

Maija Koskenoja, Natalia Ollus, Venla Roth, Minna Viuhko and Laura Turkia

**An unknown future: A report on the effectiveness of legislation concerning assistance for victims of human trafficking**  
**Conclusions and recommendations**

**September 2018**

Government's analysis,  
assessment and research  
activities



This document is an English translation of the final chapter of the report “Tuntematon tulevaisuus – selvitys ihmiskaupan uhrien auttamista koskevan lainsäädännön toimivuudesta” (*An unknown future: A report on the effectiveness of legislation concerning assistance for victims of human trafficking*), focusing on the situation in Finland. This document presents the conclusions and recommendations of the assessment, as well as sums up the main findings. The full report was published within the framework of the Government’s joint analysis, assessment and research activities (VN TEAS) in March 2018 (report no. 24/2018).

The full report is available in Finnish: <http://urn.fi/URN:ISBN:978-952-287-528-0>



## ABSTRACT

The Non-Discrimination Ombudsman and the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) jointly implemented an assessment of legislation that applies to assistance for victims of human trafficking in Finland (Act on the reception of persons seeking international protection and on the identification of and assistance to victims of trafficking in human beings, 746/2011). The report is based on extensive document and interview material including, for example, the entries in client records concerning assistance provided to 66 victims of human trafficking. In addition, a total of 83 specialists working in the field of counteracting human trafficking across Finland were interviewed for the report.

The report shows that the social and health administration in municipalities is not familiar with the act that applies to the reception of and assistance to victims of human trafficking and that the special status of victims of human trafficking as recipients of services is not realised in municipalities. Victims of human trafficking do not always receive the statutory services they would be entitled to. There are also Finnish citizens among these victims.

The report also reveals that there are people in Finland who, in spite of their need for assistance for reasons related to human trafficking, do not get sufficient help from the system of assistance for victims of human trafficking, or who do not find their way to or are not within the scope of the assistance provided by the authorities. According to the report, a central reason for this is the strong link between the provision of assistance and the process of bringing perpetrators to justice (the criminal process) that results from legislation and its application. This link seems to have become stronger as a result of the legislative amendment that entered into force in 2015. All in all, the system of assistance for victims of human trafficking, which is managed by the reception centre in Joutseno, carries out good work with its clients as well as good cooperation with other authorities.

Based on the report, the most important recommendations are:

1. Enacting a special act that applies to assistance for victims of human trafficking,
2. Issuing instructions to municipalities for the application of legislation concerning assistance for victims of human trafficking and,
3. Improving the operational capacities of non-governmental organisations.





# **An unknown future: A report on the effectiveness of legislation concerning assistance for victims of human trafficking**

## **Conclusions and recommendations**

Introduction.....	7
Identification of victims of human trafficking and referral to the system of assistance .....	8
Assisting victims of human trafficking and the availability of assistance .....	14
Assistance provided for victims at the Joutseno Reception Centre .....	15
Assisting victims of human trafficking in municipalities.....	18
The link between assistance and criminal proceedings.....	21
Recommendations .....	25



## Introduction

This report was produced with funding from the Finnish Government's analysis and research appropriations in cooperation between the Non-Discrimination Ombudsman and the European Institute for Crime Prevention and Control (HEUNI). The Government's joint analysis, assessment and research activities (VN TEAS) is coordinated by the Prime Minister's Office and produce information to support decision-making, management by information and operating practices. The report was aimed at assessing how authorities apply the provisions governing assistance to victims of human trafficking, which is laid down in the Reception Act (Act on the reception of persons seeking international protection and on the identification of and assistance to victims of trafficking in human beings, 746/2011), and how the right of human trafficking victims to receive assistance in Finland is realised.

The Reception Act outlines the elements of assistance to victims of trafficking in Finland. The elements of assistance include housing, health care, social services, legal support and financial help for those without an income. The reception center in Joutseno, which functions under the auspices of the Ministry of Interior, runs the national assistance system for victims of human trafficking.<sup>1</sup> Victims have to be formally admitted in order to receive assistance. Admission into the system of assistance requires that someone (such as a representative of an authority, an NGO or other organisation, or the victim him/herself) proposes that the victim be admitted. The reception centre in Joutseno provides assistance to victims who are asylum seekers, and those who do not have a municipal residence in Finland. The municipalities are responsible for the everyday organisation of support services to those victims who are residents in any of the municipalities in Finland. In such instances, the victim remains a client of the assistance system, and the assistance system can provide advice to the municipality and the municipality can claim reimbursement from the government for services provided to victims of trafficking. The Reception Act was amended in 2015, and this dual model of assistance is a result of this amendment. There were lengthy discussions in a number of intergovernmental working groups preceding the revision of the Act. As a result, new provisions in the act include e.g. that the system of assistance can formally identify (so called 'actual identification') a victim of trafficking and provide them with reflection periods. The revised act also introduced the grounds for removing a victim from the system of assistance and connected the removal to the outcome of the criminal process.

This report assessed the application of the Reception Act through three entities: 1) the identification of victims of human trafficking and their referral to the system of assistance; 2) victims of human trafficking as beneficiaries of assistance; and 3) the link between assistance and criminal proceedings. Among other issues, the assessment focused on analysing what kind of victims are referred and taken into to the system of assistance, how victims are identified, and what types of legal impacts the so-called actual identification has. The report also assessed the role of non-governmental organisations (NGOs) in the identification of victims and their referral to the system of assistance.

The report looked at victims' access to services in terms of how the dual model (municipalities vs. Joutseno Reception Centre) of assisting victims of human trafficking works in practice, and how the services that are provided meet the needs of the victims of human trafficking and comply with the existing legislation. Another aim of the report was to answer questions concerning the link between the process of assistance and criminal proceedings, such as what

---

<sup>1</sup> See <http://www.ihmiskauppa.fi/en> for more information on the assistance system.

the grounds for entering the system of assistance are, at what stage the provision of assistance is initiated and terminated, and whether victims are excluded from assistance if the criminal process does not identify them as victims of human trafficking.

The report relied on documents and interview data. The documentation included client documents and decisions received from the Joutseno Reception Centre and municipalities in 2014–2016. The data from municipalities consisted of 36 victims of human trafficking admitted to the assistance system who received municipal services. In addition, the data included the client records of 30 victims assisted by the Joutseno Reception Centre. The data also included 316 decisions concerning acceptance to the system of assistance, 48 decisions on removal from the system of assistance, and 18 decisions on the actual identification of a victim of human trafficking, all from the years 2014–2016. The data also contained official documents from different ministries (including national action plans to combat trafficking in human beings, meeting records of working and steering groups appointed to draft legislation concerning assistance to victims of trafficking, and statements containing comments on proposed legislative amendments) and documents of relevant parliamentary committees (dealing with legislation concerning assistance to victims of trafficking).

The Non-Discrimination Ombudsman has the right (confidentiality provisions notwithstanding) to receive information from the authorities and from providers of services and support for victims of human trafficking. For the purposes of this report, the Non-Discrimination Ombudsman requested the social services of 13 municipalities, where trafficking victims had received assistance, to provide their client data. Seven municipalities provided data. While the documentation underpinning the report was extensive, a number of municipalities failed to respond to the information request, citing their lack of resources as the reason for not complying.

The interview data comprises 46 interviews with a total of 83 interviewees. The interviews were conducted in different parts of Finland. The interviewees comprised employees of the Joutseno Reception Centre, NGOs that assist victims, representatives of municipal social services and reception centres; police officers, prosecutors, occupational safety and health inspectors; and representatives of healthcare services, the Finnish Border Guard, as well as ministries and government agencies.

