

# The rights of the victims in the criminal trial in Sweden Human Trafficking

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# Human trafficking in Sweden

- Destination country, to a lesser extent origin and transit country.
- Mostly observed in the three biggest cities Stockholm, Gothenburg and Malmö.
- All forms occurs; sexual and labor exploitation, forced begging and criminal actions.
- Most common identified form is sexual exploitation. Since 2010, forced labor, begging and criminality has emerged



# Criminal Justice Responses

Official data from 2015

## DATA ON CRIMINAL JUSTICE RESPONSES

179

Trafficking crimes reported  
by the Police

Trafficking for sexual exploitation: 58  
Trafficking for forced labour: 21  
Trafficking for begging: 55  
Trafficking for war service: 1  
Other: 44

2

Persons charged for  
human trafficking

1 female, 1 male, from Romania,  
sexual exploitation.

2

Persons convicted on  
human trafficking

1 female, 1 male, from Romania,  
sexual exploitation.

- The number of conviction are very low in Sweden.
- Many cases of human trafficking for sexual purposes ends up as cases of procurity.
- The legislation is now under evaluation. Two new forms of crimes are considered. They are to be used for exploitation of other forms, that are not fully possible to charge as cases of human trafficking
- Reported cases of human trafficking against children has few positive results.
- All THB-cases are now re-examined to see what could be improved.

# Swedish Legislation

## **Criminal Law:**

All forms of Trafficking in Human Beings (*Criminal Code*)

Commercial Sexual Exploitation of Children for eg. child pornography)

The Sex Purchase Act

For children; illegal domestic and abroad

For adults; illegal domestic abroad is under evaluation

## **Asylum Law:**

Grounds for asylum for eg. torture/gender (*Aliens Act*)

# National Action Plan

Sweden currently has no National Action Plan concerning trafficking in human beings.

However, in June 2016, the Swedish government launched an updated action plan for the protection of children against trafficking, exploitation and sexual abuse for 2016-2018.

The action plan contains 23 measures to prevent, protect and support children and create conditions for the effective prosecution of perpetrators.

Recent news we'll establish a new one from 2018-2020



# National Coordination Mechanism



- There is no single Ministry responsible for the coordination of anti-trafficking activities within Sweden's Government.
- The County Administrative Board of Stockholm has been allocated the function of the National Coordinator (NC) of the work against prostitution and human trafficking until 31<sup>st</sup> of Dec 2017.
- The function will be transferred to a new authority for Gender Equality.
- Lot of uncertainty.



# National Coordinators Office

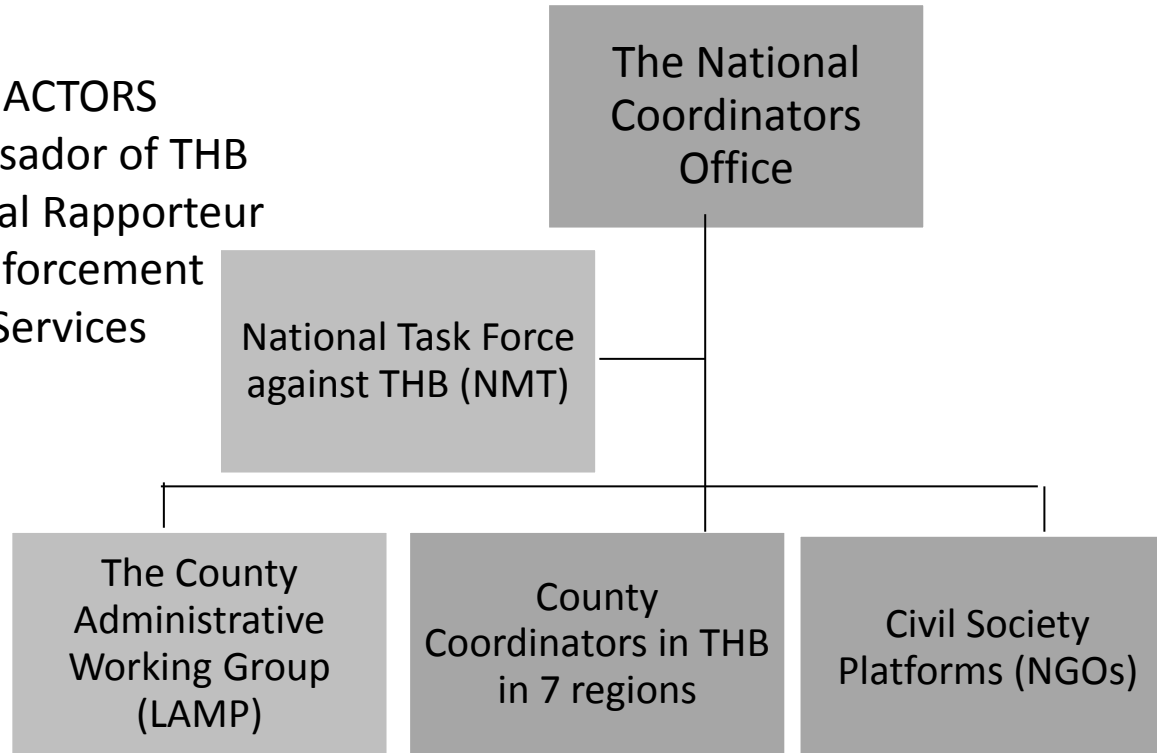
- Appointed 2009 (mandate until December 31st 2017)
  - Mandate on all forms of THB since 2013
- Main tasks: National Coordination, Rehabilitation Program, Safe Return Program and National/Transnational Referral Mechanism



