



The Task Force against Trafficking in Human Beings (TF-THB) is composed of trafficking experts from government ministries in all the 11 Council of the Baltic Sea States capitals and is mandated to counteract all forms of trafficking in human beings in the Baltic Sea Region through preventive and protective activities.

The TF-THB Secretariat, a joint part of the CBSS Secretariat in Stockholm, is responsible for project management and the implementation of practical, hands-on projects, including:

- Training Seminars on Human Trafficking for Diplomatic and Consular Personnel in the CBSS Region in partnership with the International Organization for Migration (IOM)
- Joint Project with the United Nations Office on Drugs and Crime (UNODC) on Fostering NGO – Law Enforcement Cooperation in Preventing and Combating Human Trafficking in, from and to the Baltic Sea Region
- Safe Trip Information Campaign against Trafficking in Human Beings
- Improved Data Collection and Support to Research on Human Trafficking in the Region - Publication Hard Data: Data Collection Mechanism in the Baltic Sea Region
- Model Memorandum of Understanding between Law Enforcement and Service Providers in Assistance to Victims
- Data and Education Project on Forced Labour Exploitation and Counter Trafficking (DEFLECT) Project



MODEL MEMORANDUM OF UNDERSTANDING

CBSS Task Force against Trafficking in Human Beings

This project is financed by the Baltic Sea Unit of the Swedish International Development Cooperation Agency (Sida)
www.sida.se/balticseaunit



Council of the Baltic Sea States Secretariat
Slussplan 9
P.O. Box 2010
SE-103 11 Stockholm, Sweden
+46 8 440 19 20
trafficking@cbss.org
www.cbss.org/tfthb
[www.twitter.com/tfthb](https://twitter.com/tfthb)
www.facebook.com/tfthb
www.safetrip.se

In 2009, TF-THB and the United Nations Office on Drugs and Crime (UNODC) conducted an assessment study entitled Human Trafficking in the Baltic Sea Region: State and Civil Society Cooperation on Victims Assistance and Protection. The findings stressed the need for greater communication and cooperation between the State actors and NGOs in this field. The principle recommendation of the study was the formalisation of cooperation agreements between key counter trafficking actors.

Memoranda of Understanding (MoU) are regarded by experts as the most effective type of formalised cooperation agreement. When implemented effectively, MoUs help to:

- **Foster a common understanding of objectives, procedures and roles**
- **Build trust and confidence**
- **Improve transparency and reduce bureaucracy**
- **Establish recognised limitations**
- **Provide an objective frame of reference to measure progress**
- **Reinforce accountability on both sides**

Cooperation is the key to combating the multifaceted crime of human trafficking and to protecting its victims. Law enforcement agencies, governmental and non-governmental organisations have different functions, expertise and institutional capacities that need to be clearly defined to enable them to work together complementarily.

To this end, MoUs are an effective tool for enhancing victim assistance and protection which is associated with a greater willingness of victims to cooperate in investigations, thus improving the level of prosecutions in trafficking cases.

The TF-THB developed a model MoU based on the UN.GIFT/IOM. 2009. *Guiding Principles on Memoranda of Understanding between Key Stakeholders and Law Enforcement Agencies on Counter-Trafficking Cooperation* and on the principle of non-discrimination and the promotion of a victim-centred and human rights approach.

The structure of the MoU, with a general umbrella section and specific annex(es) has been designed to allow for different bilateral agreements to be developed through the addition of annexes, tailored to the specific relationships.

The project had the objective of clarifying and enhancing cooperation between law enforcement agencies and specialist service providers in the provision of assistance to victims of human trafficking for sexual exploitation, as this is the most observed form of trafficking in the Region.

On 23 March 2011, the TF-THB and the Norwegian Ministry of Justice and the Police convened over 40 experts in Oslo to discuss how formalised cooperation agreements can enhance the provision of assistance to victims of human trafficking. The benefits of such agreements were presented by a representative from the UNODC before the TF-THB launched its Model MoU for the Baltic Sea Region.

