

STRENGTHENING LAWYERS LEGAL KNOWLEDGE AND COOPERATION WITH PROSECUTORS AND JUDGES, TO PROTECT VICTIMS OF HUMAN TRAFFICKING RIGHTS IN THE JUDICIAL PROCEEDINGS

JUST/2015/JTRA/AG/EJTR/8686



Financed by the Justice Programme of the European Union

FINAL CONFERENCE

Madeleine Sundell, L.LM in Human Rights
Civil Society Platform against Human Trafficking, Sweden

8 May 2018, Bucharest, Romania

This publication has been produced with the financial support of the Justice Programme of the European Union. The contents of this publication are the sole responsibility of the author and can in no way be taken to reflect the views of the European Commission



BROTTSPLATS SVERIGE

A stylized map of Stockholm, Sweden, featuring a dense network of white lines representing streets and waterways on a light brown background. The city is situated on islands and connected by bridges, with a prominent blue waterway running through the center. The word "STOCKHOLM" is overlaid in a large, bold, black serif font.

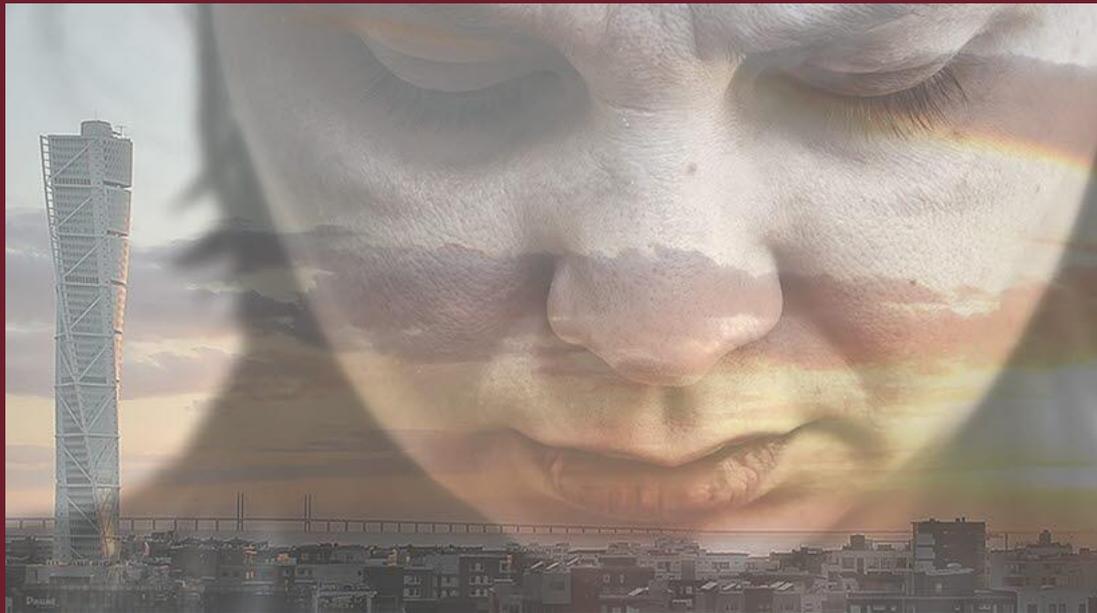
STOCKHOLM

A stylized, high-contrast map of Göteborg, Sweden, rendered in white and teal lines on a brown background. The map shows a dense network of streets and a prominent waterway, likely the Göta Älv, winding through the city. The overall aesthetic is graphic and modern.

GÖTEBORG

A stylized, line-art map of Malmö, Sweden, rendered in a light brown color against a teal background. The map shows a dense grid of streets and buildings, with a prominent waterfront area on the left. The word "MALMÖ" is overlaid in the center in a large, bold, black serif font.

MALMÖ



Findings related to access to justice

- Many victims do only contact NGOs
- The VoT comes mainly from Eastern Europe, the Balkan, western Africa and MENA-region
- Victims from third countries seldom report to the police, for several reasons
- Asylum seekers and undocumented can be victims
- Victims' vulnerabilities in many ways
- high risk for re-trafficking

Challenges in the Criminal Justice Procedures

- **Boundaries of Crime**
 - Jurisdiction
 - Actors
 - Interconnectedness

- **Rule of Law**
 - Equality and Fair trial
 - Respect human rights

- **Criminal justice principles**
 - Principle of immediacy
 - Principle of oral procedure

- **Effective tools**
 - Special representatives
 - Specialized courts, prosecutors, video-recording etc.

