt is punishable.

*section 3a - Aggravated trafficking in human beings (650/2004)**subsection 1*

If, in trafficking in human beings,

- (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 child 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 ten years.

*subsection 2*

Also 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.

*subsection 3*

An attempt is punishable.

The Government is currently planning changes to the provisions concerning trafficking offences. The aim is to clarify the difference between trafficking offences and pandering and also between trafficking offences and extortionate work discrimination. The Government proposal is planned for submission to Parliament in spring 2014.

#### **Question 47**

The use of sexual services of a person who is a victim of THB is criminalised in Chapter 20, section 8 of the Criminal Code. Under Chapter 20, section 8, subsection 1, a person who, by promising or giving remuneration involving direct economic benefit induces a person referred to as a victim in section 9 or 9a or in Chapter 25, section 3 or 3a to engage in sexual intercourse or in a comparable sexual act shall be sentenced, unless the act is punishable pursuant to section 8a, for abuse of a victim of prostitution to a fine or imprisonment for at most six months. Under subsection 2, a person who takes advantage of the remuneration referred to in subsection 1 promised or given by a third person, by engaging in sexual intercourse or a comparable sexual act with the victim referred to in said subsection, shall be sentenced for abuse of a victim of prostitution. Under subsection 3, an attempt is punishable.

The above provisions entered into force on 1 October 2006.

At the same time, Parliament required that the Government should later assess how well the criminalisation provisions are functioning. The Ministry of Justice conducted a study in autumn 2013 and is currently considering possible changes to the provision. According to the study, the current provisions are not functioning in the intended manner.

#### **Question 48**

The acts described in Article 20c of the Convention are covered by several provisions of the Criminal Code. These provisions are theft or aggravated theft (Chapter 28, sections 1 and 2), embezzlement or aggravated embezzlement (Chapter 28, sections 4 and 5), criminal trespass (Chapter 28, section 11), receiving offence (Chapter 32, section 1), and criminal damage or aggravated criminal damage (Chapter 35, sections 1 and 2).

#### **Question 49**

The liability of a legal person is regulated in Chapter 9 of the Criminal Code. 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 Criminal Code for the offence in question. The notion of “legal entity” is based on the general legal principles of criminal law and is intended to be interpreted quite broadly in this context. 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. For other offences, a legal entity can be obliged to pay damages to the victim.

#### **Question 50**

All the criminal offences established in accordance with the Convention are subject to criminal sanctions. The relevant penalties are as follows.

THB: imprisonment for at least four months and at most six years;

aggravated THB: imprisonment for at least two years and at most ten years;

theft: fine or imprisonment for at most one year and six months;

aggravated theft: imprisonment for at least four months and at most four years;

embezzlement: fine or imprisonment for at most one year and six months;

aggravated embezzlement: imprisonment for at least four months and at most four years;

criminal trespass: fine or imprisonment for at most three months;

receiving offence: fine or imprisonment for at most one year and six months;

criminal damage: fine or imprisonment for at most one year;

abuse of a victim of prostitution: fine or imprisonment for at most six months;

Chapters 3 and 4 of the Coercive Measures Act contain provisions on prohibition of transfer, confiscation for security and seizure. In addition, Chapter 10 of the Criminal Code contains provisions on forfeiture.

In the **Act on Business Prohibitions** (*laki liiketoimintakiellosta, lag om näringsförbud*; 1059/1985), section 3 (amended by Act 228/2012) states that a person guilty of a THB offence can be sentenced to a prohibition on engaging in business.

### **Question 51**

Previous convictions may be taken into account under Chapter 6, section 5 of the Criminal Code as grounds for increasing the penalty. This also applies to convictions given in another country. In some cases, it is also possible to mitigate the sentence on the grounds of a previous sentence (Chapter 7, sections 6, 7 and 9).

### **Question 52**

There are general provisions in the Criminal Code on the possibility of not prosecuting or punishing a person for an offence he or she has committed, e.g. in cases where the act is deemed comparable to an excusable act (Chapter 6, section 12). There is, furthermore, a general principle that criminal responsibility may be avoided in cases where the person had no real possibility to act differently in the situation. This is also the case when a person has been compelled to commit an offence.

There are some specific provisions on the possibility of not imposing penalties on victims of THB. Under the border offence provision in Chapter 17, section 7 of the Criminal Code, a foreigner who has committed the act referred to in this section due to the fact that he or she has been subjected to THB shall not be sentenced for a border offence.

Among the NGOs, the Feminist Association Unioni points out the absence of a general impunity provision.

