

The Finnish National Rapporteur on Trafficking in Human Beings

Report 2011

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1. Introduction

Trafficking in human beings and the related exploitation of persons are more common, also in Finland, than we tend to think: victims of trafficking remain unidentified, however, and even when actually dealing with victims of human trafficking, actors often fail to respond to the victims' need for help. It appears that the valid legislation and operating practices of the authorities do not yet adequately support the identification of human trafficking and a way of referring its victims to the system for victim assistance. The current legislation is, to some extent, inconsistent, unclear and open to interpretations, and many authorities still do not have adequately clear instructions at their disposal on how to act in possible situations pertaining to identifying victims of trafficking. As a result, possible victims of trafficking or related exploitation may be removed from the country, exposing them to continued exploitation and revictimisation.

In her role as a protector of human rights, the National Rapporteur on Trafficking in Human Beings is particularly concerned by the fact that the rights of human trafficking victims do not always seem to be implemented as required by international obligations that are binding to Finland and as intended by the legislator. By establishing a system for victim assistance, the legislator indicated that victims of trafficking in human beings must be helped and protected whenever they need and request help and protection. Consequently, assistance must at least be offered to all possible victims of human trafficking within the Finnish borders. The Council of Europe Convention on Action against Trafficking in Human Beings (ETS No. 197), signed by Finland in August 2006, further improves the position of human trafficking victims and reinforces the protection of their rights. This Convention highlights the duty to identify and help victims of trafficking in human beings, and it prohibits parties from removing from their territory a person when there are reasonable grounds to believe that he or she has been a victim of trafficking in human beings before the identification process has been completed.

The state reception centres, which are responsible for the system for victim assistance, currently find that the assistance system supports the identification process more clearly than before. Persons may be included in the assistance system to "establish victimisation". In other words, at the time of being referred to the system, no certain or proven knowledge that the person has been a victim of human trafficking is needed; it is enough that there are indications that the person has been victimised. The National Rapporteur on Trafficking in Human Beings welcomes this trend, as it reinforces the victim-centeredness of the system and maintains a low threshold for referrals and

being referred to the assistance system. However, the system for victim assistance should be further developed, for example by creating clear, predictable and transparent customer processes. Actors working with human trafficking victims and the victims themselves must know what services the assistance system offers, and this offer of services must be equal and based on a written plan drawn up for each customer individually.

A considerable share of adult victims of human trafficking included in the system for victim assistance have been subjected to labour trafficking or related exploitation. The share of victims of human trafficking who have been subjected to sexual exploitation in Finland has remained surprisingly low in the system for victim assistance. This is also exceptional within the context of international comparisons. What makes the low share of sexually exploited victims in the assistance system particularly worrying is that, also in 2010, pre-trial investigations were conducted on several aggravated procuring offences which contained clear indications of human trafficking or other serious violations of the rights of the procurement victims. However, the victims of procuring were usually not referred to the system of victim assistance, and the possible trafficking victims were not necessarily even informed about the existence of the system by the authorities. As victims of procuring as a rule are involved in the criminal procedure in the role of witnesses, they do not have legal aid attorneys to ensure that their rights are implemented.

Labour trafficking and the related exploitation of labour can still be found in several sectors of working life. Particularly high-risk industries appear to include the construction, catering, cleaning and horticultural sectors. Some of the exploitation cases are so serious that they challenge society to reconsider the preventive powers of existing legislation and the adequacy of official action. Presumably, the situation in the labour market will deteriorate in the future, and intervening in the grey economy must not be society's only response: we must also intervene in the violations of rights encountered by workers and help and protect the victims, even when they are illegal residents in the country or working without a permit. The possibilities and ability of the occupational safety and health authorities to intervene in labour trafficking and the related exploitation of workers should thus be reinforced, and more close-knit official cooperation with, for instance, the tax authorities is needed.

Many persons who have become victims of human trafficking in other European Union member states arrive in Finland to seek asylum. The number of such persons in the system for victim assistance, for example, increased last year. It has been claimed in the media that the large number of asylum seekers in the assistance system is an indication of attempts to abuse the

system. In this connection we should note, however, that asylum seekers as a rule always have a legal aid attorney to ensure that their customers' rights are implemented. It is part of the legal aid attorneys' professional competence to identify human trafficking and, if necessary, refer trafficking victims to the system for victim assistance. The legislation does not limit the help and protection provided by the assistance system exclusively to those who have been victimised in Finland. As the Council of Europe Convention on Action against Trafficking in Human Beings referred to above enters into force, it will also strengthen the protection of the rights of those having been victimised in human trafficking elsewhere, as, under this Convention, help and protection must be offered to all victims of human trafficking who find themselves in a party's territory.

Sometimes human trafficking is seen where it does not exist. Groundlessly using the phenomenon of human trafficking as a tool or justification for more stringent immigration policy, for example, is worrying. In international connections, warning signs of this trend, which undermines action against human trafficking and the implementation of victims' rights, have been recognised earlier than in Finland. In other countries, this trend has resulted in a debate on potential threats arising from action against human trafficking to, for example, the right to seek asylum or the possibilities of looking for jobs abroad. In Finland, we should wake up to the fact that combating human trafficking may also be used as a justification when seeking approval for political and other objectives, such as a more stringent immigration policy, which have little to do with the actual action against trafficking or for protecting the rights of victims and which may even be counterproductive to these objectives. As an example of this type of a situation, the proposals of the Finnish Immigration Service concerning stricter family reunification policy can be cited. It is, thus, particularly important to ensure that action against trafficking in human beings is not lost in other political cross-currents and that victim-centredness will remain the foremost aim of the action.

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

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

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

Under section 3 of the Act, the National Rapporteur on Trafficking in Human Beings shall submit a report on human trafficking and related phenomena annually to the Government and every four years to the Parliament. Under section 4 of the Act, the National Rapporteur on Trafficking in Human Beings may assist, or appoint a subordinate official to assist, a victim of ethnic discrimination or a possible victim of human trafficking in securing this person's rights or, if necessary, obtain legal assistance for the person for this purpose if she considers that the matter is of considerable importance for preventing ethnic discrimination or for securing the rights of a possible victim of human trafficking.

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

Rapporteur on Trafficking in Human Beings, to obtain information from service providers who take part in the provision of services and support measures referred to in section 25 a of the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) or who receive state aid intended for combating human trafficking. However, the Ombudsman for Minorities has the right to obtain personal data on an individual victim of human trafficking from the actors referred to in this subsection only if obtaining such information is necessary to perform the duties laid down in this Act.

According to the government proposal on national reporting on trafficking in human beings (HE 193/2008 vp), the duties of the Ombudsman for Minorities in her role as the National Rapporteur on Trafficking in Human Beings include collecting data on the phenomenon of human trafficking from the authorities and, under certain conditions, also from service providers, as well as analysing this data. The Ombudsman's duties as Rapporteur include monitoring tasks in order to pinpoint shortcomings in the action against trafficking in human beings. According to preliminary work on this Act, the National Rapporteur on Trafficking in Human Beings may also comment on any deficiencies observed by her and advise parties performing duties related to human trafficking. The National Rapporteur on Trafficking in Human Beings also oversees the fulfilment of international obligations related to human trafficking and monitors the functioning of national legislation. By acting as an independent monitoring party, the Rapporteur also supports the implementation of the National Plan of Action against Trafficking in Human Beings and legislative development.

The government proposal also notes that the National Rapporteur on Trafficking in Human Beings has extensive monitoring rights: she reports not only on actual human trafficking offences (trafficking in human beings and aggravated trafficking), but also on phenomena and offences closely related to human trafficking (in particular, extortionate industrial discrimination, aggravated procuring and aggravated arrangement of illegal immigration). Thanks to this wide perspective, reporting on human trafficking can help to clarify the boundaries between various phenomena and offence categories, and thus also facilitate the identification of trafficking victims in a greater number of cases. In its report on this matter (TyVM 15/2008 vp), the parliamentary Employment and Equality Committee considers that identifying trafficking in human beings is vital so that the victim may be given the kind of protection under the law that is intended for victims of human trafficking. This also makes eradicating human trafficking and the associated cross-border crime more effective.

In its report referred to above, the parliamentary Employment and Equality Committee considers that the National Rapporteur on Trafficking in Human Beings can play a significant role in promoting action against human trafficking in Finland by closely liaising with the authorities and third-sector actors, by collecting reliable data and by bringing up problems and development needs. In the final analysis, responsibility for action against trafficking in human beings rests with the Government, but through her studies, international contacts and development proposals, an independent Rapporteur monitoring the action can help the Government comprehend the phenomenon and point the way to action. The Committee considers it important that the Rapporteur has extensive rights to obtain information. According to the Committee, these rights support the extensive coverage and objective nature of reporting and lay a foundation for putting forward development proposals that improve cooperation between various actors and ensure the smooth running of the action.

3. Strategy of the National Rapporteur on Trafficking in Human Beings

3.1. Introduction

The aims of the National Rapporteur on Trafficking in Human Beings are to prevent human trafficking, improve the position of trafficking victims, monitor implementation of the victims' rights, identify and develop more effective operating practices for combating trafficking and prosecuting offenders, and report on issues related to human trafficking to the Parliament and the Government. The Rapporteur also strives to promote the identification of trafficking victims and to increase awareness of the undesirable phenomena associated with human trafficking as a recognized social problem. The Rapporteur monitors the processes related to legislation and administrative procedures that are relevant to the implementation of the trafficking victims' rights.