This document sums up the findings of the main report<sup>2</sup>, presents conclusions and issues recommendations.

## **Identification of victims of human trafficking and referral to the system of assistance**

### **Identification in the initial phase**

The identification of victims of human trafficking may mean many different things. At the general level, identification means a process where the objective is, primarily based on the victim's account, to assess if the person is a victim of human trafficking and to take action to help and protect him/her. Identification starts from the moment when it occurs to one of the actors that their client or the person they encounter may be a victim of human trafficking. The actor or party then starts to assess the person's circumstances and situation more thoroughly. They may find support for their suspicion, in which case the person may, subject to his or her consent, be referred to the assistance system. Based on an individual assessment of the situa-

---

<sup>2</sup> Available in Finnish: <http://urn.fi/URN:ISBN:978-952-287-528-0>

tion, the assistance system may give the victim special services. The responsibility for assisting human trafficking victims in Finland is assumed by the assistance system for victims of human trafficking (located in the Joutseno Reception Centre) and the municipalities.

The identification often entails a complex process that requires time and resources. Contrary to common perception, identification is not a quick or momentary action. In some cases, it may take days, months or even years before a person can provide a sufficient amount of information about their experiences and to give their consent for referral to the system of assistance. Some victims may never agree to give their consent. According to the study, victim identification by NGOs is hampered by the fact that they do not have sufficient resources for the work required at this initial phase of identification.<sup>3</sup>

According to the study, the identification of human trafficking victims and their referral to the system of assistance are hindered by different uncertainties and ambiguities related to the victim's residence status, safety, income and coping with everyday life as well as the position and situation of the victim's children. Victims may be psychologically extremely unwell, and they may have different needs. The experts interviewed for the report underlined that a severely traumatised person may not necessarily act logically, and his/her memory may not function normally. This may complicate both the identification of victims and the provision of assistance to them.

### Proposal for and entry into the system of assistance

'Initial identification' means a proposal for entry in the system of assistance referred to in section 34 of the Reception Act and admittance to the system referred to in section 35 of the Act. The proposal may be made by the victim him/herself or a party representing the victim, including an NGO, an authority (including a criminal investigation authority, a social welfare and healthcare professional, occupational safety and health authorities, the Finnish Immigration Service), a legal aid counsel/representative or someone close to the victim.

According to the report, most proposals in 2014–2016 were submitted by reception centres. More than one third of the proposed persons were declined access to the system of assistance. The second highest number of proposals were submitted by the police, and almost all of these persons were admitted. The number of proposals made by the Finnish Immigration Service increased considerably during the period of scrutiny, and the majority of their proposals were accepted. The number of proposals submitted by legal aid counsels was small, and more than half of the persons proposed by the counsels were declined. The share of proposals submitted by NGOs was small, and approximately a quarter of their proposals were declined.

Proposing a victim of human trafficking for entry into the system of assistance is not, according to the study, considered difficult. From this point of view the system of assistance is not difficult to access. However, the persons interviewed for the study described their uncertainty about how detailed the proposal for entry into the system of assistance should be. On the one hand, they mentioned that the proposal should be detailed enough for the system of assistance to evaluate the credibility of the victim's story and the victim's need for assistance. On the other hand, the NGO representatives and reception centre employees interviewed for the report noted that a very detailed proposal may even harm the client, for example if his or her asylum application is pending. If the proposal includes descriptions or details that deviate from those expressed in the asylum interview, the credibility of the client seeking access to the system

---

<sup>3</sup> Funds raised in the so called Common Responsibility collection of 2017 were channeled to NGOs working to combat trafficking in human beings, reinforcing the work of the NGOs that received this ear-marked funding. However, this funding is not permanent.

of assistance may be questioned. Any contradictions may have a negative impact on the asylum and residence permit proceedings.

Of all the persons proposed to the system of assistance for victims of human trafficking in 2014–2016, 65 per cent were asylum-seekers. Based on data from the three years covered by the report, the majority (40%) of all proposals submitted in 2014–2016 concerned victims of sexual abuse. The second-most common form of exploitation was labour exploitation, which had been encountered by 31 per cent of the proposed persons. After these, the most common individual forms of exploitation were forced marriage and exploitation in domestic work. The number of under-age victims of human trafficking increased between 2014 and 2016. Additionally, the system of assistance received proposals concerning persons having been forced into criminal and military activities, as well as victims of actual or attempted organ trafficking. Based on the report, authorities are not sufficiently able to identify these other forms of exploitation as forms of human trafficking.

In 2014–2016, of all persons proposed for admittance to the system of assistance, 38 per cent were women of Nigerian origin, and almost all of them had experienced sexual abuse in Italy, Spain or Greece. The report corroborates the perception that there are only very few sexual abuse victims directed to the system of assistance who would have fallen victim to human trafficking in Finland. Based on the interview data, it appears that victims of human trafficking who have been sexually abused in Finland do not seek entry into the system of assistance. The interview data provides several reasons for why victims do not seek assistance. NGO representatives, in particular, cited the fact that the system is not very victim-oriented, and it is strongly connected to the criminal justice process. From the perspective of referring victims to the system of assistance, NGO representatives interviewed for the report considered it particularly challenging that information concerning victims admitted to the system of assistance is automatically submitted to the police.

### **Decision-making related to the system of assistance**

Based on data from the three years covered by the report, a total of 75 per cent of the proposed victims were admitted to the system of assistance. Within the time frame of the report, one third of the persons admitted to the system were granted entry on the basis of a criminal investigation. A clear majority of the victims were admitted to the system of assistance on the basis of other circumstances. This means that there were indications of human trafficking in the applicants' stories. Some of the decisions on admittance to the system of assistance, including decisions to refuse access, were made without meeting the victim. According to the report, 44 per cent of the persons who were refused entry into the system were victims of sexual abuse. The majority of them were women who had fallen victim to human trafficking abroad and who had also applied for asylum in Finland. The exploitation experienced by these persons was generally not investigated in Finland and, according to the report, this also appears to affect their admittance to the system of assistance.

The report indicates that one of the reasons why victims were refused entry was that the system of assistance considered that applicants' freedom had not been restricted sufficiently for the exploitation to be interpreted as human trafficking. According to the legislative background materials to the Reception Act, however, entry into the system of assistance should be granted with a low threshold on the basis of the person's own description and the details included in the proposal, provided they are considered credible. The system of assistance did not always appear to pay sufficient attention to psychological coercion when making decisions on entry into the system. In addition, the system of assistance often contacts other authorities for additional information before making a decision on entry into the system of assistance. The request for additional information should not lead to the threshold for entry into the system

being elevated above the limits laid down in law. An evaluation of the victim's overall situation and current need for assistance should always be the key to the decision.

Under section 38 of the Reception Act, the actual identification of victims of human trafficking is made by a criminal investigation authority, the prosecutor, a court, the Finnish Immigration Service or, in certain limited cases, the system of assistance. Decisions concerning the so called actual identification may be made by the system of assistance in situations where the criminal investigation authority or the prosecutor decide not to initiate a criminal investigation in Finland, but there is justified cause to believe that the person has fallen victim to human trafficking abroad. Alternatively, the system of assistance may proceed to the actual identification of a victim when a decision to interrupt or terminate a criminal investigation shows that while the person should be deemed a victim of human trafficking, the matter could not be referred to the prosecutor because no charges can be brought in the case.

The objective of the Reception Act is to ensure a decision on actual identification for all victims of human trafficking admitted to the system of assistance. The report indicates that this objective is currently not met. The system of assistance has so far made only a small number of decisions concerning actual identification. The data on which the report is based does not reveal the basis on which the clients of the system of assistance were selected for the actual identification procedure. The majority of the victims for whom an identification procedure is launched are identified as victims of human trafficking. According to the report, actual identification decisions have been made on the grounds that while no criminal investigation under the offence of trafficking in human beings has been initiated in Finland, there is justified reason to deem that the person has become a victim of human trafficking for instance abroad.

