

Trafficking in human beings

Labour exploitation

Sexual exploitation

Forced criminal activities
and begging



German NGO Network against
Trafficking in Human Beings

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1. Introduction

Trafficking in human beings is defined as a situation whereby a person's predicament is used to trap them in an exploitative situation. This can take various forms and occurs in different areas:

- Exploitative employment relationships
- Sexual exploitation
- Exploitation in marriage
- Forced begging
- Forced criminal activities
- Forced removal of organs

Trafficking in human beings constitutes a serious human rights violation and an offence to the dignity and the integrity of the human being.

Since the early 1980s, German counselling centres for women have identified increasing numbers of persons trafficked for sexual exploitation and have begun raising more and more awareness about the issue. This has led to the emergence of specialised counselling centres that often also deal with cases of trafficking in human beings for the purposes of labour exploitation or of exploitative working conditions. More recently, professionals have witnessed an increasing number of cases in which persons are exploited by being forced to beg or to commit offences.

This brochure is part of a range of information brochures. Each one aims to take a closer look at one form of exploitation and to provide information about the counselling options and support structures available to trafficked persons in Germany. In particular they will present the services and work carried out by KOK's members.

This brochure focuses on the phenomenon of trafficking **in human beings for sexual exploitation.**

2. Trafficking in human beings for sexual exploitation

When talking about **trafficking in human beings for sexual exploitation or forced prostitution**, we are referring to situations in which a person's predicament or helplessness is exploited in order to induce them to engage in prostitution or offer other sexual services through which they are exploited. Their freedom of action is limited to the point that they cannot be said to make free decisions regarding their activity. They receive insufficient or no remuneration and/or are forced to work in dreadful conditions or provide services to which they did not consent.

A distinction must be made between trafficking in human beings for sexual exploitation and prostitution. Sex work is permitted in Germany and is no longer deemed to be contrary to public morals since the Prostitution Act [Prostitutionsgesetz] came into force. Self-determined sex workers can decide on their working conditions and the practices they carry out.

Surveillance and exploitation of sex workers is a criminal offence and qualifies as **exploitation of prostitutes** or **procuring** ("pimping") in accordance with Sections 180a and 181a of the German Criminal Code [Strafgesetzbuch].

In **Germany**, trafficking in human beings for the purpose of sexual exploitation has been a criminal offence since 1973. The relevant legislation was most recently reformed in 2016. Broadly speaking, criminal law provisions regarding trafficking in human beings and sexual exploitation now cover three activities:

- Recruiting (trafficking in human beings)
- Initiating the exploitative activity (forced prostitution)
- Exploitation (exploitation of prostitutes/procuring).

Pursuant to Section 232 of the German Criminal Code, the German Criminal Code defines as trafficking in human beings situations whereby a person's personal or economic predicament or helplessness arising from being in a foreign country is used and whereby a person is recruited, transported or accommodated with the aim of sexually exploiting them.

Actually prompting the exploitative activity, i.e. causing the person to engage in, or continue to engage in, prostitution or a sexual activity is provided for by **Section 232a of the German Criminal Code ("Forced prostitution")**. This may or may not be carried out by the same person as the one who organised recruitment or transport.

Circumstances that fall within the scope of **exploitation of prostitutes or procuring (Sections 180a/181a)** can be characterised by low wages, overly long working hours, excessive mediation fees and/or rent, dangerous working conditions and/or non-payment of salary. Trafficked persons **can no longer freely decide whether** they want to practise sex work **and how**.

Finally, **Section 233a of the German Criminal Code** provides for cases in which sexual **exploitation occurs by use of unlawful restraint**.

Contrary to popular belief, it is **not only migrants** from countries with weaker economies who can face trafficking in human beings and sexual exploitation. While this group may be at greater risk of trafficking and exploitation, **residents in Germany** can also fall victims to these crimes. The legal definition of trafficking in human beings **does not require a border to be crossed**.

