Model Memorandum of Understanding between Law Enforcement Agencies and Specialist Service Providers in the Baltic Sea Region

Expert Seminar Report
The Council of the Baltic Sea States (CBSS) is a regional inter-governmental organisation composed of the 11 states of the Baltic Sea Region as well as the European Commission:

Denmark | Estonia | Finland | Germany | Iceland | Latvia | Lithuania | Norway | Poland | Russian Federation | Sweden |

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

This project is financed by the Baltic Sea Unit of the Swedish International Development Cooperation Agency (Sida)

www.sida.se/balticseaunit
Stockholm, June 2011

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List of Acronyms

CBSS  Council of the Baltic Sea States
EC    European Commission
IOM   International Organization for Migration
KOM   Anti-trafficking National Coordination Unit, Norway
LEA   Law Enforcement Agency
MoU   Memorandum of Understanding
NAP   National Action Plan
NGO   Non-Governmental Organisation
NRM   National Referral Mechanism
ODIHR Office for Democratic Institutions and Human Rights
OSCE  Organization for Security and Co-operation in Europe
ROSA  Re-establishment, Organizing Safe Accommodation, Safety and Assistance Project, Norway
SPMU  OSCE Strategic Police Matters Unit
TF-THB Task Force against Trafficking in Human Beings
TOT   Inter-Agency Operative Teams, Norway
UN.GIFT United Nations Global Initiative to Fight Human Trafficking
UNODC United Nations Office on Drugs and Crime
Project Background

Cooperation between different actors, both on an operative and policy level, is the key to effectively combating trafficking in human beings and to protecting its victims. Law enforcement agencies, governmental and non-governmental organisations (NGOs) have different functions, expertise and institutional capacities that need to be clearly defined to enable them to effectively work together. By clearly defining those aspects, formalised cooperation agreements such as Memoranda of Understanding (MoUs) can bridge communication gaps and build on existing trust relationships. MoUs can also foster a common understanding of the objectives, roles and responsibilities of the different stakeholders and help them to overcome discrepancies in the definitions and approaches applied at the operational level.

The decision to promote formalised cooperation between law enforcement agencies and service providers assisting victims of trafficking for sexual exploitation was a key recommendation of the joint United Nations Office on Drugs and Crime (UNODC) and the Council of the Baltic Sea States (CBSS) Task Force against Trafficking in Human Beings (TF-THB) assessment study on Human Trafficking in the Baltic Sea Region: State and Civil Society Cooperation on Victim Assistance and Protection.¹

“The option of developing a model MoU (or model MoUs) agreed upon by the CBSS countries could help optimise the enhancement of responses at the national as well as the regional level.”

TF-THB – UNODC (2010; 45)

The development of a MoU should form an essential and complementary component of a country’s National Referral Mechanism (NRM).² In this regard, MoUs can further strengthen efforts to coordinate stakeholders both from the state and civil society in ensuring that the human rights of the trafficked persons are fully respected as well as being a key tool for effective community policing.³

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The Expert Seminar

On 23 March 2011, the TF-THB convened an Expert Seminar attended by 10 law enforcement officers, 15 representatives from specialist service providers and 13 delegates from government ministries or national coordination agencies that are in a position to oversee formalised cooperation in the area of counter trafficking.

The seminar (see seminar agenda in Annex 1) was opened by Jan Austad, the current Chair of the TF-THB from the Norwegian Ministry of Justice and the Police, who welcomed all the participants and underlined the TF-THB’s ambition to create a valuable tool for cooperation between law enforcement agencies and specialist service providers.

Anna Ekstedt, Senior Adviser to the TF-THB, moderated the Seminar. As a start she guided participants through the background of the project and highlighted that the experts had been invited to the seminar to discuss the benefits and difficulties of implementing a MoU as well as to share their needs and experiences. The rationale behind the seminar was not to agree on the exact formulation of a MoU that would fit the requirements and needs of each CBSS Member State, but rather to agree on a Model MoU that could be used as a framework when developing MoUs on a national level.

Barbara Sidoti, Associate Expert to the Anti-Human Trafficking and Migrant Smuggling Unit UNODC and author of the assessment study Human Trafficking in the Baltic Sea Region, established the regional context and provided an overview of existing cooperation mechanisms and practices in the Region. She also outlined the areas for improvement that she identified when researching the study; including, victim identification, referral to specialist service providers and the effectiveness of criminal proceedings. Ms. Sidoti highlighted that a key recommendation of the study was the implementation of MoUs between law enforcement agencies and service providers. By reconciling the mutual interests of these two groups, Ms. Sidoti advocated that MoUs would enhance measures to protect and assist victims and thus improve victim cooperation with law enforcement, a key component in successful prosecutions.