In the discharge of her duties, the Rapporteur emphasises providing information and training on such aspects as the contents of legislation related to human trafficking, the manifestations of human trafficking and the rights of trafficking victims. The Rapporteur also strives to influence the prevailing attitudes in society. In her work, the Rapporteur aims to pinpoint parties that play a key role in identifying human trafficking and its victims, and in helping victims and combating crime and to work in close-knit cooperation with them. The Rapporteur may also assist victims of human trafficking.

Independence, autonomy and transparency are vital requirements for discharging the duties associated with reporting on trafficking in human beings. Independence and autonomy enhance confidence in and the credibility of the Rapporteur and support her ability to analyse the status of action against trafficking in human beings and put forward proposals for developing this action as a player outside the government.

The viewpoint of implementing the victims' rights is highlighted through the activities of the National Rapporteur on Trafficking in Human Beings. The Rapporteur looks at action to combat trafficking in human beings from the perspective of how the victims' rights are implemented and what types of obstacles there may be to implementing these rights. This perspective naturally influences the type of issues emerging in the legislation and the practices that the Rapporteur focuses on and the types of improvements she proposes. International obligations and recommendations are important yardsticks for these assessments. The Rapporteur's aim is to highlight the victim's perspective and the impact that legislation, practices or a failure to intervene have on the victims and the implementation of their rights.

In short, the job description of the National Rapporteur on Trafficking in Human Beings is divided between:

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

3.2. Reports on trafficking in human beings and related phenomena

The National Rapporteur on Trafficking in Human Beings reports on human trafficking and related phenomena to the Government once a year and to the Parliament once every four years. The preliminary work concerning national reporting on trafficking in human beings emphasises the reporting duties, or collecting and analysing data, and regular reporting to the Parliament and the Government (government proposal HE 193/2008 vp). A key objective of reporting is to pinpoint and intervene in problem areas of action against trafficking in human beings and to make recommendations for developing action against trafficking. International experiences play a major role in developing action against trafficking.

Due to the meagre personnel resources of her office, the Rapporteur has decided to prepare an extensive report and recommendations on human trafficking for the Parliament once every four years. The reports to the Government are less comprehensive annual reports on the work of the National Rapporteur on Trafficking in Human Beings. Submitting less comprehensive annual reports to the Government is also justified for the reason that the Rapporteur has the duty to actively monitor the implementation of the proposals contained in the reports submitted to the Parliament. The Rapporteur also supports actors working with human trafficking in implementing her recommendations and the Parliament's positions.

3.3. Supervising action against trafficking in human beings

The key task of the National Rapporteur on Trafficking in Human Beings is to report to policy-makers on the status of trafficking in human beings in our country and the legislative and practical challenges encountered when taking action against trafficking. The Rapporteur discharges her supervisory duty through giving advice and issuing instructions to parties working with human trafficking and its victims and through customer work. In exceptional cases, and only when legal aid is otherwise not available, the Rapporteur resorts

to assisting a victim of human trafficking as provided in the legislation. At her discretion, and upon request, the Rapporteur may issue expert opinions on customer cases.

Overseeing action against trafficking in human beings is important not only to safeguard the rights of individual trafficking victims, but also because, through her duties, the Rapporteur can promote and supervise action against trafficking in human beings and report on it at a more general level. The Rapporteur may also, on her own initiative, intervene in any shortcomings observed by her, for example in the investigation of human trafficking offences and the treatment of victims.

3.4. Promoting action against trafficking in human beings

The National Rapporteur on Trafficking in Human Beings strives to promote action against trafficking by a variety of different means. For example, the Rapporteur provides training on human trafficking and related phenomena, issues recommendations on developing action against trafficking, publishes articles about human trafficking, raises awareness about trafficking through seminars, discussions and information campaigns, collects information about the best practices in action against human trafficking in other countries and communicates this information to Finnish actors, interviews victims of trafficking about their experiences in Finland, promotes the operating preconditions of NGOs as well as visits places of work where exploitation associated with human trafficking may occur, or otherwise assists the authorities and third-sector actors in developing their action against trafficking in human beings.

The primary target groups for training are legal aid attorneys, pre-trial investigation authorities, prosecutors and court personnel. The Rapporteur also actively disseminates information about her activities in the media.

Mobilising the resources of the National Rapporteur on Trafficking in Human Beings is particularly important because, as yet, there is no human trafficking coordinator or other similar government-level actor to assume responsibility for promoting action against trafficking and directing it at the operational level.

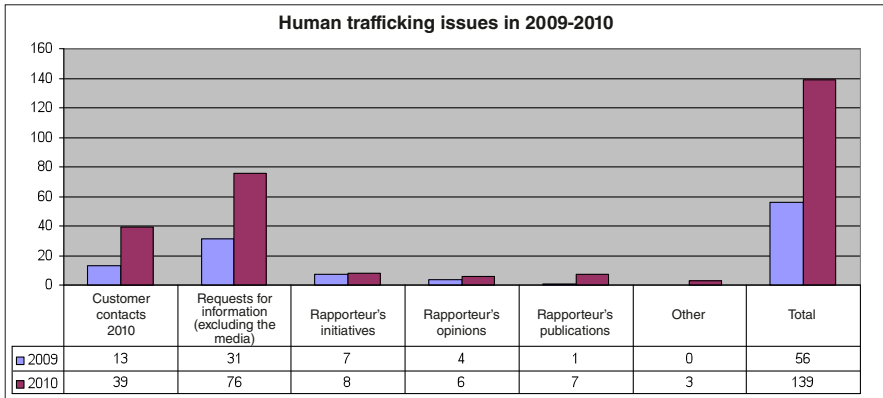
4. Activities of the National Rapporteur on Trafficking in Human Beings in 2011

During her first year of office in 2009, the National Rapporteur on Trafficking in Human Beings strived to lay the foundation for extensive, sustainable and human rights-centred working practice that could promote the implementation of trafficking victims' rights and other action against trafficking in human beings. This aim was achieved, for example, by collecting and analysing the necessary data on the status of action against trafficking in human beings, by networking with parties involved in this action at home and abroad, by working with customers and by taking part in training the authorities. The observations collected during the Rapporteur's first year in office were summed up in the first Report on trafficking in human beings and phenomena related to it submitted to the Parliament in June 2010.

Identifying trafficking and its victims remains the greatest challenge in terms of taking action against trafficking in human beings. Consequently, identifying human trafficking was a natural priority area in 2010. Victims of trafficking are not necessarily identified at all, or they are identified as victims of some other offence. What gives rise to concern are indications that the authorities do not react appropriately to indications of human trafficking or take measures to secure the victims' rights.

The Rapporteur focused on information activities and the training of key groups, networking with central actors working with human trafficking, and monitoring the implementation of recommendations contained in the first report on human trafficking. The National Rapporteur on Trafficking in Human Beings assisted reception centres in developing the system of victim assistance.

The figures below contain statistics on human trafficking issues recorded at the Office of the Ombudsman for Minorities in 2009 and 2010, divided into customer contacts, requests for information and the Rapporteur's own initiatives, opinions and publications. Additionally, the statistics show a small group of other matters related to human trafficking. Compared to 2009, the number of customer contacts and requests for information went up considerably. The Office and its personnel published a greater number of articles and other documents in 2010 than it did the year before. The number of media contacts also increased.



* Data from 1 Jan -21 Dec 2010.

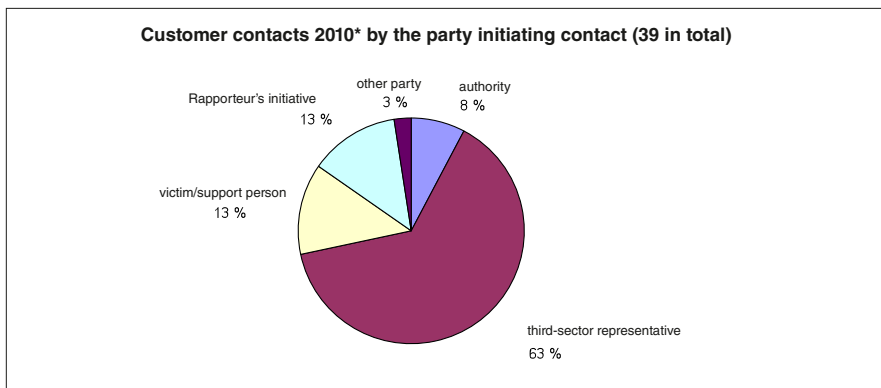
4.1. Contacts with the Office of the Ombudsman for Minorities on human trafficking issues

4.1.1. Individual customers

The number of contacts made with the Office of the Ombudsman for Minorities clearly increased in 2010. This figure was three-fold compared to the year before, and the ensuing workload clearly increased. The National Rapporteur on Trafficking in Human Beings also met with victims referred to the system for victim assistance and interviewed them about their experiences in Finland. The purpose of these interviews was to discover what kind of exploitation the victims had been subjected to in Finland and how the authorities had been able to help them. In some cases, the interview led to examining the customer's situation in closer detail and contacting the authorities managing the customer's affairs.