It is also important to **draw a line between trafficking in human beings and people smuggling**. Smugglers help migrants to cross national borders illegally and derive a profit from this activity, sometimes using deception and violence. However, contrary to trafficking in human beings, they derive a profit from borders being crossed and not from the exploitation through a certain activity. It is possible, however, that one criminal offence merges into the other and that a smuggled person is then also trafficked and exploited.

Deception is one of the **causes** that lead to trafficking in human beings for the purpose of sexual exploitation. After being recruited through classified ads, acquaintances or agencies, victims are lied to about the **nature of the activity** in which they will be engaging.

It also happens that trafficked persons who originally chose to work in prostitution are later confronted with **working conditions** that they **did not agree** to, only to be forced to stay in them.

In some cases, trafficked persons from abroad are told they have to repay very high, fabricated debts for travel costs, passport fees etc. to force them into a relationship of dependency and make them hand over most of their income to the perpetrators. In other cases, girls and young women are persuaded to enter the sex industry by so-called **loverboys**. In this case, perpetrators feign a romantic relationship with the trafficked person and use emotional leverage to force them into prostitution.

Trafficking in human beings for the purpose of sexual exploitation, forced prostitution and exploitation can be **characterised** by:

- Confiscating documents or providing fake documents
- Making victims compliant by means of sexual or physical violence, alcohol, drugs or medication
- Putting pressure on trafficked persons, e.g. by pretending to have good relations with the police or using videos or photos
- Constant surveillance
- Unacceptable accommodation
- Threatening to inform families about a person working in prostitution or using violence against the trafficked persons or their relatives

- Forcing trafficked persons to hand over most or all of their earnings
- Debt bondage (the person has to pay back real or alleged debts)

According to the experiences of specialised counselling centres and the figures published in the German Federal Criminal Police Office's annual report, currently the majority of trafficked persons in Germany are from Eastern and Southern Europe as well as from Germany. However, it should be noted that this is only true for cases known to counselling centres and/or the police. In view of the high number of unreported cases, it is impossible to provide a conclusive overview of the countries of origin or the gender of trafficked persons. Although it is highly likely that most persons trafficked for the purpose of sexual exploitation are women or girls¹, some of the victims are men or transsexuals.

CASE STUDY

Tanja is an open-minded young woman who lives near Kiev with her family. She is 21, has finished school, but cannot find a training position. Tanja and her boyfriend want to get married, but to do this they both need a job and money to live on.

One day, a long-standing family acquaintance comes to visit and tells Tanja about an opportunity to move to Germany to work in a restaurant. The salary on offer would be enough to set a bit of money aside and even send some money back home. Tanja takes up the offer.

Soon after, Tanja begins what she thought would be her journey to happiness with a small travel bag, her passport and \$200 for the trip. She enters Poland legally and without any problems. Just before the German border, Tanja is told to hand over her passport and get into a truck as she cannot enter the country "normally". She becomes suspicious, but does as she is told. She is not the only person hiding in the truck. After a long journey, they arrive in Berlin. Tanja is told she has to pay back €3000 for the trip. As this was not part of the deal, she

¹ According to the German Federal Criminal Police Office's Report on Trafficking in Human Beings, 96% of the identified trafficked persons in 2015 were women or girls.

begins to suspect something is wrong. She is informed that she will have to work in a brothel to pay back her debt as she has no other way of earning money. She is taken to a brothel in Berlin and has to “service” several punters a day. She is forced to hand over 70% of her income to her pimps. The remaining 30% is used to pay back her “travel loan”, her clothes and her food.

Tanja is terrified and feels she has no way out. She does not speak German. She is told by the perpetrators that, as an illegal immigrant, she would be mistreated by the police, and that they will pay her family a “little visit” were she to escape.

She is arrested by the police during a raid. She is afraid of what is to come, but she notices she is not an “offender”, but a victim of trafficking in human beings. Among other things, the police inform her that she can access secure accommodation from an organisation. The police put her in touch with KobraNet.

