

Finland

Submission to the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) 57th Session (10-28 February 2014)

Introduction

Pro-tukupiste ry¹ submits this briefing to the Committee on the Elimination of All Forms of Discrimination against Women ahead of its examination in February 2014 of Finland's seventh periodic report on the implementation of the CEDAW Convention.

This submission focuses on trafficking and exploitation of prostitution from the List of issues in relation to the seventh periodic report of Finland.

TRAFFICKING AND EXPLOITATION OF PROSTITUTION (Questions 14-16)

14. According to the report (para. 110), the Committee on Legal Affairs considered it important to assess the penal provision on exploitation of victims of sex trafficking to determine the extent to which it provides increased protection to victims of sex trafficking and aspired to do so after the Parliamentary Elections in 2011. Please provide updated information on this topic.

Pro-tukupiste ry welcomed the initiative of the Ministry of Justice to map out the Finnish prostitution field². The report published by the Minister of Justice was, as expected, in favor of criminalizing the purchase of sex. The report's major weakness is the research data it uses, which is biased, questionable, and narrow. Additionally, the report did not include the voices of those who sell sexual services. Pro-tukupiste offered researchers a chance to meet sex workers from various backgrounds, but they did not want to meet them. The researchers have explained it was a matter of limited time and resources, so they just left the persons who the total criminalization would effect – people selling sexual services – without a chance to give their opinion. This shows

¹ More information about us, visit: (<http://pro-tukupiste.fi/en/home/>)

² Replies of Finland to the List of Issues, para 97-99.

clear evidence that the principle of *participation* of groups effected to the planning, implementation and evaluation of laws and practices concerning them was not regarded as a matter of importance. Pro-tukipiste emphasizes that it is crucial for sex workers to be included in the broad social and political discussions concerning them.

The report published by the Minister of Justice did not contribute any new perspectives to the social discussion on prostitution or its regulation. The report's recommendations within the frame of criminal law are justified in an unclear and contradictory manner. In the report, references are made to sociopolitical actions with no explanation of what they are in practice.

The report commissioned by the Ministry of Justice addresses the discriminatory section of the Aliens Act (para.148:1)³. However, the report takes no stance with regard to this much-criticized⁴ refusal of entry article under the Aliens Act, which makes it possible to deport or refuse entry to country to anyone from outside the EU based on the suspicion that they are selling sexual services. This is one of the policies that make persons in prostitution more vulnerable, because they have the risk of deportation if they are in contact with Finnish law enforcement authorities. This makes the threshold of reporting any crimes to authorities extremely high if the victims of these crimes are originating outside EU. Finnish authorities do not always investigate the possibility of human trafficking in an adequate way before removing third country nationals based on the provision of the Aliens Act. This makes the identification of possible victims of trafficking ineffective, because they can be considered as “unwanted migrants” and not as persons whose rights need to be protected and given real possibilities to seek legal and social assistance⁵. The Finnish police reported in 2013 that during years 2011 and 2012 there were more persons than

³ Unofficial English translation of the Finnish Aliens Act http://ec.europa.eu/anti-trafficking/download.action;jsessionid=WFKvSoPLXs1XfhlG3jPGd4R2ypqVLRG4XYXvCSJyPkJzc6vnQ42!-186649681?nodePath=/National+Info+Pages/Finland/5.+RESOURCES/5.1.+Legislation/Aliens+Act+2004+Finland_en.pdf&fileName=Aliens+Act+2004+Finland_en.pdf&fileType=pdf (Accessed January 29 2014)

⁴ E.g. Roth, Venla (2010/2012): “Defining Human Trafficking and Identifying Its Victims: A Study on the Impact and Future Challenges of International, European and Finnish Legal Responses to Prostitution-Related Trafficking in Human Beings.” Martinus Nijhoff, Leiden and Boston, 2012.

The Finnish National Rapporteur on Trafficking in human beings (2013): Report 2013, p. 59 of the report in Finnish.

⁵ The Finnish National Rapporteur on Trafficking in human beings/ Kansallinen ihmiskaupparaportti (2013): Report 2013/Kertomus 2013, p. 59.

Report in Finnish: (http://www.ofm.fi/download/48449_1hmiskaupparaportti_2013.pdf?fc04d0d7adb4d088)

Report in English:

(http://www.ofm.fi/download/48451_1hmiskaupparaportti_2013_englanti_netti.pdf?d2aca1d7adb4d088)

PRO·tukipiste

ever deported because they were suspected of selling sexual services⁶. According to the report published by Ministry of Justice, altogether 131 persons were removed from Finland during 1.1.2011 – 11.4.2013. This above mentioned well-known critique about the article under the Aliens Act didn't have any effect to the recommendations given in the report published by Ministry of Justice.