Stopping Perpetrators and securing justice by respecting the unconditional victims' rights

“when respecting the unconditional victim’s reflection period, need and rights of victim's trustworthiness plaintiffs gives better prerequisites for convictions of traffickers”

*Evidence-based results from
Swedish Civil Society Platform in THB’s National support Program*

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 not resultet in a single conviction. All 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

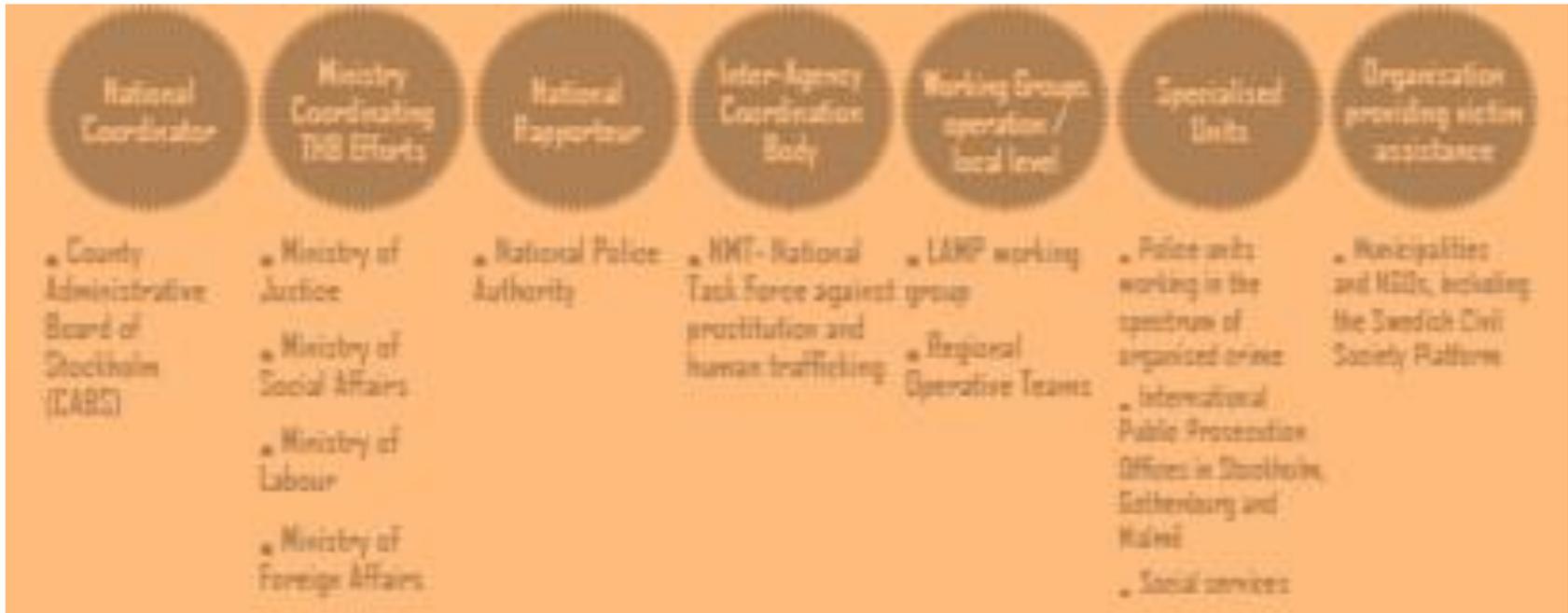
Asylum Law:

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

Migration & human trafficking



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 31st of Dec 2017.
- The function will be transferred to a new authority for Gender Equality.
- Lot of uncertainty.

GRETAs "urges"

Ten main gaps in the implementation of the Convention: number of countries "urged" by GRETA to take action



GRETA monitors the implementation

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

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.

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.

Return Programme with IOM

The Referral Mechanism also has a Return Programme which is run in cooperation with the International Organization of Migration Helsinki office. Should the victim want to return to their home country, the Programme can be initiated in the various phases (from identification to the ruling of the Court).

From 2012-2016 the programme has handled 78 cases.

European Convention on Action against Trafficking (ECAT)

Rights for potential victims

- Appropriate and secure accommodation
- Psychological and material assistance
- Access to emergency medical treatment
- Translation and interpreting services
- Information and guidance
- Assistance to take part in criminal proceedings
- Access to education for children

Civil Society fills the gap

- 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 Transnational Referral Mechanism and parallel with the 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 system or who do not want to contact the authorities or return to their home country.