Ciaran Morrisey, Project Officer to the TF-THB, presented his draft Model MoU for the Baltic Sea Region that was the basis of discussions in the seminar. He explained the development of the Model and the factors taken into consideration when deciding upon the structure. Principally, this structure drew upon the recommendations of both the TF-THB – UNODC assessment study and the Guiding Principles on Memoranda of Understanding between Key Stakeholders and Law Enforcement Agencies on Counter-Trafficking Cooperation developed by the International Organization for Migration (IOM) and United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) Expert Group Initiative on Cooperation between law enforcement institutions and stakeholders. Mr. Morrisey walked participants through the

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Model MoU, elaborating on the rationale behind each of the clauses that it contained.

In concluding his presentation, Mr. Morrisey posed a number of questions to the participants that were to serve as an anchor for the subsequent discussions in national groupings before participants reported back in the plenary sessions.
Discussion Points

Initial discussions underlined that in each of the 11 CBSS Member States a centralised agency or inter-ministerial working group was in place that had, among other functions, the role of coordinating the different stakeholders working to counter human trafficking. These coordination mechanisms met periodically and, in most cases, comprised of both governmental and non-governmental actors. However, as found in the TF-THB – UNODC assessment study, cooperation between stakeholders principally existed on an informal basis in all countries, with the exception of Germany and Lithuania where MoUs were in place.

A distinct division emerged in how cooperation functions in practice between the larger and smaller countries during the first round of discussions. The smaller CBSS Member States echoed each other in saying that, as there were relatively few stakeholders working in this field, cooperation was voluntary and on an informal basis. The cooperation was characterised by personal relationships and it was dependant on committed individuals. The larger Member States stressed the role of existing coordination mechanisms in structuring cooperation. The also noted that it focuses on the establishment of relationships at the regional or municipality level where informality is more feasible. The general consensus was that while the existing informal systems functioned quite well they were vulnerable to changes in personnel or the breakdown in personal relationships. Thus informal cooperation may not be sustainable over a longer term and MoUs offer stability to those relationships.

The potential for MoUs to supplement and reinforce existing cooperation structures was acknowledged by a number of CBSS Member States. However, some also cautioned that care should be taken not to duplicate or jeopardise existing relationships. In this regard, Germany saw greater potential in developing agreements between fledgling NGOs that were trying to establish themselves. It felt that they had the most to benefit from being placed on a more equal and transparent footing that is clearly outlined in a formal agreement when liaising with stakeholders. In order to further balance the relationship, Germany stressed the need to settle questions of financing separately, particularly when one of the stakeholders is an NGO, as any agreement that introduced an element of financial dependency would undermine its goal of building trust and confidence.

Several countries reported that during the discussions in national groupings a number of interesting differences of opinions about the respective roles and obligations of law enforcement agencies and specialist service providers had been raised. These perspectives had not previously been voiced in the context of the existing coordination mechanisms. Those countries noted that by tabling the Model MoU the seminar had been a useful exercise in self-awareness, the ownership of roles and responsibilities and how those relate to other stakeholders. Countries further acknowledged the necessity of clarifying the operational roles as currently practiced before engaging in a discussion about co-ordinating operational roles through a MoU.
One concern raised by the Estonian delegation related to the need to maintain the autonomy of specialist service providers, especially NGOs, from law enforcement agencies. The autonomy of NGOs is important in terms of the safety of both the victims and the NGO workers. Estonia cautioned that formalised cooperation between the law enforcement agencies and the NGOs could impede the NGO’s work in the field if the victim that they sought to assist felt that the autonomy of the NGO had been compromised.

This broached the subject of confidentiality and necessity to refer a crime to the police. Estonia noted that the exchange of information between a specialist service provider and a law enforcement agency is conducted on the basis of need, not obligation. The exception to this being that a specialist service provider is obliged to inform the police of a crime or of minors who are in danger. In Estonia, specialist service providers work closely with lawyers to help them to decide whether there are elements of crime in a certain case and therefore whether it should be referred to the police. Estonia, Iceland and Lithuania raised concerns that victims would find it harder to trust an NGO if it was too closely associated with the police, however, they also acknowledged the dilemma faced by a specialist service provider when assisting a victim if they felt that reporting the case to the police might help other victims. It was concluded that clear guidelines to show at what point police should become involved in a case would have to be agreed upon. Those guidelines must also stipulate that law enforcement agency that has identified a victim of trafficking must refer her/him to a specialist service provider.