In line with the authors of the report, Pro-tukipiste is concerned that regulations at the moment in practice only target those who sell sexual services. Pro-tukipiste holds that it is very important for sex workers to feel that they will receive equal treatment and that their rights will be upheld. The report's recommendation to rescind the ban on the sale of sexual services in public places is commendable, but is not enough to gain that trust towards Finnish authorities and more broadly Finnish society.

The report published by the Minister of Justice calls for a clarification of pandering laws. It is difficult to take a stance with regards to this, as the recommendation's relationship to the Ministry of Justice's clarification of pandering and human trafficking laws⁷ goes unmentioned. It is also difficult to evaluate the report's recommendation to totally ban the purchase of sexual services because the concept of pandering is used too simplistically: in the report, pandering is equated with coercion. However, the scope of the pandering article includes activities with no necessary relation to coercion or violence, such as renting an apartment to a sex worker or providing any other kind of assistance that could result in financial gain.

Pro-tukipiste also finds one of the report's major flaws to be that it does not consider the role of buyers of sexual services in exposing serious crimes, such as human trafficking. Those who purchase sex should be encouraged to be responsible and report possible crimes to the authorities.

⁶ (Turun Sanomat 26.8.2013) "Kymmeniä seksityöläisiä pois maasta" / "Dozens of sex workers deported [translation by Pro-tukipiste]"; (<http://www.ts.fi/uutiset/kotimaa/526906/Kymmenia+seksityolaisia+pois+maasta>); [accessed 25.11.2013]).

⁷ Report of the working group on trafficking in human beings, assigned by the Ministry of Justice: OM 63/2012 (http://oikeusministerio.fi/fi/index/julkaisut/julkaisuarkisto/1354191575312/Files/lhmiskauppatyoryhman_mietinto.pdf) [accessed 15.1.2014].

15. The report indicates that the Steering Group appointed by the Ministry of Interior to elaborate recommendations for measures to develop the anti-trafficking measures in line with the Revised Plan of Action against Trafficking in Human Beings has recommended that special legislation on the assistance structure for victims of trafficking should be drafted. Please provide updated information on the actions taken pursuant to these recommendations.

The Finnish National Rapporteur on Trafficking and Finnish Parliament called for a specific act to be passed on the system of victim assistance in order to reinforce the legal protection of trafficking victims. A multidisciplinary working group was appointed in 2012 by the Ministry of Interiors to prepare the act. There are three NGO's represented in the working group, Pro-tukipiste ry, MonikaNaiset liitto ry and Rikosuhripäivystys. The working group gave a report and recommendations for the needed revisions in different acts and measures in November 2013⁸. The working group continues working in 2014 and the government's proposal should be given in the autumn of 2014. The National rapporteur has expressed her concerns about the working group in her report of 2013⁹. Pro-tukipiste finds that the operation of the working group was inefficient and poorly organized until the autumn of 2013. The operation of the group got better after the chairman was changed. The recommendations of the working group provide a good basis for the future developments.

The working group's recommendations for the needed developments are important and will hopefully lead to more effective and human rights based anti-trafficking policies. Pro-tukipiste is however worried that the fear of "unwanted migration" and the fear of exploitation of the anti-trafficking measures as ways to enter and stay in the country may exceed the will of developing more effective and in reality victim centered and human rights based anti-trafficking policies.

Pro-tukipiste finds that one of the biggest flaws in anti-trafficking policies in Finland is still that the possible victims of human trafficking for the purposes of sexual exploitation are not identified and do not receive access to justice and assistance they should be entitled to. They can be

⁸ In Finnish only, see (<http://www.intermin.fi/julkaisu/322013>).

⁹ Finnish National Rapporteur on Trafficking in human beings/ Kansallinen ihmiskaupparaportoiija: Kertomus 2013, p. 51 – 53.

regarded as “targets” of pandering or “unwanted migrants”, not potential victims of trafficking¹⁰. Another big flaw is the high threshold for the potential victims of trafficking for seeking assistance from the official assistance system for victims of trafficking. The reflection period for victims of trafficking is rarely given to anyone and Finnish NGO’s find it practically impossible to give information about the reflection period for potential victims of trafficking they encounter. A big problem is also that there isn’t shared understanding about the responsibilities over the delivery and funding of services for the victims of trafficking. The rights and practical possibilities for receiving services and treatment for victims of serious crimes and exploitation are all in all weak in Finland.