The Rapporteur also issued opinions in individual customer cases which had a more general significance and through which the Rapporteur strived to guide the actions of the authorities. The Rapporteur also guided and advised third-sector actors and authorities in matters concerning individual customers in connection with such aspects as the assistance system, residence permits and the criminal procedure.

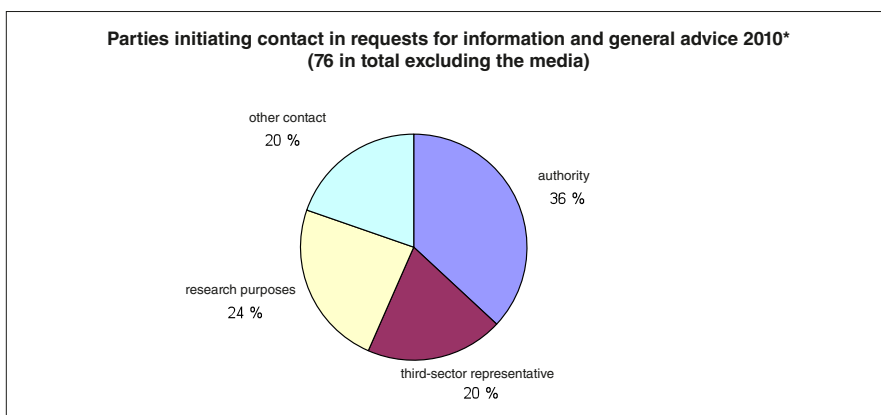
The figure below shows the distribution of customer contacts by the party having initiated contact with the Ombudsman. The party making contact usually was another authority or a third-sector actor. The Ombudsman was also contacted by the victims themselves or by their support persons. Typically, the issues brought up concerned either sexual or work-related exploitation.



* Data from 1 Jan -21 Dec 2010

4.1.2. General requests for information

The number of general requests for information doubled compared to the year before. Information was requested for a variety of purposes, including research and data collection. The figure below shows the distribution of parties having contacted the Rapporteur in terms of requests for information and general requests for information. Information was generally requested by an authority, a third-sector actor or a researcher. The Rapporteur was contacted by the media dozens of times, even if no statistics were kept regarding the contacts. A significant share of them concerned work-related human trafficking.



* Data from 1 Jan -31 Dec 2010

4.2. Report on trafficking in human beings and phenomena related to it by the National Rapporteur on Trafficking in Human Beings

The National Rapporteur on Trafficking in Human Beings submitted her first report on trafficking in human beings to the Parliament (K 17/2010) in June 2010. In this report, the Rapporteur assessed the status of action against human trafficking and the implementation of victims' rights on the basis of an extensive set of data. The Rapporteur deemed that, despite the progress made in the action against trafficking in human beings, plenty remained to be done before the activities would achieve the kind of effectiveness expected by the Rapporteur. In her report, the National Rapporteur on Trafficking in Human Beings made thirty recommendations aiming to make action against trafficking more effective and to improve the victims' position. Some of these recommendations were about reforming procedures and practices, while legislative amendments would be required to implement others.

In her first report, the National Rapporteur on Trafficking in Human Beings strived to evaluate three of the most essential aspects of action against trafficking in human beings: 1) the system for victim assistance, 2) certain procedures related to the victims' residence in and removal from the country, and 3) the criminal procedure and the application and interpretation of penal provisions on trafficking in human beings. To examine how these aspects work, the Rapporteur collected and analysed the necessary information on trafficking in human beings and related phenomena, as well as on challenges to taking action against human trafficking.

4.2.1. System for victim assistance

Legislative amendments associated with the system for victim assistance in the Act on the Integration of Immigrants and Reception of Asylum Seekers entered into force in January 2007 (from 1 September 2011, the Act on the Reception of People Applying for International Protection). The system for victim assistance is based on two state reception centres (Oulu and Joutseno), whose directors, supported by multi-disciplinary evaluation groups, make the decisions on whether or not to include persons in or remove them from the assistance system.

Setting up the support system was a step in the right direction. The reception centres and multi-disciplinary evaluation groups responsible for managing the system for victim assistance are carrying out pioneering work to help victims of human trafficking. The number of victims referred to the assistance system has increased year by year, which may reflect greater awareness of

the actual system and also better identification of the victims of human trafficking. The operation of the assistance system is being obstructed by the fact that the provisions of the relevant Act are rather vague, and its connections to the Administrative Procedure Act, for example, have not been clear to the actors of the assistance system.

The system for victim assistance has the preconditions to become a useful party that is beneficial to the victims of human trafficking and, thus, also promotes combating crime and other action against human trafficking if 1) the threshold for inclusion in the system for victim assistance is consciously and methodically lowered, 2) the purpose and goals of the system and its relationship with pre-trial investigations and the criminal procedure are clarified and made less close-knit, and 3) the legal protection of victims and guarantees for appropriate administrative procedure are strengthened.

In her Report on trafficking in human beings, the Rapporteur made several rather concrete recommendations for developing the assistance system and one recommendation for solving the problems inherent in the model. The most important of these recommendations is associated with passing a special act on the assistance system in which context the problems referred to in the Report and their alternative solutions would be reconsidered. The tasks and composition of the multi-disciplinary evaluation groups would be assessed in detail in this connection. The National Rapporteur on Trafficking in Human Beings finds it important to associate more closely the possibility of being granted a reflection period with being included in the assistance system.

4.2.2. Residence permits and the reflection period

Making use of reflection periods and residence permits that can be granted to victims of human trafficking under the Aliens Act was one of the key themes of the Report on trafficking in human beings. The amendments to the Aliens Act related to residence permits for trafficking victims entered into force in summer 2006. For the purposes of investigations and court hearings, temporary residence permits may be granted to victims of human trafficking. These permits may be issued as continuous permits, regardless of whether the requirements are met, if the victim of human trafficking is in a particularly vulnerable position (a so-called victim's residence permit). Before a victim's residence permit is issued to a human trafficking victim, a reflection period may be granted, during which the victim must decide whether he or she wishes to cooperate with the authorities. So far, few residence permits for victims of human trafficking have been issued (seven up till the end of August 2009), and very few reflection periods have been granted (five, to the Rap-

porteur's knowledge). To some victims, a residence permit has been granted on other grounds, such as individual compassionate grounds. In 2010, one residence permit was issued to a victim of human trafficking by the Finnish Immigration Service. To the Rapporteur's knowledge, not a single reflection period was granted.

The Rapporteur welcomes the fact that when trafficking in human beings has been cited as the grounds for applying for a residence permit, a permit has frequently been issued, but the relatively small number of applications is something we should investigate. The National Rapporteur on Trafficking in Human Beings believes a partial explanation for this could be the large share of identified trafficking victims who already had some type of residence permit. However, the Rapporteur also considers it necessary to examine the possible other reasons for the small number of residence permit applications. The Rapporteur finds that the current provisions are unable to attract victims with an illegal status to seek help from the authorities. As a result, the victims are not referred to the assistance system, nor does the exploitation they have encountered lead to a pre-trial investigation. In her report, the National Rapporteur on Trafficking in Human Beings made several recommendations aiming to improve this situation.

4.2.3. Removal from the country procedures and identifying victims of human trafficking

In her Report on trafficking in human beings, the Rapporteur also drew attention to certain removal from the country procedures and identifying victims of human trafficking within this context.

In decisions to remove a person from the country made under the Dublin Regulation, there were several cases where the documents gave indications of human trafficking. In some of these cases, the applicant said he or she was a minor. The exploitation had taken place in the form of prostitution or in a bakery or farm work, or the applicants had been forced to carry drugs. Some victims explained that they had been victimised because of deficient reception facilities. The applicants had, as a rule, been able to escape the situations involving exploitation with the assistance of a third party, who also had assisted them in arranging their travel to Finland. In many cases, the documents show that the authorities took no action in terms of ambiguities in the applicants' travel arrangements, victimisation by sexual or labour exploitation, physical and sexual violence, kidnappings or deception as to the nature of the work that came up.

In addition, the Rapporteur paid particular attention in her report to the increased number of prostitutes originating from Nigeria, and the fact that the decisions to remove them from the country did not indicate that the possibility of human trafficking or other violations of rights had been examined at an individual and adequately detailed level. Neither did the decision suggest that the persons who had been removed from the country would have been informed of the system for victim assistance. The Rapporteur believed that there should be heightened awareness of the possibility of human trafficking in these situations. This impression is also supported by the fact that to the Rapporteur's knowledge, not a single reflection period has as yet been granted in situations where a person has been encountered acting as a prostitute.

4.2.4. Criminal procedure and the application and interpretation of indications of human trafficking

The penal provisions on trafficking in human beings were only added to the Criminal Code in 2004. Since that time, a total of five criminal cases have been heard by courts under the offence category of trafficking in human beings. Three of these cases concerned sexual exploitation and two of them concerned labour exploitation. A considerably higher number of sentences have been passed for offences related to human trafficking, which include procuring, extortionate industrial discrimination and aggravated arrangement of illegal immigration.