The report indicates that representatives of the system of assistance also themselves consider that the legislation concerning actual identification is challenging. The representatives of the system of assistance found the legal implications of the actual identification decision ambiguous as the law does not lay down provisions on when the actual identification ends or is cancelled. The only legal implication of an actual identification made by the system of assistance appears to be that the victim of human trafficking becomes a client of the system of assistance until they are removed from the system. Actual identification does not have any other legal impacts, which exacerbates the unpredictable nature of the system. Based on the report, it is apparent that the current provisions on actual identification should be improved to ensure a more predictable process and outcome.

According to a requirement contained in the second paragraph of the provision on actual identification in the Reception Act, the criminal investigation authority shall deem a person a victim of a human trafficking offence in their decision to interrupt or conclude the investigation. In reality, it is impossible to meet this requirement. In issuing such a decision, the criminal investigation authority does not in principle take a position on whether or not the person has been the victim of any offence in general. Only a court can ultimately take a stand on whether the offence is a human trafficking offence in line with the Criminal Code. In this case, too, the evidence may not be sufficient, and the charges may be rejected. Or, in line with the principle of legality, the evidence is interpreted in favour of the defendant in unclear situations.

In court, defendants in cases of suspected trafficking in human beings have often been sentenced for some other offence, for example extortionate work discrimination or pandering. The court has assessed the characteristics of the offence in line with the provisions of the criminal law and does not assess whether actual exploitation has taken place. The court interprets exploitation in the light of valid legislation and case law. As the courts have so far heard relatively few cases of trafficking in human beings and as the provisions on trafficking in the Criminal Code have recently been reformed, case law remains unestablished. Based on case law,

it is difficult to unambiguously evaluate what constitutes human trafficking and where to draw the line between trafficking and, for instance, other offences closely resembling trafficking. This also affects the predictability of the system of assistance less from the perspective of victims.

The Reception Act stipulates that the system of assistance shall establish a multidisciplinary expert group. The expert group includes representatives of the police and social welfare services. Based on the report, the multidisciplinary expert group appears to have a significant role in the actual identification of victims. Pursuant to the Act, the task of the expert group is to support the system of assistance in decision-making and in assessing what kind of assistance measures and protection victims require. The statements of the multidisciplinary expert group are based on documentation and descriptions provided by the system of assistance. The group does not meet or hear any actual victims. The report finds that the expert group is thus not able to adequately evaluate a victim's de facto situation, process of victimisation, the credibility of the victim's account, nor the victim's need for assistance.

### **Challenges to identification and referral to the system of assistance**

The report revealed that a number of non-governmental organisations working with victims of human trafficking question the ability of the system of assistance to provide victims with the kind of help they believe the victims need. According to the NGO representatives interviewed for the report, the decision to refer a victim to the system of assistance is not always easy for the clients themselves, nor for the NGO employees. Prior to proposing victims to the system of assistance, the NGOs consider what kind of implications a proposal would have for the client, and for example, on the criminal and asylum proceedings. Some of the NGO representatives interviewed for this report therefore consider the system of assistance an "assistance system for prosecuting perpetrators" rather than a genuinely victim-oriented system.

The documentation and interview material concerning the reform of the Reception Act analysed for the report similarly show that the goal of some of the authorities engaged in the reform process was to impose criminal liability on persons guilty of human trafficking, rather than emphasise victims' right to assistance. According to the interview data and documentation relevant to the drafting of the Act, the central problem of the system of assistance appears to be the tightly intertwined relationship between assistance and criminal proceedings. As it currently stands, the system of assistance is able to address cases of human trafficking that the authorities are already aware of. The system reaches in particular those victims who are ready to share their experiences with the criminal investigation authority already at the referral stage.

The report found that the number of victims referred to the system of assistance by the NGOs is low. This may be related to a change in the relationship between NGOs and the system of assistance. Interviewees spoke about a decrease and weakening of co-operation between the system of assistance and the NGOs. According to some of the NGO employees who were interviewed, some years ago the collaboration between the NGOs and the system of assistance was more genuinely team work, with more dialogue and interaction between the NGOs and the system of assistance. The explanations cited for the declining co-operation included the increased number of clients in the system of assistance and the tighter link between assistance measures and criminal proceedings.

According to the report, identification may also be hindered by the fact that perceptions of human trafficking among municipal employees may be inconsistent with reality. For many, human trafficking is a very unfamiliar and distant issue. Not all social welfare and healthcare units or police departments have sufficient professional competence and understanding of

the phenomenon of human trafficking. Municipal social welfare and healthcare services do not have sufficient knowledge of the system of assistance for victims of human trafficking. They also lack knowledge of the fact that the system offers guidance in the process of identification and assistance.

The report shows that hardly any victims have been identified by social welfare services. Instead, victims are usually referred to municipal social welfare services from the system of assistance. Only a handful of proposals for admittance to the system of assistance were made by municipalities. The identification of victims of human trafficking in municipalities may be hindered by the large client workload of municipal social workers which can, in the worst case, lead to the municipalities not wanting or daring to identify a victim of human trafficking. Municipal employees may fear that looking into the victim's situation and providing them with concrete assistance may take up too large a share of the available working hours. As a result, the victim may be left unidentified in the first place.

The results of the report underline the building of trust as a prerequisite for identifying victims of human trafficking. With regard to victims of human trafficking with an asylum-seeker background, it may take a long time before a client is willing or able to share their experiences with a reception centre employee. Identification may become more complicated if the client of a reception centre is scheduled an asylum interview so quickly that there is insufficient time to look into the possibility that they may have been a victim of human trafficking. Representatives of social welfare services also pointed out that in order to build trust between an employee and a client of foreign origin in particular, it is essential that the employee keeps their word and makes their work as transparent as possible. For example, this may mean that the client is involved in the different processes and is told what personal information is entered into various databases and information systems.

Occupational health and safety inspectors play a key role in identifying exploitation of employees and may encounter potential victims of human trafficking in their work. Cooperation between the occupational health and safety authorities and the police should be stepped up, for example in the form of joint workplace visits, in particular in situations where exploitation of workers is suspected. Trafficking in human beings should also be included among the offences on which the occupational health and safety inspectors have a duty to report.

*Reflection and recovery periods.* The report also examined reflection and recovery periods, the granting of these periods, and the practical implications for victims. The report showed that very few reflection and recovery periods have been granted so far. NGO representatives interviewed for the report took a rather critical view of these periods: the regulations and procedures regarding reflection and recovery periods do not work, and their purpose is not fulfilled. In the opinion of NGO representatives, the legal provisions on reflection and recovery periods and their application do not allow for genuine reflection and recovery. The reason for this is that information concerning the victim is always transferred from the system of assistance to the criminal investigation authorities. Information is passed, regardless of what the victim has decided to do during the reflection and recovery period and whether or not the victim can or dare share their experiences with the criminal investigation authorities and initiate criminal proceedings in the matter.

It also turned out that some of the interviewed criminal investigation authorities and prosecutors were not aware of the legal provisions on reflection and recovery periods. Some of the criminal justice system actors deemed the reflection and recovery period problematic for the legal protection of the accused. However, the interviewees did not cite any practical situations or cases where these concerns would have been realised.

