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## Thematic Study on Child Trafficking: National Study on Finland

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FRA  
Thematic Study on Child Trafficking

Finland

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## Executive Summary

- [1]. Trafficking in human beings in general, and child trafficking in particular, has only recently been recognised in Finnish legislation, policy and action. Finland is mostly considered to be a transit country for child trafficking, and to a lesser extent a destination country.<sup>1</sup> Cross boarder trafficking is the only form of trafficking that is found relevant in the Finnish context; trafficking within Finland has not been detected nor recognised as a problem in the country.<sup>2</sup> Only a handful of victims of child trafficking have been identified since 2005,<sup>3</sup> when Finland's first National Plan of Action against trafficking in human beings was adopted by the Government.<sup>4</sup> Overall, the Finnish system is still characterised by certain unpreparedness in dealing with child trafficking.<sup>5</sup>

## General anti-child trafficking framework

- [2]. Finland has ratified the United Nations Convention on the Rights of the Child, the United Nations Convention against Transnational Organised Crime/Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons and the ILO Convention nr. 182 on the Worst Forms of Child Labour. Finland has signed the Council of Europe Conventions on Action against Trafficking in Human Beings and the Optional Protocol to the Convention on the Rights of the Child on the

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<sup>1</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

<sup>2</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

<sup>3</sup> See Annex 2.

<sup>4</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005. For further information, see webpage of the Ministry for Foreign Affairs <http://www.formin.fi/public/default.aspx?nodeid=38595&contentlan=1&culture=fi-FI>.

<sup>5</sup> This has been said by most authorities and civil society actors, *inter alia* Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008; the Finnish Boarder Guard (Ilkka Herranen), interview on 11 June 2008; and national expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008. Anna Piskonen is both an academic and a representative of the third (NGO) sector, who has been working with child trafficking issues in Finland as well as abroad. Her latest employment was as Project Coordinator at the Finnish NGO Monika-Naiset liitto ry. She has previously worked as Project Officer at UNICEF Philippines. Currently, she is among the most consulted experts on child trafficking in Finland.

Sale of Children, Child Prostitution and Child Pornography.<sup>6</sup> The ratification process of the signed instruments is ongoing.<sup>7</sup>

- [3]. **A National Plan of Action against Trafficking in Human Beings** was adopted by the Government on 25 August 2005.<sup>8</sup> It was revised and specified in 2007 by a Steering Group lead by the Ministry of Employment and the Economy.<sup>9</sup> The revised Plan of Action was adopted by the Government on 25 June 2008.<sup>10</sup> The Plan of Action is based on three main dimensions in combating trafficking in human beings:<sup>11</sup>

- **Human rights and victim based approach, including the protection of children's rights**
- **Gender sensitive approach**
- **Comprehensive and multidimensional approach**

- [4]. **Crimes related to trafficking in human beings were penalised** in chapter 25, sections 3 and 3a of the Penal Code (39/1889) through amendment 650/2004.<sup>12</sup> A **multidisciplinary assistance system** for helping and supporting victims of trafficking was established in accordance with Finland's first Plan of Action against trafficking in human beings.<sup>13</sup> The regulations concerning the assistance of victims of trafficking are enforced in the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999).<sup>14</sup> Although the legislation concerning the assistance system entered into force only in the beginning of 2007, the assistance system has been functioning in practice since 2005. Victims of child trafficking are most often accommodated in a state reception centre for asylum seekers in Oulu.

<sup>6</sup> For data on the ratification and signing of the mentioned Conventions, see paragraphs 24-26.

<sup>7</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>8</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005.

<sup>9</sup> Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007.

<sup>10</sup> Finnish Government (Ministry of the Interior), Press release on 25 June 2008 at 13:30. For press release in Finnish and Swedish, see <http://www.vn.fi/ajankohtaista/tiedotteet/tiedote/en.jsp?oid=233814&c=0&toid=175607&moid=175630>.

<sup>11</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 5-6.

<sup>12</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>13</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 10-12.

<sup>14</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

A child victim's entry into the assistance system and the assistance needed is decided upon by the reception centre's director, together with a local multidisciplinary team.<sup>15</sup> An attempt has been made to keep the threshold for accessing the system low, and methods for easy access to the assistance system are being constantly developed.<sup>16</sup> Early identification of victims, which facilitates easy entry into the assistance system, is a top priority for the Finnish Border Guard in combating child trafficking.<sup>17</sup>

- [5]. There have been **four court proceedings relevant to child trafficking in Finland or including a Finnish citizen**: three within the Finnish court system and one in a Latvian court.<sup>18</sup>

## Prevention of child trafficking

- [6]. Prevention through awareness-raising material on trafficking in human beings has been developed by ministries and law enforcement authorities since the adoption of the first Plan of Action against trafficking in human beings in 2005.<sup>19</sup> There is some evidence of direct participation of relevant NGO's in the development, implementation and evaluation of awareness-raising efforts on child trafficking. The participation of children in these awareness-raising efforts has been low.<sup>20</sup> The existing awareness-raising projects have been criticised for not being well targeted and for not reaching all victims, relevant authorities and NGOs.<sup>21</sup>
- [7]. Section 97 of the Aliens Act (301/2004) regulates asylum investigations.<sup>22</sup> The Finnish Immigration Service has prepared

<sup>15</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008; Director of the state reception centre for asylum seekers Katja Kolehmainen, telephone interview on 6 June 2008, National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>16</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 24-27; Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, pp. 5-6.

<sup>17</sup> The Finnish Border Guard (Ilkka Herranen), contribution in seminar "Stopping trafficking in women – decreasing the demand for prostitution" (arranged by the Coalition of Finnish Women's Associations) and personal interview on 11 June 2008.

<sup>18</sup> See section A.2. of this report.

<sup>19</sup> National expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008; Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

<sup>20</sup> National expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008.

<sup>21</sup> Monika – Naiset liitto ry (Jenni Tuominen), telephone interview on 6 June 2008 and written answer on questions, received on 24 June 2008; National expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008.

<sup>22</sup> An English translation of the Act is found by number on

**instructions for authorities** involved in asylum processes (including the police, the Finnish Border Guard and the Finnish Immigration Service), through which the authorities are informed on **how to identify victims of human trafficking and unaccompanied minors** who are at risk of becoming victims of trafficking upon arrival in the country. The instructions also include recommendations on how authorities can cooperate effectively in the process of victim identification and prevention of trafficking. The instructions underline sensitivity when dealing with under-aged asylum seekers who are at risk of becoming victims of human trafficking.<sup>23</sup> Early identification of victims and possible victims is seen as a key issue in preventing child trafficking.<sup>24</sup>

## Appointment of legal guardian

- [8]. **A legal guardian is always appointed when an unaccompanied child is identified as a victim of trafficking.**<sup>25</sup> There exists a policy on child sensitive age assessment for young victims of trafficking. The age assessment includes a presumption giving the victim the benefit of doubt: according to Finland's specified Plan of Action of 2008, a young victim who is estimated to be less than 18 years of age is treated as a minor until there is clarity of the victim's age.<sup>26</sup>
- [9]. The specified Plan of Action emphasises the importance of educating the victim's legal guardians in issues concerning trafficking in human beings.<sup>27</sup>

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<http://www.finlex.fi/en/laki/kaannokset/>.

<sup>23</sup> The Finnish Immigration Service cooperated with the Ministry of the Interior in preparing answers for questions asked by the author of this report. Answers were, hence, received by the Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

<sup>24</sup> The Finnish Boarder Guard (Ilkka Herranen), contribution in seminar "Stopping trafficking in women – decreasing the demand for prostitution" (arranged by the Coalition of Finnish Women's Associations) and personal interview on 11 June 2008.

<sup>25</sup> Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008.

<sup>26</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, p. 48; Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, p. 62; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

<sup>27</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.



## Coordination and cooperation

- [10]. **Inter-agency networking bodies against trafficking have been established both on the national and the local levels.** A National Steering Group against trafficking in human beings was established in Finland in 2004.<sup>28</sup> A local multidisciplinary team has been established in Oulu, consisting of the director of the Oulu reception centre, the local police, a child protection officer and a doctor. The team evaluates the need of protection for possible victims of trafficking on a case by case basis.<sup>29</sup>
- [11]. There are no legal provisions explicitly protecting the personal data of trafficked children or adults, but general data protection regulations apply to victims of trafficking. Regarding documents and registered information of refugees, asylum seekers or applicants of residence permit or visa, the Act on the Register of Aliens (1270/1997) is applied together with the Act on the Publicity of Court Proceedings (370/2007).<sup>30</sup>
- [12]. Finland's international development assistance includes support programmes combating trafficking in human beings, both in countries of origin and within the European Union.<sup>31</sup>

## Care and protection

- [13]. In accordance with section 52(b)(1) of the amended Aliens Act (301/2004), **a reflection period of at least thirty days and a maximum of six months may be granted to a victim of trafficking in human beings.** According to section 52(a), a victim of trafficking can be issued a temporary or continuous residence permit, depending on the victim's situation. The District Police or a border control authority has the authority to decide on granting and suspending the reflection period. Section 52(b) does not stipulate any exceptions or restrictions on the reflection period vis-à-vis children.<sup>32</sup>

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<sup>28</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, p. 5.

<sup>29</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

<sup>30</sup> English translations on the Acts are found by number on <http://www.finlex.fi/fi/laki/ajantasa/>.

<sup>31</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>32</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

- [14]. Section 52(b)(2) of the Aliens Act (301/2004) states that during the reflection period, a victim of trafficking in human beings must decide whether he or she will cooperate with the authorities. Finland's revised Plan of Action against trafficking in human beings specifies, however, that it can be unreasonable to require child victims to cooperate with authorities.<sup>33</sup>
- [15]. To further the interest of an unaccompanied minor, the Finnish Immigration Service must endeavour without delay to trace his or her parents or some other person responsible for his or her actual guardianship. The Finnish Immigration Service has signed a cooperation agreement concerning the tracing of minors' families with the organisation International Social Service.<sup>34</sup>
- [16]. According to the Act on the Integration of Immigrants and Reception of Asylum Seekers (492/1999), all child victims of trafficking have the right to legal aid during the investigation process.<sup>35</sup> The child also has the right to education, to full health care and social services while residing in Finland.<sup>36</sup>

## Best interests determination and durable solutions, including social inclusion/return

- [17]. The principle of the best interests of the child is emphasised in law and policies concerning victims of child trafficking.<sup>37</sup> However, the principle is not always adequately respected and implemented in

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<sup>33</sup> Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, p. 62; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

<sup>34</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

<sup>35</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>36</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, p. 48; Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, p. 62; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

<sup>37</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, p. 48; Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, p. 62; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

practice.<sup>38</sup> Finland does not have an established practice of safe return in place, as the cases of child trafficking have been few. The Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) includes provisions on the inclusion in society of victims of human trafficking.<sup>39</sup>

- [18]. The recently amended **Child Welfare Act (417/2007) emphasises that the child's best interest must be a guiding principle in all decisions regarding the child.**<sup>40</sup>

## Prosecution

- [19]. There are no explicit provisions setting forth child-sensitive procedures to be implemented by the police, prosecutor or court, which would provide the victim or witness with alternatives for direct confrontation with the defendant in court proceedings. Instead, **general regulations are interpreted in a child sensitive way** and the protection and the security of the child are taken into account in all proceedings involving victims of child trafficking.<sup>41</sup>

## Miscellaneous

- [20]. **As child trafficking has been acknowledged only recently in Finland, there is no or little public debate on the issue.** To a certain extent, the topic is still seen as taboo.<sup>42</sup> Finnish NGOs specialised in human trafficking, as well as NGOs focusing on children, proclaim explicitly that child trafficking is not included on their agenda.<sup>43</sup> For

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<sup>38</sup> The Finnish National Committee for UNICEF (Inka Hetemäki), written answer on questions, received on 19 June 2008; National expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008 and written answer on questions, received on 15 June 2008.

<sup>39</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>40</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>41</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008; Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008.

<sup>42</sup> National expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008 and written answer on questions, received on 15 June 2008.

<sup>43</sup> For the purpose of writing this report, several NGOs specialised in human trafficking as well as NGOs focusing on children were contacted. Most of them answered that they do not have child trafficking on their agenda, why they cannot contribute to the debate on child trafficking.

the time being, no research is being carried out on child trafficking in Finland.<sup>44</sup>

## Good practice

[21]. Since the National Plan of Action against trafficking in human beings was drafted and adopted, relevant Acts have been amended with provisions concerning trafficking in human beings. Finnish law enforcement authorities have identified three focal points in combating child trafficking on the operational level:

- **Early identification of victims**
- **Better cooperation among authorities, courts and NGOs**
- **Working on the basis of the best interests of the child**

[22]. These good practices have been identified through the experience gathered since 2005, and they establish a ground for continued work in combating child trafficking.

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<sup>44</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008; Lasten perusoikeudet ry – Children’s fundamental rights (Helena Molander), personal interview on 11 June 2008.

## A. General anti-child trafficking framework

- [23]. Trafficking in human beings in general, and child trafficking in particular, has only recently been recognised in Finnish legislation, policy and action. Finland is mostly considered to be a transit country for child trafficking, and to a lesser extent a destination country.<sup>45</sup> Cross boarder trafficking is the only form of trafficking that is found relevant in the Finnish context; trafficking within Finland has not been detected nor recognised as a problem in the country.<sup>46</sup> Only a handful of victims of child trafficking have been identified since 2005,<sup>47</sup> when Finland's first National Plan of Action against trafficking in human beings was adopted by the Government.<sup>48</sup> Overall, the Finnish system is still characterised by certain unpreparedness in dealing with child trafficking.<sup>49</sup>

### A.1. Ratification and implementation of international instruments

- [24]. Finland has ratified the United Nations Convention on the Rights of the Child,<sup>50</sup> and is hence bound by the Convention's article 35, according to which States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form. In accordance with recommendations by the United Nations Committee on the Rights of the Child (CRC/C/15/Add.53 and CRC/C/15/Add.132), an Ombudsman for Children was established in

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<sup>45</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

<sup>46</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

<sup>47</sup> See Annex 2.