Based on her wide-reaching analysis of data, the National Rapporteur on Trafficking in Human Beings found it unlikely in her report that human trafficking would be such a marginal phenomenon in Finland as the number of pre-trial investigations, decisions on consideration of charges and court decisions would suggest, especially as the number of investigations, prosecutions and sentences in offences related to human trafficking is considerably higher. It is likely that the authorities are not yet able to fully identify human trafficking and separate it from such related offences as procuring and extortionate industrial discrimination. The ambiguity of the penal provisions on human trafficking and their overlap with the statutory definitions of these related offences may partly explain why so few cases heard by the courts have been treated as human trafficking cases. The small number may partly also be explained by restricted ideas of human trafficking and a lack of knowledge of what human trafficking refers to under international conventions.

For victims of human trafficking, it is not insignificant whether they are identified as victims of human trafficking or one of the related offences. Victims of human trafficking are entitled to the services of the system for victim as-

sistance and other special support measures during the pre-trial investigation and criminal procedure, and it is possible for them to apply for a special reflection period and residence permit under the Aliens Act. This identification is even more significant for a person who has been sexually exploited than for a victim of labour exploitation, as the victims of procuring in the current practice have the position of a witness in the pre-trial investigation and criminal procedure, whereas victims of human trafficking are in the position of an interested party. The victims of labour exploitation are in the position of interested parties regardless of whether their cases are heard as extortionate industrial discrimination or labour trafficking. This practice of putting victims in different positions is discriminatory.

The procuring of foreign prostitutes that has come to the attention of the police is often rather heavy-handed, and the conditions of the prostitutes are frequently poor. The procurers may use a variety of means for restricting the self-determination of the victims of procuring, and based on the data in the Report, controlling prostitutes by threats of physical and sexual violence appears to be relatively common. The prostitutes' family members may also be threatened. Many victims of procurement who have come to the attention of the police do not appear to have an effective possibility of leaving prostitution or exiting the country, should they wish to do so.

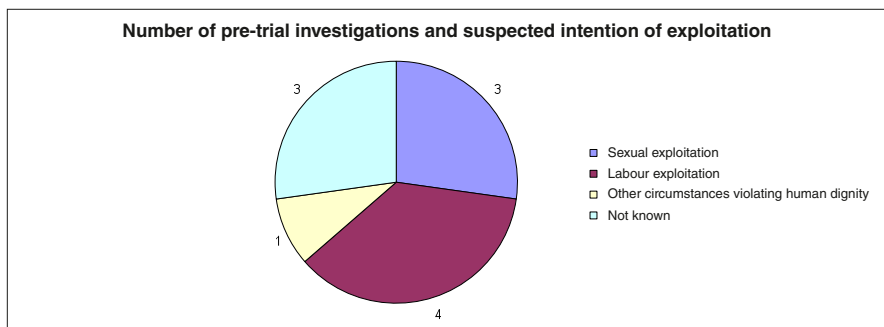
The identification of human trafficking seems to be limited to easily observable aspects only, for example using direct physical violence, deceiving a victim as to the nature of the work or exploiting a person who is clearly defenceless. Identifying more subtle psychological means of control in the exploitation phase seems to be a challenge in pre-trial investigations, and even when such control comes to the attention of the police, it is not always brought up in court, as it is not considered essential in the taking of evidence in a procuring offence. This may partly be due to the overlap in the provisions on procuring and human trafficking, the removal of which the National Rapporteur on Trafficking in Human Beings proposed in her Report. The Rapporteur also felt it is necessary to set up a pre-trial investigation organisation focusing on procuring and human trafficking offences.

In addition to prostitution, human trafficking and the related exploitation may also occur in working life in many labour-intensive sectors that widely rely on foreign labour. Based on the Rapporteur's data, the greatest problems in the use of foreign labour are associated with underpayment of wages and overwork without extra pay. The workers may also be forced to live in inhuman conditions and isolated from other people. Several workers may be housed in the same, relatively cramped and basic rooms, and considerable sums of

money may be collected from them for the accommodation. The workers may also be prohibited from communicating with Finnish people or other persons outside the workplace. They may also be prevented from learning Finnish. In some cases, the employers have taken possession of the workers' travel documents or other personal property, including their cash cards and PIN codes. The underlying factor of the exploitation often is a debt.

We may presume that the problems associated with the use of foreign labour will expand and take a turn for the worse unless we urgently focus adequate attention and official supervision on this phenomenon and reflect on how labour trafficking and the related labour exploitation could in the future be prevented and combated more effectively than before. In addition to financial crime and evading immigration regulations, pre-trial investigations should focus on violations of individual worker's rights. The entire body of existing legislation and its adequacy should be reviewed from the perspectives of preventing human trafficking, identifying victims and implementing victims' rights. The report also contained several other recommendations which could help to make the prevention and detection of exploitation offences in working life and the protection of victims' rights more effective.

The figures and tables below describe the numbers of human trafficking investigations, the suspected intent of exploitation and the interested parties' nationalities in pre-trial investigations initiated in 2010. The last figure contains statistical information on decisions regarding the consideration of charges concerning human trafficking and related offences. The statistics show that human trafficking remains a rare offence category in pre-trial investigations and charges. It should also be noted that the majority of exploitation cases involving sexual exploitation have taken place previously in some other European Union member state.

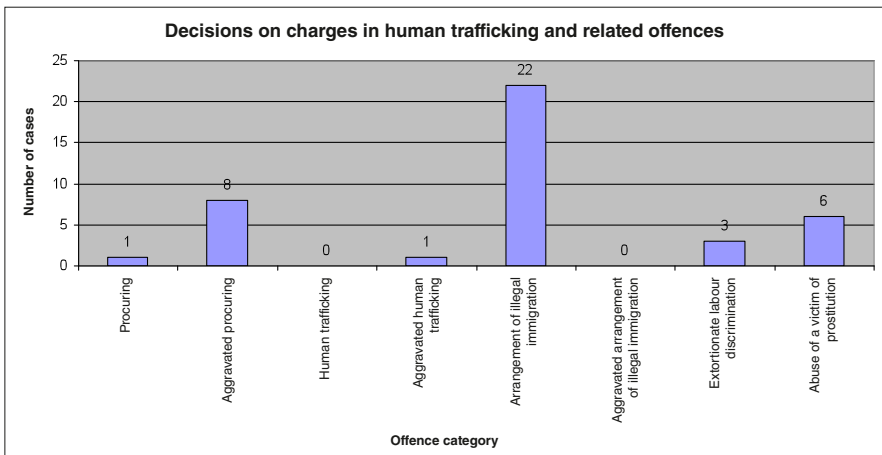


Data from 1 Jan -31 Dec 2010.
 (Source: The National Bureau of Investigation)

Nationality of interested party in reported offences involving human trafficking	
Bangladesh	1
India	1
Kosovo	1
Nigeria	2
Pakistan	1
Somalia	3
Sri Lanka	1
Ukraine	1

Data from 1 Jan -31 Dec 2010

(Source: The National Bureau of Investigation)



Data from 1 Jan -31 Dec 2010.

(Source: Finnish Prosecution Service)

4.2.5. Parliamentary Communication on the Report on trafficking in human beings by the National Rapporteur on Trafficking in Human Beings and further action

After a broad hearing of experts and a committee reading, the parliamentary Employment and Equality Committee issued its report (TyVM 13/2010), based on which the parliament adopted a position on the report in its communication (EK 43/2010). In this communication, the Parliament agreed with the Rapporteur's views on the need to undertake more effective action

against trafficking in human beings, and it called on the Government to initiate a number of legislative and other measures:

1. to draft a special act on the system for victim assistance;
2. to eliminate the overlap in the penal provisions on human trafficking and procuring;
3. to improve the legal position of a victim of procuring by granting him or her the position of an interested party in a criminal procedure;
4. to establish a national specialist unit that focuses on investigating trafficking in human beings and related offences and appoint key prosecutors who specialise in these offence categories;
5. to develop labour legislation and the supervision of the employment relationships of foreign labour to ensure more effective prevention of labour trafficking;
6. to urgently amend the Aliens Act so as to discontinue the granting of residence permits that are valid for a single employer only;
7. to urgently ensure that the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings can be debated by the Parliament; and
8. to oblige the relevant authorities to submit to the Ombudsman for Minorities by the end of 2011 a report on the actions they have taken to implement the recommended measures outlined in the report of the National Rapporteur on Trafficking in Human Beings.

In its position, the Parliament draws the Government's attention to many of the key problems in developing action against trafficking in human beings and calls for legislative and other measures to develop this action and to improve the victims' position. The National Rapporteur on Trafficking in Human Beings would like to thank the Parliament for taking such an important position, which will point the way to action against trafficking in human beings for years to come. Based on this communication, the Rapporteur has had talks with such parties as the Ministry of the Interior on how the position expressed by the Parliament in its communication could be made concrete. The National Rapporteur on Trafficking in Human Beings proposed to the Ministry that it take at least the following actions in its branch of administration:

1. drafting a special act on the system for victim assistance,
2. devising a project to reform the Criminal Code in cooperation with the Ministry of Justice,
3. studying the need for a special act on protecting witnesses,

4. preparing instructions on human trafficking directed at the police, also including extensive instructions on the assistance system and the possibility of granting reflection periods,
5. increasing police resources allocated to investigating human trafficking, including the establishment of a special unit for this purpose,
6. increasing information activities that target victims in cooperation with the Finnish Immigration Service,
7. issuing to officials working under the administration instructions concerning the Rapporteur's rights to also obtain information subject to secrecy provisions that is necessary for discharging her duties, and
8. increasing the personnel resources available to the Office of the Ombudsman for Minorities for performing the duties associated with reporting on trafficking in human beings.