# Structure of Actors

## PARALLEL ACTORS

- Ambassador of THB
- National Rapporteur
- Law Enforcement
- Social Services



# Victim's centered approach



# Victim's rights from CoE Convention on Actions against trafficking in human beings

- Victim's Centered Approach with entitled "rights for potential VoT" Art 11, 12, 14, 17
- Directive 2011/36/EU *unconditional recovery and reflection period etc.*

(Compare EU Directive (2004/81/EG), Dublin- Convention)

# Specific children's rights

- **PREVENTION**

- *Fundamental principles in CRC and its protocols*

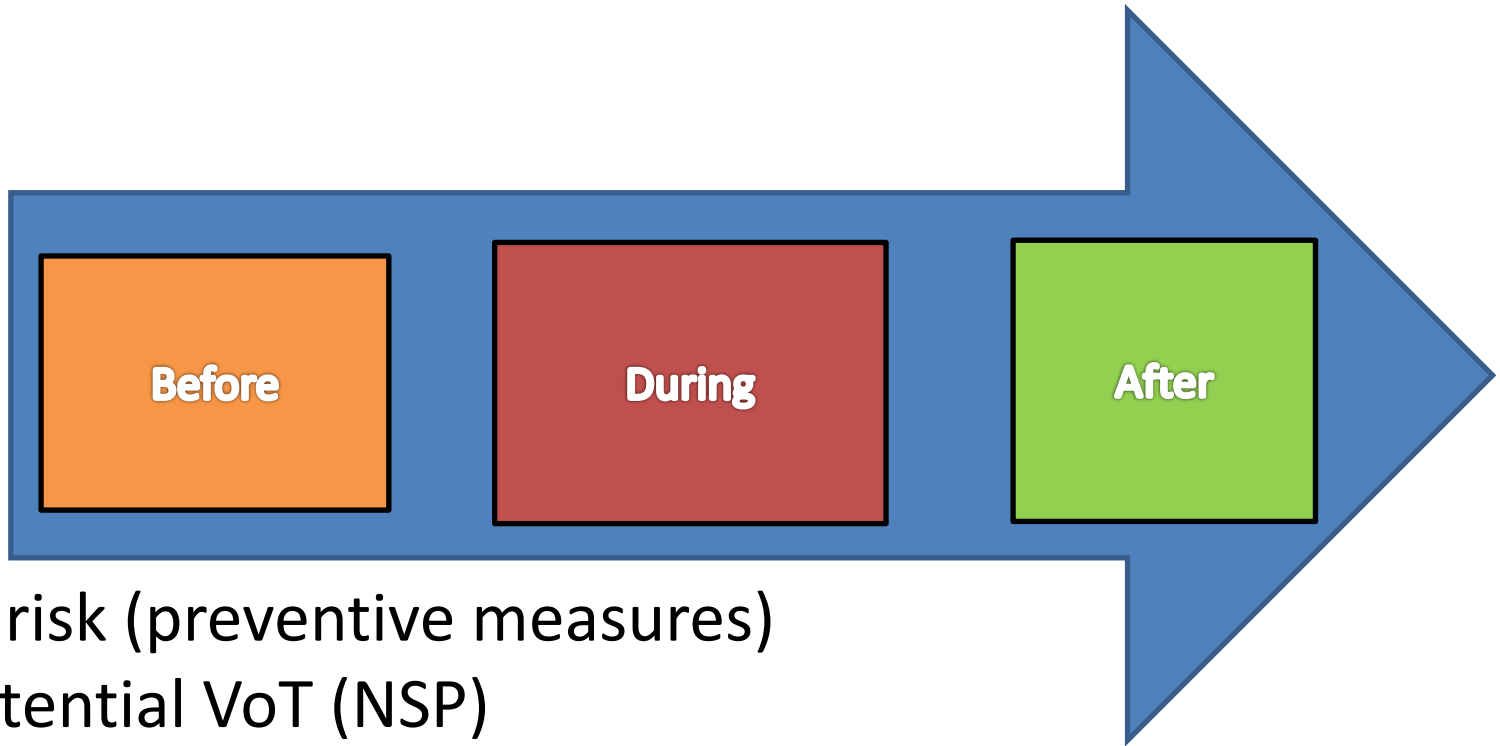
- **PROTECTION**

1. *Protection and Support*
2. *Child Friendly Judicial Process (Lanzarote Convention)*
3. *Right to speak your own language*
4. *Healthcare*
5. *Education*

- **REINTEGRATION**

- *Due to legal status, family situation (Sweden)*
- *Repatriation, (IOM)*

# Access to human rights



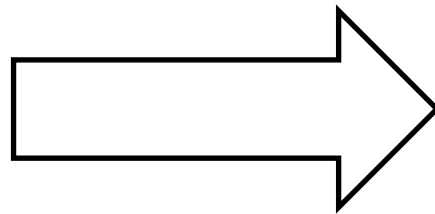
1. At risk (preventive measures)
2. Potential VoT (NSP)
3. Identified VoT (Swedish NRM/TRM)

# GRETA's evaluation and criticism of Sweden

Sweden's nine urges:

- Action plans (budget, interdependent evaluation) 8/40
- Training of relevant professionals and front line officers 3/40
- Identification of victims 32/40
- Victim assistance measures 33/40
- Provision of support delinked from co-operation with law enforcement 18/40
- Recovery and reflection period 34/40
- Child victim identification, services and legal guardian 36/40
- Non-punishment provision 17/40
- Investigation, prosecution and convictions 18/40

# **The entry of the victim's rights catalogue in Sweden**





# National Referral Mechanism (NRM)

National Coordinators Office against Prostitution and Trafficking at the County Administrative Board of Stockholm initiated 2014 a NRM-process in cooperation with;

*The International Centre for Migration Policy Development (ICMPD), The Civil Society Platform against Trafficking and the members of the National Task Force against Prostitution and Trafficking (NMT): The Prosecution Authority, Policy Authority, Migration Agency, County Coordinators and Social Services.*

*(The Ministry of Justice and Ministry of Social Affairs have been partly involved)*

The NRM was launched in 2016 the NRM and now joint efforts are made to spread it and implement it.



# National Referral Mechanism (NRM)

- Protecting and supporting victims of Trafficking in Human Beings in Sweden

This National Referral Mechanism-manual is built upon Swedish legislation, validated experiences and international directives. The document contains five steps and a number of measures which are to be carried out in order to ensure efficient and secure referral of persons who may have been subjected to THB and to offer them support and protection. The manual is primarily intended for professionals who either work against prostitution and human trafficking or may identify potential victims and in that way are participating in the support process, for example police, social services, officers at The Swedish Migration Agency, NGOs, shelters, prosecutors, lawyers and psychologists.



# The Swedish NRM is a manual

The Swedish NRM is clearly stating the responsibilities of each authority regarding the referral of victims of trafficking.

The Regional Coordinators function as a national focal point and first point of contact for operative support in cases of trafficking.