<sup>48</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005. For further information, see webpage of the Ministry for Foreign Affairs <http://www.formin.fi/public/default.aspx?nodeid=38595&contentlan=1&culture=fi-FI>.

<sup>49</sup> This has been said by most authorities and civil society actors, *inter alia* Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008; national expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008; and the Finnish Boarder Guard (Ilkka Herranen), interview on 11 June 2008.

<sup>50</sup> Finland signed the United Nations Convention on the Rights of the Child on 26 January 1990 and ratified it on 20 June 1991. The Convention entered into force in Finland on 20 July 1991 (Treaty Series of Finland No. 59-60/1991).

2004 to monitor the implementation of the Convention (Act on the creation of the Ombudsman for Children (1221/2004)).<sup>51</sup>

- [25]. Finland has ratified the United Nations Convention against Transnational Organised Crime/Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons<sup>52</sup> and the ILO Convention nr. 182 on the Worst Forms of Child Labour<sup>53</sup>. There is no special monitoring mechanism in place for the monitoring of the implementation of these instruments.<sup>54</sup>
- [26]. Finland has signed the Council of Europe Convention on Action against Trafficking in Human Beings<sup>55</sup> and the Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography<sup>56</sup> but has not yet ratified them. The Ministry for Foreign Affairs has the national ratification and implementation of these instruments on its agenda. The preliminary timetable for ratifying the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse<sup>57</sup> is set for 2010.<sup>58</sup>
- [27]. Regarding the UN Convention on the Rights of the Child Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, the obligations laid down in the Protocol are mainly contained in other international instruments binding on Finland. Thus, most amendments of legislation required by the Optional Protocol have already been made. However, a new provision will be required to the Penal Code (39/1889) relating to inappropriate international

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<sup>51</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>52</sup> Finland signed the United Nations Convention against Transnational Organised Crime/Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons on 12 December 2000 and gave its acceptance to it on 7 September 2006 (Treaty Series of Finland No. 72-73/2006).

<sup>53</sup> Finland ratified the ILO Convention nr. 182 on the Worst Forms of Child Labour on 17 January 2000. The Convention entered into force on 17 January 2001 (Treaty Series of Finland No. 16/2000).

<sup>54</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>55</sup> Finland signed the Council of Europe Convention on Action against Trafficking in Human Beings on 29 August 2006.

<sup>56</sup> Finland signed the Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography on 7 September 2000.

<sup>57</sup> Finland signed the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse on 25 October 2007.

<sup>58</sup> Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008.

adoptions. The ratification process can be finalised as soon as this legislative amendment has been adopted by the Parliament.<sup>59</sup>

- [28]. The Ministry for Foreign Affairs has set up a working group to examine what measures the ratification of the Council of Europe Convention on Action against trafficking in human beings necessitates. The tasks of the working group include, *inter alia*, examining the possible legislative and other necessary amendments that the ratification of the convention requires. The working group shall give its proposal in the form of a Government Bill if it considers that appropriate. The working group was appointed in February 2008 and it commenced its work promptly after the appointment. The working group is comprised of members representing the Ministry for Foreign Affairs, the Ministry of Justice, the Ministry of the Interior and the Ministry for Social Affairs and Health. The mandate of the working group expires on 31 December 2008.<sup>60</sup>
- [29]. Finland has supported the European Convention on Trafficking against Human Beings monitoring system for implementation (TIMS Development) with a 100 000 euro voluntary contribution in 2007. The development work is still on-going.<sup>61</sup>
- [30]. Crimes related to trafficking in human beings were included in chapter 25 of the Penal Code (39/1889) on offences against personal liberty in 2004. Section 3 on trafficking in human beings (650/2004) and section 3a on aggravated trafficking in human beings (650/2004) read:<sup>62</sup>

Section 3 – *Trafficking in human beings* (650/2004)

(1) A person who:

- (1) by abusing the dependent status or insecure state of another person,
- (2) by deceiving another person or by abusing the 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

<sup>59</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>60</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>61</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>62</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

another person for purposes of sexual abuse referred to in chapter 20(9)(1)(1) or comparable sexual abuse, forced labour or other demeaning circumstances or removal of bodily organs or tissues for financial gain shall be sentenced for *trafficking in human beings* to imprisonment for a minimum of four months and a maximum of six years.

- (2) A person who takes control over another person under 18 years of age or recruits, transfers, transports, receives or harbours that person for the purposes mentioned in subsection 1 shall be sentenced for trafficking in human beings even if none of the means referred to in subsection 1(1 – 4) have been used.
- (3) An attempt shall be punished.

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

- (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 deliberately 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/herself has been substantially diminished or
  - (4) the offence has been committed within the framework of a criminal organisation referred to in chapter 17(1a)(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 a minimum of two years and a maximum of ten years.
- (2) A person who enslaves or keeps another person in servitude, transports or trades in slaves shall also be sentenced for aggravated trafficking in human beings if the act is aggravated when assessed as whole.
- (3) An attempt shall be punished.

[31]. The regulations of punishment in the cited sections have been adjusted to the standards of international instruments such as the Palermo Protocol, the Council of Europe Convention on Action against Trafficking in Human Beings and the Framework Decision on combating trafficking in human beings, adopted by the EU Council of Ministers.<sup>63</sup>

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<sup>63</sup> Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008.



- [32]. International instruments regulating trafficking in human beings are implemented both through national legislative measures (transformation) and through incorporating the treaty in the Finnish legal system at the level of an Act of Parliament, which is why they have direct applicability in Finnish law.<sup>64</sup>

## A.2. Legal cases on child trafficking or related crimes

- [33]. There have been four court proceedings relevant to child trafficking in Finland or including a Finnish citizen: three within the Finnish court system and one in a Latvian court.

### A.2.1. Case number R 06/1350 in Lappeenranta district court (aggravated arrangement of illegal immigration)

- [34]. *Case number R 06/1350, judgment number 06/1882 in Lappeenranta district court; aggravated arrangement of illegal immigration on 13 October 2006, according to Penal Code (39/1889) Chapter 17 section 8a.*<sup>65</sup> The defendant arranged the illegal immigration of three Chinese citizens less than 18 years of age, who did not have valid visa or passport to enter Finland. The district court judged the crime as aggravated, as the act was particularly systematic: the minors did not have any language skills and they were taken far away from their home, which is why they did not have any realistic possibility to interrupt the trip, especially as their authentic travel documents were taken away from them already in Ulan Bator. Finland was used as a transit country: the victims thought they were going to work in the United Kingdom, although they did not have any relatives or other acquaintances in the country. There was not complete certainty of the age of the victims, but one of them announced to be born at the end or 1991, which means she would have been only 15 years of age when entering Finland.
- [35]. The district court emphasises that aggravated arrangement of illegal immigration is closely linked to chapter 25 section 3a on aggravated trafficking in human beings. The district court holds that the characteristics of the present case come very close to those of

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<sup>64</sup> Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008.

<sup>65</sup> Case number R 06/1350, judgment number 06/1882 in Lappeenranta district court on 13 December 2006, Pre-investigation protocol 9182/R/202928/06 on 7 November 2006.

aggravated trafficking in human beings. In aggravated trafficking in human beings the aim is to use the victim's vulnerable and completely dependent situation to force the victim to sexual exploitation, forced labour or other circumstances which are degrading for the person's human dignity. Aggravated arrangement of illegal immigration is distinguished from aggravated trafficking in human beings by the fact that the victim's dependence on the arranging part ends when having reached the final destination. In the present case the relationship between the offender and the victims was estimated to have been temporary. Hence, the Lappeenranta district court sentenced the defendant for aggravated arrangement of illegal immigration, in accordance with chapter 17 section 8a (650/2004) of the Penal Code (39/1889).<sup>66</sup> The offender was sentenced to two years imprisonment.<sup>67</sup>

- [36]. An appeal against the verdict was filed by the sentenced to Kouvola court of appeal (case number R 07/135, judgment number 265).<sup>68</sup> The court of appeal reaffirmed the grounds of the verdict. However, it shortened the prison sentence to one year and three months of imprisonment on the basis of chapter 6 section 13 of the Penal Code (39/188) on deduction of period of loss of liberty.<sup>69</sup>
- [37]. The Chinese adolescents were placed in the reception centre for asylum seekers in Oulu. Later, they escaped from the reception centre and were not relocated by the authorities. Authorities suspect that the children travelled to the United Kingdom, although there is no evidence to support the suspicion.<sup>70</sup>

## A.2.2. Case number R 07/1163 in Lappeenranta district court (arrangement of illegal immigration)

- [38]. *Case number R 07/1163, judgment number 07/1591 in Lappeenranta district court; arrangement of illegal immigration on 4 November 2007, according to Penal Code (39/1889) chapter 17 section 8.*<sup>71</sup> A group of Russian citizens arranged and assisted different stages of the trip of three young Chechens from Russia to Finland. The young persons' visa, arranged by one of the defendants, were granted for participating in a training camp in skiing for Russian children in

<sup>66</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>67</sup> Case number R 06/1350, judgment number 06/1882 in Lappeenranta district court on 13 December 2006.

<sup>68</sup> Case number R 07/135, judgment number 265 on 23 February 2007.

<sup>69</sup> Case number R 07/135, judgment number 265 on 23 February 2007.

<sup>70</sup> Ministry of the Interior (Veikko Pyykkönen), telephone interview on 9 June 2008.

<sup>71</sup> Case number R 07/1163, judgment number 07/1591 in Lappeenranta district court on 20 December 2007, Pre-investigation protocol 9182/R/21065/07 on 3 December 2007.

northern Finland, although the real aim of the trip was to use Finland as a transit country to reach Western Europe. Two of the persons, siblings, were supposed to go to live with their uncle in Germany; the third was heading for Norway where she was supposed to live with her Russian husband. The young persons came by train to Helsinki together with one of the defendants. Their trip was to continue from Helsinki to Stockholm by ferry, but their ferry trip was interrupted by the Finnish Border Guard at the Åland Islands.

- [39]. Legal proceedings were undertaken against two of the Russian citizens for arranging an illegal immigration of the young persons. The ground for the charges was that the young persons' visa had been granted on false grounds (for taking part in a training camp in skiing), and that their travel documents were hence inappropriate. Chapter 17 section 8 states that a person who brings or attempts to bring to or transport through Finland a foreigner without a valid passport, other travel documents, a visa or a residence permit, shall be sentenced for the arrangement of illegal immigration to a fine or imprisonment for a maximum of two years (650/2004).<sup>72</sup> The claim was dismissed by the Lappeenranta district court with the motivation that the evidence of travel documents was open to interpretations: although the young persons' visa had been granted on false grounds, they did nevertheless have the required travel documents to enter Finland. The prosecutor appealed against the verdict at the Kouvola court of appeal. In the appeal document, he claimed that the case should be sent back to Lappeenranta first instance court to re-examine evidence, i.e. the lack of appropriate visa.<sup>73</sup> The court proceedings have to date not been finalised.
- [40]. The Chechens were accommodated in the reception centre for asylum seekers in Oulu. They also entered Finland's assistance system for victims of trafficking during the court proceedings. The young persons and their parents in Chechnya were heard after a reflection period. As the young persons had expressed their wish to return home, they were returned to Chechnya on the basis of the hearings.<sup>74</sup>

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<sup>72</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>73</sup> Prosecutor Markku O. Ahonen (Kaakkois-Suomen syyttäjänvirasto, Lappeenrannan palveluoykimisto), Valituskirje Kouvolan Hovioikeudelle 21.1.2008.

<sup>74</sup> Ministry of the Interior (Veikko Pyykkönen), telephone interview on 9 June 2008.

### A.2.3. Case number R 06/5204 in Helsinki district court (aggravated trafficking in human beings)

- [41]. *Case number R 06/5204; judgment number 06/6857 in Helsinki district court, aggravated trafficking in human beings on 20 July 2006, according to Penal Code (39/1889) chapter 25 section 3a.*<sup>75</sup> An Estonian woman with disabilities, who was told that she would be hired for a paid job as a babysitter, was taken to Finland and forced to prostitution. The district court found that the trafficking was aggravated, as the case involved threat of violence and partly also fraud. The fact that the victim of the crime was a person with disabilities, whose capability to defend herself was weakened and who was completely dependant on the offenders, also added to the aggravated form of the crime.
- [42]. All eight defendants in the case were sentenced with imprisonment of varying length depending on the role they played in the trafficking process:
- *Defendant A: aggravated trafficking in human beings and aggravated pandering → five years of imprisonment;*
  - *Defendants B and C: aggravated trafficking in human beings → three years and eight months of imprisonment;*
  - *Defendants D, E and F: aggravated trafficking in human beings and aggravated pandering → three years and six months of imprisonment;*
  - *Defendant G: aggravated trafficking in human beings → two years and three months of imprisonment;*
  - *Defendant H: pandering → one year of imprisonment.*
- [43]. This is the only case in Finland where chapter 25 section 3 or section 3a of the Penal Code (39/1889) on aggravated trafficking in human beings has been the ground for sentence.<sup>76</sup> The eight sentenced persons appealed to Helsinki court of appeal on 1 March 2007 (case number R 06/2317, judgment number 722). The court of appeal reaffirmed the sentence of the district court.<sup>77</sup>

<sup>75</sup> Case number R 06/5204; judgment number 06/6857 in Helsinki district court on 20 July 2006.

<sup>76</sup> An English translation of the Act is found by number on

<http://www.finlex.fi/en/laki/kaannokset/>.

<sup>77</sup> Case number R 06/2317, judgment number 722 in Helsinki Court of Appeal on 1 March 2007.

#### A.2.4. Riga regional court (trafficking in human beings)

- [44]. *Riga regional court; trafficking in human beings.* A Finnish national was sentenced to eight years imprisonment in Riga regional court for trafficking in human beings. The sentence also included confiscation of the Finnish national's property and deportation from Latvia after he had served his imprisonment. The verdict was appealed by the Finnish national on the grounds that the court failed to take into consideration serious violations during the pre-trial investigation.<sup>78</sup>
- [45]. The Finnish national and his compliances were detained in an international law enforcement operation launched in October 2003. Police officers from three countries caught an organised criminal league whose members were trafficking women from Latvia, Estonia and Russia to Finland for prostitution. The most aggravating circumstance was the fact that at least one of the victims was only 17 years of age when the trafficking took place. Under Latvian law, the punishment for trafficking is eight to fifteen years of imprisonment.<sup>79</sup> It is worth noting that according to chapter 25 sections 3 and 3a in the Finnish Penal Code, the sentence for trafficking in human beings ranges from four months to a maximum of six years, and the sentence for aggravated trafficking in human beings ranges from two to ten years.