The programme of the current Government makes several references to human trafficking. Among other things, the Government Programme commits to developing legislation in order to combat trafficking in human beings in all of its forms, to protect the victims of trafficking in human beings and to improve the victims' legal protection. In this context, the means for preventing organised begging will be ensured. Training in issues related to trafficking in human beings will be provided for authorities, prosecutors and judges. The role of civil society organisations, the Ombudsman for Minorities and occupational health and safety authorities in the recognition and prevention of trafficking in human beings will be strengthened. The need to reform the legislation concerning the facilitation of illegal entries will be assessed.

The National Rapporteur on Trafficking in Human Beings has also discussed appointing a coordinator on trafficking in human beings and reinforcing political steering in actions against trafficking with the Ministry of the Interior. The Rapporteur believes that the administration should appoint a separate party to assume responsibility for coordinating action against trafficking in human beings who would take charge of operational level coordination in cooperation with various authorities. The Ministry of the Interior considered this matter a high priority and has initiated preparations to arrange that the action be coordinated under the Ministry's leadership.

4.3. Supporting the development of the system for victim assistance

In 2010, the National Rapporteur on Trafficking in Human Beings placed particular emphasis in her activities on supporting the development of the system for victim assistance. The Rapporteur believes that a working assistance system is a precondition for success in other action against trafficking

in human beings, for example in combating crime. For this purpose, the Rapporteur set up meetings between assistance system actors, other authorities and NGOs in 2010 to build up trust and reinforce cooperation between the actors and to support the development of the system's operating practices. The Rapporteur also helped several persons who wished to be included in the assistance system and their support persons in preparing proposals for inclusion in the system.

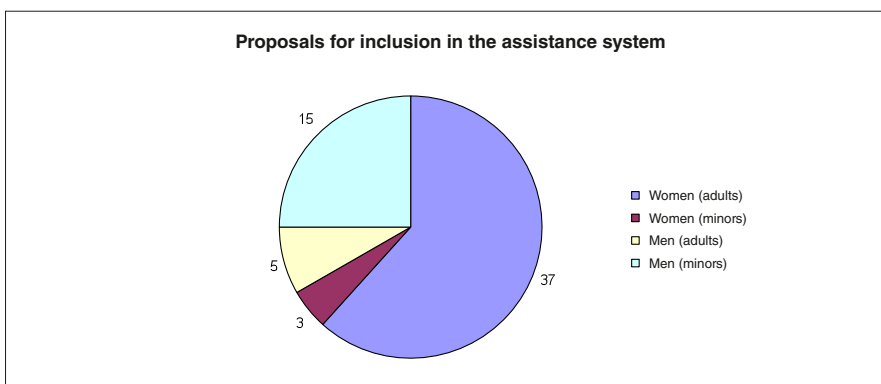
During the year, the number of human trafficking victims referred to the system for victim assistance clearly grew. The Rapporteur believes that this is not explained by an increase in human trafficking offences but by the fact that actors are more aware of the existence and the operating practices of the assistance system. The assistance system has strived to make its activities more transparent, equal and predictable in line with the Rapporteur's recommendation.

Within the context of a hearing of experts concerning the Report on trafficking in human beings organised in autumn 2010, the National Rapporteur on Trafficking in Human Beings told the Parliament that the system for victim assistance has developed positively since autumn 2009. The standard of decisions regarding whether or not to include persons in and to remove them from the system has improved, and they no longer involve significant problems of legal protection as they did in the early days. In general, good professional competence is shown when responding to the need for help of victims included in the system. The Rapporteur also regards as a positive development the fact that, currently, persons are being included in the assistance system to "establish victimisation", which highlights the victim-centeredness of the system and lowers the threshold of being referred to it.

The assistance system and, in particular, the reception centre of Oulu have adopted service plans that are in widespread use in social work as part of their activities, and the reception centres have announced that in the future they will introduce a more thorough evaluation of security threats and a specific form on which applications for inclusion in the system can more readily be submitted in a standard format. The Rapporteur finds that all these reforms will promote the functioning of the assistance system, improving its predictability and equality while lowering the threshold for seeking help from and being referred to the assistance system.

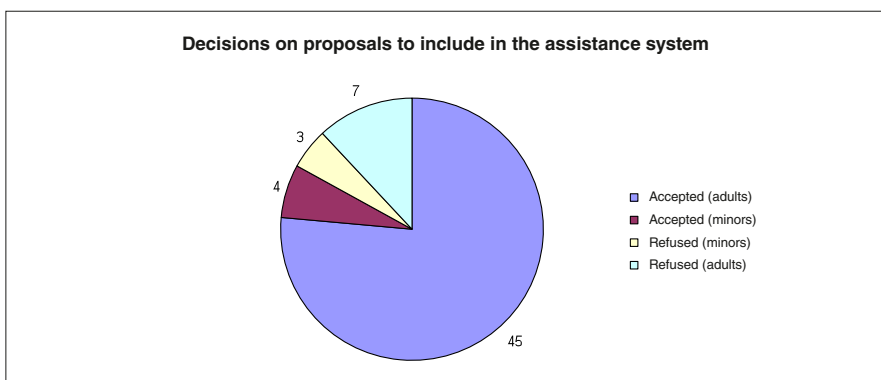
The figures below contain statistical data on the proposals to include persons in the system for victim assistance and the decisions made on the proposals in 2010. The statistics are based on data obtained from the reception centres.

The statistics reveal that the share of women and girls among those persons seeking help from the assistance system is higher than that of men and boys. A decision to include them in the system was issued to a total of 49 people. Of these, 52 were adults and 8 were minors. The applications of 10 persons, of whom three were minors, were turned down. Of the proposals, 25 concerned labour exploitation and 24 concerned sexual exploitation. These figures also include eight persons exploited in other manners and three unfounded proposals. The share of asylum seekers in the proposals made was one half. At the end of the year 2010, the assistance system had 56 customers.



Data from 1 Jan -31 Dec 2010.

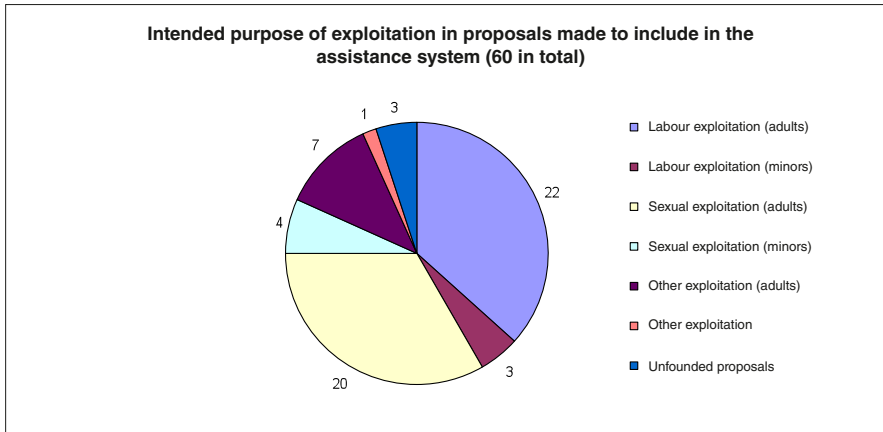
(Source: Reception centres of Oulu and Joutseno)



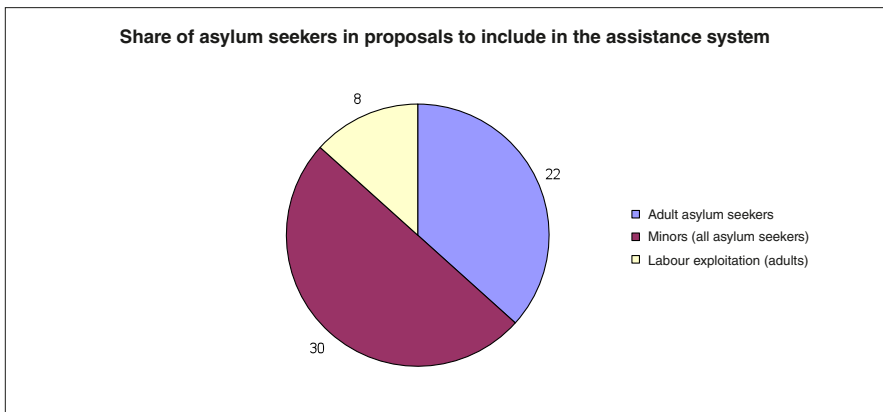
* The number of decisions issued is lower than the number of proposals, as the decision on one proposal made in 2010 was only issued in 2011.

