

Memorandum of Understanding
on
The Determination of Measures and Approaches Alternative to Detention of
Children in Immigration Detention Centers B.E. 2562

1. Preamble

International political situations and economic development affect the quality of life of migrating populations, especially children who are accompanying their parents or guardians or traveling alone. These children are highly vulnerable and at risk of various forms of exploitation. They might also be arrested and detained at Immigration Detention Centers.

Child protection law stipulates that, as a matter of importance, treatment of children in all cases shall take into account the best interests of the child and shall be non-discriminatory, while the Constitution of the Kingdom of Thailand B.E. 2560 (2017) stipulates that government agencies shall exercise their powers by taking into account individual rights and freedoms as well as in a non-discriminatory manner. The Constitution also stipulates that the government shall assist children to enable them to have quality life, protect and prevent children from violence or unjust treatment, as well as allocate sufficient budget to support them on the basis of needs and requirements in accordance with their gender, age, and situation. In addition, the Convention on the Rights of the Child (CRC), to which Thailand has become party by ratification on 12 February 1992 and entered into force on 26 February 1992, General Comments No. 6 on Treatment of Unaccompanied and Separated Children outside Their Country of Origin, 2005, and the United Nations General Assembly Resolution 64/142 on the United Nations Guideline on Alternative Care, 2009, oblige Thailand to support and protect all children in the country, enable them to have quality life in a protected and caring environment.

Situations regarding migrant children stem from multiple causes and factors and are complex, requiring comprehensive and integrated cooperation among agencies. The Royal Thai Police and the Ministry of Social Development and Human Security therefore convened meetings with the National Security Council, the Ministry of Foreign Affairs, the Ministry of Justice, the Office of the Attorney General, the Ministry of Interior, the Ministry of Public Health, the Ministry of Education, the Ministry of Labour, and the National Human Rights Commission, to establish this Memorandum of Understanding to guide the Royal Thai Police, the Ministry of Social Development and Human Security and other relevant

agencies in assisting and protecting children detained at Immigration Detention Centers, in accordance with Thailand's domestic laws and international obligations.

2. Objectives

2.1 To serve as common guidelines for government agencies and related agencies to resolve cases concerning migrant children detained at Immigration Detention Centers of the Immigration Bureau, the Royal Thai Police, in accordance with immigration laws.

2.2 To determine clear mechanisms and responsibilities among agencies to ensure that the rights of the child are protected in accordance with Thailand's domestic laws and international obligations.

3. Definition of children who shall be assisted

“Children” refers to foreigners under the age of 18 who are detained at Immigration Detention Centres of the Immigration Bureau, the Royal Thai Police, in accordance with immigration laws.

4. Principles

4.1 Children shall not be detained, except in necessary and unavoidable circumstances, whereby they may be detained at the Immigration Detention Centres, as the last resort and for the shortest possible duration.

4.2 Decisions and/or actions affecting the child shall always take into consideration his/her best interests and views.

4.3 Children are entitled to basic livelihood standards sufficient for their physical, intellectual, mental, moral, and social development.

4.4 In determining ways to provide care for children, family-based care shall be given first priority. Reception centers of the Ministry of Social Development and Human Security, or privately-run reception centers registered under relevant laws shall be the last resort and used for the shortest possible duration.

4.5 In placing the child under alternative care, his/her physical and mental development shall be taken into consideration while seeking sustainable solutions.

4.6 Concerned agencies shall take appropriate measures in providing appropriate protection and assistance to the child.

5. Operations

5.1 “Reception” refers to the taking care of children under the care of the Immigration Bureau, the Royal Thai Police, before referring them to other agencies for further assistance.

5.2 “Assistance and welfare protection” refers to child assistance and welfare protection as provided for in child protection laws.

5.3 “Return” refers to the returning of the child to his or her country of origin or a third country in a safe and dignified manner and under the relevant international criteria.

6. Child Protection Process on Individual Basis

The Royal Thai Police, together with the Ministry of Social Development and Human Security and concerned agencies, shall cooperate to carry out measures to ensure that children are protected and assisted by a multi-disciplinary team in the following:

- 6.1 Screening and making personal records
- 6.2 Determining appropriate care
- 6.3 Prescribing an assistance plan on individual basis
- 6.4 Coordinating and referring children to appropriate services
- 6.5 Determining services and alternative care
- 6.6 Determining standards of foster care
- 6.7 Processing return to family and society, and seeking sustainable solutions

After the date of signing of this Memorandum of Understanding, concerned agencies shall establish the Standard Operating Procedures within 30 days.

7. Cooperation with international organizations, the private sector, and civil society

7.1 To ensure the effective implementation of this Memorandum of Understanding, the Royal Thai Police, the Ministry of Social Development and Human Security, the Ministry of Foreign Affairs, and other concerned agencies shall jointly determine directions for cooperation with international organizations, the private sector, and civil society in providing assistance, including welfare and protection as well as return or any other undertaking in accordance with their respective mandates.

7.2 Concerned agencies in 7.1 shall jointly consider a list of international organizations, private organizations, and civil society organizations to collaborate with under this Memorandum of Understanding.

8. Follow-Up and Assessment

8.1 Follow-Up: Convene meetings among concerned agencies to follow-up, review and monitor the implementation of this Memorandum of Understanding and ensure that it is in accordance with the relevant legal and policy frameworks.

8.2 Reporting: The reporting period should be at least once a year as follows:

(1) Implementation in the first 6 months of the year should be reported within 30 days from 30 June of each year.

(2) Implementation during the 12 month-period should be reported within 30 days from 31 December of each year.

(3) The Police Strategy Bureau, the Royal Thai Police, and the Ministry of Social Development and Human Security shall furnish the reports as specified in 8.2 in coordination with and with information from relevant government and private agencies that have collaborated in the implementation of this Memorandum of Understanding. The reports shall also be submitted to the Office of the National Security Council.

9. Revision and Termination

9.1 The Royal Thai Police, the Ministry of Social Development and Human Security, the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry of Public Health, the Ministry of Labour, and the Ministry of Education shall review the key elements in this Memorandum of Understanding every year to assess challenges, problems and complications from the implementation of this Memorandum of Understanding and propose recommendations to address them.

9.2 In case the review finds that the key principles or elements in this Memorandum of Understanding have changed as a result of legal contexts or other regulations, concerned agencies may consider terminating this Memorandum of Understanding, as appropriate.

10. Enforcement

This Memorandum of Understanding shall come into force on the day after it is signed by authorized persons of the Royal Thai Police, the Ministry of Social Development and Human Security, the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry of Public Health, the Ministry of Education, and the Ministry

of Labour. This Memorandum of Understanding is done in 7 copies with all texts being equally authentic. Each agency shall retain 1 authentic copy to inform relevant officers in order to implement this Memorandum of Understanding accordingly.

This Memorandum of Understanding is done at on

.....
Police General Chakthip Chaijinda,
Commissioner-General, The Royal Thai Police

.....
Dr. Porametee Vimolsiri,
Permanent Secretary, Ministry of Social Development and Human Security

.....
Mrs. Busaya Mathelin,
Permanent Secretary, Ministry of Foreign Affairs

.....
Mr. Chatchai Phromlert,
Permanent Secretary, Ministry of Interior

.....
Dr. Sukhum Kanchanapimai,
Permanent Secretary, Ministry of Public Health

.....
Mr. Karoon Skoonpradit,
Permanent Secretary, Ministry of Education

.....
Mr. Jarin Chakkaphark,
Permanent Secretary, Ministry of Labour