#### A.2.5. Concluding remarks on cases

- [46]. The legal provision establishing the principle of the best interest of the child as a primary consideration in all actions and decisions affecting children is included in the recently amended Child Welfare Act (417/2007).<sup>80</sup> Section 4 of the Act establishes the best interest of the child as one of the core central principles of child welfare. The law does not make special reference to trafficked children, but includes a provision of non-discrimination. There are no specific regulations regarding child victims of trafficking which would take the child's best interest into consideration in court proceedings.<sup>81</sup>
- [47]. The above mentioned cases concerning child victims of arrangement of illegal immigration (sections A.2.1. and A.2.2.) have been criticised

<sup>78</sup> The newspaper Turun Sanomat, 16 April 2005, article "Suomalaiselle 8 vuotta vankeutta ihmiskaupasta", found on <http://www.turunsanomat.fi/kotimaa/?ts=1,3:1002:0:0,4:2:0:1:2005-04-16,104:2:296295,1:0:0:0:0:>.

<sup>79</sup> The newspaper Helsingin Sanomat, 22 March 2005, English version, Archive.

<sup>80</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>81</sup> Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008.

for neglecting, or not sufficiently taking into account, the principle of the best interests of the child and the fact that some of the victims in the named cases were under-aged. The raised criticism holds that the vulnerability and level of maturity of the children, and the fact that the victims have been minors in need of special protection measures, has not been adequately taken into account in dealing with the cases.<sup>82</sup> The criticism is seen to reflect the unpreparedness of the judiciary, and the Finnish system at large, to deal with child trafficking. According to the Finnish Border Guard, courts lack sufficient knowledge on child protection issues when it comes to child trafficking, which is why the courts' judgments often do not correspond to the vision of the law enforcement authorities working on the field.<sup>83</sup>

- [48]. Concern has also been raised on the cooperation procedures in cases relating to under-aged persons, especially regarding the case of the three Chechen young persons described in section A.2.2. In the mentioned case, there has been some concern on whether the adolescents were sufficiently informed on their options in terms of seeking asylum or residence permit. When the adolescents chose to return to Chechnya, the question was raised on whether the options and their consequences had been presented to them clearly enough, and whether it really was in the best interests of the adolescents to be returned. According to the Ministry of the Interior, the three adolescents were explained with the help of legal assistance that they have the right to seek asylum in Finland.<sup>84</sup> Through Government Proposal 32/2006, amendments were carried out in sections 5 and 10 of the Aliens Act (301/2004). The amended legislation ensures a reflection period to victims of trafficking; also to minors.<sup>85</sup>

### A.3. National Plan of Action against Trafficking in Human Beings

- [49]. A National Plan of Action against Trafficking in Human Beings was adopted by the government in August 2005.<sup>86</sup> It was revised and

<sup>82</sup> Ministry of the Interior (Veikko Pyykkönen), telephone interview on 9 June 2008; National expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008 and written answer on questions, received on 15 June 2008.

<sup>83</sup> The Finnish Border Guard (Ilkka Herranen), contribution in seminar "Stopping trafficking in women – decreasing the demand for prostitution" (arranged by the Coalition of Finnish Women's Associations) and personal interview on 11 June 2008.

<sup>84</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>85</sup> Government Proposal 32/2006 is published on <http://www.edilex.fi/content/virallistieto/he/20060032/>.

<sup>86</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005.

specified in 2007 by a Steering Group lead by the Ministry of Employment and the Economy.<sup>87</sup> The revised Plan of Action was adopted by the government on 25 June 2008.<sup>88</sup> The steering group proposes that an external and independent evaluation of the systems to combat human trafficking should be conducted in 2009.<sup>89</sup>

- [50]. The original Plan of Action establishes three principles for the fight against trafficking in human beings: a human rights and victim based approach, including the protection of children's rights; a gender sensitive approach; and a comprehensive and multidimensional approach.<sup>90</sup> These principles were reaffirmed in the specified Action Plan. In relation to children, these principles are strived for through the adoption of a child-friendly approach in all contact with the child.<sup>91</sup>
- [51]. As is stated in the specified Plan of Action of 2008, the implementation of the first Plan of Action as a whole has been multi-professional, and it has crossed organisational boundaries. The undertaken activities are showing signs of becoming established, and the first concrete results have been achieved both in the areas of crime prevention and victim help.<sup>92</sup>
- [52]. Identifying victims of trafficking has proved more challenging than expected, and the dividing line between human trafficking crimes and crimes resembling human trafficking is not yet established. Fitting together the first phase of identification, licensing procedures, criminal investigation and case law, as well as helping the victims has partly remained inadequate for reasons relevant to either implementation or legislation.<sup>93</sup>

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<sup>87</sup> Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008.

<sup>88</sup> Finnish Government (Ministry of the Interior), press release on 25 June 2008 at 13:30. For press release in Finnish and Swedish, see <http://www.vn.fi/ajankohtaista/tiedotteet/tiedote/en.jsp?oid=233814&c=0&toid=175607&moid=175630>.

<sup>89</sup> Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, p. 6.

<sup>90</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 5-6.

<sup>91</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10; national expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008 and written answer on questions, received on 15 June 2008.

<sup>92</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 1-2.

<sup>93</sup> Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, pp. 5-6; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 5-6 and 10.

- [53]. Although the first National Plan of Action includes some recommendations on the assistance of child victims, it has been criticised for not being particularly child-friendly.<sup>94</sup> For instance, children are not automatically given residence permits, and there is no explicit prohibition of detention of child victims. In the proceedings, the criminal side is often emphasised over the need for care, protection and human rights-based approaches. There are similarities between the treatment of child victims of trafficking and asylum seekers less than 18 years of age: both groups fall under immigration services, rather than child protection services.<sup>95</sup>
- [54]. In response to the critique, and based on the experience gathered since the adoption of the first Plan of Action in 2005, the revised Plan of Action includes specifications on child victims.<sup>96</sup> Some provisions of the revised Child Welfare Act of 2007 are integrated,<sup>97</sup> mainly regarding the determination of the child's best interest and the hearing of the child in accordance with the age and maturity of the child.<sup>98</sup> The new Plan of Action recognises child safety as the most challenging task in assisting child victims. It recognises that the child's safety is particularly jeopardised in cases where the trafficker tries to regain hold of the child after the child has entered the assistance system, especially when the child still has confidence in the criminal and there is a risk for re-victimisation.<sup>99</sup> The revised Plan of Action against Trafficking in Human Beings proposes the following measures for protecting child victims from their traffickers and for preventing re-victimisation:<sup>100</sup>
- The search for a victim's parent(s) or guardian(s) must begin immediately. In this connection it must be investigated whether the parent or guardian has played a role in the victimisation of the child, in order to prevent that the child be re-victimised through the parent or guardian.

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<sup>94</sup> National expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008 and written answer on questions, received on 15 June 2008; The Finnish National Committee for UNICEF (Inka Hetemäki), written answer on questions, received on 19 June 2008.

<sup>95</sup> Monika – Naiset liitto ry (Jenni Tuominen), telephone interview on 6 June 2008 and written answer on questions, received on 24 June 2008.

<sup>96</sup> Näkymättömät uhrit. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, p. 62; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

<sup>97</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>98</sup> Tero Mikkola (Ministry of the Interior), member of the National Steering Group that prepared the revised Plan of Action, telephone interview on 27 June 2008.

<sup>99</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

<sup>100</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.



- The level of dependence that the child has on his or her trafficker or group of traffickers must be investigated carefully in order for the authorities to be able to give the most effective protection possible.
- Special attention must be put on the possible risk of disappearance of a minor victim, for instance by taking the child into care and placing him or her in a child care institution or a residential home. Through such measures, special restrictions relating to communication and movement possibilities can be established for the child in order to guarantee the child's safety and to prevent disappearance. This provision was added to the revised Plan of Action for it to correspond with chapter 11 of the new Child Welfare Act (417/2007) on restrictions in foster care.
- It must be ensured that children who have been within the assistance system, as well as other unaccompanied minors, are given proper after-care in accordance with chapter 12 of the Child Welfare Act (417/2007).

[55]. Before the adoption of the first Plan of Action in 2005, there was little awareness on trafficking in Finland. The impact of the Plan of Action in general has thus been visible in the amendment of laws and policies to prevent trafficking in human beings. The impact can also be seen in the establishment of child friendly procedures within the assistance system. The overall focus in measures relating to human trafficking has, nevertheless, been less on child victims and more on adult victims both in government action and within the civil society.<sup>101</sup>

## A.4. Assistance framework for victims of child trafficking

### A.4.1. Assistance system

[56]. An assistance system for helping and supporting victims of trafficking was established in accordance with Finland's first Plan of Action against trafficking in human beings.<sup>102</sup> The regulations concerning the assistance of victims of trafficking are enforced in the Act on the Integration of Immigrants and Reception of Asylum Seekers

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<sup>101</sup> National expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008 and written answer on questions, received on 15 June 2008; Director of the state reception centre for asylum seekers Katja Kolehmainen, telephone interview on 6 June 2008.

<sup>102</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 38-50.

(493/1999).<sup>103</sup> Although the legislation concerning the assistance system entered into force only in the beginning of 2007, the assistance system has been functioning in practice since 2005.

- [57]. The assistance system includes the following phases: investigative work; emergency assistance; support for victims (including housing, means of living, education, employment, social assistance, mental support, health care services, and administrative assistance); legal assistance and counselling; integration; and processes for acquiring a residence permit and reflection period.<sup>104</sup> An attempt has been made to keep the threshold for accessing the system low,<sup>105</sup> and methods for easy access to the assistance system are being constantly developed. For instance, different accommodation possibilities such as shelters, foster homes and child protection units are arranged for victims in different parts of Finland. Interpretation and translation services are provided for already before a victim has entered the assistance system in order to facilitate the entry into the system. Also, a support person who speaks the victim's language and is familiar with the victim's culture is appointed when possible to gain the victim's trust and facilitate communication between the victim and the personnel involved in the assistance system.<sup>106</sup> Early identification of victims, which facilitates entry into the assistance system, is a top priority for the Border Guard in combating child trafficking.<sup>107</sup>
- [58]. The Ministry of the Interior has a data collection mechanism concerning the amount of children being taken in to the assistance system. The director of the Oulu reception centre, the National Bureau of Investigation and the Border Guard are involved in the collection of data regarding victims of trafficking.<sup>108</sup> For the statistics, see annex 2.
- [59]. The revised Plan of Action of 2008 shows that the services for and the assistance of victims have been realised according to the plan. The Action Plan notes, however, that in order to develop the services and

<sup>103</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>104</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 39-50.

<sup>105</sup> Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, p. 5; National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, p. 62.

<sup>106</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 8.

<sup>107</sup> The Finnish Boarder Guard (Ilkka Herranen), contribution in seminar "Stopping trafficking in women – decreasing the demand for prostitution" (arranged by the Coalition of Finnish Women's Associations) and personal interview on 11 June 2008.

<sup>108</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008; Director of the state reception centre for asylum seekers Katja Kolehmainen, telephone interview on 6 June 2008.

the assistance system, specifications are needed in terms of certain special services. The plan calls for specifications especially in three areas: firstly, safety of the victim and all other persons involved; secondly, dialogue and confidence between the victim and the authorities; and thirdly, expansion of the assistance system.<sup>109</sup>

#### A.4.1.1. Safety of the victim and all other persons involved<sup>110</sup>

- [60]. In all action within the assistance system, the safety of both the victim and the other persons involved must be a priority. Different accommodation options, such as shelters, support homes and child protection units, must be established in different parts of Finland.
- [61]. The reception centres must have the possibility to rapidly change the location of the victim if the security situation changes. The possibility of the victim to enjoy his or her municipality's basic services, as well as the services provided within the assistance system, will be ensured. Also, support by experts within the assistance system will be provided for in the municipalities where victims of trafficking live.

#### A.4.1.2. Dialogue and confidence between the victim and the authorities<sup>111</sup>

- [62]. Translation and interpretation services are required at an early stage; starting from when the suspicion of trafficking has been raised, before the victim has entered the assistance system. When possible, professionals speaking the victim's mother tongue and understanding the victim's culture are included in the process in order to help the victim in building confidence in the system. Possible support persons should be trained for this specific task and it needs to be reflected on in what cases the support person can be of additional help in the empowerment of the victim. Also the continuation of the support and the costs of the support person activities beyond the assistance system must be taken into account at an early stage. Reception centres make certain that continuity in assisting a victim in terms of transferring knowledge and experiences is ensured in case of change of personnel.

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<sup>109</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 10-11.

<sup>110</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 10-11.

<sup>111</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 10-11.

#### A.4.1.3. Expansion of the assistance system<sup>112</sup>

- [63]. The Ministry of the Interior explores whether the assistance system should be expanded to include victims of crimes related to trafficking in human beings. In connection to this, the inclusion of victims of crimes related to trafficking in human beings in the same residence permit processes as victims of trafficking in human beings will be explored. The use of the possibility to appeal a decision, also in the case of removal from the assistance system, should be explored in connection with the decision making process.

#### A.4.2. Reception centre for victims of child trafficking

- [64]. There exist two specialised shelters for trafficked human beings, both operating under the mandate of the Ministry of the Interior. Joutseno and Oulu state reception centres for asylum seekers are responsible for coordinating assistance of the victims of human trafficking. The Joutseno reception centre hosts adult victims; the Oulu reception centre hosts child victims of trafficking but also adult asylum seekers.<sup>113</sup> In some cases, victims and possible victims of child trafficking can also be accommodated in a child care institution with which the reception centre has signed a service provision agreement.<sup>114</sup>
- [65]. The Oulu reception centre is an old hospital that accommodates both children and adults. The minors reside in the top floor while the two lower floors are reserved for adults. The access of the adults to the upper floor where the children live is prohibited. The common areas are open both to children and adults and children can access the floors reserved for the adult asylum seekers.<sup>115</sup>
- [66]. The decision to include a child victim in the assistance system is made by the director of the reception centre with assistance from a local

<sup>112</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 10-11.