Data from 1 Jan -31 Dec 2010

(Source: Reception centres of Oulu and Joutseno)



Data from 1 Jan -31 Dec 2010.
(Source: Reception centres of Oulu and Joutseno)



Data from 1 Jan -31 Dec 2010.
(Source: Reception centres of Oulu and Joutseno)

The assistance system continues to experience challenges. These problems are related not only to legislation, but also to administrative practices: the operation of the assistance system is not subject to adequately clear and comprehensive regulation, nor is the administrative practice yet sufficiently predictable and equal. These facts undermine the legal protection of human trafficking victims and the assistance system's ability to inspire potential victims to trust in the system. The excessive discretion of authorities on a case-by-case basis may discourage victims who are still thinking about seeking help from the system from even trying. The relatively low total number

of sexually exploited victims referred to the assistance system in Finland is also cause for concern. The National Rapporteur on Trafficking in Human Beings has also paid attention to defects related to removing persons from the assistance system in cases where an exploited and traumatised person who has not been considered a victim of a human trafficking offence by the pre-trial investigation authorities has been removed from the system. The Rapporteur does not feel that such a strong link with criminal procedure is either justified or victim-centred.

The assistance system should even more clearly foster a gradual building up of trust towards the party providing assistance and the assistance system managed by the authorities. Identifying a victim of human trafficking is not an act that takes place in a single moment, but, rather, is a more drawn-out process in which the victim gradually feels able to relate his or her experiences to the party providing assistance. In the Rapporteur's opinion, what has become a problem is the fact that the victims are not accepted into the assistance system at an early enough a stage, as the system often requires the victims to provide more information on their experiences of victimisation than the victims dare disclose when they are only seeking help from the system. In Belgium and the Netherlands, for example, the legislation allows for low-threshold referrals of victims to the assistance system, the gradual completion of the identification process and responding to the victims' need for help at a sufficiently early stage. The National Rapporteur on Trafficking in Human Beings considers it absolutely necessary that the early phase of the identification process is also supported by securing the financial resources of NGOs.

Many authorities still remain unable to refer victims to the assistance system, as they are either not supported by their superiors or they have not been instructed to do so in a clear enough manner. Identifying victims of human trafficking and referring them to the system for victim assistance has not taken root in the work of many authorities, and the victims may, for example, be removed from the country without offering them assistance. The Rapporteur is concerned that many key authorities do not have clear intra-administrative instructions for situations where human trafficking should be suspected. Training the authorities is not adequate on its own, and the Ministries should provide groups such as the police and employment relationship inspectors training in identifying victims of human trafficking and in referring them to the assistance system. The Rapporteur also believes that the authorities, including the police, should use the assistance system more widely as a tool for completing the identification process. The current administrative practice of the assistance system would also lend itself to this.

The current legislation does not seem to provide adequate support for appropriate victim identification. The legislation is to some extent inconsistent, and this may in some situations lead to cases in which victims of human trafficking are removed from the country before the proper identification process has been completed instead of being identified and appropriately referred to the assistance system. One of these inconsistencies arises from section 148(1) of the Aliens Act, which makes it possible to remove a person selling sexual services from the country for a justified reason. Another inconsistency arises from the so-called Dublin process under the Council Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application (the Dublin Regulation). It appears that inclusion in the assistance system does not prevent a person from being removed from the country under the Dublin Regulation, and the Administrative Court is inclined to confirm this position. A person may also be removed from the assistance system if the pre-trial investigation authorities cannot clear up the offence having taken place in the first EU member state. Usually this is not possible, as the perpetrator cannot be apprehended. A person who has been exploited is, thus, returned to the country where he or she was exploited and thus exposed to revictimisation.

The practical work of helping victims should, above all, be focused on providing appropriate resources for the system, equal coordination of the services and information flow between the various actors, and the arrangement of certain key services, such as therapy, should be determined actively and according to need.

4.4. The Rapporteur's recommendation concerning inclusion in and removal from the system for victim assistance

In 2010, the National Rapporteur on Trafficking in Human Beings gave a separate recommendation on inclusion in and removal from the system for victim assistance (VVT/2010/104), as she had observed that the inclusion of victims of human trafficking in the assistance system and their removal from it was not always victim-centred and in line with the principles of good governance. In her recommendation, the Rapporteur stressed that the basic principle of the assistance system should be victim-centeredness and the victims' need for assistance and that the system should more frequently be used as a tool for the identification process. The Rapporteur strived to illustrate the differences and similarities between the system for victim assistance and the criminal procedure in her recommendation in order to emphasise a low threshold for inclusion in the assistance system. The Rapporteur also recommended that the authorities pay attention to the Constitution and the

Administrative Procedure Act when making decisions and to the obligation laid down in these documents to ensure good governance in official activities (recommendation as an attachment to the Annual Report).

4.5. Seminar on labour trafficking

The Central Organisation of Finnish Trade Unions (SAK), the Office of the Ombudsman for Minorities/National Rapporteur on Trafficking in Human Beings and the European Institute for Crime Prevention and Control organised a seminar titled “Trafficking in Human Beings in Finnish Working Life” in Helsinki on 3–4 February 2011. The aim of this seminar was to raise awareness of forced labour and the related phenomena of exploitation in Finland and to open up new perspectives on this theme. The speakers at the seminar included an extensive selection of representatives of both international and Finnish organisations, authorities, labour market organisations and the third sector. On the first day, the seminar discussed labour trafficking and its forms in Finland and elsewhere in Europe. On the second day, a panel discussion dealt with the prevention of forced labour in Finland.

In general, the same themes were recurrent in the papers and discussions: awareness of labour trafficking is low and identifying victims is a problem. The victims of labour trafficking rarely seek help for themselves, and they have no information about their rights or the minimum conditions of an employment relationship. Many speakers stressed that human trafficking is a highly complex phenomenon that changes according to the time and place, making intervention more challenging than ever. Cooperation between the central actors, including the police, occupational health and safety organisations, trade unions, organisations and other representatives of the authorities, and training in identifying labour trafficking are thus of key importance. The conclusions of the seminar were as follows:

1. Human trafficking is a phenomenon that is complex and difficult to identify. Prevailing images of human trafficking often are highly stereotyped and not realistic. A victim of human trafficking does not have to wear shackles to be a victim of forced labour: more discrete psychological means of exerting pressure and coercion are enough to control the victim. Human trafficking must be evaluated comprehensively, while taking into account not only the terms and circumstances of the work, but also the worker’s living conditions.
2. The Finnish labour legislation must be reviewed as a whole from the perspective of preventing human trafficking and assisting and protecting victims.

3. If necessary, the mandate of Occupational Safety and Health Inspectors must be reviewed to impose on them a statutory duty to also intervene in labour trafficking and to refer trafficking victims identified by them to the system for victim assistance. Also, police need to act on their own initiative and take proactive action.
4. Imposing a corporate fine should be considered in the sense of extending the penal responsibility of a legal person to cover extortionate industrial discrimination.
5. During a pre-trial investigation, proceeds of crime from forced labour should be confiscated.
6. Referral practices for the victim support system should be improved by issuing to the authorities instructions on identifying victims of human trafficking and referring them to the assistance system. These instructions should reach all key authorities.
7. Identifying victims and referring them to the assistance system is not enough, however, and the assistance system should be developed to ensure that the services provided by the system genuinely benefit the victims.
8. A special act should be passed on the system for victim assistance which will disambiguate the grounds for being included in and removed from the assistance system and the relationship between the assistance system and the right to remain in the country.
9. Potential victims of trafficking should already be informed of their rights in Finnish working life and the channels for obtaining help before they enter the country, but also during their stay in the country whenever they encounter various authorities.
10. Adequate resources must be guaranteed for the work carried out by the third sector. The third sector plays a particularly important role in identifying victims of human trafficking on the one hand, and in providing the necessary services on the other.
11. In its communication on the Report of the National Rapporteur on Trafficking in Human Beings, the Parliament calls for the establishment of a specialised national police unit to make investigations of human trafficking and related offences more effective. This unit must work together closely with key prosecutors with expertise in these offences.
12. Labour market organisations play a crucial role in preventing human trafficking. Trade unions in particular have excellent opportunities to identify trafficking victims. Training should be provided for labour market organisations on human trafficking and victim identification.
13. Action against trafficking in human beings should be coordinated better and more efficiently than at present, and a national coordinator should be appointed to assume responsibility for this work.

The full seminar report drawn up by the European Institute for Crime Prevention and Control can be downloaded from the websites of the Ombudsman for Minorities, www.ofm.fi, and the Institute for Crime Prevention, www.heuni.fi.

4.6. Request for clarification by the National Rapporteur on Trafficking in Human Beings concerning the identification of potential victims of human trafficking

Before Christmas 2009, the news media reported on a police crackdown on Thai massage parlours in Helsinki and elsewhere in Finland that had taken place in December. The mission had resulted in the closure of several Thai massage parlours, and at least four suspects were detained. They were suspected of aggravated procuring and the arrangement of illegal immigration. The news media also related that, in connection with the raids, the police had discovered dozens of persons who were believed to have offered sexual services in the massage parlours. The majority of them had been living in Finland without a residence permit. According to the police, these women were to be removed from the country, and some had already been removed before the news broke.

The National Rapporteur on Trafficking in Human Beings requested clarification from the National Police Board and Helsinki Police Department on what efforts the police had made in order to identify potential victims of human trafficking in connection with these raids and how they had strived to safeguard the position and rights of potential victims as the pre-trial investigation progresses.