Pro-tukipiste finds it alarming that in the discussions of the working group appointed by the Ministry of Interiors the role of law enforcement and criminal justice proceedings is still emphasized over the rights of the victims. This comes up in the debates concerning the process of identification of the victims. The role of law enforcement is seen as crucial in the identification phase of the potential victims of trafficking and there is a debate on whether the assistance system for victims of trafficking should report to police about all the potential identified victims they encounter. Our fear is that the criminal justice and law enforcement approach is dominant and exceeds the human rights and victim centered approach in the process of developing the assistance measures for victims of trafficking and other policies targeted against trafficking in human beings.

One development that hopefully will strengthen the multisectoral cooperation in the process of identification of and providing assistance and access to justice to victims of trafficking is the appointment of the national anti-trafficking coordinator¹¹. The coordinator will be placed in the Ministry of Interiors and she/he will gather a multidisciplinary group to represent the different stakeholders that are central in the work against trafficking in human beings. The coordinator will be appointed during the spring 2014. The national coordinator will also be responsible of the process of developing the funding structures and quality criteria for the NGO’s providing

¹⁰ See e.g. the Finnish National Rapporteur on Trafficking in human beings/ Kansallinen ihmiskaupparaporttija (2013): Report 2013/Kertomus 2013.

¹¹ In Finnish only, see (<http://www.intermin.fi/julkaisu/152013?docID=44745>).

assistance for the potential and identified victims of trafficking. There is a profound lack of funding for NGO's for anti-trafficking measures, like identification of potential victims and service provision for potential and identified victims of trafficking.

16. Please provide more information on legislation governing prostitution in the State party and on clandestine prostitution in massage parlours, including information on support measures provided to persons working in parlours mentioned in the report (para. 113).

Pro-tukipiste is the only NGO in Finland providing tailored anonymous and free of charge social and healthcare services and legal counselling and assistance for persons working in the field of commercial sex. Pro-tukipiste also provides social and healthcare services and legal assistance and legal counselling for potential and identified victims of trafficking for the purposes of sexual exploitation. The offices of Pro-tukipiste are in Helsinki and in Tampere. The estimate of individual persons in contact with the organization is from 1500 to 2000 per year. The majority of of the people using the services of Pro-tukipiste are women with migrant background – the most used languages in the services are Russian, Thai, Estonian, English and Finnish. In June 2012 Pro-tukipiste had to close down the Saphaan-project targeted for Thai-speaking population working in the massage parlors because of the lack of funding. In August 2013 Pro-tukipiste managed to raise the level of funding, so we were able to restart the activity. Now there are two social and outreach workers who visit regularly massage parlors in Helsinki.

To map out the health and welfare situation of different groups working in the field of commercial sex Pro-tukipiste conducted a research project with National Institute of Health and Welfare and with peers engaged in erotic, escort or sex work¹². The study compiled basic information on the health and welfare of people engaged in erotic, escort or sex work in Finland and the prevalence of HIV and hepatitis C.

¹² Study report in Finnish: Liitsola, Kirsi; Kauppinen, Jaana; Nikula, Minna; Thesslund, Essi; Huovinen, Minna; Ollgren, Jukka; Brummer-Korvenkontio, Henriikki; Aalto, Erja (2013): "Terveyttä seksi- ja erotiikka-alalla : Erotiikka-, escort-, ja seksityötä tekevien terveys ja hyvinvointi Suomessa" (http://www.julkari.fi/bitstream/handle/10024/110829/URN_ISBN_978-952-302-105-1.pdf?sequence=1).

PRO·tukupiste

Of the total of 234 participants, 32 % filled in the Finnish, 29 % the Thai, 34 % the Russian and 4 % the English language version of the questionnaire. Erotic or sex work was likely to be the main source of income for the participants, since only one in ten respondents reported having other paid full-time occupation. The Thai language group had the worst experienced health and financial situation; this group was also least satisfied with their ability to manage daily activities and duties. Also more than half of the Russian and English-speaking respondents did not have the Finnish health insurance card and because of this did not have access to public social and healthcare services.

This study found significant differences in the health of erotic, escort and sex workers and the availability of services. The results of the survey – especially multiple deprivation, being left outside the public services and the prevalence of infectious diseases – emphasized the importance of low-threshold, tailored services for the promotion of sex workers' health and welfare. However bad and vulnerable the situation of the people working in the massage parlors is, there hasn't been any support measures targeted to the Thai speaking population in the parlours – except the two Thai-speaking social and outreach workers who are working in Pro-tukupiste.

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