<sup>113</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008; Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008; Director of the state reception centre for asylum seekers Katja Kolehmainen, telephone interview on 6 June 2008.

<sup>114</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008; Director of the state reception centre for asylum seekers Katja Kolehmainen, telephone interview on 6 June 2008; Monika – Naiset liitto ry (Jenni Tuominen), telephone interview on 6 June 2008 and written answer on questions, received on 24 June 2008.

<sup>115</sup> National expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008 and written answer on questions, received on 15 June 2008; Director of the state reception centre for asylum seekers Katja Kolehmainen, telephone interview on 6 June 2008.

multidisciplinary team.<sup>116</sup> Criticism has been raised on the structure of the assisting and accommodation system of victims of child trafficking. Concern has been expressed, for example, of the fact that there is no requirement of expertise or training in child protection for the personnel of the asylum seekers' reception centre in Oulu, which hosts the victims of child trafficking. Concern has also been expressed over the fact that the decision of entering a child in the assistance system is made by the director of the reception centre, who is not required to have expertise in child protection issues.<sup>117</sup> However, the revised Plan of Action against trafficking in human beings indicates that the cooperation between the director and the supporting multidisciplinary team has worked well and that there has not been any disagreements on whether to enter a child in the system or not. To date, every suspected victim of child trafficking has entered the system.<sup>118</sup>

#### A.4.3. Children absconding from the reception centre

[67]. The Oulu reception centre is not a closed institution, and there are no established practices to prevent children from escaping from the centre or from going into hiding; a child's mobility cannot be hindered against the will of the child.<sup>119</sup> In the revised Plan of Action against trafficking in human beings, the risk of absconding is seen as one of the biggest problems that must yet be faced.<sup>120</sup> The Plan recognises that the child victim often has developed a relationship of dependency and trust with the trafficker. As a Border Guard authority expressed himself: "in the eyes of child victims, we are often seen as the 'bad guys' whereas the traffickers represent security".<sup>121</sup> Hence, the Plan of Action emphasises cutting off the contact between the trafficker and the victim in order to minimise the risk of absconding and re-victimisation. As an alternative for the Oulu reception centre, a child

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<sup>116</sup> Director of the state reception centre for asylum seekers Katja Kolehmainen, telephone interview on 6 June 2008; Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>117</sup> National expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008 and written answer on questions, received on 15 June 2008.

<sup>118</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

<sup>119</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>120</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

<sup>121</sup> The Finnish Boarder Guard (Ilkka Herranen), contribution in seminar "Stopping trafficking in women – decreasing the demand for prostitution" (arranged by the Coalition of Finnish Women's Associations) and personal interview on 11 June 2008.

at risk of absconding can also be placed in a child care institution for safety reasons.<sup>122</sup>

- [68]. In 2006, four children absconded from the Oulu reception centre. Authorities suspect that the trafficking league regained hold of the children and continued the trafficking to the United Kingdom.<sup>123</sup> In 2007, five minor asylum seekers absconded; in 2008, one has gone missing within the first six months of the year. The statistics of minors who abscond may have a considerable margin of error as, for instance, the Finnish Immigration Service does not receive any information on children who have absconded after the asylum decision has been made.<sup>124</sup>

## A.5. Budget for combating child trafficking

- [69]. The budget of relevant ministries and authorities for anti-trafficking measures in general forms part of the authorities' annual budget allocation.<sup>125</sup> In practice this has meant that the resources allocated for combating trafficking in human beings have been limited. An example of the limited budget for combating child trafficking is found within the police force, which has only some 20 police officers in the whole country working with issues related to trafficking.<sup>126</sup>
- [70]. There is lack of funding for research on child trafficking in Finland. Hence, there is not enough knowledge of the causes, impact on victims, dimensions, routes, or impact on government efforts. Funding for research on child trafficking has been denied by Finland's Slot Machine Association RAY<sup>127</sup> with the motivation that there are already resources allocated for research and prevention work on trafficking in

<sup>122</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

<sup>123</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>124</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>125</sup> None of the Ministries contacted for the writing of this report (Ministry of the Interior, Ministry for Foreign Affairs, Ministry of Justice, Ministry of Education, Ministry of Labour and the Economy) informed a designated budget allocated for combating trafficking. The anti-trafficking measures are carried out within general budget allocation.

<sup>126</sup> National Bureau of Investigation (Jouko Ikonen), contribution in seminar "Stopping trafficking in women – decreasing the demand for prostitution" (arranged by the Coalition of Finnish Women's Associations) on 11 June 2008.

<sup>127</sup> Finland's Slot Machine Association RAY seeks to promote the health and social welfare of persons living in Finland. It uses gaming profits to support activities, projects and research undertaken by organisations in the health and social welfare fields. Funding from RAY can be granted to non-profit organisations and foundations. Hence, funding cannot be granted to private persons, profit-seeking organisations, municipalities or religious organisations.

human beings in general. This research and prevention work does, however, not take child victims into account to a sufficient extent.<sup>128</sup>

## A.6. Monitoring and referral

- [71]. The Steering Group which prepared the revised Plan of Action against trafficking in human beings proposed to the Government that a national body reporting on trafficking in human beings should be nominated.<sup>129</sup> The Ombudsman for Minorities will have from January 2009 onwards the mandate to monitor trafficking in human beings. Within its mandate, the ombudsman's office will also report on trafficking in children.<sup>130</sup>
- [72]. No national referral mechanism or any systematic, formalised and standardised instrument for cooperation and referral, which addresses also the rights of trafficked children, exist in Finland. Actors involved in identification, care and protection have agreed that child victims will be referred to the reception centre in Oulu. However, a formal and agreed national referral mechanism where the steps, roles and responsibilities of different assisting parties would be defined does not exist in Finland.<sup>131</sup>

## A.7. Training of authorities

- [73]. The National Plan of Action against trafficking in human beings requires the organisation of training programmes for actors working with child trafficking issues.<sup>132</sup> In response to this, some training sessions have been organised by government bodies and NGOs. Over the last few years, training sessions and seminars have been organised on human trafficking in general and the identification of child victims

<sup>128</sup> Lasten perusoikeudet ry – Children's fundamental rights (Helena Molander), personal interview on 11 June 2008.

<sup>129</sup> Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, p. 6; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 1-2.

<sup>130</sup> Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, p. 6; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 1-2; Ombudsman for Minorities' (Johanna Suurpää) contribution in seminar "Stopping trafficking in women – decreasing the demand for prostitution" (arranged by the Coalition of Finnish Women's Associations) on 11 June 2008.

<sup>131</sup> National expert on child trafficking Anna Piskonen, telephone interview on 9 June 2008 and written answer on questions, received on 15 June 2008.

<sup>132</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 48-50; National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

in particular for the police, the Border Guard, the representatives of Ministries and other relevant parties. The International Organisation for Migration has also arranged training for the staff in the state reception centres in Oulu and Joutseno on how to assist victims of human trafficking, with some emphasis on how to care for children.<sup>133</sup> However, the training is disorganised and uncontrolled,<sup>134</sup> and no formalised or officially agreed training strategy exists for professional actors involved in identification, care and protection of trafficked children in Finland. Due to the lack of common training strategies, the trainings have remained detached and not well-targeted.<sup>135</sup>

- [74]. The Finnish NGO Pro-tukipiste is mainly responsible for organising trainings on human trafficking for relevant authorities and NGOs in Finland. Currently, Pro-tukipiste is organising law-oriented training activities for the Finnish Immigration Service, the police and border guard.<sup>136</sup> The activities are supported by Finland's Slot Machine Association RAY. The trainings organised by Pro-tukipiste do, nevertheless, not have a specific focus on children. Therefore, a clear and well planned child friendly training strategy would be needed in order to ensure that those actors directly involved in helping the potential victims have received sufficient training to carry out their tasks and in order to strengthen the cooperation between the professional actors both at the national and regional level.<sup>137</sup>
- [75]. The National Plan of Action against trafficking in human beings sets out victim based and human rights based approaches as guiding principles creating a basis for the assistance of victims of human trafficking. It takes specific notice of the importance of these principles in working with children.<sup>138</sup> Yet, realisation of the principles in practice has remained very weak as no comprehensive training on these specific issues has been organised for authorities. The knowledge of human rights as well as the understanding of

<sup>133</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

<sup>134</sup> Monika – Naiset liitto ry (Jenni Tuominen), written answer on questions, received on 24 June 2008.

<sup>135</sup> Monika – Naiset liitto ry (Jenni Tuominen), telephone interview on 6 June 2008 and written answer on questions, received on 24 June 2008; the Finnish National Committee for UNICEF (Inka Hetemäki), written answer on questions, received on 19 June 2008; national expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008.

<sup>136</sup> Monika – Naiset liitto ry (Jenni Tuominen), written answer on questions, received on 24 June 2008.

<sup>137</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008; Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>138</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 5-6.



gender and child sensitivity is poor among many of the actors involved in the identification and care of human trafficking victims.<sup>139</sup>

## A.8. Non-criminalisation of victims

- [76]. As a rule, every person over 15 years of age has a criminal responsibility and is held accountable for the crimes committed.<sup>140</sup> However, Finland has a policy of non-criminalisation of victims of trafficking. The Finnish Penal Code's chapter 17 sections 7(2) and 7a(2) were amended in 2004.<sup>141</sup> A foreigner who is refused entry or deported as a result of border offence or petty border offence or a foreigner who seeks asylum or applies for a residence permit as a refugee in Finland shall not be sentenced for a border offence. A foreigner who has committed border offence or petty border offence due to the fact that he/she has been subjected to trafficking in human beings referred to in chapter 25(3) and 25(3a) shall also not be sentenced for a border offence. Another act which can apply for victims of trafficking is the Criminal Procedure Act (689/1997) chapter 1 sections 7 and 8,<sup>142</sup> which regulate events in which the public prosecutor may not prosecute. In addition, a victim of trafficking who has acted under coercion can be exempt from sentence if the victim did not have an option to act otherwise.
- [77]. Finland's Public Order Act (612/2003) bans the buying on sexual services and the providing of sexual services for a charge in public places.<sup>143</sup> However, the selling of sexual services is not a crime in Finland when carried out elsewhere than in public places; prostitution is not, *per se*, criminalised by law.<sup>144</sup>
- [78]. The buying of sexual services is a crime only if the provider of the sexual service is a victim of trafficking in human beings (in accordance with chapter 25 section 3 on trafficking in human beings or 3(a) on aggravated trafficking in human beings in the Penal Code

<sup>139</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008; the Finnish National Committee for UNICEF (Inka Hetemäki), written answer on questions, received on 19 June 2008.

<sup>140</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>141</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>142</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>143</sup> There is not an official English translation of this Act. Information on the Act is, however, found in English on the following website hosted by the Ministry of the Interior: <http://www.intermin.fi/intermin/hankkeet/jarjestyslaki/home.nsf/pages/indexeng>

<sup>144</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

[39/1889]) or a victim of pandering (in accordance with the chapter 20 section 9 on pandering or 9(a) on aggravated pandering in the Penal Code [39/1889]).<sup>145</sup> In Government Proposal HE 221/2005, the Government suggested that the buying of sexual services would be prohibited in all situations. However, during hearings in Parliament, the proposal of a general prohibition was criticised for not being explicit enough as it would have covered all situations of buying of sexual services. The criterion of preciseness in defining the essential elements of an offence, one of the key principles in the Finnish legal system, would not have been fulfilled.<sup>146</sup> In addition, it was found that the general prohibition of prostitution implemented for instance in Sweden had led to certain disadvantages, such as difficulty in investigating pandering. It was also found that if prostitution were completely forbidden, there would be a risk for it to become invisible in society and to become part of the black market, where it would be even more difficult to combat.<sup>147</sup>

- [79]. Chapter 20 Section 8 of the Penal Code (39/1889) prohibits the exploitation of a victim of trafficking or pandering for sexual purposes. Subsequent section 8(a) criminalises the buying of sexual services from a young person (amendment 743/2006). The section states that a person who, by promising or giving remuneration,

<sup>145</sup> Announcement in the database for translations of Finnish Acts and Decrees on 27 September 2006 (<http://www.finlex.fi/fi/uutiset/?id=72>) and announcement on Finland's Government's website on 25 September 2006

(<http://www.hallitus.fi/ajankohtaista/tiedotteet/tiedote/fi.jsp?oid=169090>). Chapter 20 section 9(1) of the Penal Code (39/1889) states that a person who, in order to seek financial gain to himself/herself or to another person, (1) supplies a room or other facilities where sexual intercourse or a comparable sexual act or a sexually obscene act performed by a child younger than 19 years of age are offended for remuneration, (2) as an established part of his/her business harbours a persons engaging in such an act and thereby substantially promotes such an act, (3) provides contact information or of otherwise markets another persons engaging in such act knowing that his/her actions substantially promote the occurrence of such an act, (4) otherwise takes advantage of such an act performed by another person or, (5) tempts or coerces another person to perform such an act, shall be sentenced for pandering to a fine or imprisonment for a maximum of three years (amendment 650/2004). Chapter 20 section 9(a) states that if, in pandering, (1) considerable financial gain is pursued, (2) the offence is committed in a particularly methodical manner, (3) grievous bodily harm, a serious illness or a state of mortal danger or comparable particularly grave suffering is deliberately or through gross negligence inflicted on another person or (4) the object is a child younger than 18 years of age and the offence is aggravated also when assessed as a whole, the offender shall be sentenced for aggravated pandering to imprisonment for a minimum of four months and a maximum of six years (amendment 650/2004).

<sup>146</sup> Announcement in the database for translations of Finnish Acts and Decrees on 27 September 2006 (<http://www.finlex.fi/fi/uutiset/?id=72>) and announcement on Finland's Government's website on 25 September 2006

(<http://www.hallitus.fi/ajankohtaista/tiedotteet/tiedote/fi.jsp?oid=169090>).