The Helsinki Police Department replied that they had questioned nearly all the women who had been working as Thai masseuses. Before the questioning, and also at a later stage, the investigator and the head of investigation carefully assessed the woman's possible position as a victim of human trafficking. The Police Department stated that, in this case, the investigators undoubtedly were the most experienced and highly skilled ones in this area. In the Police Department's view, the said investigators are able to identify a potential victim of human trafficking based on the criteria laid down in the Criminal Code. No indications of human trafficking as defined in the Criminal Code came up regarding the women who had been questioned. In the cases involving those women who had not been questioned, this decision had not yet been made. The Police Department related that, by decision of the head of the investigation, all necessary aspects were examined in the pre-trial investigation, including any violations of the Thai masseuses' rights. The police had engaged in cooperation with the prosecutor required by the Criminal

Investigations Act from the beginning of the case. The Police Department further stated that, in that respect, no further information could be provided, as the pre-trial investigation was incomplete. Information to persons outside the investigation team will be disclosed when disclosing this information can no longer undermine the purpose of the investigation.

The Police Department stressed that when a victim of human trafficking referred to in the criteria of the Criminal Code is encountered in a pre-trial investigation, he or she is extensively informed of his or her rights. In the event that victims of human trafficking were found among the Thai masseuses that had yet to be questioned, the police would inform them of their rights. The Police Department finally stated that, contrary to claims made in the media, the police in Helsinki at least are able to identify victims of human trafficking under the definition in the Criminal Code. Persons specialising in the investigation of offences of this type work in the violent crime unit, and they were also involved in investigating the current case. As a demonstration of their competence, the few human trafficking offences for which sentences have been passed in Finland had been investigated by the Helsinki Police Department. The same investigators had successfully been working to combat procuring at the national level for over ten years, uncovering some of the largest and most harmful procuring organisations in the country. The National Police Board did not respond to the request for clarification by the National Rapporteur on Trafficking in Human Beings.

A short time later, the Rapporteur had the opportunity to interview one of the women who had worked in a Thai massage parlour and whom the police had not yet removed from the country. Her story contained several rather obvious indications of human trafficking, and the Rapporteur had reason to suspect that there were other women who had been subjected to similar exploitation among those who had been removed from the country. Meeting with the victim strengthened the Rapporteur's suspicions that potential victims of human trafficking are removed from the country without offering them help through the system for victim assistance. This is not consistent with the legislation or international obligations that are binding to Finland, and we should thus examine how the implementation of the victims' rights in official activities can be secured in the future. The National Rapporteur on Trafficking in Human Beings has launched efforts to promote this issue within the police administration and in police work.

4.7. Opinion of the National Rapporteur on Trafficking in Human Beings: Council of Europe Convention on Trafficking in Human Beings

During the year, the National Rapporteur on Trafficking in Human Beings issued several opinions on various legislative projects, reports and studies. For example, the Rapporteur gave an opinion on the report of the working group drafting the ratification of the Council of Europe's Convention on Trafficking in Human Beings. In her opinion, the Rapporteur believed that the Council of Europe Convention on Action against Trafficking in Human Beings is a significant international convention which recognizes that human trafficking constitutes a violation of human rights and an offence to the dignity and integrity of the human being. Compared to many other international conventions and legislative instruments adopted within the European Union, this convention reinforces the level of protection of human trafficking victims' rights in keeping with the Council of Europe's traditional role as a defender of human rights.

In her opinion, the Rapporteur believed the obligations imposed by the Convention on the signatories were so strong that the enforcement of such obligations would also improve the level of protection of the victims' rights in Finland. The Rapporteur further believes that action against trafficking in human beings involves a number of problems and development targets that challenge us to examine the need for more extensive legislative reform in order to make action against human trafficking and the implementation of victims' rights more effective. The Rapporteur pointed out that the Council of Europe Convention is a human rights convention, and many prevailing problems in Finland would have profited from an evaluation with a sharper focus on the human rights implications of action against human trafficking. However, the Rapporteur welcomed the direct stand that the working group in some instances took for improved victim identification through legislative amendments subject to separate consideration.

In her opinion, the Rapporteur stated that she deplores the fact that the working group had not more actively drawn upon the Rapporteur's report on trafficking in human beings when examining the current status and development needs of action against trafficking in human beings in Finland. The Rapporteur also deplored the fact that the working group had not requested a hearing with the National Rapporteur on Trafficking in Human Beings as it was preparing its report. Despite these reservations, the Rapporteur supported the urgent implementation of the Convention and hoped that its provisions will be applied in practice, ensuring that the level of protection afforded to the rights of human trafficking victims will be increased further. The Rap-

porteur believed that the convention has major importance both at the practical level and in principle. The Rapporteur agreed with the working group that ratification of the convention would strengthen the implementation of existing legislation and the obligations that are already imposed on official activities. The Rapporteur has started drafting a recommendation relevant to the implementation of the convention's provisions.

4.8. Application of the Dublin Regulation in human trafficking cases and instructions issued by the Finnish Immigration Service

As discussed before, the National Rapporteur on Trafficking in Human Beings assessed the application of the Dublin Process under the Dublin Regulation in potential cases of human trafficking in her report on trafficking in human beings. The Rapporteur believed that a precondition for action against human trafficking, based on international obligations and national Plans of Action against Trafficking in Human Beings as well as legislation, involves identifying victims and securing their rights in all procedures used by the authorities, including the Dublin Procedure. The Rapporteur felt a particular concern over the potential minor victims of human trafficking about whom she had been informed, who had, under the Dublin Regulation, been removed and returned to the country in which they had been victimised by human trafficking or undergone similar serious sexual or labour exploitation.

As a result of the Rapporteur's report, and her discussions with the Finnish Immigration Service at a later date, the Finnish Immigration Service issued an instruction on the asylum procedure in cases where the person having applied for international protection in Finland is a potential victim of human trafficking (Record no: 91/0032/2010). The aim of this instruction is to harmonise the procedure and application of the law, and to support speedy decision-making and the equal treatment of applicants. According to this instruction, as a starting point we must trust the asylum seeker's ability to also seek help from the system for victim assistance in other countries applying the Dublin Regulation. This is justified, for example, by European law that obliges Member States to assist and protect victims of human trafficking. The Dublin Regulation is basically applied in situations where the applicant has not, based on a submitted proposal, been included in the assistance system, or he or she has been removed from it before the processing of the matter has been completed by the Immigration Service or an appeal instance. As a starting point, the Dublin Regulation is also applied in situations where no report on the potential victimisation has been submitted, based on which the applicant's inclusion in the assistance system should be proposed. Similarly, the Dublin Regulation may be applied in situations where, without a weighty

reason, appeal to victimisation has only been made after the applicant has been notified of the decision under the Dublin Procedure, or in the appeal phase, or in situations where the applicant has submitted several asylum applications and, without a weighty reason, appeal to victimisation has only been made during the processing of the latest application.

If an asylum seeker is included in the system for victim assistance in Finland, under these instructions this is also taken into account in the asylum investigation. A potential victim is a person in a vulnerable position as a starting point, and applying the Dublin Procedure to this group of persons is always based on case-by-case consideration. The Finnish Immigration Service then examines, within its rights to obtain information, in every case the factors having led to the person being included in the assistance system and any other aspects pertaining to the matter, and makes a decision on how inclusion in the system influences the processing of the asylum application, while fully taking into consideration all aspects of the matter. The instruction states that each state applying the Dublin Regulation should have a system within the framework of which victims of human trafficking can be offered protection and assistance. According to the instruction, possible differences in the assistance system from one state to another should not be vested with decisive importance in the practice of decision-making. The essential feature is that, based on information obtained, the receiving state is found to have a system referred to in the victims Directive and/or international conventions that are binding to the state, in which an asylum seeker can also seek and/or be referred to help.

As a starting point, unaccompanied minor asylum seekers who have been included in the system for victim assistance and who are in the system at the time the decision is being made or the appeal statement is being written are not returned without a weighty reason. According to the instructions, a weighty reason of this type may, for example, be that the receiving state has granted a residence permit to the applicant and that, in the light of information received, the applicant has a genuine possibility of being referred to the assistance system of the receiving state.

The National Rapporteur on Trafficking in Human Beings believes that this instruction is an important step towards a practice that takes the rights of human trafficking victims into account better in the Finnish Immigration Service. However, it does not adequately take into account the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings on identifying and helping victims. The Convention is set to enter into force at the turn of the year 2011-2012 and, within this context, the instruction

should be adapted to better meet the obligations of the Convention, including its spirit and intention. In a statement addressed to the National Rapporteur on Trafficking in Human Beings, the Secretariat of the Council of Europe takes the position that in the interpretation of this Convention on Action against Trafficking in Human Beings, the parties must protect each victim of human trafficking in their territory, regardless of the country in which the victimisation has taken place. The section on Article 12 of the Explanatory Report further specifies that the services and other assistance must be offered to all victims located in the territory of a party (section 148). The National Rapporteur on Trafficking in Human Beings has informed the Parliament of her correspondence with the Secretariat of the Council of Europe.