3. Legislative developments

Unlike other forms of exploitation, trafficking in human beings for the purpose of sexual exploitation is a sensitive issue that has been widely discussed in the media and society for many years. In the early 20th century, various international treaties had already been concluded: the “International Agreement for the Protection against Trafficking of Girls“ (1904), the “Convention for the Suppression of the Traffic in Women and Children“ (1921) or the “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others“ (1949), and efforts were made at the international level to address cases of trafficking in human beings for the purpose of sexual exploitation.²

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the **United Nations** Convention against Transnational Organised Crime (also known as the “Palermo Protocol”), entered into force in 2003. This Protocol is the first international treaty that specifically addresses trafficking in human beings within the scope of the international fight against crime.

At the European level, an additional and more developed Convention was agreed in 2005 – the **Council of Europe** Convention on Action against Trafficking in Human Beings (CETS No. 197). For the very first time, the Convention placed the protection and support of trafficked persons on a par with the prosecution and combating of trafficking in human beings.

² See United Nations (1949), A / RES / 317 (IV), Preamble of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

In 2011, the member countries of the **European Union** agreed on the Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims (2011/36/EU), which replaced an existing Framework and broadened its scope. The Directive provides for minimum standards with regard to anti-trafficking measures and support for trafficking in human beings while committing EU member countries to add forced begging, the exploitation of criminal activities and the removal of organs to the forms of trafficking in human beings that are liable to result in prosecution.

In Germany, trafficking in human beings for the purpose of sexual exploitation has been a criminal offence since the beginning of the 1970s. Since the last reform in this field carried out in 2016, trafficking in human beings for the purpose of sexual exploitation has been provided for in Section 232, forced prostitution in Section 232a and the exploitation of prostitutes in Sections 180a and 181a of the German Criminal Code. Cases in which sexual exploitation occurs by use of unlawful restraint are covered by Section 233a of the German Criminal Code.

In the case of persons under 21, it is irrelevant whether perpetrators use a predicament or situation of helplessness: the simple fact of enabling exploitation through recruitment or transport can fall within the scope of trafficking in human beings.

Cases in which serious physical violence and/or the victim is a minor and/or the perpetrator is a member of a gang, for example, are considered to be aggravated, and therefore result in harsher sentences.

In practice, perpetrators are often sentenced to suspended sentences, the proceedings are closed or the court focuses on other offences. In the few cases in which the court does grant compensation for immaterial and material damage, there is no guarantee that the trafficked person will actually receive that money.

4. KOK's work

The German NGO Network against Trafficking in Human Beings – KOK e.V. was founded in 1999 and advocates for the rights of trafficked persons and female migrants facing violence. KOK is the only coordination network in Germany or Europe with this focus and is considered to be a model of successful networking.

The **main goal** pursued by KOK and its member organisations is to **empower and encourage trafficked persons to assert their rights**.

KOK's other goals include:

- Implementing national and international standards when dealing with trafficked persons;
- Implementing a women's and human rights perspective at the political and social level;
- Supporting the existing network of specialised counselling centres
- Improve the living conditions of trafficked persons and women facing violence

KOK brings together the **majority of specialised counselling centres** in Germany **working with trafficked persons** as well as other organisations combating this issue, including:

- Specialised counselling centres and shelters for trafficked persons
- Independent projects for female migrants
- Counselling centres for sex workers
- Women's shelters
- Women's and human rights groups and lobbying organisations
- Umbrella organisations representing charitable NGOs

KOK's work takes an **intersectional approach**, i.e. with the knowledge that there are many different forms of discrimination that may co-exist and reinforce each other. KOK's work focuses on **representing women's** and, in particular, **migrants' interests**. Moreover, thanks to their experience, KOK offers expertise in all groups of trafficked persons.