Experts from law enforcement agencies, specialist service providers and national coordinators engaged in productive discussions concerning the implementation of the Model MoU in national groupings and drew upon the international and regional knowledge of the UNODC and TF-THB, as well as the experience of Germany and Lithuania where similar MoUs are already in place.

The Model MoU, revised in line with the consensus found through discussions at the Expert Seminar, will serve as a template for CBSS Member States to adapt and tailor to their national requirements and unique cooperation relationships.



MEMORANDUM OF UNDERSTANDING ON COUNTERING TRAFFICKING IN HUMAN BEINGS

Pursuant to the:

- UN Convention against Transnational Organized Crime, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter: the Palermo Protocol);
- [Council of Europe Convention on Action against Trafficking in Human Beings (CETS 197) (hereinafter: the Council of Europe Convention)];
- [European Council Directive (2004/81/EC) on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities];
- [European Union Directive (2011/36/EU) of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA];
- Section [Number] of the Penal Code of [Member State];
- Section [Number] of the [Legislation] of [Member State];
- Section [Number] of the [Legislation] of [Member State];
- Section [Number] of the [Legislation] of [Member State];
- National Action Plan or equivalent cooperation model of [Member State] [Name/Date of NAP]; the following

MEMORANDUM OF UNDERSTANDING

between the [Ministry of], [Ministry of]..., the [Police] Directorate, non-governmental organization(s) (hereinafter: NGO) [Name of NGO], [Name of NGO] ..., Service Providers [Name of Service Providers], [Name of Service Providers]..., (hereinafter: Memorandum signatories), and with the aim of better cooperation in the fight against human trafficking in practice, through prevention, education, reporting, the criminal prosecution of the perpetrators and the protection of potential and actual victims of human trafficking (hereinafter: presumed victim), is hereby adopted.

Article 1

According to Section [Number] of the Penal Code of [Member State] Trafficking in Persons shall mean [...]

Furthermore, taking into consideration Article 3 a) of the Palermo Protocol [and Article 4 a) of the Council of Europe Convention], which states that Trafficking in Persons shall mean "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs".

Article 2

The purpose of this Memorandum is cooperation on the:

1. prevention of trafficking in human beings;
2. education and training about trafficking in human beings;
3. reporting and the criminal prosecution of the perpetrators;
4. protection of presumed victims with utmost respect of their human rights with the goal of securing them physical, psychological, health and social protection and facilitating their integration into the new community, or reintegration in cases of return to the country of origin; and
5. compensation of presumed victims

Article 3

The cooperation is based on principles of respect, transparency and clear determination of obligations of Memorandum signatories established in the annex(es) to the Memorandum.

Article 4

Memorandum signatories agree that the provision of assistance to presumed victims in accordance with this Memorandum, will not be based on any conditions related to cooperation; that is the presumed victim's cooperation in any possible criminal procedure related to the crime of human trafficking.

Article 5

Memorandum signatories accept the obligation to exchange information, within the limits of their legal authority, which are needed to provide best possible protection to presumed victims in line with Article 3 of this Memorandum.

Article 6

A coordination mechanism should be established to monitor and evaluate the implementation of this Memorandum as well as to settle any disputes between Memorandum signatories pertaining to the implementation of this Memorandum, its feasibility or legality.

Article 7

Individual annexes defining duties and obligations of all Memorandum signatories are the integral part of this Memorandum.

Article 8

This Memorandum shall be applied as of the day of its signing.

Article 9

Upon the expiration or termination of this Memorandum, service providers will endeavour to transfer, in accordance with national legislation and the principle of confidentiality, relevant information about trafficking in human beings to the *[Name of appropriate co-ordinator]*.

Article 10

The Memorandum and the individual annexes are prepared in *[Number]* equivalent copies, out of which each of the signatories keeps one.

