

**Recommendation of the President of the Supreme Court on Guidelines
for the Treatment of the Injured Person in Human Trafficking Cases
B.E. 2565 (2022)**

Whereas it is expedient to determine the treatment which is appropriate for the injured person during the trial and adjudication of human trafficking cases and compatible with the principles under the Constitution of the Kingdom of Thailand and the standards of the United Nations.

By virtue of Section 5 of the Law for the Organization of the Court of Justice, the President of the Supreme Court hereby issues the Recommendation of the President of the Supreme Court on Guidelines for the Treatment of the Injured person in Human Trafficking Cases as follows:

Provisional Release

Article 1 In considering an application for detention and provisional release of an alleged offender or defendant in a human trafficking case, the Court should take into account the safety of the injured person and the danger that may adversely affect the evidence by taking into consideration an opinion of the injured person.

Remedy of Damage

Article 2 In determining compensation for the injured person in a human trafficking case, the Court should consider the damages in all aspects, whether it is monetary damage, such as damages to property, travel expenses, agent fees, medical expenses, loss of income, or other non-monetary damages, such as a psychological damage, a reputational damage, impacts on livelihoods and a violation of human dignity. This may be considered upon a record of statement or testimony given upon by the injured person, a background report, impacts or damages affecting a body and mind, and points of concern or other opinions of the injured person as well as relevant reports of other authorities on the determination of compensation.

Article 3 When the court has rendered a judgment determining compensation, if the circumstance of case appears that there is a torture, detention, bodily harm or inhumane oppression against the injured person, the Court shall order the defendant to pay the punitive

damages by considering the circumstances and severity of the offence, the financial status of the defendant, the benefits that the defendant obtained from committing the offence and the duration of the commission of offence on a case by case basis while taking into account each defendant circumstances. The Court should also include the reasons employed in determining the punitive damages for each defendant in the judgment.

Taking of Evidence and Trial

Article 4 In all stages of proceedings, the Court should consider an impact on the injured person and familiar persons in all aspects and give the injured person and their familiar persons an opportunity to have channels of communication to such impact.

Article 5 In case where the well-being of the injured person has been adversely affected whether physically or mentally by the commission of a human trafficking offence, the Court should order a competent officer or a case affairs officer to prepare the information on backgrounds, impacts or physical or mental damages inflicted, and points of concern or other opinions of the injured person for the benefit of considering an application for provisional release, conducting trial and adjudication in accordance with Section 10 of Procedures for Human Trafficking Cases Act B.E. 2559 (2016)

Article 6 When there are reasonable grounds concerning the safety, privacy and psychological impact of injured person, and for the interest of public order or good public morality, the Court shall order an *in-camera* trial under Section 177 of the Criminal Procedure Code.

Article 7 When an application for taking of evidence before prosecution or before the date of taking of evidence is filed with the Court by the public prosecutor, the Court shall take evidence immediately by considering the cause for the interest of the prevention and suppression of human trafficking under Section 31 of the Anti-Human Trafficking Act B. E. 2551 (2008). The Court should not dismiss such application because the witness is a person with Thai nationality or has a dwelling place or has not traveled out of the Kingdom or stays in a protected facility.

Article 8 In case where the Court deems it necessary to protect a witness who is vulnerable or frightened of the defendant, or required to travel to court where will impose serious hardship upon him/her, for the pre-trial hearing, preliminary hearing or trial, the Court should permit such witness to testify in other courts or government premises or any other

places, such as in a well-being protection center for the injured person, by providing a visual and audio broadcast in a form of a video conference in accordance with the Regulation of the President of the Supreme Court on the Proceedings of Human Trafficking Cases B.E.2559 (2015).

Article 9 In case where the witness is a person who is vulnerable or frightened of the defendant, the Court should arrange for a psychologist, social worker or other person trusted by the witness to participate in the witness examination according to Section 172, paragraph three, of the Criminal Procedure Code.

Where a psychologist, social worker or other person trusted by the witness is arranged to participate in the taking of evidence by the Court, the Court should ensure that such person is with the witness at the place where the witness testifies.

Article 10 In taking of evidence when the injured person testifies in a human trafficking case, the Court should employ a visual and audio recording system that can be broadcasted continuously throughout the trial in the form of electronic data in accordance with the Regulation of the President of the Supreme Court on Recording Testimony in Criminal Cases by the Method of Recording on the Material for Visual and Audio Broadcast B.E. 2564 (2021).

Dissemination of Judgment

Article 11 In disseminating a judgment or order in any human trafficking case whether in the oral or written form by a person who is not a party in such case, if the court deems appropriate for the purpose of preventing psychological impacts and other harm inflicted upon the injured person, the Court may prohibit mentioning the name or displaying any messages or any other actions that enable the injured person to be identified.

Given on the 17th Day of March B.E. 2565 (2022)

Piyakul Boonperm

President of the Supreme Court