The **KOK Office** focuses primarily on the following **areas**:

- Promoting national and international networking among specialised counselling centres and other NGOs
→ **Networking events, workshops, conferences**
- PR and media work
→ **Publications, newsletters, website, etc.**
- Raising awareness and educating about trafficking in human beings and violence against women in the migration process
→ **Training courses, touring exhibition, etc.**
- Participating in committees and networking
→ **Interministerial and interdisciplinary working groups**
- Political lobbying and policy advice
→ **Position papers; policy advice at the regional, national and European levels**

KOK is funded by the Federal Ministry of Family, Senior Citizens, Women and Youth.

CASE STUDY

During a party in her country of origin, a young African girl, Lisha, met an older woman who was impressed by her excellent manual skills. Later on, the woman suggested Lisha travelled to Germany, where she would make a better living from her work. The woman could pay the travel costs and Lisha would pay her back bit by bit.

As far as Lisha was concerned, this was her big opportunity. She had become more and more of a burden on the relatives who had taken her in after her parents' violent death. Before her departure, Lisha was taken to a voodoo priest by the woman. There she had to swear that she would pay back the €30,000 travel expenses as quickly as possible. As voodoo is part of everyday life in her country, Lisha was only slightly surprised.

After arriving in Germany, Lisha was told she would be working in a brothel. She had to bring in considerable earnings on a daily basis. When she did not, she was threatened with beating and rape. On one occasion, she ran away with a punter, following which the perpetrators threatened Lisha's family in Africa. Lisha's relatives begged her over the telephone to carry on working so that they did not have to live in fear in Africa. So Lisha returned to the brothel.

Several months later, when the situation had become almost unbearable, she ignored her fear of death and her concerns for her family and escaped. She was helped by a punter, who went straight to the police with her. There, she testified against the perpetrators and the specialised counselling centre JADWIGA was contacted.

JADWIGA supported Lisha by offering the following services:

- Organising secure accommodation in a safehouse;
- Regularly accompanying Lisha to the doctor, as her time working in brothels had left physical marks;
- Coordinating support from agencies and authorities;
- Accompanying Lisha to the police and to court;
- Organising German lessons for her;
- Helping her find a job;
- Offering continuous psycho-social support through regular meetings.

5. Specialised counselling centres for trafficked persons

KOK specialised counselling centres offer trafficked persons anonymous, confidential and **holistic counselling and support** that is free of charge and independent of state institutions. They offer a wide range of counselling options and aim to improve sustainably the lives of trafficked persons and help them to assert their rights.

Trafficked persons receive psychosocial support as well as counselling with regard to their legal situation or their social, residence, labour or civil rights from counselling centres, or they are referred to a lawyer. They also offer accommodation or help with finding accommodation. Their scope also includes organising medical assistance and support during criminal proceedings. Very often, counselling centre staff accompany clients to meetings with authorities. If necessary, they also organise return to home countries.

These services are not limited to groups of people from a certain region or country. Counselling centres offer support and counselling regardless of the nationality and residence permit situation.

Counselling center's staff have extensive experience in **psychosocial counselling of trafficked persons** and are aware of the needs of their clients, mostly traumatised women and girls. They use **multilingual counsellors** or interpreters to offer comprehensive, far-reaching and individual counselling to trafficked persons.



Due to the history of their creation, many specialised counselling centres who are members of KOK work primarily with women, regardless of the type of exploitation they have faced. The vast majority of KOK member organisations also occasionally counsel men and whole families. Counselling centres also support and counsel trafficked minors.

Specialised counselling centres offer comprehensive and holistic counselling for trafficked persons, but also training and information events to raise awareness on trafficking in human beings.

These include:

- Prevention training courses
- Training courses for prosecuting authorities
- Information for vulnerable persons
- Organisation of networking workshops for various stakeholders, e.g. police, lawyers or relevant public authorities
- Discussions with pupils or teachers

KOK member organisations and their local branches



6. Networking and cooperation at the national and regional level

KOK member counselling centres are located all over Germany, with at least one centre in almost every federal state (with the exception of Thuringia). They often cooperate with various regional and local stakeholders. Their focus and target groups tend to vary: through effective networking, counselling centres can offer each other support and complement each other's activities.