<sup>147</sup> Announcement in the database for translations of Finnish Acts and Decrees on 27 September 2006 (<http://www.finlex.fi/fi/uutiset/?id=72>) and announcement on Finland's Government's website on 25 September 2006

(<http://www.hallitus.fi/ajankohtaista/tiedotteet/tiedote/fi.jsp?oid=169090>).

engages a person younger than 18 years of age to have sexual intercourse or to perform other sexual acts shall be sentenced to a fine or imprisonment for a maximum of one year.<sup>148</sup> Hence, it is illegal to buy sexual services from a minor in all situations.

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<sup>148</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

## B. Prevention of child trafficking

### B.1. Preventive awareness-raising efforts

- [80]. Awareness-raising material on trafficking in human beings has been developed since the adoption of the first Plan of Action against trafficking in human beings. There is material directed towards victims of trafficking, both children and adults, as well as towards the authorities working within the assistance system. Updated material is forthcoming by the Ministry of the Interior, however, the exact date of publication of this material is not known. The material includes posters, information leaflets for adult and child victims of trafficking as well as an information leaflet directed towards professional actors on how to assist victims of human trafficking, including child victims.<sup>149</sup> Some material has also been commissioned by the Ministry of Employment and the Economy in 2006 and 2007, including a publication on the assistance of victims of trafficking.<sup>150</sup> The National Bureau of Investigation has an ongoing project on publishing its own material on the identification of victims in 2008.<sup>151</sup>
- [81]. The existing awareness-raising projects have been criticised for not being well targeted and for not reaching all victims, relevant authorities and NGOs.<sup>152</sup> Posters, brochures and a website to launch a national information campaign were produced by the National Steering Committee against trafficking in human beings. To date, only a small part of the materials has been published, and the website is not yet in use. The lack of a responsible authority to coordinate and promote awareness-raising efforts, which would effectively include child and adult victims of trafficking as well as NGOs, is experienced as a problem by the civil society (e.g. the Finnish National Committee for UNICEF).<sup>153</sup> In response to this, there has been discussion about a possible awareness-raising campaign in an existing NGO network

<sup>149</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008; Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>150</sup> This publication, *Ihmiskaupan uhrien auttaminen. Työhallinnon julkaisuja 2006:368*, is not translated to English.

<sup>151</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>152</sup> Monika – Naiset liitto ry (Jenni Tuominen), written answer on questions, received on 24 June 2008.

<sup>153</sup> The Finnish National Committee for UNICEF (Inka Hetemäki), written answer on questions, received on 19 June 2008.

working against the trafficking in human beings, but no specific plans exist.

- [82]. A number of NGO's, including the Finnish National Committee for UNICEF, see a link between the lack of awareness-raising efforts concerning child trafficking and the level of human rights education in schools. They have campaigned in order to get the contents of human rights treaties and human rights education into the school curriculum to raise awareness on, among other issues, trafficking in human beings.<sup>154</sup> The United Nations Committee on the Rights of the Child expressed a similar view in its Concluding Observation to Finland in 2005 (CRC/C/15/Add.272). The Committee notes that the dissemination of information concerning the Convention remains largely the responsibility of civil society actors and is concerned that the Convention is not readily available in languages used by minorities and immigrants. Furthermore, the Committee is concerned that training on the Convention for professionals working with and for children remains insufficient. The Committee encourages the State party to further disseminate the Convention, including through school curricula, with special attention to its dissemination among vulnerable groups such as immigrants and indigenous, ethnic or linguistic minorities, and to continue its efforts to provide adequate and systematic training and/or sensitisation on children's rights of professional groups working with and for children.<sup>155</sup>

## B.2. Direct participation

- [83]. There is some evidence of direct participation of relevant NGO's in the development, implementation and evaluation of awareness-raising efforts on child trafficking. The participation of children in these awareness-raising efforts has, however, been low; the development of materials specifically designed for children has not involved victims of child trafficking.<sup>156</sup>
- [84]. There is no liable evidence of direct participation of local communities or minority groups, such as Roma and Travellers, in preventive efforts against trafficking in human beings.<sup>157</sup> However,

<sup>154</sup> The Finnish National Committee for UNICEF (Inka Hetemäki), written answer on questions, received on 19 June 2008.

<sup>155</sup> United Nations Committee on the Rights of the Child, Concluding Observations: Finland, 20 October 2005, CRC/C/15/Add.272.

<sup>156</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008.

<sup>157</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008; Monika – Naiset liitto ry (Jenni Tuominen), written answer on questions, received on 24 June 2008.

some NGOs and the Finnish Roma Community are participating in the development of assistance programmes directed towards Roma beggars mainly originating from Romania.<sup>158</sup>

### B.3. Asylum processes

- [85]. Some policies have been established in order to prevent children in a vulnerable position, such as unaccompanied asylum-seekers, from becoming victims of child trafficking upon their arrival in the country. The Finnish Immigration Service has prepared instructions for authorities involved in asylum processes (including the police, the Border Guard and the Finnish Immigration Service), through which the authorities are informed on how to identify victims of human trafficking and unaccompanied minors who are at risk of becoming victims of trafficking upon their arrival in the country. The instructions also include recommendations on how authorities can cooperate effectively in the process of victim identification. The instructions underline sensitivity when dealing with under-aged asylum seekers who are at risk of becoming victims of human trafficking upon their arrival in Finland.<sup>159</sup> Early identification of victims and possible victims is seen as a key issue in preventing child trafficking.<sup>160</sup>
- [86]. Section 97 of the Aliens Act (301/2004) regulates asylum investigations. The police or the Border Guard establish the identity, travel route and entry into the country of an alien applying for a residence permit on the basis of international protection. When establishing an applicant's identity, personal data on the applicant's family members and other relatives are collected. The Finnish Immigration Service conducts an asylum interview to establish orally the grounds given by the applicant for the persecution he or she has faced in his or her home country or country of permanent residence or for other violations of his or her rights or related threats. At the request of the Finnish Immigration Service, the police may conduct such interviews if the number of applications has increased dramatically or, for special reasons, at other times as well. At the interview, the applicant shall be specifically asked to explain how he or she would react to being possibly removed from the country and sent to a safe country of asylum or a safe country of origin and to

<sup>158</sup> The Finnish National Committee for UNICEF (Inka Hetemäki), written answer on questions, received on 19 June 2008.

<sup>159</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>160</sup> The Finnish Boarder Guard (Ilkka Herranen), contribution in seminar "Stopping trafficking in women – decreasing the demand for prostitution" (arranged by the Coalition of Finnish Women's Associations) and personal interview on 11 June 2008.

being prohibited entry into the country. In particular, the applicant shall be asked to give the grounds on which he or she believes that the State in question is not safe for him or her. In addition, the authorities shall establish whether there are grounds other than international protection for giving the applicant the right of residence.<sup>161</sup>

- [87]. The asylum investigation of unaccompanied minors seeking international protection belongs to the mandate of the Finnish Immigration Service, as the officials of the Immigration Service should have the special expertise required for dealing with children. If a minor's asylum investigation leads to suspicion of trafficking, or if the minor is in a vulnerable position and therefore at risk of becoming a victim of trafficking, the reception centre in Oulu must immediately be contacted. The reception centre must then initiate immediate preparations for assisting the victim or possible victim together with the other relevant authorities, including the police and the Border Guard.<sup>162</sup>

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<sup>161</sup> An English translation of the Act, here cited, is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>162</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

## C. Appointment of legal guardian

### C.1. Legal guardian and age assessment

#### C.1.1. Practices concerning the appointment of a legal guardian

- [88]. Legal guardians are always appointed whenever an unaccompanied child is identified as a victim of trafficking. A legal guardian is appointed to all victims assessed to be less than 18 years of age; there is no age limit for qualifying for legal representation. It is the responsibility of the Oulu reception centre for asylum seekers to suggest an appropriate legal guardian for a child victim. The final decision on the appointment is taken by a court.<sup>163</sup>
- [89]. The legal practices concerning child trafficking are still new in Finland. The identified cases of child trafficking have been so few that no policies have yet been established. The authorities are still in the process of developing good practices of operation.<sup>164</sup>

#### C.1.2. Practices concerning age assessment

- [90]. There exists a policy on age assessment for young victims of trafficking. The importance of child sensitive methods in investigating the victim's age is underlined in Finland's first Plan of Action against trafficking in human beings. As a young victim is not always aware of his or her age, the guiding principle in Finnish practice is that all young persons who are estimated to be minors, are treated as minors and provided with the services for child victims.<sup>165</sup>
- [91]. When a young victim's age is unknown, the age is identified with the help of indicators, which take into account victim's physical

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<sup>163</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>164</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>165</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, p. 49; Näkymättömät uhrit. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, p. 62; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.



appearance and mental maturity. The National Bureau of Investigation emphasises, however, that the margin of error in using these indicators can be up to two years.<sup>166</sup>

- [92]. The age assessment includes the benefit of a doubt: according to the specified Plan of Action, a young victim who seems to be less than 18 years of age is treated as a minor until there is clarity of the victim's age. In unclear situations, decisions are systematically made in favour of the victim.<sup>167</sup>
- [93]. Every young person who is suspected to be a victim of trafficking enters the assistance system immediately. If there is uncertainty regarding the victim's age, the age assessment is carried out once the victim has entered the assistance system.<sup>168</sup>

## C.2. Training of legal guardians

- [94]. The specified Plan of Action against trafficking in human beings emphasises the importance of educating the victims' legal guardians in issues concerning trafficking in human beings.<sup>169</sup> Guardians representing child victims are being trained in child protection issues by, *inter alia*, experts in social services and medicine.<sup>170</sup> Similar training programmes are arranged comprehensively for all actors within the assistance system and for authorities working in the identification process. Trainings are co-organised by government bodies and NGOs.<sup>171</sup> They have special focus on the sexual exploitation of children and on new, information technology related, methods of trafficking and exploitation.<sup>172</sup>
- [95]. A legal guardian is appointed as soon as a child victim is identified. When a legal guardian is appointed to represent a child victim, the

<sup>166</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>167</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, p. 49; Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, p. 62; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

<sup>168</sup> Ministry of the Interior (Veikko Pyykkönen), telephone interview on 9 June 2008.

<sup>169</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

<sup>170</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>171</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>172</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

guardian is granted appropriate time to prepare the case. The preparation process includes personal contact with the child.<sup>173</sup>

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<sup>173</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008; National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

## D. Coordination and cooperation

### D.1. Inter-agency networking bodies

[96]. Inter-agency networking bodies against trafficking have been established both on the national and the local levels. These bodies comprise key state and non-state actors relevant for anti-trafficking efforts.<sup>174</sup> There is also an anti-trafficking NGO network in place in Finland.<sup>175</sup>

#### D.1.1. National inter-agency networking bodies

[97]. A National Steering Group against trafficking in human beings was established in Finland in 2004. The rotating chair was first held by the Ministry for Foreign Affairs. Currently, the group is chaired by the Ministry for Labour and the Economy. The National Steering Group consists of representatives of relevant ministries, NGOs and the academia. It is the task of the Steering Group to implement the National Plan of Action against trafficking in human beings at all levels of the society.<sup>176</sup>

[98]. Based on Finland's first National Plan of Action against trafficking in human beings, the Ministry of the Interior established its own Steering Group in combating trafficking in human beings in 2005. The Ministry-specific steering group, which consists of representatives of the police, the Border Guard and the Finnish Immigration Service, coordinates the combat against human trafficking within the Ministry.<sup>177</sup>

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<sup>174</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005; Näkymättömät uhrin. Ohjausryhmän ehdotus ihmiskaupan vastaisen toimintasuunnitelman tarkentamiseksi, Helsinki 2007, Työhallinnon julkaisu 383/2007, pp. 5-6; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008; national expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008.

<sup>175</sup> Lastensuojelun keskusliitto (Taina Martiskainen), telephone interview and e-mail communication on 5 June 2008.

<sup>176</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, p. 5; national expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008.

<sup>177</sup> Ministry of the Interior: Sisäasiainministeriön ihmiskaupan vastainen toimintasuunnitelma 2005.

- [99]. There is some concern within the civil society and the academia that the National Steering Group is too high-level in its current form. The Steering group is criticised of mostly following up the national developments against human trafficking, without acting efficiently at the operational level. It has been suggested that a small operational task-force should be established in order to translate the principles and objectives of the National Plan of Action into practice. The task-force could also take part of the responsibility for developing a comprehensive training strategy for all actors involved in combating trafficking in human beings.<sup>178</sup>
- [100]. Finnish NGOs have established an NGO network working against trafficking in human beings. The network brings together civil society actors, organisations and researchers in finding solutions for combating trafficking in human beings.<sup>179</sup> Although the network includes NGOs focusing on children, the network has mainly concentrated on issues related to trafficking in women for sexual purposes and little work has been done in the field of child trafficking.<sup>180</sup>

### D.1.2. Oulu local multi-disciplinary team

- [101]. Local multidisciplinary teams have been established in Oulu and Joutseno in order to assist and support the directors of the reception centres in decision making concerning the assistance of victims of trafficking in human beings. The multidisciplinary team in Oulu is responsible for the assistance of child victims.<sup>181</sup> It consists of local authorities, namely the director of the Oulu reception centre, the local police, a child protection officer and a doctor.<sup>182</sup> The team evaluates the need of protection for possible victims of trafficking on a case by case basis.<sup>183</sup>

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<sup>178</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008.

<sup>179</sup> Lastensuojelun keskusliitto (Taina Martiskainen), telephone interview and e-mail communication on 5 June 2008.

<sup>180</sup> For the purpose of writing this report, all child centred NGOs who are part of the network were contacted for information and work being done regarding child trafficking. Apart from two NGOs, Lastensuojelun keskusliitto and Lasten perusoikeudet ry. – Children’s fundamental rights, all NGOs answered that they do not focus on child trafficking issues in their work.

<sup>181</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008; National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>182</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008 and telephone interview on 9 June 2008.