## Assisting victims of human trafficking and the availability of assistance

### The structure of assistance

Victims of human trafficking have a special status as beneficiaries of services. The Act on the reception of persons seeking international protection and on the identification of and assistance to victims of trafficking in human beings (the Reception Act) contains provisions on this. In the Act, the assistance system refers to the system through which assistance is provided for victims of human trafficking. Since the reform of the Reception Act, the provisions on assisting victims of human trafficking is applied to all victims of human trafficking, regardless of whether or not they have a municipality of residence in Finland.

In this report the authors have interpreted the Reception Act in such a manner that the system of assistance for victims of human trafficking is considered to consist of one entity in which two authorities are in charge of organising the services: on the one hand, the Joutseno Reception Centre and on the other, the municipalities. A victim of human trafficking refers to a person admitted to the system of assistance. The Joutseno Reception Centre organises assistance measures for victims of human trafficking who do not have a municipality of residence in Finland as outlined in the Municipality of Residence Act. Municipalities are responsible for organising assistance measures for victims of human trafficking who are Finnish citizens or who have a municipality of residence in Finland as outlined in the Municipality of Residence Act. In the Reception Act, assistance measures refer to services and support measures provided for victims of human trafficking defined in detail in section 38a of the Reception Act. The Finnish Immigration Service assumes responsibility for the steering, planning and supervision of the everyday activities of the system of assistance. The system of assistance is maintained by the Joutseno Reception Centre. The reception centre administrates and coordinates the system as a whole and provides advice for other authorities and NGOs on how to assist victims of human trafficking.

However, the report found that in practical terms, if a victim is an asylum-seeker, it is the reception centre in which the victim is placed which provides assistance measures. The system of assistance emphasised in the report that these reception centres should prepare service plans for victims residing in their reception centres. The report emphasised that victims placed in other reception centres should receive equal services compared to those staying at the Joutseno Reception Centre, and the situation needs to be improved.

The report shows that at the legislative level, the Joutseno Reception Centre and municipalities do not have equal status. The legislation imposes on municipalities a duty to organise assistance measures for victims of human trafficking who are either Finnish citizens or who have been placed in a municipality, but these provisions are contained in an act which the municipal social welfare and healthcare professionals do not normally apply in their daily work. Application of the law is hindered by the fact that the Ministry of Social Affairs and Health has provided no instructions to municipalities on how to organise the assistance measures, even though the preliminary work on the Reception Act suggested that such instructions should be prepared.

### The role of non-governmental organizations

Finland differs from many other European countries in that NGOs have a relatively minor role in assisting victims of human trafficking as assistance is provided by authorities. In a number of European countries, services for victims of human trafficking are provided by non-govern-

mental organisations specialised in assisting victims of human trafficking. The assistance often includes supported housing with 24-hour services, social welfare and healthcare services, and psychological support for victims.

The Finnish assistance model, led by the authorities, has its upsides: funding is relatively secure, and the authorities are liable for their actions in office. The work of the authorities is reasonably transparent and it can be supervised more easily than the work of NGOs. It is also possible to intervene if there are any flaws in the actions of authorities, for example, it is possible to appeal the administrative decisions.

On the other hand, the report shows that not all victims of human trafficking receive assistance. Based on the interview data, some victims of human trafficking do not seek admittance to the assistance system. Victims may consider that assistance provided by authorities is intimidating. The victims may have lived on the margins of society for a long time, they may have committed offences themselves, and it may be difficult for them to trust the authorities. The victims may be ashamed of falling victim to exploitation, in which case their threshold for sharing their experiences with the authorities may be high.

The report shows that NGOs provide services for victims who do not dare seek help from the system of assistance for another reason: the current legislation and its application link the actual availability and duration of assistance closely to the initiation and progression of criminal proceedings and to the outcome of this process. The report indicates that this connection appears to have an impact on whether or not victims dare seek help from the system of assistance and, consequently, from the authorities. The victims of human trafficking who are excluded from the system of assistance are at a great risk of re-victimisation, and they may be subjected to continued exploitation in the absence of adequate services. The victims and any children they may have are vulnerable to different forms of exploitation.

Based on the report, improving the operating conditions of NGOs would be one way to support these individuals, put an end to their exploitation, and prevent re-victimisation. In terms of social justice, it would be important to give these persons access to some type of assistance. NGOs could act as a bridge between the victims and authorities, building the victims' confidence in the authorities. On the other hand, NGOs have an important role in providing assistance for victims of human trafficking who have already been admitted to the system of assistance. Neither the legislation nor the structures adequately recognise the role of NGOs in providing assistance for victims. It appears that the potential of NGOs to assist victims of human trafficking is not currently used particularly well. In the past, for example, the system of assistance used to buy more services from NGOs.

## **Assistance provided for victims at the Joutseno Reception Centre**

### **The Joutseno Reception Centre's assistance work and responsibility for maintaining the assistance system**

The report found that there is a clear need for the work carried out by the system of assistance. Most of those interviewed for the report considered it positive that there exists a system of assistance for victims of human trafficking. It is important to have a system with in-depth expertise in assisting victims of human trafficking as well as knowledge of their needs and how these needs should be met. The criminal investigation authorities, in particular, praised the system of assistance and considered that their co-operation with the system was effective. The criminal investigation authorities interviewed for the report underlined the fact that the system of assistance supports the work of the police by taking care of the victim of human

trafficking, allowing the police to focus on conducting a criminal investigation in the matter. Representatives of social welfare services and reception centre employees also had a primarily positive view of their co-operation with the system of assistance.

The report indicates that the Joutseno Reception Centre is good at providing services for those victims of trafficking who fall under its responsibility. The report finds that the Joutseno Reception Centre and its employees come across as competent and dedicated to their work. The staff observe a high standard of professional ethics when assisting victims. On the basis of the report, it can be concluded that those victims for whom the Joutseno Reception Centre itself organises services seem to get the help they need. The study finds that the work is demanding and considerably stressful; the victims are often traumatised and in a very difficult position. The report shows that the workload of the Joutseno Reception Centre has increased, and the current personnel resources are insufficient.

The Joutseno Reception Centre has a significant role in providing legal and other information related to human trafficking, as well as in coordinating both the assistance provided for clients and the activities of authorities in Finland. The Joutseno Reception Centre works closely together with the other authorities and certain NGOs. Its employees travel around Finland and participate in networking meetings and meetings concerning individual clients, for example in municipalities. The Joutseno Reception Centre is located in Eastern Finland. It emerged in the interviews that the geographic location poses certain challenges from the perspective of everyday social welfare and healthcare services, particularly in relation to face-to-face client work and stakeholder co-operation. Placing one employee of the system of assistance in Oulu has improved co-operation, especially in Northern and Western Finland. As a result, more clients from Lapland have been referred to the system of assistance. It also became apparent in the interviews that there is room for improvement in the flow of information between the different actors, and that some municipal social workers were hoping for more active and spontaneous communication on behalf of the system of assistance.

According to the report, the assistance system (the Joutseno Reception Centre and municipalities) works closely together especially with Victim Support Finland. On the other hand, it turned out that co-operation with other non-governmental organisations had decreased or had even come to an end. Some NGOs appear to be somewhat distrustful of the system of assistance.

### **The challenges in the provision of assistance**

Many victims are in need of comprehensive support as well as secure, supported housing with staff members present around the clock. There are very few such service providers in Finland in proportion to the real need. Furthermore, the current forms of supported housing are not suitable for all victims of human trafficking, such as male victims. Victims of human trafficking have been accommodated in emergency housing centres, rental apartments, mother and child homes/shelters for victims of domestic violence, reception centres, and shelters for the homeless and persons with substance abuse problems. Based on both the interviews and the documentation, it is obvious that Finland does not have an adequate number of 24-hour, secure and supported housing options available for victims of human trafficking. The victims of human trafficking are individuals with different needs. Different forms of supported and secure housing should consequently be available for them. Many victims of human trafficking have been severely traumatised and are in need of intensive support, and some are also the targets of severe security threats.