In *[Place]*, on *[Date]*

Memorandum of Understanding No. *[Number]*



Annex [Number] to the Memorandum of Understanding on Countering Trafficking in Human Beings, relating to the area of NGO or Service Provider activities on prevention and protection of human trafficking victims for sexual exploitation and cooperation with Law Enforcement Agencies

Number: [Number]
In [Place], on [Date]

Pursuant to the Memorandum of Understanding No. [Number] of [Date], non-governmental organization(s) (hereinafter: NGO) [Name of NGO], [Name of NGO] ..., and Service Provider(s) [Name of Service Provider], [Name of Service Provider] ... hereby adopt

ANNEX TO THE MEMORANDUM OF UNDERSTANDING ON COUNTERING TRAFFICKING IN HUMAN BEINGS, RELATING TO THE AREA OF NGO OR SERVICE PROVIDER ACTIVITIES ON PREVENTION AND PROTECTION OF HUMAN TRAFFICKING VICTIMS FOR SEXUAL EXPLOITATION AND COOPERATION WITH LAW ENFORCEMENT AGENCIES

Article 1

This Annex regulates mutual cooperation between NGOs and/or Service Providers and Law Enforcement Agencies and defines the role of the NGO and/or Service Provider and the Law Enforcement Agency in prevention, education and assistance to the victims of human trafficking (hereinafter: presumed victim) and their protection.

Article 2 – Palermo Protocol

According to Article 6.2 of the Palermo Protocol:

“Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

- a) Appropriate housing;
- b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
- c) Medical, psychological and material assistance; and
- d) Employment, educational and training opportunities.”

[Article 3 – Council of Europe Convention

According to Article 12 of the Council of Europe Convention:

“1. Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least:

- a) standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;
- b) access to emergency medical treatment;

- c) translation and interpretation services, when appropriate;
- d) counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;
- e) assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
- f) access to education for children.

2. Each Party shall take due account of the victim's safety and protection needs.
3. In addition, each Party shall provide necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help.
4. Each Party shall adopt the rules under which victims lawfully resident within its territory shall be authorised to have access to the labour market, to vocational training and education.
5. Each Party shall take measures, where appropriate and under the conditions provided for by its internal law, to co-operate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in assistance to victims.
6. Each Party shall adopt such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on her or his willingness to act as a witness.
7. For the implementation of the provisions set out in this article, each Party shall ensure that services are provided on a consensual and informed basis, taking due account of the special needs of persons in a vulnerable position and the rights of children in terms of accommodation, education and appropriate health care.”]

Article 4 – Rights of the Presumed Victim

- 4.1 The presumed victim will be treated with dignity and respect and allowed to make full use of their rights.
- 4.2 The presumed victim will not be forced to contact the Law Enforcement Agency if she or he does not want to, unless otherwise required by national legislation.
- 4.3 Assistance to the presumed victim, inter alia, staying at a shelter, physical, medical, psychological and social recovery, will be provided on a consensual and informed basis and will not be made conditional on her or his participation in any criminal investigation and/or legal proceedings.
- 4.4 [In accordance to Article 12.1 d) of the Council of Europe Convention,] the presumed victim will receive “counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand.”
- 4.5 Information identifying the presumed victim will not be shared with other agencies or NGOs without the consent of the presumed victim, in accordance with the principle of confidentiality and anonymity.

Article 5 – Provisions by NGOs or Service Providers

- 5.1 The NGO or Service Provider will provide the presumed victim with:
 - a) psychological, legal and material – appropriate lodging, residence, food, clothing and footwear – assistance whether she or he chooses to stay in the shelter or elsewhere;
 - b) support in the obtaining of health protection in public health institutes, as well as other types of care during the period of recovery;

- c) advice and information, especially in relation to the exercising of their human rights, the institution, mandate and likely future course of any legal proceedings, in a language that they understand;
- d) assistance in integration and reintegration in case of their continued residence in the country of destination, including, if possible, assistance in finding employment;
- e) assistance in integration and reintegration in case of their return to the country of origin;
- f) assistance in contacting his/her family and maintaining that contact during the stay in, and after leaving, the shelter; and
- g) support during the entire duration of any resulting criminal investigation or legal proceedings, and after their conclusion if required.

5.2 The presumed victim will have the right to determine the gender of the NGO or Service Provider representative present at an interview.

5.3 The presumed victim will have the right to determine the gender of the NGO or Service Provider representative who will render assistance to them before, during and after crime scene inspections, interviews and/or legal proceedings.