<sup>183</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

[102]. One problem faced by the local multidisciplinary team in Oulu is that its members are usually not familiar with the phenomenon of child trafficking at the time of their appointment. The team has not been provided with sufficient training to carry out its tasks, nor has it been provided with sufficient expertise and support from the governmental level. In some instances, the members of the multidisciplinary teams have been required to give support to the director of the reception centre without meeting the victims in person. Hence, they have made decisions relying solely on a description given by the reception centre's director. This procedure has been criticised by national experts on child trafficking, as it may lead to violations of the principle of the best interest of the child as well as the human rights of child victims in general, particularly their right to be heard.<sup>184</sup>

## D.2. Cooperation within the framework of multilateral agreements

### D.2.1. Cooperation within multilateral agreements

[103]. Finland is a contracting party in a number of multilateral agreements that involve issues relevant to child trafficking:<sup>185</sup>

- The Convention on protection of Children and Cooperation in Respect of Intercountry Adoption, Article 1(b), sets as one of the objectives of the Convention to prevent the abduction, the sale of or traffic in children. The convention promotes cooperation in order to prevent such illegalities in the contracting states.
- The UN Convention on the Rights of the Child stipulates in article 35 that "States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form".
- The International Convention for the Suppression of the Traffic in Women and Children, adopted in 1921, states in article 2 that "the High Contracting Parties agree to take all measures to discover and prosecute persons who are engaged in the traffic in children of both sexes". It further states in article 7, that they "undertake in

<sup>184</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008; national expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008.

<sup>185</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

connection with immigration and emigration to adopt such administrative and legislative measures as are required to check the traffic in women and children.

## D.2.2. Cooperation on the operational level

- [104]. Finland is a member of the Working Group for Cooperation on Children at Risk (WGCC) within the framework of the Council of Baltic Sea States (CBSS). The WGCC is tasked with identifying, supporting and implementing cooperation on children at risk with the states and partner organisations within the region. Combating child trafficking is one of the top priorities of the working group. The cooperation on trafficked children involves the 11 member countries in the CBSS cooperation. Cooperation has also been initiated with Belarus, Ukraine and Moldova, all three known to be countries of origin for victims of human trafficking.<sup>186</sup>
- [105]. Cooperation agreements have been established between state authorities and non-governmental actors.<sup>187</sup> NGOs specialised in human trafficking, including Pro-tukipiste and Monika-naiset, have an agreement with the Oulu reception centre to refer all possible child victims identified by them to the centre. The reception centre of Oulu also uses NGO services within the assistance programme. The agreements on services provided by NGOs are decided upon on a case by case basis: no permanent agreements exist.<sup>188</sup>
- [106]. Within crime prevention, the police cooperate internationally through Europol and Interpol. Apart from these cooperation structures, there are no specific cooperation agreements regarding trafficking in human beings.<sup>189</sup>

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<sup>186</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>187</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>188</sup> Monika – Naiset liitto ry (Jenni Tuominen), written answer on questions, received on 24 June 2008.

<sup>189</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

### D.3. Protection of the victim's personal data

- [107]. There are no legal provisions explicitly protecting the personal data of trafficked children or adults, but general data protection regulations apply to victims of trafficking.<sup>190</sup>
- [108]. Regarding documents and register information of refugees, asylum seekers or seekers of residence permit or visa, the Act on the Register of Aliens (1270/1997) is applied together with the Act on the Publicity of Court Proceedings (370/2007). According to these acts, documents must be kept secret if they concern refugees or appliers of asylum, residence permit or visa. They do not have to be kept secret if it is obvious that the spreading of the information does not endanger the safety of the refugee or the applier or their relatives, or that they are not a disadvantage for Finland's international relations or the international community.<sup>191</sup>

### D.4. Support programmes

- [109]. Finland's international development assistance includes support programmes combating trafficking in human beings, both in countries of origin and within the European Union.<sup>192</sup>

#### D.4.1. Focus on the promotion on children's rights

- [110]. The development assistance preventing child trafficking mainly focuses on the promotion of children's rights, both within the framework of governmental development cooperation and through the work of NGOs. Finland's multilateral assistance promoting the rights of the child is mainly channelled through the United Nations Population Fund (UNFPA) and the United Nations Children's Fund (UNICEF).
- [111]. In supporting action that promotes children's rights, Finland gives emphasis to the education sector in general and the right to education

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<sup>190</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>191</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008; Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008. Finnish Acts are found by number on <http://www.finlex.fi/fi/laki/ajantasa/>.

<sup>192</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

of girls in particular. Action that strengthens the reproductive health rights of girls and women is also supported.<sup>193</sup>

#### D.4.2. Governmental development cooperation

- [112]. Finland has carried out projects to prevent trafficking in human beings through bilateral development cooperation in Cambodia and on the Western Balkans. The focus of these activities has been to prevent child abuse, particularly sexual violence against children.<sup>194</sup>
- [113]. Finland has in various ways supported the ILO International Programme on the Elimination of Child Labour (IPEC) that has the prevention of child trafficking as one of its focal points.<sup>195</sup>
- [114]. Through the so called local cooperation appropriations the Embassies of Finland support several small scale projects at the local level. The aim of these projects is to promote and protect the rights of the child and to provide protection for children in vulnerable situations.<sup>196</sup>

#### D.4.3. Government and NGO cooperation

- [115]. Finnish child-focused partnership NGOs promote children's rights in countries of origin. They support the well-being of children through the prevention of trafficking and the elimination of the worst forms of child labour.<sup>197</sup>
- [116]. Finland has for several years supported the network End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT), consisting of organisations and individuals. The assistance is currently directed at activities in

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<sup>193</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>194</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>195</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>196</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>197</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.



Africa.<sup>198</sup> The establishment of an ECPAT office in Finland has been discussed as a result of the advocacy by the Finnish NGO Lasten Perusoikeudet – Children's Fundamental Rights. To date, no resources have been allocated for this purpose. Members of civil society regret the lack of an ECPAT office in Finland, as Finland has a geographically strategic role in combating child trafficking. The lack of a Finnish ECPAT office is seen by members of the civil society as a potential obstacle to the work that could be done to prevent child trafficking on a European level.<sup>199</sup>

- [117]. Save the Children Finland is supporting projects against child trafficking in West Africa within the framework of the Ministry for Foreign Affairs Partnership Agreement Scheme. Between 2002 and 2005, Save the Children Finland supported Save the Children Canada's work on fighting child trafficking in Mali and Burkina Faso. The work was part of the Project to Fight Against Child Trafficking in West Africa (PACTE), through which Save the Children supports a wide network of partners (governments, NGOs and transporters associations) with whom strategic and practical efforts are made to prevent children from being trafficked outside of their communities into work settings where they will be vulnerable and subjected to degrading work forms. Currently, Save the Children Finland continues to support the work in West Africa by funding programs that reduce the exploitation and abuse of children working in agriculture (many of them migrating children), and assist these children in reclaiming their rights. The work aims at strengthening the capacity of duty bearers, including government and civil society groups, to ensure that children are protected. Since 2006, Save the Children Finland is supporting referral and protection services and systems for the child victims of the worst forms of child labour. The project consists of awareness-raising campaigns, capacity building training for organisations, training and social reintegration of young people in difficult situations, training of young orphans and vulnerable children, and creation of safe spaces for children.<sup>200</sup>

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<sup>198</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>199</sup> Lasten perusoikeudet ry – Children's fundamental rights (Helena Molander), personal interview on 11 June 2008.

<sup>200</sup> This information was given by the Ministry for Foreign Affairs in cooperation with Save the Children Finland (Pelastakaa Lapset ry). The information was sent to the author of this report by the Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

## E. Care and protection

### E.1. Reflection period

[118]. An amendment (619/2006) of the Aliens Act (301/2004) was carried out on the initiative of Government Proposal HE 32/2006 in order to make Finnish law compatible with international legal standards against child trafficking.<sup>201</sup> According to section 52(b)(1) of the amended Aliens Act (301/2004), a reflection period of at least thirty days and a maximum of six months may be granted to a victim of trafficking in human beings. The reflection period may be suspended in accordance with section 52(b)(3) if the victim of trafficking in human beings has voluntarily and on his or her own initiative re-established relations with those suspected of trafficking in human beings or if this is necessary on the grounds mentioned in section 36(1) of the Act. Section 36(1) states that a reflection period can be refused if the alien is considered a danger to public order, security or health or to Finland's international relations. Endangering international relations does not, however, prevent the issuing of a residence permit on the basis of family ties or issuing a residence permit to an alien who has been issued with a long-term resident's EC residence permit by a Member State of the European Union.<sup>202</sup>

[119]. The reflection period is not granted automatically to all victims of trafficking; when it comes to victims of child trafficking, the relevance and appropriateness of granting a reflection period as well as the length of the reflection period is always evaluated by relevant authorities, taking into account the age and maturity of the child.<sup>203</sup> Section 52(c) of the Aliens Act (301/2004) states that the District Police or a border control authority has the authority to decide on granting and suspending the reflection period. The victim of trafficking in human beings is notified of the reflection period and its suspension in writing. The notification shall indicate the purpose, starting date and duration of the reflection period, make clear that the

<sup>201</sup> Government Proposal 32/2006 is published on <http://www.edilex.fi/content/virallistieto/he/20060032/>.

<sup>202</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>203</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, p. 10.

reflection period may be suspended, and give the grounds for suspending the reflection period.<sup>204</sup>

- [120]. Section 52(b) does not stipulate any exceptions or restrictions on the reflection period vis-à-vis children. According to some national experts on trafficking in human beings, this might be in conflict with the best interest of the child, as a child victim might not be sufficiently informed about his or her options. Finland's revised Plan of Action stresses, to this end, that the granting and suspension of a reflection period to victims of child trafficking must be well motivated and in the best interest of the child.<sup>205</sup>

## E.2. Issuing of a residence permit

- [121]. Section 52(a)(1) of the Aliens Act (301/2004) regulates the issuing of a residence permit for a victim of trafficking in human beings. A victim of trafficking in human beings staying in Finland is issued with a temporary residence permit if: (1) the residence of the victim of trafficking in human beings in Finland is justified on account of the pre-trial investigation or court proceedings concerning trafficking in human beings; (2) the victim of trafficking in human beings is prepared to cooperate with the authorities so that those suspected of trafficking in human beings can be caught; and (3) the victim of trafficking in human beings no longer has any ties with those suspected of trafficking in human beings.<sup>206</sup> All three criteria must be fulfilled for a residence permit to be issued.
- [122]. In accordance with the subsequent section 52(a)(2), the residence permit may be issued on a continuous basis if the victim of trafficking in human beings is in a particularly vulnerable position, regardless of whether the requirements laid down in subsection 1(1) and (2) are met. Section 52(a)(3) states that the issuing of the residence permit is not conditional on the alien having secure means of support.<sup>207</sup>
- [123]. In two separate cases in 2006 and 2007, two Ethiopian females below 18 years of age were granted permanent residence permits in Finland on the grounds of need for protection. It was suspected in both cases that the minors had been sold from Ethiopia to Saudi Arabia for

<sup>204</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>205</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 10-11.

<sup>206</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>207</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

slavery in non-paid domestic work. In the process of granting the residence permit, the Finnish Immigration Service based its reflection in both cases on two decisive factors: firstly, the suspicion of trafficking; secondly, the fact that the victims had limited possibilities to get assistance from the authorities in Ethiopia, if they were returned, or in Saudi Arabia. There was also a risk of re-victimisation if they had been returned to Ethiopia.<sup>208</sup>

- [124]. A decision granting a residence permit to an unaccompanied minor is based on an overall judgment of the situation. To date, there has not been any case in Finland where child trafficking would have been the only decisive factor for granting a residence permit.<sup>209</sup> For statistics on the number of children who have entered the assistance system as victims of trafficking or crimes related to trafficking from 2005 to date, please see annex 2.

### E.3. Cooperation with authorities

- [125]. Section 52(b)(2) of the Aliens Act (301/2004) states that during the reflection period, a victim of trafficking in human beings must decide whether he or she will cooperate with the authorities. The obtaining of both a temporary and permanent residence permit is hence conditional on cooperation with authorities: a residence permit is granted if the victim of trafficking in human beings is prepared to cooperate with the authorities so that those suspected of trafficking in human beings can be caught (section 52(a)(2)).<sup>210</sup>
- [126]. Finland's first Plan of Action against trafficking in human beings states that child protection measures in accordance with the Child Welfare Act (417/2007) can be undertaken regardless if the child cooperates with the authorities or not.<sup>211</sup> The Action Plan is not specific about cooperation requirements in the residence permit process, but notes that cooperation shall be in proportion to the age and maturity of the child.<sup>212</sup> The revised Plan of Action of 2008 specifies, however, that it can be unreasonable to require child victims

<sup>208</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

<sup>209</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>210</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>211</sup> The revised Child Welfare Act (417/2007) was preceded by the Child Welfare Act 683/1983. The Act Amending the Child Welfare Act (583/2006) has a strong emphasis on taking the child's best interest into account. English translations of these Acts are found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>212</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 48-50.

to cooperate with authorities. Before the child is asked to cooperate, an expert on child protection or child psychology shall give a statement on the child victim's preconditions for cooperation. The Plan of Action also notes that cooperation is not required if it is assessed that cooperation is not in the best interest of the child.<sup>213</sup>

- [127]. In reality, child victims are often required to cooperate with the authorities in course of the hearings. Child-sensitive interviewing and investigation methods are not automatically used in the hearings, a fact which may be problematic as the cooperation with the police and other authorities may intimidate victims.<sup>214</sup>

## E.4. Detention of minors

- [128]. There is a legal framework in place concerning the detention of minors. Section 122 of the Aliens Act (301/2004) regulates the holding of a minor in detention: before a person under 18 years of age is placed in detention, the representative of social welfare authorities shall be heard. The name of the person working for the social authority, who has been contacted according to the Aliens Act (301/2004) section 122, has to be written in the decision of detention. A child who has been granted a legal representative must be given the chance to be heard. According to section 123(4) of the Aliens Act (301/2004), an alien may exceptionally be placed in Border Guard detention facilities instead of police detention facilities for a maximum of 48 hours. According to the subsequent section 123(5), a person under 18 years of age may be placed in police and Border Guard detention facilities only if his or her parent or guardian or other adults member of his or her family is also held in detention in police or Border Guard detention facilities.<sup>215</sup>

- [129]. To date, there has not been any case where a victim of child trafficking would have been detained.<sup>216</sup> As is stated in the revised Plan of Action against trafficking in human beings, children must not be placed in detention, not even temporarily. The basic principle is

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<sup>213</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 10-11.