Germany concurred that the Model MoU should be seen as a flexible framework that could be added to, edited and amended according to national needs. It proposed a slight amendment to the Model to extend the legal basis beyond the penal code to include other aspects of national legislation as well as referencing European Commission (EC) Directives. It also suggested that a clause dealing with compensation to victims of trafficking should be added. From its experience of implementing MoUs, the German delegation proposed omitting the need to identify a person or agency to monitor the implementation of the MoU. An additional proposal was to remove the period of validity, as the inclusion of a date of expiry would increase bureaucracy. Lithuania noted that for its MoUs the duration of validity was bounded by the existence of the signatories and their continued commitment to the MoU. If one party ceased to exist or if both parties agreed to terminate the agreement then it would be dissolved.
Looking Ahead to Implementation

Following on from the discussions in the national groupings and plenary sessions about the advantages and potential disadvantages of formalised cooperation as well as the obstacles to developing MoUs in each of the CBSS Member States, country delegations were asked to consider the steps that should be taken to resolve the issues raised in the morning session. The scope for implementing a MoU was also considered.

Lithuania shared its experience of implementing MoUs between the police and NGOs in its ten municipalities. It reported that the first version was signed in December 2004 and the next in March 2006. The MoUs focus on three forms of cooperation: firstly, the sharing of information; secondly, rendering assistance to victims of trafficking; and thirdly, organising conferences to facilitate learning together. The MoUs also require police stations to display information about NGOs in their localities in order to provide the right information to the public and victims.

Lithuania announced that it would consider initiating a review of the existing agreements with a view to updating and amending those MoUs to incorporate some of the clauses discussed during the seminar. For example, in its current MoUs there are no provisions for monitoring the agreement or reviewing how victims are actually treated. Therefore, Lithuania would consider conducting a review of human trafficking cases from 2006 to evaluate the quality of the assistance rendered based on the present situation of the previous victims. There was also scope for extending the existing MoUs to other stakeholders such as, child protection services, legal services and labour inspectorates. Lithuania also alluded to some of the challenges that it had encountered due to the fact that the municipalities enjoyed considerable independence. The notion of launching MoUs on a municipality or regional level was supported by other states.

In 2010, Poland set up a specialist human trafficking task force that was being piloted in one region to coordinate cooperation between several actors, including labour inspectors and prosecutors. Poland proposed incorporating MoUs into the work of the task force with the ambition of extending this structure to other regions if the pilot was successful.

Sweden saw merit in the Polish approach. It would also look into piloting a MoU in the Stockholm region before considering a wider implementation strategy. It took on board Lithuania’s remarks concerning the independence of the municipalities and the potential obstacles that that can generate. This could be relevant in the Swedish context as the municipalities also enjoy a high degree of autonomy. Nevertheless, Sweden proposed that an approach on the municipality level would provide the best fit to the way that stakeholders in the field, such as social services and police, are organised. A similar approach was proposed by the Icelandic, Danish and German delegations.
Latvia had long supported the development of MoUs and included this as part of its latest National Action Plan (NAP 2009-13). It saw considerable merit in formalised cooperation, particularly between police, border guards, prosecutors and service providers, such that it had already commenced work on developing a MoU based on the draft TF-THB Model MoU. Latvia declared that it would continue to develop these bilateral agreements and explore the use of MoUs between other actors. It welcomed the possibility to gather experience from other countries in the Region and to learn from their experiences.

The Russian Federation announced its intention to organise a stakeholder meeting between the ten agencies and the NGOs working in this field in Russia to discuss how to best improve cooperation and that the Model MoU would be tabled as a possible tool for achieving this aim. Estonia also resolved to raise the Model MoU in its forthcoming human trafficking coordination meeting.

Norway declared that the development of a MoU was already high on its agenda. It added that the Anti-trafficking National Coordination Unit (KOM) and the Inter-Agency Operative Teams (TOT) were well placed to oversee the implementation of MoUs between state and civil society actors on a national and municipality level, respectively. KOM expressed the ambition of developing agreements between all the stakeholders in its reference and project groups as well as between those stakeholders and KOM itself. The primary benefit of this would be to clarify roles and responsibilities of stakeholders as well as to support recent initiatives by the police and service providers both on a local and municipality level.

Norway also saw potential for expanding this project and it would also explore the possibility of implementing MoUs between other configurations of stakeholders, including the ROSA Project and the specialist police units, child support services, social services and the immigration directorate.

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6 On 27 May 2011, a draft MoU was developed between the specialist unit combating trafficking in human beings of the Latvian State Police and the NGO Shelter Safe House. Latvia plans to sign the MoU in early autumn 2011 (Discussed at the TF-THB meeting 9 June 2011).

7 Latvia has subsequently distributed the Model MoU to the State Border Guard with the aim of establishing formalised cooperation between it and the NGO Shelter Safe House (Discussed at the TF-THB meeting 9 June 2011).