### **Question 53**

The investigation related to a trafficking offence is initiated by the police or the border guard. The prosecutor decides on the pressing of charges. This is also the case where the offence is abuse of a victim of prostitution. The investigation concerning offences relating to Article 20a and 20b are also initiated by the police or the border guard, and the prosecutor decides on the pressing of charges. With regard to all offences, however, the victim may always initiate proceedings in the event that the prosecutor decides not to press charges or the police or border guard decides not to investigate the case.

### **Question 54**

According to the Criminal Investigations Act, a counsel or a support person of the injured party shall have 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.

Employees of the Voimavarakeskus unit of Monika Multicultural Women's Association and the Victim Support Finland are among those who operate as support persons throughout the criminal proceedings.

### **Question 55**

Several measures exist for protecting the identity of the victim during criminal proceedings.

As a general rule, detailed provisions on the protection of personal data are laid down by law, as stated in section 10, subsection 1 of the Constitution. Provisions on the duties of public authorities and on the handling of personal data in connection with discharging these duties are laid down in the legislation concerning the authorities in question. Furthermore, the provisions of the Personal Data Act and the Act on the Openness of Government Activities apply as general acts. A competent authority may give access to personal data in official co-operation, provided that access to the data is prescribed by law. The handling of personal data (and ensuring that access to personal data is lawful) is the responsibility of the competent authority as data controller.

More precisely, under section 24 of the Act on the Openness of Government Activities, for example, documents containing sensitive information on the private life of the injured party or another person involved in a criminal matter, as well as documents containing information on the victim of an offence, shall be kept secret if access would violate the rights or the memory of the victim or cause distress to those close to him/her.

Under section 6 of the **Act on the Publicity of Court Proceedings in General Courts** (*laki oikeudenkäynnin julkisuudesta yleisissä tuomioistuimissa, lag om offentlighet vid rättegång i allmänna domstolar*; 370/2007), for example, 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).

Provisions on judicial proceedings documents to be kept secret are laid down, in particular, in section 9 of the Act on the Publicity of Court Proceedings in General Courts. 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.

Chapter 24, section 8 of the Criminal Code contains provisions on the punishment for dissemination of information violating personal privacy. Under these provisions, a person who unlawfully through the use of the mass media or otherwise by making available to many persons, disseminates information, an insinuation or an image of the private life of another person, so that the act is conducive to causing that person damage or suffering, or subjecting that person to contempt, shall be punished.

Relevant regulation is also included in the **Act on the Population Information System and the Identification Services of the Population Register Centre** (*laki väestötietojärjestelmästä ja Väestörekisterikeskuksen varmennepalveluista, lag om befolkningsdatasystemet och Befolkningsregistercentralens certifikattjänster*; 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** (*nimilaki, namnlag*; 694/1985) contains provisions on making changes to a first name or surname.

Provisions concerning social and health care apply also. Section 25 of the Child Welfare Act, in particular, lays down the duty to notify for a large group of actors working with children and families (including persons employed by, or in positions of trust for the police service, a group family home and other housing unit referred to in the Integration Act and a unit engaged in emergency response centre activities). These persons have a duty 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. The aforementioned persons also have a duty to notify the police when they have cause to suspect on the basis of circumstances that have come to their knowledge the sexual abuse of a child. Child welfare authorities must notify the police if there are reasonable grounds to suspect that in the environment within which a child is being brought up, the child has been the subject to an offence against the child (violent offence). In addition, the Act on the Status and Rights of Social Welfare Clients includes provisions on, i.e. access to information.

There are also several measures that can be taken to protect the safety of victims before, during and after legal proceedings.

Threatening a person to be heard in the administration of justice is criminalised under the Criminal Code (Chapter 15, section 9). The **Code of Judicial Procedure** (*oikeudenkäymiskaari, rättegångsbalk*; 4/1734) allows, for example, 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 without his or her appearance in person with the use of a video conference or other appropriate technical means of communication (Chapter 17, section 34a).

Also, 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 e.g. the **Act on Restraining Orders** (*laki lähestymiskiellosta, lag om besöksförbud*; 898/1998) and the **Police Act** (*poliisilaki, polislag*; 493/1995) as well as in the **Imprisonment Act** (*vankeuslaki, fängelselag*; 767/2005), and the **Pre-trial Detention Act** (*tutkintavankeuslaki, häktningslag*; 768/2005).