The parliamentary Employment and Equality Committee, to which other committees of the Parliament issued their statements, expressed concern in its report over the information presented by the Rapporteur in her report, according to which suspected victims of human trafficking had been removed from the country and returned, for example under the Dublin Regulation, to countries where the suspected victimisation had taken place. The Parliament stated that such great numbers of foreign asylum seekers arrive annually in Italy and Greece, for example, that the countries have been unable to arrange appropriate reception facilities for them. The Committee considered that, in this case, the risk of revictimisation of persons who had been removed from the country can be particularly great. The Committee stated that it finds removing persons suspected of being victims of human trafficking from the country neither justified in terms of victim protection nor consistent with Finland's international obligations. The National Rapporteur on Trafficking in Human Beings considers this an important policy statement regarding the application of the Dublin Regulation to victims of human trafficking.

4.9. Other activities of the Rapporteur

4.9.1. Participation in working groups

In 2010, the National Rapporteur on Trafficking in Human Beings took part in several working groups as an observer, including the Steering Group for the Plan of Action against Trafficking in Human Beings under the Ministry of the Interior, and the training and information coordination group working under it. In April 2010, the steering group submitted to Minister Thors its report, "Evaluation of the National Plan of Action against Trafficking in Human Beings and recommendations to develop legislation and measures concerning human trafficking". In its report, the Steering Group proposed, for example, the passing of an inclusive special act on trafficking in human

beings. As a key part of this legislative project, proposals for more careful regulation of the system for victim assistance should be drafted. In addition, the Steering Group proposed that the boundaries between human trafficking and procuring offences should be made clearer. These proposals are in keeping with the Rapporteur's report and the relevant parliamentary communication.

The National Rapporteur on Trafficking in Human Beings also took part in the work of the City of Helsinki's working group on human trafficking. The aim of this group is to build up the skills of the city's employees in identifying human trafficking and assisting victims of trafficking. The Rapporteur also took part in the meetings of the human trafficking network of NGOs. This network disseminates information and coordinates action against human trafficking between NGOs.

4.9.2. Training activities

The Office of the National Rapporteur on Trafficking in Human Beings provided training in human trafficking issues to such groups as prosecutors, police officers, border guardsmen, occupational safety and health inspectors, court personnel and professionals of the social and health care sector. The training events initiated in 2009 together with Victim Support continued, and, within this context, the Rapporteur provided training in Rovaniemi and Vaasa. In terms of the significant series of training events that were organized, the national human trafficking training organised by the information and training coordination group working under the Steering Group for the National Plan of Action against Trafficking in Human Beings should also be mentioned, as well as the training that was a part of the Child's Best Interest First project of All Our Children association for such groups as the personnel of the Finnish Immigration Service, reception centres and the police. At these training events, the Rapporteur discussed a wide variety of topics related to human trafficking, action taken against trafficking and encountering victims. In addition, the Rapporteur talked about human trafficking issues at a number of seminars and conferences at home and abroad.

4.9.3. Meetings and discussion events

The Office of the National Rapporteur on Trafficking in Human Beings organised a number of discussion events and meetings on preventing human trafficking, assisting victims and making pre-trial investigations more efficient. The Rapporteur called a meeting of third-sector actors with the intention of studying, for example, the occurrence of domestic human trafficking. A number of cases involving sexual exploitation were reported to the

Rapporteur that had clear indications of human trafficking, some of which targeted minors.

4.9.4. International visits

The National Rapporteur on Trafficking in Human Beings paid two study visits abroad. The destination of the first one was the Netherlands, while that of the second one was Belgium. On both of these trips, she met Rapporteurs on Trafficking in Human Beings as well as representatives of the police, the ministries and the third sector. In both countries, the importance of victim-centeredness as the cornerstone of action against human trafficking was stressed to the Rapporteur. For example, the threshold of being referred to the system for victim assistance must be low in order for the victims to seek help from it. At these meetings, cooperation between the authorities and NGOs was also highlighted, as well as the fact that the actors must respect each others' basic tasks when working together. It also became evident that pre-trial investigation authorities need to specialise in order to learn to identify human trafficking and to efficiently investigate human trafficking offences. In Belgium, the role of occupational safety and health authorities was also emphasised in action against trafficking. The occupational safety and health authorities have an opportunity to identify victims of trafficking and also to facilitate pre-trial investigations.

4.9.5. Assisting in the drawing up of the Gender Equality Report and the Action Plan against Violence

In 2010, the National Rapporteur on Trafficking in Human Beings worked in close-knit cooperation with the officials drafting the Gender Equality Report (Government Report on Gender Equality) and the Action Plan to Reduce Violence against Women. The Rapporteur strived to use her expertise to promote the idea of human trafficking as one manifestation of violence against women. The Rapporteur thus made an effort to dispel the "mysticism" and special character often associated with human trafficking and to reinforce the actors' skills in responding to the need for help of human trafficking victims as a part of other action against violence encountered by women.

Human trafficking is one of the main themes of the Report on Gender Equality. Taking action to identify victims plays a key role in the plan, and a low threshold of identification is an important aim of the report in order to extend assistance to all victims of human trafficking offences. The Action Plan to Reduce Violence against Women recognizes that prostitution, procuring and related human trafficking are often associated with violence or threat of vio-

lence, and human trafficking in general has similar characteristics to violence against women. The Action Plan contains measures related to prostitution and human trafficking aiming to improve the position of a victim who has been subjected to violence in connection with human trafficking or procuring.

4.9.6. Combating human trafficking as an immigration policy tool

In 2010, the attention of the National Rapporteur on Trafficking in Human Beings was also caught by a trend that threatens the credibility of action against human trafficking: seeing human trafficking where it does not exist. The Rapporteur was concerned to note how the abstract existence of human trafficking as a social problem can unfoundedly be used as a tool for stricter immigration policy. As one example, reports by the Finnish Immigration Service of inadequate resources for the family reunification process and suspicions of human trafficking that emerged in connection with family reunification can be cited. Suspicions that victims of human trafficking could be found among foster children arriving to Finland were aired in the media. The Rapporteur requested clarification from the Finnish Immigration Service on how human trafficking has been investigated in connection with processing individual family reunification applications and how the Immigration Service has proceeded in cases where suspicions of human trafficking had arisen. The Rapporteur also requested clarification on how the Immigration Service will in the future ensure that the identification of human trafficking victims and the securing of their position and rights will be made more efficient. The clarification provided by the Finnish Immigration Service revealed that there was no concrete evidence to support suspicions of trafficking.

5. Future outlook for reporting on human trafficking

Human trafficking remains poorly identified. We must thus presume that a large share of human trafficking victims do not receive help. During the following reporting period, the National Rapporteur on Trafficking in Human Beings will pay particular attention to ensuring that key authorities working with human trafficking and its victims, including the police, employment relationship inspectors and the personnel of the social and health care sector, will have adequate instructions on identifying victims of human trafficking and referring them to the assistance system. The Rapporteur will also strive to assist the authorities in developing their own actions in a more victim-centred, predictable and equal manner. The means for achieving these goals will include:

1. monitoring the implementation of recommendations made in the report on trafficking in human beings and the parliamentary communication,
2. supporting actors in implementing the above-mentioned recommendations and requirements and in developing action against trafficking in human beings,
3. overseeing action against human trafficking by actively highlighting problems and bringing up proposed improvements,
4. evaluating the training provided by other actors and pointing out development needs associated with the training when necessary,
5. providing advice and instructions for parties working with human trafficking and its victims, and
6. efficiently drawing on international obligations and recommendations as well as the experiences of other countries.

The National Rapporteur on Trafficking in Human Beings will also in the future exert influence and work proactively in her role as a pioneer of action against human trafficking, while overseeing and promoting it. Due to inadequate resources, it will be necessary to restrict and prioritise the activities. Its somewhat "pioneering" nature adds to the challenges of the work, as no similar efforts have previously been carried out in Finland. The prevailing atmosphere that is critical of immigration also increases the importance of work related to reporting on human trafficking.

Timely and adequate access to information is a precondition for appropriately performing the duties associated with reporting on trafficking in human beings. The Rapporteur has discussed her rights to obtain information with the authorities and NGOs. Even though the right to obtain information subject to

secrecy provisions is referred to in the Act on the Ombudsman for Minorities and the National Discrimination Tribunal (section 7), access to information has not in all respects progressed as might be hoped. The Rapporteur will in the future continue her discussions concerning her right to obtain information with various authorities.

The National Rapporteur on Trafficking in Human Beings is considering the need to set up an advisory organ to support the reporting duty, the main purpose of which would be to advise the Rapporteur in her duties related to reporting on human trafficking, to disseminate information and to network with the actors.

In 2011, the National Rapporteur on Trafficking in Human Beings intends to continue her work against labour trafficking. Her aim is to update the data on the status of labour trafficking in Finland and to look at concrete means for strengthening the prevention of human trafficking, the assistance and protection given to victims of trafficking and cooperation between the authorities and labour market organisations. In the future, the Rapporteur intends to work in close-knit cooperation with the labour market organisations and occupational safety and health organisations and continue collecting and analysing data on labour trafficking.

The National Rapporteur on Trafficking in Human Beings will also focus particular attention on the difficulties of identifying human trafficking related to sexual exploitation and strive to implement the legal protection and rights of sexually exploited victims of human trafficking or other persons whose rights have been violated in prostitution or other types of sex trade. The Rapporteur will strive to reach this aim in cooperation with other authorities and third-sector organisations. In particular, the Rapporteur will work to reinforce the operating capacity of these organisations.

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