Since 2014, the government funds NGOs for the maintenance of shelters and related services for victims of domestic violence (Act 1354/2014). The National Institute for Health and Welfare

(THL) has drafted instructions for the implementation of the shelter act. The instructions state that shelters should not be used as accommodation for victims of human trafficking unless there is an element of intimate partner violence involved. Victims of trafficking are therefore rarely accommodated in existing domestic violence shelters. The report found several examples of cases where authorities (social workers, the police, occupational health and safety) had trouble finding suitable emergency accommodation for identified victims of human trafficking, especially outside office hours. The reception centre employees interviewed for the report also reported a need for smaller reception centres in which the personnel would be specialised in assisting victims of human trafficking and which would have more resources for examining a client's situation.

The report reveals that the majority of victims admitted to the system of assistance for victims of human trafficking are deeply traumatised and in need of psychological healthcare services or strong psychological support. The system of assistance organises and pays for therapy services for those victims who do not have a municipality of residence. The report indicates that the assistance system is capable of organising client-oriented therapy services on a short notice. However, the data also shows that sufficient and timely psychological support is not available, and those who need it the most do not get adequate support. There also appears to be a shortage of professionals capable of dealing with trauma.

The possibility to obtain employment is important for victims to recover and lead a meaningful life. However, there are many legal provisions that prevent human trafficking victims from becoming integrated into employment. The report additionally highlighted several other challenges which are also relevant to asylum seekers, in particular. For example, when a person's asylum application is refused, they no longer have the right to work, even if they submit a new asylum application. When a residence permit process is pending, it may be difficult for the applicant to work or accept a job if they have children. Children do not usually receive municipal day-care if the parent does not have a continuous residence permit. In addition, victims of human trafficking are at risk of being exploited in the Finnish labour market, as they in general do not know how the authorities work and are not aware of their and their employer's rights and obligations. The report however found that victims of human trafficking who were exploited at work seem to integrate into society and find employment more easily than victims with a foreign background subjected to sexual abuse. This may be due to the psychological effects of sexual abuse.

During the years covered by the report (2014-2016), the majority of the clients in the system of assistance had an asylum-seeker background. It is likely that the considerable share of asylum seekers among the clientele of the system of assistance can to some extent be explained by changes in the global situation and the general increase in the number of migrants within the European Union. Based on the report, many victims of human trafficking are directed to apply for asylum, even if they had the right to apply for a residence permit as victims of human trafficking and to be admitted to the system of assistance for victims of human trafficking.

The report found an inconsistency in the system of assistance vis-a-vis those victims who had an asylum-seeker background. As asylum-seekers they already receive most of the services that the system of assistance can offer, with the exception of psychiatric and psychological assistance. Reception centres (especially transit centres and detainment units) are not capable of providing victims with sufficient psychiatric and psychological assistance, in particular long-term treatment or therapy. Consequently, interviewed employees in reception centres considered that the most important and concrete benefit of the assistance system is the possibility to obtain psychiatric and psychological support for victims. Overall, these interviewees

did not consider the benefits of the system of assistance to be significant for their clients in relation to what they already get at the reception centre as asylum seekers.

According to the report, victims of human trafficking admitted to the system of assistance have, as a consequence of the Dublin Regulation or because of a refusal of their asylum or residence permit, been returned to their country of origin or to another country within the European Union. In these situations, the system of assistance has attempted to provide them with a safe and supported return, but this has been difficult because the decisions on removal from the country have been enforced very quickly. Consequently, the system of assistance has not always had time to organise an adequate support structure in the receiving country. An attempt has been made to provide the client with the contact information of the authorities or organisations who work with victims of human trafficking in the receiving country. The system of assistance strives to issue an actual identification decision for these victims in the hope that the decision will provide the persons removed from the country with easier access to services aimed at victims of human trafficking in the receiving state. However, the competence of the system of assistance does not extend beyond the Finnish borders.

The data indicates that the system of assistance removed clients from the system if the person left the country or was expelled, or if the person wished to be removed from the system or had gone missing. The system of assistance also removed clients from its services if it was deemed that the client's situation was managed well at the municipal level and that his or her everyday life had become so stable that he/she was no longer in need of the special services offered by the system of assistance. However, under the Reception Act, transferring a person to a municipality does not, as such, constitute a ground for removal. Before removing a client on these grounds, the system of assistance should, in co-operation with the bodies assisting the victim, ensure that the client no longer needs the services to support their recovery. The link between removal from the system and criminal proceedings is discussed further in the conclusions below.

## **Assisting victims of human trafficking in municipalities**

### **The role of the Ministry of Social Affairs and Health**

The report paid particular attention to the assistance provided for victims of human trafficking in municipalities. Assistance work carried out by municipalities has not been previously studied in Finland. As previously stated, the so-called dual assistance model entails that the municipal social welfare and healthcare services provide services for those victims of human trafficking who are Finnish citizens or who have received a municipality placement after being granted a residence permit. Consequently, the municipalities are responsible for providing services intended for their residents. The assistance system can advise the municipalities with regard to the special characteristics of human trafficking as a phenomenon, the special needs of victims of human trafficking, and the different entities implementing the services.

The report shows that the role of the Ministry of Social Affairs and Health has become rather insignificant in the assistance work as a whole, regardless of the fact that a significant share of the concrete work aiming to assist victims of human trafficking is carried out by the municipal social welfare and health services. The documentation and interview data show that the Ministry of Social Affairs and Health has regarded human trafficking as more of an internal security issue and, therefore, as a matter falling within the remit of the Ministry of the Interior's administrative branch.

Assistance provided for victims is regulated in legislation falling under the administrative branch of the Ministry of the Interior. Despite a proposal made by the legislative working group on assistance for trafficking victims and despite the demands of the Parliament, the Ministry of Social Affairs and Health has not provided the municipal social welfare services with instructions on how to assist victims of human trafficking. The Association of Finnish Local and Regional Authorities sent a circular letter to municipalities in 2016 concerning the assistance to victims of human trafficking. However, the report found that the guidelines given in this circular have not been implemented at the practical level in the work of social welfare and healthcare professionals.

### **Awareness of the Reception Act in municipalities**

The report revealed that it is impractical that the laws governing assistance for victims of human trafficking are included in the Reception Act, in particular when considering those victims of human trafficking who are clients of municipalities. Municipal employees primarily apply the Social Welfare Act rather than the Reception Act. This is a problem in realising the victims' access to services. Based on the interviews, municipal social workers mainly view victims of human trafficking as no different from their other clients. Victims of human trafficking thus receive the same services as any other municipal resident. Documentary evidence confirms that employees of municipal social welfare and healthcare services are not always aware of the existence of the Reception Act. Consequently, they do not know that victims of human trafficking have a special status as beneficiaries of services, and that it would be possible under the Reception Act to organise additional services besides the services referred to in the general social welfare and healthcare laws.

The report indicates that the relationship between the Reception Act and general legislation applicable to the field of social welfare and healthcare remains unclear for social welfare and healthcare sector actors in the municipalities. For example, the data did not include a single decision by social welfare services in which a municipal social welfare service would have referred to the Reception Act when making a decision on a service purchased for a client. Under the Reception Act, municipalities are obligated to organise services for victims of human trafficking, either by outsourcing or through their own service provision system. The report brought to light examples where victims of human trafficking – clients of the municipal social welfare and healthcare services – were in need of specialised medical care, but the municipality denied them these services because it found that the services in question could not be granted under the Social Welfare Act. However, outsourcing these special services is possible under the Reception Act. The Reception Act enables the organisation of services through outsourcing. Municipalities have the right to claim compensation for these expenses from the central government (ELY Centre). This includes, for example, therapy services.

