**Implementation of the non-punishment principle**

**in the context of trafficking in persons**

**Submission by the Government of Finland**

**12 February 2021**

The Government of Finland welcomes this opportunity to submit information on the implementation of the non-punishment principle in the context of trafficking in persons to the Special Rapporteur on trafficking in persons, especially women and children.

In Finland, there are general provisions in the Criminal Code and in the Criminal Procedure Act on the possibility of not prosecuting or punishing persons for offences they have committed. These provisions apply to all offences and there are no special provisions for any specific offences, such as trafficking in human beings (THB).

According to Chapter 4, section 4 of the Criminal Code, a victim of THB is entitled to self-defence against an ongoing or imminent unlawful attack, and according to Chapter 4, section 5 of the Criminal Code, a victim of THB is entitled to commit an act other than self-defence, if the act is necessary to ward off an immediate and compelling threat to a legally protected interest, an act of necessity. Furthermore, under Chapter 6, section 12 of the Criminal Code, a court may waive a punishment, *e.g.* in cases where the act is deemed comparable to an excusable act. Moreover, under Chapter 17, section 7, of the Criminal Code, a foreigner who has committed a border offence due to the fact that he or she has been subjected to THB shall not be punished for it.

Moreover, under Chapter 1, sections 7 and 8 of the Criminal Procedure Act, the prosecutor may waive prosecution in situations referred to therein, in particular if criminal proceedings and punishment are to be deemed unreasonable or inappropriate. A pre-trial investigation can be restricted on the same grounds based on Chapter 3, section 10 of the Criminal Investigation Act.

Furthermore, according to Chapter 3, section 3 of the Criminal Investigation Act, the criminal investigation authority shall conduct an investigation only when, on the basis of a report made to it or otherwise, there is reason to suspect that an offence has been committed.

Finally, it is always weighed on a case-by-case basis if an act committed by a victim of THB includes guilt or intent required by an intentional criminal act. Thus, also according to Chapter 10, section 2 of the Criminal Investigation Act, a criminal investigation shall be concluded without submitting the matter to the consideration of the prosecutor if the investigation has shown that no offence has been committed or that no charges may be brought against anyone.

The newly issued instructions to the police take into account the possibility that the victim of THB may have been forced to commit crimes. All circumstances around a committed crime need to be taken in consideration. Also, the principle of non-punishment has been included in the THB training for prosecutors since the beginning of 2021.

In practice, however, there is some indication that victims of THB are not always identified during the criminal proceedings. According to a report concerning female prisoners (*Naisvankiselvitys - Selvitys naisvankien olosuhteista, toiminnoista ja turvallisuudesta; Rikosseuraamuslaitoksen monisteita 4/2020*) published in October 2020, there are women among prisoners that have not been identified as victims of THB in the criminal proceedings. An assessment on the non-punishment provisions and practices is planned to be included in a new National Action Plan against THB, which has been drafted by an inter-administrative working group set by the Ministry of Justice. The Action Plan is to be published later on in the spring 2021. The police instructions will be updated accordingly in due time.

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