The **working group of national and regional experts on trafficking in human beings** [Bundesländer Arbeitsgruppe Menschenhandel], was established in 1999 under the auspices of the Federal Ministry of Family, Senior Citizens, Women and Youth. It created a scheme to improve cooperation among stakeholders and the protection of trafficked persons: the "Cooperation scheme for cooperation between specialised counselling centres and police for the protection of victims of trafficking in human beings for the purpose of sexual exploitation". There are currently 13 federal states with such a **cooperation agreement**. Depending on regional structures, other relevant institutions or stakeholders may be involved in these cooperation agreements, besides specialised counselling centres and the police. As a member of the Working Group on Trafficking in Human Beings, KOK played a critical role in establishing this scheme. To accompany the cooperation agreements, **round tables** regarding the issue of trafficking in human beings are held in the various federal states and are often coordinated by regional governments. In some cases, round tables have also been arranged at council level.

To strengthen ties, KOK invites NGOs to an **annual networking event**, allowing German-speaking counselling centres (from Austria, Switzerland and Luxemburg, as well as Germany) to discuss current issues at stake and to develop cooperation initiatives.

7. What needs to be done

Victims of violent crime have a fundamental right to be protected and states must adhere to their obligations. **A lot of changes and implementation work** still need to be done in Germany:

Trafficked persons must receive comprehensive and effective **information regarding their rights** and be **empowered to assert** them.

Independently of criminal prosecution, the **rights, interests and protection** of trafficked persons must be **appropriately taken into consideration**.

Trafficked persons must be offered a **legal opportunity to reside and work** in the country, even beyond the duration of the criminal proceedings and **regardless of their willingness and ability to testify**.

Access to **medical assistance**, including therapy to cope with their ordeal, must be improved for all victims, regardless of their residence status.

The possibilities to **claim unpaid wages and compensation** must be improved.

Finally, in order for trafficked persons to be offered support and **counselling, specialised counselling centres must have the necessary funding**.

Further information

- **KOK:**
<http://www.kok-gegen-menschenhandel.de/en/home.html>
You will find a list, including links, to all KOK members as well as other counselling centres
- **German Federal Criminal Police Office:**
https://www.bka.de/EN/CurrentInformation/AnnualReports/TraffickingInHumanBeings/traffickinginhumanbeings_node.html
- **German Institute for Human Rights:**
<http://www.institut-fuer-menschenrechte.de/en/topics/prohibition-of-slavery/>
- **Global Alliance against Traffic in Women:**
<http://www.gaatw.org/>
- **La Strada International:**
<http://lastradainternational.org/>
- **European Union:**
www.ec.europa.eu/anti-trafficking/
- **OSCE:**
www.osce.org/secretariat/trafficking
- **Council of Europe:**
www.coe.int/t/dghl/monitoring/trafficking/default_en.asp
- **UNODC:**
www.unodc.org/unodc/en/human-trafficking/index.html?ref=menuaside
- **UN Special Rapporteur on trafficking in persons:**
www.ohchr.org/EN/Issues/Trafficking/Pages/TraffickingIndex.aspx

Contact and donations

Provisions made for adequate support or for secure accommodation of trafficked persons are insufficient in Germany. This needs to change through lobbying and PR activities.

We need your support – every donation helps.

Account for donations:

Evangelische Bank eG

IBAN: DE43 5206 0410 0003 9110 47

BIC: GENODEF1EK1

Donation Line: 0900 – 156 53 81

(only within Germany)

For each phone call, €5 (including a €0.75 phone service charge) will be donated to KOK. The amount will appear on your next phone bill. KOK is happy to issue a donation receipt.

Donate while shopping online:

You can support KOK directly by simply donating while shopping online via the website www.wecanhelp.de

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Federal Ministry for
Family Affairs, Senior Citizens,
Women and Youth

The **Trafficking in human beings** information brochure also has a version on **Trafficking in human beings – labour exploitation** and **Trafficking in human beings – Forced criminal activities and begging**

Also available in German.

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