Swedish Civil Society Platform against Human Trafficking

What we do together:

- Provide and coordinate assistance to victims
- Ensure and develop the quality of assistance
- Collect data on contacts with victims
- Discover emerging trends and create awareness
- Share experiences, information and knowledge
- Cooperate and have dialogues with authorities
- Monitor the implementation of human rights

What we can provide

- **Identification:** Out reach work and encounters with potential VoT, guidance to help
- **First assistance:** food, a place to sleep, social meeting places, clothes, medical care
- **Support to VoT:** shelters, legal advices, guidance and information, interpretation, therapy
- **Long term assistance:** rehabilitation, help to integratation, contact home countries, new start
- **Filling in the gaps:** to ensure that VoTs recieve the rights they are entitled to

Many need a helping hand



Human rights approach

- Human trafficking is a violation of human rights
- Victim's first principle
- The European Council convention and the EU directive clearly states the right for *all* victims right to protection and assistance.
- The Platform strive to jointly monitor and facilitate the full implementation of international HR-documents concerning human trafficking, ratified by Sweden

Findings from our data collection

- Many victims do only contact NGOs
- The VoT comes mainly from Eastern Europe, the Balkan, western Africa and MENA-region
- Victims from third countries seldom report to the police, for several reasons
- Asylum seekers can be former victims
- Victims are vulnerable in many ways
- There is a high risk for re-trafficking

More findings: the children

- The victims' children are at risk
- Having children make victims vulnerable



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

Result of NSP

- 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 GRETA's "urges" to Sweden.

Encountered challenges

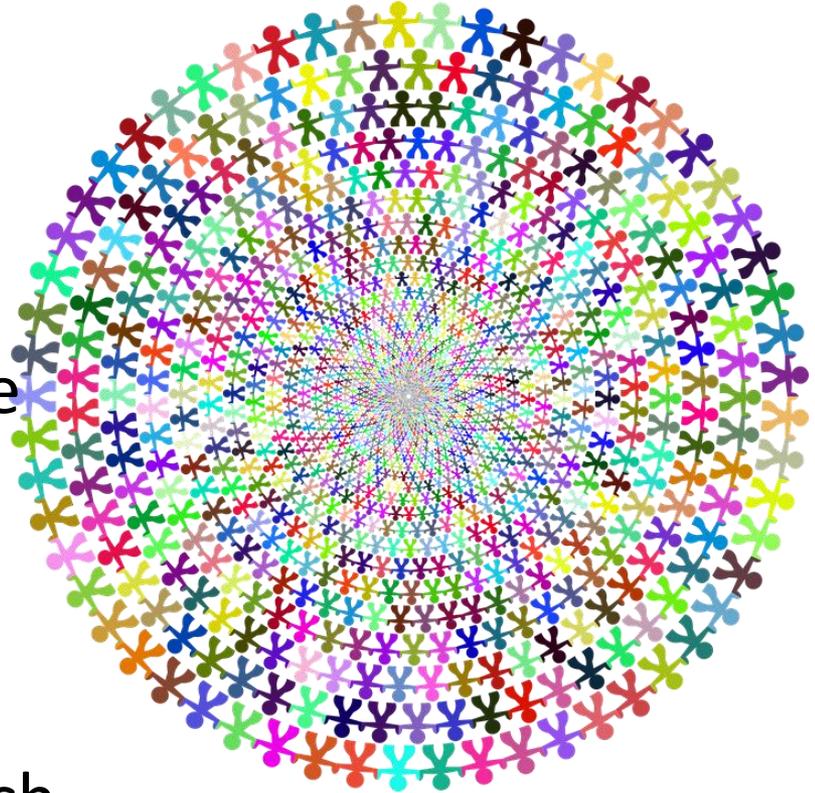
- Identification among riskgroups and for all forms is needed
- Specialized shelters for all forms of THB as well as all victims (men and LGBT or entire families)
- Exit-program for people in prostitution
- VoTs exploited in another countries have hard to obtain help from the society
- Cross-border cooperation is ad hoc based
- Resources to law enforcement

Our recommendations to GRETA

- Let acting first-responder-NGOs, that are qualified in accordance with the NSP, directly be entitled to apply for a reflection period that equivalent with is described in the convention, unconditionally and for the best interest of the potential VoT.
- A system for the granted reflection-periods.
- Shelters for all types of exploitations
- Permanent Support Program.
- Need for special judges and courts, specifically qualified trained and to handle charges of THB.
- improvement of the law enforcement procedures to cover all forms of THB and to be more up-to-date when it comes to the existence of control means.
- New action plan on all forms of exploitation

Cooperating is the key

- Overcoming competition and prejudices
- Go from hinders to solutions
- Jointly strive to implement the conventions and directives
- Continuity in work
- Following-up work done
- Keep the human right approach



Together against Human Trafficking

Thank you!

Contact details:

madeleine.sundell@fralsningsarmen.se

info@manniskohandel.se

PLATTFORMEN
CIVILA SVERIGE MOT
MÄNNISKOHANDEL