8 On 3 May 2011, Estonia presented the Model MoU to a roundtable of human trafficking actors, including representatives from the Ministry of Social Affairs, Ministry of Justice, Ministry of Foreign Affairs, Ministry of the Interior, several NGOs (victim support and shelters), European Migration Network, Estonian Unemployment Insurance Fund, State Prosecutor’s Office, Northern District Prosecutor’s Office, Police and Border Guard Board, Institute for Health Development, Tallinn Social Welfare and Health Services Board, University of Tartu, IOM and the US Embassy. The Model MoU was presented from the viewpoint of cooperation between victim support NGOs and the police, but alternative or additional cooperation agreements between NGOs and local authorities might also be discussed in the future. There had been initial discussion of the Model MoU, and it had been decided to convene specific participating drafters in autumn (Discussed at the TF-THB meeting 9 June 2011).
Conclusions

The Expert Seminar provided operative actors with the opportunity to sit down in national groups to reflect upon how their own roles and responsibilities are perceived by their counterparts in law enforcement agencies or specialist service providers. Delegations entered into these discussions fairly confident of their awareness of those roles but it soon became apparent that, even where existing cooperation mechanisms were in place, there was often disagreement about the exact nature of each party’s responsibilities and the procedures that should be followed when dealing with human trafficking cases. These misunderstandings have the potential to adversely impact upon multi-stakeholder cooperation, thus reducing the effectiveness of victim assistance and the successful prosecution of traffickers. It is unrealistic to believe that a formalised cooperation will resolve all of the issues raised during the seminar, but a carefully tailored MoU would go some way to clarifying the relationship between stakeholders.

The task of adapting the Model MoU to national requirements will not be easy. Indeed, it will require prolonged discussions and additional negotiations on national level. The one day seminar in Oslo highlighted that exercises similar to this event, where room is given for open dialogue, are very beneficial. It is only through active dialogue that stakeholders will be able to clarify their position, resolve disagreements and build trust and confidence that will form the basis for mutually agreed upon cooperation. Thus, there is a lot of work ahead before enhanced victim assistance and protection can be realised and the benefits reflected in terms of higher conviction rates for traffickers. But, that there is still much work to be done only serves to underline that there are substantial rewards to be reaped.

The Information Brochure is attached here in Annex 2. The Model MoU and the Annex between specialist service providers and law enforcement agencies are attached here in Annex 3 and 4, respectively.

All of the documents are also available for download in editable format, alongside the presentations from the Expert Seminar, from the following website: http://bit.ly/TFTHB_MoU
Annex 1: Seminar Agenda

Expert Seminar on a model Memorandum of Understanding between Law Enforcement Agencies and Specialist Service Providers in the Baltic Sea Region

23 March 2011, Oslo Congress Centre, Oslo, Norway

Agenda

09.00 - 09.30 Arrival and Registration
   Room ODIN, Oslo Congress Centre, Oslo

09.30 - 09.45 Welcome Address
   Mr. Jan Austad, Senior Adviser
   Ministry of Justice and the Police
   Chair of the CBSS Task Force against Trafficking in Human Beings

09.45 - 10.10 Human Trafficking in the Baltic Sea Region: State and Civil Society Cooperation on Victim Assistance and Protection
   Ms. Anna Ekstedt, Senior Adviser
   CBSS Task Force against Trafficking in Human Beings

10.10 - 10.30 Memoranda of Understanding
   Ms. Barbara Sidoti Associate Expert, Anti-Human Trafficking and Migrant Smuggling Unit
   United Nations Office on Drugs and Crime (UNODC)

10.30 - 10.50 Discussion about cooperation in combating Trafficking in Human Beings

10.50 - 11.05 Break

11.05 - 11.30 Presentation of the CBSS TF-THB Model Memorandum of Understanding
   Mr. Ciaran Morrisey, Project Officer
   CBSS Task Force against Trafficking in Human Beings

11.30 - 12.30 Working Group Discussions: Session One
   (Divided by country)

12.30 - 13.30 Lunch
13.30 - 14.15  Working Group Reporting: Session One

14.15 - 14.45  Questions and Discussion
   Questions directed to the panel of presenters

14.45 - 15.30  Working Group Discussions: Session Two
   (Divided by country)

15.30 - 15.45  Break

15.45 - 16.15  Questions and Discussion
   Questions directed to the panel of presenters

16.15 - 16.30  Looking Ahead and Closing Remarks
   Ms. Anna Ekstedt, Senior Adviser
   CBSS Task Force against Trafficking in Human Beings
MODEL MEMORANDUM OF UNDERSTANDING
CBSS Task Force against Trafficking in Human Beings
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 complementary.

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

The structure of the Model 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 and tailored to specific relationships.

This 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.

The Task Force against Trafficking in Human Beings (TF-THB) is composed of trafficking experts from government ministries in all of 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, a 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

This project and MeDi is financed by the Baltic Sea Unit of the Swedish International Development Cooperation Agency (SIDA) www.sida.se/balticunit

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Annex 3: Model Memorandum of Understanding

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];
- 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 [...]
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 4: Model Memorandum of Understanding (Annex between Service Providers and Law Enforcement Agencies)

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, 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]