In connection with assistance given to victims of THB, the responsibility for assessing the safety risks applying to a victim of THB and for planning the safety measures, and also for involvement in organising these, rests with an interprofessional assessment team. No other provisions are given on victim protection in chapter 4 of the Reception Act. The interprofessional assessment team assesses the safety of both the victim and the persons arranging services and support. The interprofessional assessment team includes police officers, who have the task of assessing safety risks as part of the team's work. In the risk assessment the police can complete a special form if they so decide or if they are requested to do so by the Assistance System. Where necessary, the Assistance System will take safety measures in collaboration with the police. Safety is ensured through procedures agreed with, for example, security guard services and the police and through emergency and contingency arrangements. Placement in a safe house will be based on a written appraisal by the investigating authority. For dealing with the most serious safety risks in particular, the National Bureau of Investigation will undertake special personal protection measures. This concerns the protection not only of victims but also other persons involved in the criminal procedure. Protection can be given to a person who has given or will give evidence or is being heard for the purposes of presenting evidence or as an expert in a serious crime, and who is consequently at serious risk. If there is justifiable cause, protection can also be given to persons other than those referred to above. Personal protection measures can concern any type of crime. They will be used as a last resort when, for instance, other protection measures taken by the local police are not considered sufficient. The measures used can include transfer of the individual from one place to another and a change of identity.

The Ministry of the Interior is preparing a Government proposal for an Act on a witness protection programme. Finland has no existing legislation on a witness protection programme. The new Act would lay down provisions on protecting witnesses and other persons whose life or health is in serious danger. The Act would apply only if measures provided elsewhere in the legislation are not sufficient. The Act would include provisions on the requirements for initiating and discontinuing a witness protection programme, and on the competent authorities and on certain protection measures. The intention is to submit the Government proposal to Parliament in the spring session of 2014.

### III. Statistics on THB

Question	Table 1: Victims of THB	2010				2011				2012			
		women	men	children <sup>1</sup>	total	women	men	children <sup>1</sup>	total	women	men	children <sup>1</sup>	total
	<b>Article 10 – Identification of the victims<sup>2</sup></b>												
T1	Number of victims identified <sup>3</sup> during the year	29	13	8	52 <sup>4</sup>	29	23	3	52	26	22	5	53
T2	Types of exploitation identified victims of THB were subject to:												
	- sexual exploitation	18	0	4	22	12	2	3	17	12	1	4	17
	- forced labour or services	7	11	3	21	12	20	1	33	20	14	1	35
	- slavery or practices similar to slavery												
	- servitude												
	- removal of organs												
	- other, please specify	6	2	1	9	3	2	0	5	0	0	0	1 <sup>5</sup>
T3	Number of persons whom the competent authorities had reasonable grounds to believe were victims of:												
	- national trafficking	1	0	0	1	0	0	0	0	0	0	0	0
	- transnational trafficking	28	13	8	51	29	23	3	52	26	22	5	53
	<b>Article 12 – Assistance to victims<sup>6</sup></b>												
T4	Number of victims of THB who received assistance of any type	29	13	8	52	29	23	3	55	26	22	5	53
T5	Number of victims of THB who refused assistance which was offered to them <sup>7</sup>												

<sup>1</sup> “Child” shall mean any person under eighteen years of age (Article 4-d of the Convention).

<sup>2</sup> *These figures represent the number of victims admitted to the Assistance System.*

<sup>3</sup> “Identified” within the meaning of the Convention.

<sup>4</sup> *Gender unknown: 2*

<sup>5</sup> *Gender unknown: 1*

<sup>6</sup> *See footnote 2.*

<sup>7</sup> *Statistics are not compiled on persons who have refused assistance; in such cases, a proposal for the admittance to the Assistance System/the beginning of assistance is not made.*

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T6	Number of shelters for victims of THB in your country <sup>1</sup>												
T7	Total number of places in shelters for victims of THB												
T8	Number of victims of THB accommodated in shelters												

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<sup>1</sup> T6-T8: Finland does not have shelters intended specifically and/or solely for THB victims.

Question	Table 1: Victims of THB (continued)	2010				2011				2012			
		women	men	children <sup>1</sup>	total	women	men	children <sup>1</sup>	total	women	men	children <sup>1</sup>	total
	<b>Article 13 – Recovery and reflection period</b>												
T9	Number of victims of THB (including persons whom the competent authorities had reasonable grounds to believe were victims of THB) who were granted a recovery and reflection period				0				0				0
	<b>Article 14 – Residence permit</b>												
T10	Number of victims of THB who were issued a residence permit												
	- owing to their personal situation				0	1			1	7	2	1	10
	- for the purpose of their co-operation with the competent authorities				0				0	4	7	0	11
	<b>Article 15 – Compensation and legal redress<sup>2</sup></b>												
T11	Number of victims of THB who obtained compensation												
T12	Compensation awarded to victims of THB:												
	- minimum amount awarded to a victim (in euros)												
	- maximum amount awarded to a victim (in euros)												
	<b>Article 16 – Repatriation and return of victims</b>												
T13	Number victims of THB who were repatriated to your country				0	0	0	0	0	0	0	0	0
T14	Number of victims of THB who were repatriated from your country to another country				0				9				20

<sup>1</sup> "Child" shall mean any person under eighteen years of age (Article 4-d of the Convention).