The data collected for the report also indicate that the relationship between the Reception Act and the Act on Social Assistance is unclear. In practice, this leads to a situation where victims of human trafficking are forced to themselves pay a share of the cost of services, such as therapy. The fact that the central government is ultimately responsible for compensating services provided to victims of human trafficking, as highlighted in the preliminary work on the Reception Act, is not always realised. As a result, the victims do not in all cases receive the assistance they need. Under international and EU law, however, states must secure certain services for victims of human trafficking. Based on the interviews conducted for this report, it appears that this special status is not always realised, and the victims do not always receive the services to which they would be entitled. For this reason, the status of victims of human trafficking as beneficiaries of services must be clarified and the availability of services improved.

## The challenges in the provision of assistance

The Finnish municipal system assists victims on its own terms. This means that it is difficult for the rigid service structure to meet the needs of severely traumatised victims of human trafficking, who often are foreign nationals. The clients have little knowledge of Finnish society and its service structure. Victims of human trafficking need particular support to recover from their experiences of abuse and to integrate into Finnish society. They often need intensive social counselling merely to be able to apply for the services to which they are entitled. Human trafficking victims' right to integration services should be secured even in situations where the victims have stayed in the country for a long time, in particular if they were unable to participate in integration services at an earlier stage.

Dealing with public authorities is also hindered by the fact that some of the victims with a foreign background do not have the documents required in the Finnish administrative processes. These include an identity document, travel document, marriage certificate or birth certificates for children. In addition, there are great variations between municipalities in how they interpret whether compensation awarded in a criminal process should affect social assistance. If a victim is awarded compensation, some municipalities refuse social assistance or make a decision to recover it. Victims of human trafficking are not treated equally because there is great variation in how municipalities treat compensation. Considering that the provisions on recovery of social assistance should only be applied in exceptional cases, the municipalities' extensive and unequal practices of interpreting the law raise questions about the victims' equality and the realisation of their rights.

A key challenge for municipalities is a lack of routines. There have been relatively few cases of human trafficking so far. When encountering their first victim of human trafficking as a client, an individual social worker is in practice forced to learn the work the hard way. It would thus be useful if the employees who already have experience in working with human trafficking could in some way share their experiences and knowledge with others. It came up in the interviews that municipal social workers would like instructions on how to proceed in cases involving human trafficking. There is also a distinct need for training. Some training has been offered for employees of municipal social welfare services, but it has been difficult to attract a sufficient number of participants to the training events. It remains unclear whether this is due to social workers' workload, lack of interest, 'nothing to do with me' attitude, or the fact that information concerning the training does not reach the right persons.

Victims of human trafficking who are clients of the social welfare services need an extensive amount of assistance and support in dealing with the public authorities, seeking healthcare services, finding and furnishing a home, taking care of their finances, applying for work, and managing matters concerning their children. However, the municipal social welfare and healthcare services are not always able to adequately meet the victims' often mundane and practical needs for assistance.

The report revealed that NGOs are providing a lot of support to victims which makes up for the shortcomings in and limited resources of the authorities with regard to practical everyday assistance. NGOs assist clients in official processes and perform practical social work. In particular, Victim Support Finland plays an essential part in assisting victims of human trafficking. The report found that in some municipalities, Victim Support Finland works in close co-operation with the municipal social services, advising the employees of social welfare services and assisting the victims in practical matters. Some of the social welfare service representatives interviewed for the report viewed Victim Support Finland as a more clear and tan-

gible provider of assistance for victims of human trafficking than the actual system of assistance. Parishes and religious communities may also sometimes have an important role in providing victims with everyday assistance.

Based on the report, assistance for victims of human trafficking relies heavily on the ability, knowledge, energy, motivation and available time of individual social service employees. In a good situation, the client is met by a committed social worker who is familiar with the special characteristics of human trafficking, focuses on the client's situation, and strives to meet the complex service requirements of the client. There may be considerable differences between individual social workers between and even within municipalities. Where assistance provided for clients is dependent on an individual worker's competence, the provision of assistance and access to the required services will be arbitrary, and it is obvious that there are considerable differences in service quality, both between and within municipalities. In practice, more explicit instructions, training and supervision are needed in order to improve the situation.

Some of the representatives of municipal social welfare services interviewed for the report found that co-operation with the system of assistance was functioning well. However, some of the interviewees expressed a hope that the system of assistance would actively offer support and advice for municipal social workers who have victims of human trafficking as their clients. NGO representatives interviewed for the report found that there were variations in the collaboration with municipal social welfare and healthcare services between municipalities and individual employees. They felt that there are shortcomings in the expertise among municipal in relation to assisting victims of human trafficking. This may be explained by a lack of experience in municipalities, as there are still only individual clients in many municipalities.

The starting point for the provision of assistance for victims of human trafficking should focus on preventing re-victimisation and helping victims recover from exploitation. However, the report revealed that some victims of human trafficking who have been granted assistance measures are believed to have fallen victim to exploitation again in Finland. Some of the re-victimised clients have had under-aged children with them in Finland. As single mothers who suffer from the trauma caused by sexual abuse, the victims are often struggling to cope with everyday life. Consequently, the victims' children are also in need of special support. The data collected for the report indicate that the children's need for assistance could best be addressed when the children have access to the early childhood education and care system.

## **The link between assistance and criminal proceedings**

### **Reaching victims of human trafficking**

The legislation pertaining to victims of human trafficking and its current application demonstrate that the system of assistance is best suited to help those victims whose criminal case is making progress and may result in a conviction for human trafficking. If a victim of human trafficking does not dare seek assistance from the authorities, then the victim will not receive assistance from the formal system of assistance. In addition, if there is not sufficient evidence in the criminal proceedings of a human trafficking offence, or if the court does not sentence the defendants for human trafficking, then the victim will be removed from the system of assistance. The report found that there are persons in Finland who are in need of assistance due to severe exploitation, which displays characteristics of human trafficking, but who do not receive adequate assistance, or who are not referred to or admitted to the system of assistance. In Finland, assisting victims of human trafficking is an activity performed by the authorities. The current operational capacities of NGOs are insufficient to meet the service requirements of those victims who cannot access the system of assistance, or who are removed

from it. The report shows that the assistance provided by the authorities through the system of assistance does not reach all victims of human trafficking who are in need of help. The strong link between assistance and criminal proceedings accentuates that the system of assistance is a body helping the injured parties in human trafficking offences. The report shows that the Reception Act and its application may be incompatible with international and EU law. Under international law, it is possible to limit the assistance, for example its duration, on the grounds of the person's right of residence in the country and the victim's willingness to co-operate with authorities to bring the persons guilty of human trafficking to justice. It is clearly more problematic in light of international and EU law to link assistance provided for legal residents and, for example, Finnish victims to the criminal proceedings.

To a certain extent, international and EU law are often open to interpretation. It is obvious that international obligations prohibit setting the victim's willingness or ability to initiate criminal proceedings as a prerequisite for receiving assistance.<sup>4</sup> In the light of the statutes that focus on the provision of assistance for and protection of victims of human trafficking, this can be interpreted to mean that the initiation of criminal proceedings may not be set as a precondition for assistance with regard to victims who have the right to reside in the country or who are Finnish citizens. With reference to international obligations, it is also clear that the termination of the identification process (actual identification) is not conditional to whether or not a criminal investigation has been launched or if there is a conviction for human trafficking as a result. The Finnish national legislation and its preliminary work also start from the premise that a person may remain in the system of assistance and receive assistance measures even when the criminal investigation of the human trafficking offence is terminated for some reason.