The manual is divided into five steps, aimed to help professionals and NGOs after they have identified a presumed victim of THB

Step 1 – Identification;

**Step 2 – Initial support and protection;**

Step 3 – Long-term support and social inclusion;

Step 4 – Return;

**Step 5 – Criminal proceedings.**

# National Referral Mechanism (NRM)

Help and support

-due to legal proceedings



# Help and support

- Support Person
- Legal Counsel
- Special Legal Representative for Children
- Witness Support Service
- Interpreter
- The Social Services
- Victim Support Centres
- Shelter's/Safe houses
- Complementary support carried out by civil society

# National Referral Mechanism (NRM)

## First assistance and protection

- Measure 1 INFORMATION ON ASSISTANCE OPTIONS AND CONDITIONS
- Measure 2 INFORMATION ON LEGAL OPTIONS



# 1. INFORMATION ON ASSISTANCE OPTIONS AND CONDITIONS

- **WHO:** Social services in cooperation with the housing facilities. Social services, however, has the primary responsibility for guaranteeing that the victim is properly informed. · If the victim has need of an interpreter one must be made available.
- **WHAT:** Provide clear and detailed information to the victim on what support alternatives she/he has access to and the design of the support:
  - Housing · Meals · Clothing (hygienic articles and fundamental needs) · Psychological advice and support · Medical support · Social support · *Legal information and support* , Protective measures · Interpreting · The victim's rights and duties
- **WHEN:** As soon as possible after the potential victim has been identified, is in a secure environment and an evaluation of needs has begun. Information is given with respect to the potential victim's condition.
- **HOW:** Representatives of social services, and/or involved governmental authorities and the housing facility, will inform the potential victim about available support alternatives and conditions in Sweden. Alternatives and conditions must be communicated directly to the potential victim in a language which the victim understands.

You should: · **Encourage the victim to ask clarifying questions** · **Regularly confirm that the individual has understood the information** · **Adapt the information to the victim's specific needs**



## 2. INFORMATION ON LEGAL OPTIONS

- **WHO:** Complainant's advocate · Police · Social services
- **WHAT:** This involves giving correct information on the available, existing legal alternatives and collateral rights. During this step the victim will be informed about the following: ·
  - The possibility of **cooperating with competent governmental authorities** ·
  - The possibility of **receiving a reflection period**
  - The possibility of being granted a **temporary residence permit** · The **possibility of compensation**
  - The possibility of **returning** to her/his homeland via The Return Program for Human Trafficking Prostitution (IOM)
  - **Investigation status** (decision as to whether a preliminary investigation is to be commenced or not commenced, or in the alternative that the case is dropped)

# temporary permit and asylum

- Right to a temporary residence permit after an application from the leader of the preliminary investigation, a temporary residence permit, which will be in effect for at least six months, may be granted if:
  - · It is necessary in order to carry out a preliminary investigation or a trial in a criminal case
  - · The victim of human trafficking has shown a clear intention to collaborate with the investigating governmental authorities
  - · The victim of human trafficking has terminated all connections with the persons who are suspected of the actual crime involved in the preliminary investigation
- Asylum To be a victim of human trafficking is not in itself a ground for being granted asylum in Sweden.
  - But circumstances and the trauma which exists can affect the decision in an asylum matter.
  - It is possible that a residence permit **may be granted on humanitarian grounds.**
- A reflection period has to be applied for in parallel even if the victim of human trafficking is involved in an asylum proceeding.

## 2. INFORMATION ON LEGAL OPTIONS

- **WHEN:** Together with the provision of information on support alternatives and conditions.
- **HOW:** The leader of the preliminary investigation will apply to the Court for the appointment of a complainant's advocate.
  - **The complainant's advocate must immediately contact the victim to provide necessary information on the victim's legal rights and duties.**
  - Legal rights and duties must be communicated: · Orally or in writing in a language which the potential victim understands ;
    - In a clear, professional and supportive way
    - By means of encouraging the victim to ask clarifying questions
    - By means of regularly confirming that the individual has understood what has been explained
    - With help from an interpreter if that is needed

# National Referral Mechanism (NRM)

## CRIMINAL PROCEEDINGS

**MEASURE 1: INVESTIGATION AND EVIDENCE GATHERING**

**MEASURE 2: SUPPORT BEFORE THE TRIAL**

**MEASURE 3: SUPPORT DURING THE TRIAL**

**MEASURE 4: SUPPORT AFTER THE TRIAL**

(MEASURE 5: SUPPORT FOR COMPENSATION GRANTS)