<sup>2</sup> Information not available.

Question	<b>Table 2: Criminal Proceedings and Sanctions</b>			<b>2010</b>	<b>2011</b>	<b>2012</b>
	<b><u>Article 18 – Criminalisation of trafficking in human beings<sup>1</sup></u></b>					
T15	Number of criminal proceedings initiated on grounds of THB <sup>2</sup>	1	6	12		
T16	Number of convictions for THB	0	1	3		
	<b><u>Article 19 – Criminalisation of the use of services of a victim</u></b>					
T17	Number of convictions for the use of services of a victim of THB	5 <sup>3</sup>	0	0		
	<b><u>Article 23 – Sanctions and measures</u></b>					
T18	Number of convictions for THB resulting in penalties involving deprivation of liberty	0	1	3		
T19	Duration of penalties on grounds of THB involving deprivation of liberty					
	- minimum duration		12 y 6 m	2 y 4 m		
	- maximum duration		12 y 6 m	6 y 10 m		
T20	Number of judgements resulting in the confiscation of assets <sup>4</sup>					
T21	Number of judgements resulting in the closure of a business or an establishment which was being used to carry out THB <sup>5</sup>					
	<b><u>Article 26 – Non-punishment provision</u></b>					
T22	Number of victims of THB who benefitted from the non-punishment provision <sup>6</sup>					

<sup>1</sup> The judgments underlying these figures have not necessarily become final.

<sup>2</sup> Figures represent the decisions made by prosecutors to press charges (not the number of defendants).

<sup>3</sup> Figure may include information concerning judgments only in the first instance (district court) and might not include any amendments made by higher instances.

<sup>4</sup> Information not available.

<sup>5</sup> Information not available.

<sup>6</sup> Information not available as none of the victims was prosecuted for offences relating their THB case.

Question	<b>Table 3: Country of origin of victims of THB</b>		<b>2010</b>	<b>2011</b>	<b>2012</b>
T23	<b>Number of victims of THB originating from:</b>				
	<b>- Council of Europe Member States:</b>	Albania	0	0	0
Andorra		0	0	0	
Armenia		0	0	0	
Austria		0	0	0	
Azerbaijan		0	0	0	
Belgium		0	0	0	
Bosnia and Herzegovina		0	0	0	
Bulgaria		0	0	0	
Croatia		0	0	0	
Cyprus		0	0	0	
Czech Republic		0	0	1	
Denmark		0	0	0	
Estonia		1	3	4	
Finland		1	0	0	
France		0	0	0	
Georgia		0	0	0	
Germany		0	0	0	
Greece		0	0	0	
Hungary		0	0	0	
Iceland		0	0	0	
Ireland		0	0	0	
Italy		0	0	0	
Latvia		0	0	0	
Liechtenstein		0	0	0	
Lithuania		0	0	0	
Luxembourg		0	0	0	
Malta		0	0	0	
Republic of Moldova		0	0	0	
Monaco		0	0	0	
Montenegro		0	0	0	
Netherlands		0	0	0	
Norway		0	0	0	
Poland		0	1	0	
Portugal	0	0	0		
Romania	0	2	3		
Russian Federation	2	7	0		
San Marino	0	0	0		
Serbia	0	0	0		
Slovak Republic	0	0	0		
Slovenia	0	0	0		
Spain	0	0	0		
Sweden	0	0	0		
Switzerland	0	0	0		
"the former Yugoslav Republic of Macedonia"	0	0	0		
Turkey	0	0	2		
Ukraine	5	0	0		
United Kingdom	0	0	0		
	<b>- other, please specify</b>				
		Nigeria	8	6	8
		Thailand	1	3	2
		Vietnam	0	8	16

	China	0	0	2
	Somalia	6	1	0
	Stateless	1	9	0
	India	8	1	0
	Bangladesh	5	4	0
	Kyrgyzstan	0	0	3
	Ghana	1	1	1
	Sri Lanka	0	2	1
	Ethiopia	1	1	0
	Iraq	0	1	2
	Iran	0	1	2
	Burkina Faso	2	0	0
	Democratic Republic of Congo	1	0	0
	Namibia	1	0	0
	Nepal	0	1	0
	Belarus	0	0	1