<sup>214</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008 and telephone interview on 9 June 2008.

<sup>215</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>216</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

that a child who is believed to be a victim of trafficking is not detained under any circumstances.<sup>217</sup>

## E.5. Family tracing

### E.5.1. Legal provisions on family tracing

- [130]. Section 52(a)(4) of the Aliens Act (301/2004) states that if a victim of trafficking in human beings is issued with a temporary residence permit, his or her family members staying abroad are not issued with a residence permit on the basis of family ties. If an alien is issued with a continuous or permanent residence permit, his or her family members are issued with a continuous residence permit in accordance with section 47(3).<sup>218</sup>
- [131]. Section 105a of the Aliens Act (301/2004) regulates the right to receive information regarding unaccompanied minor asylum seeker's parents or legal guardians. Notwithstanding any secrecy provisions, the Finnish Immigration Service, the Police and the Border Guard have the right, upon request, to receive information from a reception centre on an unaccompanied minor asylum seeker's date of birth, family members and their whereabouts necessary for these authorities to establish the minor's identity, travel route or grounds for entry into the country or issuing a residence permit, or for the Finnish Immigration Service to endeavour under section 105b to trace his or her parents or some other person responsible for the actual guardianship of the unaccompanied minor asylum seeker. When requesting information, the best interest of the child must be a primary consideration for the authorities. An unaccompanied minor must be notified that information referred to may, regardless of his or her consent, be distributed to the Finnish Immigration Service, the Police and the Border Guard. When providing information, account must be taken of the child's age and level of development. Before the reception centre provides the Finnish Immigration Service, the Police or the Border Guard with information referred to in subsection 1, the representative assigned to the minor under section 26 of the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) must be notified of the matter.<sup>219</sup>

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<sup>217</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 10-11.

<sup>218</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>219</sup> An English translation of the Act is found by number on

- [132]. Subsequent section 105b regulates the tracing of a parent or some other person responsible for the actual guardianship of an unaccompanied minor asylum seeker. To further the interest of an unaccompanied minor asylum seeker, the Finnish Immigration Service must, if possible, endeavour without delay to trace his or her parents or some other person responsible for his or her actual guardianship. The information on the parent or some other person responsible for the minor's actual guardianship must be collected, processed and circulated on a confidential basis, as provided in the Act on the Openness of Government Activities (621/1999).<sup>220</sup>

### E.5.2. Assessing the best interest of the child in family reunification

- [133]. The family tracing programme requires assessing whether family reunification is in the child's best interest in order to avoid re-victimisation in a situation where the child is initially victimised with support of parents or because parents themselves are in state of dependency of the traffickers. Law enforcement authorities admit that this is not an easy task. In the case of the three Chechen adolescents brought to Finland (see section A.2.2.), Finnish authorities traced down the children's families in Chechnya. Both the minors and their parents were heard on their possible reunification. In a decision based on these hearings, the authorities assessed that it was in children's best interest to be reunited with their families in Chechnya. The children were returned to Chechnya with the help of the International Organisation for Migrants. The determination of the best interest of the child is reported by the Ministry of the Interior to be complicated through the scarcity of established practices in Finland regarding family reunification.<sup>221</sup>
- [134]. In order to facilitate family reunification, the Finnish Immigration Service has signed a cooperation agreement concerning the tracing of unaccompanied minors' families with the organisation International Social Service.<sup>222</sup>

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<http://www.finlex.fi/en/laki/kaannokset/>.

<sup>220</sup> An English translation of the Act is found by number on

<http://www.finlex.fi/en/laki/kaannokset/>.

<sup>221</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>222</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008; national expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008.

## E.6. Education possibilities for trafficked children

- [135]. In Finland, all school aged children who are suspected to be victims of trafficking have access to primary and secondary schooling during the investigation process.<sup>223</sup> According to the revised Plan of Action against trafficking in human beings, access to education at all levels must be guaranteed to all child and adolescent victims. The Action Plan makes special mention of post-compulsory schooling and vocational training. It also notes that sufficient support has to be given to children or adolescents who enter the Finnish school system.<sup>224</sup>
- [136]. According to the Constitution of Finland (731/1999), everyone is equal before the law.<sup>225</sup> No one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability of other reason that concerns his or her person. Children shall be treated equally as individuals and they shall be allowed to influence matters pertaining to themselves to a degree corresponding to their level of development. Fundamental educational rights are enshrined in the Constitution: everyone has the right to basic education free of charge. Public authorities shall guarantee for everyone equal opportunity to receive other educational services in accordance with their ability and special needs, as well as the opportunity to develop themselves without being prevented by economic hardship.<sup>226</sup>
- [137]. The reform of legislation on education entered into force on 1 January 1999. In connection with the legislative reform, special attention was paid to ensuring educational equality and equal education services. According to the Basic Education Act (628/1998), the local authority has an obligation to arrange basic education for children of compulsory school age residing in its area and pre-primary education during the year preceding compulsory schooling.<sup>227</sup>
- [138]. Finland guarantees post-compulsory studies for the whole school-leaving age group. Students' transition from one level of education to

<sup>223</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>224</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 48-50; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 10-11.

<sup>225</sup> The Constitution of Finland is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>226</sup> Ministry of Education (Anna Mikander), written answer on questions, received on 10 June 2008.

<sup>227</sup> Ministry of Education (Anna Mikander), written answer on questions, received on 10 June 2008.



the next is safeguarded by legislation. The aim is to improve people's life careers and their quality of life, prevent social exclusion and safeguard effective functioning of society and the labour market. Both general and vocational upper secondary certificates provide eligibility for further studies in universities and polytechnics.<sup>228</sup>

- [139]. There is an Equality Act (L21/2004) in force in Finland. The purpose of this Act is to foster and safeguard equality in society. The Act prohibits discrimination on the basis of age, ethnic or national origin, religion, language, beliefs, opinions, health, disability and sexual orientation. The Act applies to education as well as to working life. In 2005 the Equality Act was amended to include measures to be taken to promote equality in educational institutions. In general education this means the upper secondary schools. According to the amendment, the schools are required to make an equality plan once a year, together with the staff and student body representatives. The plan has to include the equality situation in the educational institution and the promotion of equality in schools. Special attention has to be paid to the student selections.<sup>229</sup>
- [140]. The objective of immigrant education is to provide people moving to Finland with opportunities to function as equal members of the society and guarantee immigrants the same educational opportunities as other citizens. A young immigrant of compulsory school age (aged 7-17) permanently residing in Finland has the right to basic education. Instruction in the Finnish or Swedish language is organised for immigrants of all ages. At the same time, they are also encouraged to maintain their own mother tongue and cultural identity. Immigrants may mean refugees, migrants, re-migrants and, in some cases, also asylum seekers.<sup>230</sup>
- [141]. The Ministry of Education has no specific information on the amount of trafficked children that receive secondary education and vocational training in Finland.<sup>231</sup>

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<sup>228</sup> Ministry of Education (Anna Mikander), written answer on questions, received on 10 June 2008.

<sup>229</sup> Ministry of Education (Anna Mikander), written answer on questions, received on 10 June 2008.

<sup>230</sup> Ministry of Education (Anna Mikander), written answer on questions, received on 10 June 2008.

<sup>231</sup> Ministry of Education (Anna Mikander), written answer on questions, received on 10 June 2008. The Ministry was contacted for statistics on trafficked children who have been included in the Finnish school system, but according to the Ministry such statistics do not exist. In referring to legal provisions on the rights to education and non-discrimination, the Ministry emphasises that all children residing in Finland have the equal right to education.

## E.7. Assistance for child victims of trafficking

### E.7.1. Legal aid

[142]. All child victims of trafficking have the right to legal aid.<sup>232</sup> Human trafficking crimes are of such nature that the victim has the right to a cost free trial in accordance with the Legal Aid Act (257/2002), which states in chapter 1 section 1(1) that legal aid shall be given at the expense of the state to a person who needs expert assistance in a legal matter and who for lack of means cannot self pay the expenses of having the matter dealt with. According to the subsequent section 1(2), legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, and the waiver of certain expenses of the consideration of the matter.<sup>233</sup> The legal assistant assists the victim during the legal process, including the preparation and presentation of the claim for damage compensation. The appointment of a legal assistant is possible also in accordance with the Criminal Procedure Act (689/1997). In accordance with section 3 of the Act, an adequately qualified support person may be appointed for an injured party, if it is deemed that he or she needs assistance in the criminal investigation or the trial. The main task of the support person is to support the victim mentally during the criminal procedure.<sup>234</sup>

### E.7.2. Health care and social services

[143]. All victims of trafficking are entitled to health care and social services according to section 12 of the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999). Child victims who enter the assistance system are automatically entitled to receive health care services. In addition to health care services, the assistance provided for in the Oulu reception centre includes accommodation, psychosocial services, education, legal aid, financial support, administrative support, security measures, interpreters, and representatives. The number of children receiving such services is

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<sup>232</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>233</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>234</sup> Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008.

equivalent to the number of children within the assistance system (see Annex 2).<sup>235</sup>

- [144]. In Commission Decision of 15 February 2007, the number 116 000 was reserved as a hotline to report missing and sexually-exploited children. To date, this number does not exist in Finland. The Victim Support Finland has, however, a helpline in Finnish (+358-[0]203-16116) and in English (+358-[0]203-16118) for persons who have become victim of crime or crime attempt, and for witnesses of crime.<sup>236</sup> The NGO Mannerheimin lastensuojeluliitto maintains a national helpline for children and young people (+358-[0]800-120400).<sup>237</sup> Situations of exploitation of trafficked children can also be reported to the Oulu and Joutseno reception centres for asylum seekers.<sup>238</sup>

### E.7.3. Assisting children with special needs

- [145]. The special needs of children coming from different ethnic backgrounds have been taken into consideration within the assistance system by ensuring that translators and other necessary assistance is available for child victims.<sup>239</sup> Representatives of NGOs and civil society find, however, that cultural diversity is not taken sufficiently into consideration within the system. For this reason, certain NGOs have advocated for a more frequent use of trained multicultural support persons to provide assistance in interpretation and the understanding of cultural diversity.<sup>240</sup> Special needs of children with disabilities have not been a primary concern in the establishment of the assistance system, but they are taken into consideration in the further development of the system.<sup>241</sup>

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<sup>235</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008 and telephone interview on 9 June 2008.

<sup>236</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>237</sup> All telephone number were verified through calling the number service 118.

<sup>238</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>239</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008.

<sup>240</sup> Monika – Naiset liitto ry (Jenni Tuominen), telephone interview on 6 June 2008 and written answer on questions, received on 24 June 2008.

<sup>241</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008.

## F. Best interests determination and durable solutions, including social inclusion/return

### F.1. Best interest determination

- [146]. The principle of the best interests of the child is emphasised in law and policies concerning victims of child trafficking. Finland's Plan of Action against trafficking in human beings establishes human rights-based approaches and victim orientedness as guiding principles in policies which combat child trafficking.<sup>242</sup> In the spirit of these principles, the Plan of Action notes that the child's best interest and the adoption of child friendly procedures must be implemented at all stages of assisting victims of child trafficking, as well as in all contact with the child.<sup>243</sup>
- [147]. Section 4 of the Child Welfare Act (417/2007) emphasises that the determination of the best interest of the child is one of the core principles in child welfare and protection, which is why the principle shall be given priority in all situations. If the best interest determination is part of a foreigner's residence permit process, section 6 of the Aliens Act (301/2004) is relevant. In any decisions issued under the Aliens Act (301/2004) that concern a child under 18 years of age, special attention shall be paid to the best interest of the child and to circumstances related to the child's development and health. Matters concerning minors shall be processed with urgency.<sup>244</sup>
- [148]. In its Concluding Observations on Finland in 2005 (CRC/C/15/Add.272), the United Nations Committee on the Rights of the Child notes that the principle of the best interest of the child is often taken into account in legislation, including through the explicit recognition of the special situation of children in section 6 of the Aliens Act (301/2004). However, the Committee is concerned that this principle is not adequately respected and implemented in practice. The

<sup>242</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 48-50.

<sup>243</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 48-50; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 10-11.

<sup>244</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

Committee recommends that Finland would strengthen its efforts to ensure that the general principle of the best interest of the child is understood, appropriately integrated and implemented in all legal provisions as well as in judicial and administrative decisions, and in projects, programmes and services that have direct impact on children.<sup>245</sup> The Committee's concern is shared by actors of the civil society in Finland, according to whom the weak realisation of the child's best interests in practice, attributed to the insufficient knowledge of child protection issues and human rights within the assistance system, is one of the main reasons for why the assistance of child victims of trafficking in Finland does not meet the international standards on combating child trafficking.<sup>246</sup>

- [149]. Finland does not have an established practice of safe return in place, as the reported cases of child trafficking have been so few. A formalised process for identification of durable solutions based on best interest determination, including risk and security assessment prior to possible return of the child, is still to be developed.<sup>247</sup>
- [150]. Finland's Plan of Action against trafficking in human beings stresses that the child has the right to be heard in all matters concerning him or her in accordance with the age and maturity of the child. The Plan of Action regards the hearing of child victims as an important step in decision making within the assistance system, which is why emphasis is given to providing the child victims with required support, including translators and interpreters, during the hearing process in order to make the hearing as effective and relevant as possible.<sup>248</sup> There is, however, some concern within the civil society that child victims should be better taken into account concerning subsidiary protection, assistance and possible return. To this end, it has been suggested that training on the hearing of the child should be provided for professional actors within the assistance system.<sup>249</sup>

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<sup>245</sup> United Nations Committee on the Rights of the Child, Concluding Observations: Finland, 20 October 2005, CRC/C/15/Add.272.

<sup>246</sup> Monika – Naiset liitto ry (Jenni Tuominen), telephone interview on 6 June 2008 and written answer on questions, received on 24 June 2008; national expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008; the Finnish National Committee for UNICEF (Inka Hetemäki), written answer on questions, received on 19 June 2008; Lasten perusoikeudet ry – Children's fundamental rights (Helena Molander), personal interview on 11 June 2008.