Based on the material studied for the report, the primary problem from the viewpoint of international and EU law is that the current legislation and its application practices lead to a situation where many victims of human trafficking are either refused assistance, or they are removed from the system of assistance. In addition, since there does not appear to be adequate assistance available for those victims who are excluded from the assistance provided by the authorities, the Finnish legal framework does not seem to be in full compliance with binding international and EU law.

The report indicates that the system of assistance is not particularly good at reaching victims who do not dare report the exploitation and violence they have experienced to the criminal investigation authorities. The criminal investigation authorities are always informed of a person admitted to the system of assistance. The strong link between assistance on the one hand, and criminal proceedings and their outcomes on the other, appears to prevent victims of human trafficking from seeking assistance from the authorities. Assistance to these victims appears to be dependent on the limited NGO resources. The system of assistance interprets the Reception Act in such a manner that the victim is removed from the system of assistance if no progress is made in the criminal case or no sentence is handed down for human trafficking. Consequently, it appears that some victims are refused assistance even if they have been prepared to co-operate with the authorities and share their experiences with the criminal investigation authorities and are in need of assistance due to their experiences.

### **Removal from the system of assistance and criminal proceedings**

According to the report, the most central problem that the system of assistance has with regard to legislation and its application is related to the removal of clients from the system of assistance. At the moment, removal depends on the outcome of criminal proceedings. The justifications for removing a victim from the system of assistance include situations where the

---

<sup>4</sup> E.g. the Council of Europe Convention on action against trafficking in human beings uses the phrase "act as a witness". In the Finnish system of criminal law, the victim of an offence is an injured party in his or her matter.

criminal investigation changes from human trafficking to some other offence, the charges are dropped, the charge is for some other crime than human trafficking, or the court rejects the charges of human trafficking. In more than one third of the cases where the system of assistance terminated a client relationship in 2014–2016, this was because the pre-trial investigation or prosecution labelled the offence as something else than human trafficking. The data collected for the report indicate that the victim is removed from the system of assistance if the criminal investigation process related to human trafficking is terminated, or no charges are brought for human trafficking or there is no verdict for human trafficking.

According to the report, the system of assistance considers that if a criminal investigation authority is investigating the offence as something other than human trafficking, or if the offence category is changed from human trafficking to some other offence during pre-trial investigation or prosecution, the client must be removed from the system. Interviews with employees at the Joutseno Reception Centre confirmed the impression that the victim's need of assistance is not the key foundation for making the decision to remove him or her from the system. The system of assistance places a considerable amount of weight on the offence category selected by the police and the prosecutor. The victim is removed from the system of assistance if the offence category is changed from human trafficking to some other offence during pre-trial investigation or prosecution. At the same time, however, the representatives of both the system of assistance and the criminal justice system underlined that the criminal investigation authority does not take a stand during a criminal investigation on whether or not a human trafficking offence has been committed. Instead, they assess whether the matter can be investigated further and whether sufficient evidence can be accumulated so that the matter can be submitted for the consideration of charges and to a court for a decision.

The criminal investigation authorities and prosecutors interviewed for the report were surprised at how significant their decisions on the initiation or progression of criminal proceedings can be on whether a victim of human trafficking receives assistance or not. They claimed that their task is to evaluate the criminal evidence in a human trafficking offence and assess its adequacy. The majority of them also assumed that the progress of the criminal proceedings and the decisions made as part of it are not connected to the assistance measures given to the victim and to the victim's right to assistance. They also underlined that their basic task is to collect evidence of a suspected offence and to enforce criminal liability. Criminal investigation authorities and prosecutors are not always aware of the implications their decisions have on the victims' access to assistance. Those criminal investigation authorities and prosecutors who were aware of this connection said that they carry a heavy responsibility for individual and often vulnerable persons' access to assistance.

Even if the criminal investigation of a human trafficking offence was discontinued, no charges were brought for human trafficking, or no sentence was handed down for human trafficking, the report shows that the investigation may still continue under a different offence category, or charges may be brought, or a sentence pronounced for some other offence. For the victims it is challenging that they are then removed from the system of assistance. The person has been admitted to the system of assistance for victims of human trafficking because he/she is believed to have fallen victim to severe work-related, sexual or other exploitation, and the system of assistance has assessed the person to be in need of assistance due to the abuse. Just because the viewpoint of the criminal proceedings has changed since the person was admitted to the system of assistance, this does not mean that the grounds for admitting the person to the system have disappeared.

The criminal proceedings may also be discontinued under the offence category of human trafficking or dropped completely because there is no evidence available or the perpetrator cannot be reached. This does not mean that the person would no longer be a victim of human

trafficking. This is also noted in the preliminary work on the Reception Act. The criminal justice system is based on the principle of legality and the presumption of innocence, and it is built on securing legal protection for persons suspected or accused of an offence. However, the principles of criminal justice appear to also set limits for assisting victims of human trafficking. In practice, this means that a justified attempt to ensure the defendant's legal protection in criminal proceedings paradoxically also determines whether the victim of the offence receives assistance or not.

A decision to limit or discontinue a criminal investigation may be made for a number of different reasons, for example because of lack of evidence or for cost-related reasons. In their decisions, rather than expressing a direct opinion on whether or not the offence under investigation is specifically a human trafficking offence, the criminal investigation authorities usually issue their opinion on whether evidence of an offence is available. In practice, this lack of evidence may be because the defendant cannot be heard, there are no witnesses in the case or the witnesses cannot be identified, there is little documentary evidence to be presented due to documents having been destroyed or forged, or the events have taken place so long ago that their course is practically impossible to prove. Other evidence to support the case may also be missing. For example, if an offence is investigated retroactively, in other words the offence has already taken place and no longer continues, it may be impossible to acquire other supportive evidence e.g. with the help of telesurveillance. In these situations, the proof consequently rests in a pronounced manner on the report of the injured party. No matter how detailed the report, it may not necessarily suffice as sole evidence if the defendant cannot be summoned to court or if the defendant lies. In this case, it is the word of one party against the other. Consequently, a decision to limit or discontinue a criminal investigation does not necessarily mean that the human trafficking offence claimed by the complainant did not take place.

### **Assessing the need for assistance**

The system of assistance should first and foremost be seen as a system offering support services – such as social welfare and healthcare services – needed by the victims. Under the Reception Act, the task of the system of assistance is to organise and provide services needed by its clients. The system of assistance should thus possess sufficient skills and legal competence to determine who is in need of assistance as victims of human trafficking, regardless of any criminal proceedings and their progress. When a client is removed from the system of assistance, for example when s criminal proceedings are terminated, the client's need for assistance should be evaluated. The removal of a victim should not be treated simply as an administrative process. Instead, the assessment of the victim's overall situation should involve all the actors who have been working with him or her. The assessment should be prepared in co-operation with the municipal social welfare and healthcare experts, reception centres, and NGOs assisting victims. This requires that the system of assistance should also possess adequate expertise to prepare such an overall assessment of the victim's personal situation.

## Recommendations

The report found that one of the key challenges is first and foremost related to the assistance provided for victims of human trafficking who are either Finnish nationals or living permanently in a municipality. The expertise and capacity to act against human trafficking varies in different municipalities. This work relies heavily on individual employees and their skills and abilities to intervene in and deal with human trafficking and its victims. On the other hand, the data studied for the report indicate that the strong link between assistance on the one hand, and criminal proceedings and their outcome on the other, appear to result in a situation where some of the victims of human trafficking who are in need of assistance are excluded from the system of assistance.