# MEASURE 1: INVESTIGATION AND EVIDENCE GATHERING

- **WHO:** · Prosecutor and police, after a report of human trafficking has been made · Complainant's advocate, a representative of social services, a representative of a volunteer organisation and/or a housing facility · When a child is involved a representative of social services must always be present
- **WHAT:** A criminal investigation, or preliminary investigation, is intended to investigate whether a crime has been committed, by whom and to collect evidence which speaks for or against the guilt of the suspects. It is very important that the specification of the crime be given as human trafficking when a report of crime is made to the police.
- **WHEN:** A preliminary investigation must be commenced as soon as there is cause to believe that a crime which falls within the scope of a public prosecution has been committed, regardless of whether or not there has been a report from a crime victim.
- **HOW:** A preliminary investigation consists of various components, surveillance observations, interrogations of witnesses, complainants, suspects or other persons who can provide information on the matter and technical evidence.

# MEASURE 1: INVESTIGATION AND EVIDENCE GATHERING

A very important part of the preliminary investigation is **the interview of the complainant.**

Before the interview of the complainant (the person subjected to the crime) that person should ***be informed about the legal proceeding and about the crime victim's position in a criminal proceeding.*** Crime victims who are to be heard by the Court and who do not understand Swedish are entitled to cost-free interpreting and translation during the trial. (See The Preliminary Investigation Proclamation. )

***Preliminary investigation confidentiality*** prevails in an ongoing preliminary investigation, which can be experienced as making things more difficult for the cooperation since social services cannot receive all-or avail itself of all-information from the police.

Social services can coordinate with the police investigator as to what information in the matter it can receive.

# MEASURE 2: SUPPORT BEFORE THE TRIAL

- **WHO:** Social services in cooperation with responsible persons at the housing facility · Complainant's advocate, a possible support person, a psychologist or/and an interpreter , The Police , Prosecutor
- **WHAT:** It is a way of proceeding so as to ensure that the person who is receiving support and who acts as complainant in a criminal proceeding has received information on the following alternatives:;
  - **Duty** to participate in the hearings in Court
  - **Right** to receive legal advice
  - **Right** to be represented by a complainant's advocate (without cost)
  - Have **access** to excellent interpreting
  - **Right** to be accompanied by a support person in the Court
  - **Possibility** to be heard without the perpetrator being present in the courtroom, even if that person can always hear the testimony
  - **Possibility** not to disclose name and personal identity to the public
  - **Right** not to answer certain question about her/his own criminal activity
  - **Right** to request compensation for her/his appearance
  - **Right** to request damages
  - **Possibility** to hold some parts of the trial behind closed doors
  - **Right** to be represented by a lawyer as a complainant's advocate (without cost)



# Goal in the preparatory phase

The goal in the preparatory phase is also to ensure that the crime victim is: ·

- Conscious of what value the information provided has in the trial and its possible consequences
- Conscious of the roles of various persons who participate in the legal proceeding
- Conscious, where it is appropriate, that all information which is presented in a trial may become public
- Conscious of what support the person can receive after the conclusion of the legal proceeding

# MEASURE 2: SUPPORT BEFORE THE TRIAL

- **WHEN:** As soon as possible before the trial.
- **HOW:** The complainant will be provided orally and (to the extent it is possible) in writing with all necessary information so as to be able to participate in the trial.
  - She/he can visit the Court before the trial date in order to acquaint herself or himself with the building and the courtroom.
  - If possible the person who is receiving support can sit in the witness chair while the accompanying person goes through how the trial proceeding will be carried out.
  - The complainant will be informed about where to meet on the day of the trial and on any accompanying procedures.
  - If the complainant returns to her/his homeland before the trial, she/he will be prepared in the homeland at the request of the responsible prosecutor or judge in Sweden, before the trial takes place. It is even possible that the complainant will appear in a Court in her/his homeland and testify in the Court in Sweden over a video link. The request will be sent to the competent governmental authority in the country where the victim has her/his domicile.

## Special support for children

- If the victim is a child and does not have parents the Court must, at the request of the prosecutor, appoint a special representative for the child.
- The advocate must be a lawyer or another person who is appropriate for the assignment.
- The advocate will protect the child's interests during the preliminary investigation and the trial.