5.4 The NGO or Service Provider will protect data related to the identity of the presumed victim in accordance to national legislation.

5.5 The NGO or Service Provider will provide information to the presumed victim on the origins, methods and consequences of human trafficking.

5.6 The NGO or Service Provider will support the presumed victim in arranging assistance for the presumed victim's child(ren) or dependent(s).

Article 6 – Measures of the Law Enforcement Agency

6.1 As soon as the Law Enforcement Agency suspects that the person is a presumed victim it will immediately establish contact with the NGO or Service Provider and the special police unit responsible for protection measures.

6.2 The Law Enforcement Agency will inform the presumed victim, upon first contact and in a language that they can understand, of her or his rights and the possibility of receiving support from an independent service – the NGO or Service Provider.

6.3 The Law Enforcement Agency will provide translation and interpretation services, when appropriate.

6.4 The Law Enforcement Agency will conduct a risk assessment and carry out the necessary measures for the protection of the persons affected before, during and after any criminal investigation or legal proceedings.

6.5 The Law Enforcement Agency will conduct interviews and informal consultations in a sensitive manner to avoid triggering grief reactions, emotional stress and anxiety.

6.6 The Law Enforcement Agency will inform the presumed victim that he or she can voluntarily cooperate in any resultant criminal investigation or legal proceedings.

6.7 The Law Enforcement Agency will provide a recovery and reflection period of [Duration] in accordance with national legislation. This provision is without prejudice to the activities carried out by the Law Enforcement Agency.

6.8 The Law Enforcement Agency will carry out the mandatory security screenings of the NGO and Service Provider and the necessary undertakings.

6.9 The Law Enforcement Agency will ensure the security of the presumed victims and employees or volunteers of the NGO or Service Provider.

Article 7 – Cooperation between the NGO or Service Provider and the Law Enforcement Agency

7.1 The Law Enforcement Agency and the NGO or Service Provider will

- a) operate on the basis of cooperation in a spirit of trust to protect presumed victims;
- b) enhance efforts to prevent and prosecute cases of human trafficking; and
- c) handle the formalities with the appropriate authorities in close cooperation.

7.2 The NGO or Service Provider will be granted the right to be present during all interviews of the presumed victim, if so desired by the latter, by the Law Enforcement Agency, the public prosecutor and the court.

7.3 The NGO or Service Provider will cooperate with [appropriate agency/authority] on the exercising of presumed victims' rights in the area of social, child and family-legal protection.

7.4 The NGO or Service Provider will inform the Law Enforcement Agency, the [public prosecutor], as well as the [National Coordinator or equivalent institution], without breaking the principle of confidentiality, of

- a) any security-relevant developments for the presumed victims, also with regard to their countries of origin, or for the NGO or Service Provider staff or the interpreters;
- b) any important information in connection with the offence of trafficking in human beings;
- c) any information of relevance to the investigation, if consent for its disclosure has been given by the presumed victim, unless otherwise required by national legislation

7.5 The Law Enforcement Agency will inform the NGO or Service Provider, without breaking the principle of confidentiality, of

- a) any security-relevant developments for the presumed victims, also with regard to their countries of origin, or for the NGO or Service Provider staff or the interpreters; and
- b) any important information in connection with carrying out qualified protection.

7.6 The Law Enforcement Agency and/or the NGO or Service Provider will record and submit disaggregated statistics according to the [National data collection mechanism] to the National Rapporteur or equivalent focal point in accordance with the principle of confidentiality, national laws and the national reporting mechanism.

Article 8 – Cooperation between the NGOs and/or Service Providers

8.1 The NGO or Service Provider will establish and maintain local, regional and international cooperation with similar organizations.

8.2 The NGO or Service Provider will appoint a contact-person to monitor the implementation of activities and measures of the Memorandum.

Article 9 – Cooperation between the Law Enforcement Agencies

9.1 The Law Enforcement Agencies will establish and maintain local, regional and international cooperation with similar Law Enforcement Agencies.

9.2 The Law Enforcement Agencies will appoint a contact-person to monitor the implementation of activities and measures of the Memorandum.

In [Place], on [Date]

Memorandum of Understanding No. [Number]