Based on the report, it seems evident that the 2015 amendments to the Reception Act did not solve the earlier problems related to the assistance of victims of human trafficking. These problems were primarily related to the equality of victims as beneficiaries of services and the referral of victims to assistance provided by the authorities. Instead, it seems that the Reception Act and its application may be incompatible with international and EU law.

In Finland, the organisation of assistance for victims of human trafficking is based on a model of shared responsibility between two authorities, namely the Joutseno Reception Centre and the municipalities. In the last few years, the majority of victims referred to the system of assistance have had an asylum seeker background. Provisions on assistance are laid down in the Reception Act, and the body responsible for providing the victims with assistance is a reception centre for asylum seekers. This may partly explain why the system of assistance is easily approached by asylum seekers in particular. The situation is naturally also affected by the great number of asylum seekers in the last few years.

In practice, victims of human trafficking who are also asylum seekers are assisted by two partially overlapping support systems. Despite this, it appears that they do not necessarily always receive the services they are entitled to as victims of human trafficking. On the one hand, asylum seekers' access to support is enabled by the fact that the authorities assisting them, such as social workers in reception centres and the employees of the Joutseno Reception Centre, regularly apply the Reception Act in their work and are already familiar with it. On the other hand, decisions concerning services for victims and the duration of these services are made in the course of the asylum and residence proceedings.

Efforts to assist victims of human trafficking in municipalities are hampered by the fact that social welfare and healthcare authorities lack of familiarity with the Reception Act, its contents, and the obligations imposed by it. Consequently, they are not aware of the special status of human trafficking victims and the subsequent rights as beneficiaries of services. They are also not always fully aware of the municipality's possibility of seeking compensation for the special services provided for victims of human trafficking, nor do they have time to apply for this compensation. The Ministry of Social Affairs and Health has not instructed its administrative branch in the matter, which contributes to reduced awareness and poorer application of the law. As a result, the special status of victims of human trafficking is not realised. Victims do not always receive the services they would be entitled to under the law as victims of human trafficking. These clients also include Finnish citizens.

Legislation and the way it is applied have tied the provision of assistance for victims of human trafficking and criminal proceedings together in a way that is problematic in the light of binding international and EU law. This is challenging in particular for those victims who are Finnish citizens or who have the right to reside in the country. The link between assistance and criminal proceedings appears to have become stronger following the legislative amendments that

entered into force in 2015. When the criminal proceedings related to human trafficking come to an end, the victim is usually removed from the system of assistance. It also seems to be more difficult for victims of offences similar to human trafficking to access the system of assistance than prior to the revision of the Act. The report shows that some victims of human trafficking do not seek assistance from the authorities due to the strong link between assistance and criminal proceedings. For this reason, the system of assistance and the relevant legislation should be further developed and made more victim-oriented. At the same time, attempts must be made to enhance the operating conditions of NGOs to strengthen identification of and assistance to victims of human trafficking.

The report shows that the work against human trafficking is in need of a considerably more structured, strategic, comprehensive and goal-oriented approach. To this end, the responsible ministries should support the practical work against human trafficking with adequate legislation, instructions, resources and monitoring. While human trafficking may come across as a marginal phenomenon in our society based on victim numbers alone, it is a fundamental infringement of human rights, and its victims are entitled to special rights. The report highlights a need to discuss the position of those victims of human trafficking who, because of their experiences, might never recover and who struggle to lead a life in dignity, despite the assistance provided to them. The report calls for a societal debate regarding the ethos of assistance and the principles that guide the work aiming to assist victims of human trafficking in Finland.

#### **Recommendations based on the report:**

1. A special act should be drafted on assisting victims of human trafficking, in which the link between assistance and criminal proceedings should be loosened and the system of assistance made more victim-oriented.
2. If no special act is enacted, the special status of victims of human trafficking should be secured under the general social welfare and healthcare legislation by laying down provisions on the status of victims as beneficiaries of social and healthcare services in municipalities, including therapy services provided for the client free of charge.
3. The Ministry of Social Affairs and Health should issue instructions for the application of legislation on victims of human trafficking and the relationship between this legislation and other statutes applicable to social welfare and healthcare (including the Act on Social Assistance).
4. A provision should be enacted under which municipalities can claim compensation for services provided for victims of human trafficking from the Joutseno Reception Centre, rather than the central government (ELY Centre).
5. The Joutseno Reception Centre should place employees in different parts of Finland to improve the geographic coverage of assistance for victims of human trafficking. The Ministry of the Interior/the Finnish Immigration Service should secure adequate personnel resources for the Joutseno Reception Centre for the purpose of providing assistance for victims of human trafficking.
6. When making a decision on the removal of victims of human trafficking from the system of assistance, the Joutseno Reception Centre should always conduct an overall assessment (in line with section 38f of the Reception Act) of the victim's personal situation to determine if the client is still in need of assistance measures. This overall assessment should be conducted in cooperation with the actors assisting the victim,

such as the authorities and the third sector. If, on the basis of the overall assessment, the victim is still in need of support due to him/her being a victim of human trafficking, he or she should not be removed from the system of assistance. Legislation should be enacted to safeguard the implementation of this objective if necessary.

7. Amended provisions on the reflection period should be put in place, under which the criminal investigation authorities are only provided with the data related to the victim's identity when the Joutseno Reception Centre makes a decision to grant a reflection period.<sup>5</sup> If the person is not willing to initiate co-operation with the criminal investigation authorities at the end of the reflection period, no other related data accumulated at the Joutseno Reception Centre should be handed over to the criminal investigation authorities. The personal details of victims who have been granted a recovery period should not be disclosed to the criminal investigation authorities if the victim is not willing to initiate co-operation with them.
8. The uncovering and investigation of human trafficking offences should be developed, for example by establishing police investigation units specialised in human trafficking.
9. The Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006) should be amended to make it mandatory for the occupational health and safety authorities to also report suspected human trafficking offences to the police. In criminal cases pertaining to human trafficking, the occupational health and safety authority should also be reserved the right to be heard during the criminal investigation, to issue a statement in the matter to the prosecutor, and to be present and heard in court.
10. The central government should provide earmarked funding, for example through the National Institute for Health and Welfare, to promote the safe and supported housing of victims of human trafficking.
11. The capabilities of NGOs for identifying victims at an early stage and providing them with concrete assistance should be supported with earmarked central government funding (Funding Centre for Social Welfare and Health Organisations STEA).

---

<sup>5</sup> A reflection period should be granted to victims of human trafficking who are residing in the country illegally. It should be possible to disclose personal data to the authorities in order to ensure that the victim is not removed from the country, for example in a situation where he or she is encountered in connection with the control of aliens.

**The report revealed a need for several further studies. The following questions, among other things, should be investigated:**

1. Victims of sexual abuse in Finland: who are they, what type of assistance do they need, and how could they be reached?
2. Coercion to commit criminal activities: what types of cases occur in Finland, and how should the so-called non-punishment provision be applied in their case?
3. Human trafficking and forced marriages: what kind of cases related to forced marriages are uncovered in Finland, and should the legislation on this issue be made more detailed or complemented?
4. The role of occupational health and safety authorities: how should the role of occupational health and safety authorities in identifying victims be further developed, and how could their cooperation with criminal investigation authorities be intensified?
5. Establishing human trafficking victims' need for psychological support and developing treatment models: what type of support do the victims need, what treatment is available in Finland, and how could a better response be provided to the treatment needs?



**h e u n i**

VALTIONEUVOSTON  
SELVITYS- JA TUTKIMUSTOIMINTA

[tietokayttoon.fi](http://tietokayttoon.fi)