# MEASURE 3: SUPPORT DURING THE TRIAL

- **WHO:** Police, prosecutor, complainant's advocate in cooperation support persons/organizations
- **WHAT:** Provide information, and psychological and legal support in order to minimise risks that the potential victim will be exposed to a new trauma. The victim must feel secure and be able to tell her/his story.
- **WHEN:** During the trial.
- **HOW:** Examples of support during the trial: ·
  - Physical support for the victim ·
  - Possibility for the victim to be heard without the perpetrator being present in the courtroom, even if the perpetrator can always have audible access to the testimony
  - Recording of testimony so that the victim need not personally appear or at least not be confronted by the perpetrator (*for example, video testimony, closed-circuit TV, use of screens, providing testimony in another room, hearing behind closed doors during part of the trial*)
  - Accompanying the victim/witness to, in and from the Court
  - Avoid contact with the perpetrator (*and to the extent possible also friends and other contacts*) when going into the building (for example using a side entrance or a separate waiting room)
  - The prosecutor can issue a prohibition of contact order which will forbid contact between the defendant and the victim ·
  - Provide support persons (*for example relatives, representatives of an association/a group which protects crime victims' interests*) who will accompany the complainant to the Court for certain sensitive information
  - If there is a serious threat against the victim/witness consideration can be given as to whether testimony should be given via video link

# Special support for children

- Complainant and witness interviews with children under 15 years of age will be presented in the Court in the form of a **video recording**, based on the police interrogation which is carried out at Child Advocacy Center (Barnahus) or a similar place.
- **Child Advocacy Center** (Barnahus) a place where police, social services, pediatricians and psychologists from child and youth psychiatry work together with children who are victims of violence and sexual exploitation. Barnahus exists all over Sweden.
- The Court can also decide that a trial with a child under 15 years of age shall take place behind closed doors.
- Children over 15 years of age who are victims generally tell their stories in the usual place in the Court.

# MEASURE 4: SUPPORT AFTER THE TRIAL

- **WHO:** Social services in cooperation with other governmental authorities or actors (for example housing). · If safety measures must be taken they will be taken by the police in dialogue with the governmental authorities or actors involved
- **WHAT:** It is the support which is offered to the individual when the legal proceedings are over. Depending on the desires the individual herself or himself has expressed, the risk assessment which has been performed and the legal possibilities which are available, the victim/witness may: · Stay, Return or Remain in the destination country. In order to be able to guarantee the individual's safety further safety measures may need to be taken after the trial.
- **WHEN:** After the trial, and when safety measures are involved, so long as the victim's safety is at risk.
- **HOW:** If it is necessary to take additional safety measures in order to protect the victim, a new risk assessment must be performed and the risk management plan revised by the police in cooperation with social services. The victim must give her/his written consent to any new plan and must be informed within a reasonable time about any changes which arise (for example, that the perpetrator has been released from prison).

# End note in Swedish NRM

- **The victim must:**

- ***Be fully informed*** about her/his right to compensation and about the necessary Court proceeding this brings with it
- ***Be guaranteed*** cost-free legal help during the legal proceeding
- ***Receive psychological support*** during the entire proceeding

# THE SWEDISH CIVIL SOCIETY PLATFORM

(established 2013)

[www.manniskohandel.se](http://www.manniskohandel.se)

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CIVILA SVERIGE MOT  
MÄNNISKOHANDEL



# Civil Society as complementing actor

- In 2015, the County Administrative Board of Stockholm initiated a pilot **National Support Programme (NSP)** for victims of trafficking as a part of a governmental assignment.
- The NSP is carried out by the Swedish Civil Platform. It runs parallel to the support measures offered under the NRM/TRM and IOM Return Programme.
- The NSP aims to provide an ***improved and additional support for victims of trafficking*** and address the needs of persons who fall in the gaps of the official entry and exit-system or who do not want to contact the authorities or return to their home country.

# National Support Programme NSP

- NSP is filling in the gaps in the NRM
- NSP is securing the quality of the service providers and also structure the assistance given
- NSP is facilitating the entry to the NRM, after identification and before reporting to the police
- NSP is aiming to secure that all victims receive the assistance and protection they are entitled to according to COE's convention and directive.

# Result of NSP 2016

- Support is given to potential VoT delinked from cooperation with law enforcement demands
- Implementation of a recovery period for 30 days
- Support to VoT and also to their children
- Support to VoT regardless of co-operation in law enforcement
- Improved quality of the assistance given
- Increase of individuals reporting with confidence to the police

**The National Support program is CONTRIBUTING to meet GRETAs "urges" to Sweden.**

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# Questions and answers

The rights of the victims in the criminal trial  
in Sweden  
Human Trafficking