<sup>247</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>248</sup> National Plan of Action against Trafficking in Human Beings: Finland, Helsinki 2005, Ulkoasiainministeriön julkaisusarja 18/2005, pp. 48-50; Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 10-11.

<sup>249</sup> Ihmiskaupan vastainen tarkennettu toimintasuunnitelma, adopted by Government on 25 June 2008, pp. 10-11; national expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008.

## F.2. Social inclusion of victims of child trafficking

- [151]. Measures of social inclusion have not yet become standardised in Finland due to the limited number of reported cases of child trafficking.<sup>250</sup> Chapter 4a of the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) includes provisions on the inclusion of victims of human trafficking.<sup>251</sup> It emphasises that child victims shall be entered into the assistance system immediately, so that the child has access to full health care, education and other social services through the assistance system. However, aspects of inclusion and empowerment are yet to be strengthened and developed within the assistance system.<sup>252</sup>
- [152]. The special needs of children coming from different ethnic backgrounds have been acknowledged in all relevant contexts and legal procedures. As the assistance and inclusion procedures are being standardised in Finland, policies taking into account the special needs of children with ethnic backgrounds and children with disabilities are currently being developed.<sup>253</sup>

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<sup>250</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>251</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>252</sup> Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

<sup>253</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008; national expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008; Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

## G. Prosecution

- [153]. There are no explicit provisions setting forth child-sensitive procedures to be implemented by police, prosecutor or court, which would provide the victim or witness with alternatives for direct confrontation with the defendant during court proceedings. Instead, general regulations are interpreted in a child sensitive way and the protection and the security of the child are taken into account in all proceedings involving victims of child trafficking.<sup>254</sup>
- [154]. The Criminal Investigations Act (449/1987) sets forth the possibility to record the hearing of the child victim, by video or otherwise.<sup>255</sup> The recording can be used as evidence in court, so that the child does not need to appear in court. The child can also be heard in court without the offender being present simultaneously with the child. An alternative to this procedure is that eye contact or any other contact between the victim and the defendant is prevented in the court room.<sup>256</sup>
- [155]. The legislation criminalising trafficking in human beings was enforced in 2004. To date, no legal case has been raised on child trafficking. Hence, there are no final convictions based on trafficking in children.<sup>257 258</sup> Neither has there been any compensation paid to trafficked children.<sup>259</sup>
- [156]. There are no explicit legal provisions granting trafficked children access to justice, nor any special compensation regulations, which is why general provisions relating to access to justice and to compensation apply. The victim of a crime has the right to seek compensation in accordance with two legal provisions:<sup>260</sup> the Tort Liability Act (412/1974) and the Act on Compensation on Crime Damage (1204/2005). According to the Tort Liability Act, all personal

<sup>254</sup> Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008; National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008; Ministry of the Interior (Veikko Pyykkönen), written answer on questions, received on 19 June 2008.

<sup>255</sup> An English translation of the Act is found by number on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>256</sup> Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008.

<sup>257</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

<sup>258</sup> Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008.

<sup>259</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008; Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008.

<sup>260</sup> National Bureau of Investigation (Jaakko Sonck), written answer on questions, received on 5 June 2008.

and material damage is fully compensated. In addition, the victim can seek compensation for suffering caused by the crime.<sup>261</sup>

- [157]. Damage compensation is guaranteed in practice through section 14(1) of the Act on Compensation on Crime Damage (1204/2005), according to which the victim can seek compensation from the State Treasury for damages.<sup>262</sup> The claim for damage compensation can be presented in connection with the criminal proceedings, and no separate case for damage compensation needs to be raised. The victim is always assisted by a legal representative.<sup>263</sup>

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<sup>261</sup> Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008.

<sup>262</sup> Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008. Finnish Acts are found by number on <http://www.finlex.fi/fi/laki/ajantasa/>.

<sup>263</sup> Ministry of Justice (Janne Kanerva), written answer on questions, received on 2 June 2008.



## H. Miscellaneous

- [158]. As child trafficking has been acknowledged only recently in Finland, there is no or little public debate on the issue. To a certain extent, the topic is still seen as a taboo.<sup>264</sup> Finnish NGOs specialised in human trafficking, as well as NGOs focusing on children, proclaim explicitly that child trafficking is not included on their agenda.<sup>265</sup> For the time being, no research is being carried out on child trafficking in Finland.<sup>266</sup>
- [159]. The child protection component of the assistance system is being criticised by members of the civil society and national experts on child trafficking for being somewhat weakly realised. The main cause of criticism is that the recommendations for the assistance of the child victims are poorly implemented in practice, as professional actors involved in assisting child victims are seen to lack sufficient knowledge and experience of working with children and child protection; sufficient awareness of international human rights standards and standards developed for the protection of victims of human trafficking; and project management skills. It is held by some experts on child trafficking in Finland that a small operational task-force with strong expertise from the areas related to assisting victims of human trafficking would be more suitable than the current system.<sup>267</sup>
- [160]. Speculations have been presented among Nordic experts and in the media about potential links to human trafficking of the Roma child beggars coming from Eastern Europe. Also a governmental working group led by the Ministry of the Interior has addressed this issue within its mandate. To date, no links have been substantiated.<sup>268</sup>

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<sup>264</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008 and telephone interview on 9 June 2008; Lasten perusoikeudet ry – Children’s fundamental rights (Helena Molander), personal interview on 11 June 2008.

<sup>265</sup> All NGOs which are members of the anti-trafficking and which focus on children or trafficking questions, were contacted for the purpose of writing this report. Most of them proclaim explicitly that they do not have child trafficking on their agenda.

<sup>266</sup> Ministry of the Interior; national expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008; Lasten perusoikeudet ry – Children’s fundamental rights (Helena Molander), personal interview on 11 June 2008.

<sup>267</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008; Lasten perusoikeudet ry – Children’s fundamental rights (Helena Molander), personal interview on 11 June 2008.

<sup>268</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008; the Finnish National Committee for UNICEF (Inka Hetemäki), written answer on questions, received on 19 June 2008.

- [161]. The fight against human trafficking is one of the so called human dimension priorities set by Finland in the context of its OSCE Chairmanship in 2008. A special *Trafficking against Human Beings Alliance Conference on Child Trafficking* was organised in Vienna 26-27 May 2008 by the Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Ms Eva Biaudet. The Conference was opened by the responsible Finnish Minister, Ms. Astrid Thors, who stressed the human rights- and victim-centered approach to trafficking in her opening remarks. She underlined also the special vulnerability of the Roma children with regard to trafficking. In addition, a high-level OSCE Conference on trafficking will be organised 10-11 September in Finland with a special focus on prosecution.<sup>269</sup>
- [162]. Finnish experts on child trafficking stress that an evaluation of the existing system should be carried out within a few years, in order to assess how Finland's anti-trafficking measures correspond in practice with the international human rights standards.<sup>270</sup>

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<sup>269</sup> Ministry for Foreign Affairs (Janina Hasenson, Satu Kaskinen, Pasi Kokkonen, Virpi Laukkanen, Rauno Merisaari, Sini Paukkunen), written answer on questions, received on 18 June 2008.

<sup>270</sup> National expert on child trafficking Anna Piskonen, written answer on questions, received on 15 June 2008; Lasten perusoikeudet ry – Children's fundamental rights (Helena Molander), personal interview on 11 June 2008.

## I. Good practices

- [163]. Since the drafting and adoption of the National Plan of Action against trafficking in human beings, the following Acts have been amended with provisions concerning trafficking in human beings: the Penal Code (amendment 650/2004), the Aliens Act (amendment 619/2006), the Act on the Integration of Immigrants and Reception of Asylum Seekers (amendment 1269/2006). The rapid amendment of these acts has set a solid ground for the development of good practices in combating child trafficking.<sup>271</sup>
- [164]. Finnish law enforcement authorities have identified three focal points in combating child trafficking on the operational level. These good practices have been identified through the experience gathered since 2005, and they establish a ground for continued work in combating child trafficking:<sup>272</sup>
- **Early identification of victims.** The identification of victims remains the most significant problem in combating child trafficking in Finland. To this end, the Finnish Border Guard has seen early identification as crucial: the earlier victims are identified, the better are their chances to be reintegrated in society. In the promotion of early identification, the Finnish Boarder Guard has established cooperation mechanisms for identification of victims with Embassies of Finland in countries of origin.
  - **Better cooperation among authorities, courts and NGOs.** Until now, actors from different fields have been working separately and cooperation efforts have been insufficient. In future work, models of cooperation will be strengthened especially between operational law enforcement authorities, such as the police and the Border Guard, and courts.
  - **Working on the basis of the best interest of the child.** The principle of the best interest of the child has been strengthened in Finnish law through the newly amended Child Welfare Act (417/2007),<sup>273</sup> and the understanding of the principle is constantly developed in practice.

<sup>271</sup> These Acts, translated into English, are found on <http://www.finlex.fi/en/laki/kaannokset/>.

<sup>272</sup> The Finnish Boarder Guard (Ilkka Herranen), contribution in seminar “Stopping trafficking in women – decreasing the demand for prostitution” (arranged by the Coalition of Finnish Women’s Associations) and personal interview on 11 June 2008.

<sup>273</sup> An English translation of the Act is found on <http://www.finlex.fi/en/laki/kaannokset/>.

[165]. The following links provide information on Finnish legislation and policy against trafficking in human beings:

- English translations of Finnish legislation can be found in the database of translations of Finnish acts and decrees:

<http://www.finlex.fi/en/laki/kaannokset/>

- Finland's National Plan of Action against trafficking in human beings (2005) is published on the website of the Ministry for Foreign Affairs. The revised Plan of Action, adopted by the Government on 25 June 2008, has not yet been translated into English. The original Plan of Action can be found through the following link:

<http://formin.finland.fi/public/default.aspx?nodeid=38595&contentlan=2&culture=en-US>

- Information in English on actions and policies undertaken by Finnish authorities in order to combat trafficking in human beings in general and child trafficking in particular has been gathered by the Ministry of the Interior:

<http://www.intermin.fi/intermin/home.nsf/pages/6A63819AD34A92D4C22573B5002AE0AF?opendocument>

Annex 1 - Tables and Statistics<sup>274</sup>

	2000	2001	2002	2003	2004	2005	2006	2007	2008 <sup>275</sup>
Number of children being granted temporary stay on grounds of trafficking	-	-	-	-	-	4	7	5	6
Number of trafficked children receiving full health care services, including psychosocial care and rehabilitation (e.g. not just emergency treatment)	-	-	-	-	-	4	7	5	6
Number of trafficked children receiving education/training, in particular secondary education and vocational	-	-	-	-	-	-	-	-	-

<sup>274</sup> The situation in child trafficking has not been followed up in Finland before 2005, why there is no statistics available on the years 2000-2004. Relevant ministries have been contacted in this regard. These statistics are collected by the Ministry of the Interior in cooperation with the Oulu reception centre. The number of children who have been granted temporary stay on grounds of trafficking, received full health care services and legal assistance (four in 2005; seven in 2006; five in 2007; and six in 2008) equals the number of children who have been within the assistance system in the given years (see Annex 2).

<sup>275</sup> Data from 2008 has been collected by the Ministry of the Interior until 7 May 2008.

<sup>276</sup> The Ministry of Education does not have any statistics on the number of trafficked children receiving education/training. The Ministry emphasises, however, that all school-aged children

training <sup>276</sup>									
Number of trafficked children receiving legal assistance (e.g. for claiming compensation)	-	-	-	-	-	4	7	5	6
Number of final convictions based on child trafficking cases, per year	0	0	0	0	0	0	0	0	0
Total of amount of compensation paid to trafficked children, per year	0	0	0	0	0	0	0	0	0
Average of amounts of compensation paid to trafficked children, per year	0	0	0	0	0	0	0	0	0
Range of amount of compensation paid to trafficked children, per year	0	0	0	0	0	0	0	0	0

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residing in Finland have the right and the possibility to receive primary, secondary and vocational training.

## Annex 2 – Statistics on victims within the Finnish assistance system

### CHILD VICTIMS OF TRAFFICKING IN HUMAN BEINGS 2005 – 2008 Oulu reception centre

	VICTIMS ENTERING THE ASSISTANCE SYSTEM	VICTIMS WITHIN THE ASSISTANCE SYSTEM	VICTIMS REMOVED FROM THE ASSISTANCE SYSTEM	PERSONS INTEGRATED IN FINLAND	SAFE RETURNS	ABSCONDED VICTIMS	M *)	F *)	UNDER 18 YEARS OF AGE *)	OVER 18 YEARS OF AGE *)
2005	4	4	0	0	0	0	-	-	-	-
2006	3	7	0	0	0	4	-	-	-	-
2007	3	5	1	0	0	0	1	4	5	0
2008**)	1	6	3	1	3	0	1	6	6	1

\*) Among the victims entering the assistance system

\*\*) The situation on 7 May 2008

### ADULT VICTIMS OF TRAFFICKING IN HUMAN BEINGS 2005 – 2008 Joutseno reception centre

	VICTIMS ENTERING THE ASSISTANCE SYSTEM	VICTIMS WITHIN THE ASSISTANCE SYSTEM	VICTIMS REMOVED FROM THE ASSISTANCE SYSTEM	PERSONS INTEGRATED IN FINLAND	SAFE RETURNS	ABSCONDED VICTIMS	M *)	F *)	UNDER 18 YEARS OF AGE *)	OVER 18 YEARS OF AGE *)
2005	0	0	0	0	0	0	0	0	0	0
2006	6	6	1	0	0	0	3	3	0	6
2007	2	7	6	5	0	0	1	1	0	2
2008**)	1	2	0	0	0	0	0	1	0	1

\*) Among the victims entering the assistance system

\*\*) The situation on 7 May 2008

Legislation concerning the assistance system, namely the Act Amending the Act on the Integration of Immigrants and Reception of Asylum Seekers (22.12.2006/1269), entered into force in the beginning of 2007. In practice, the assistance system for helping victims of trafficking in human beings was established already in 2005.