

Trafficking in human beings for the purpose of sexual exploitation



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1. Introduction

Trafficking in human beings is defined as a situation whereby persons are persuaded through the use of violence, deception or threats, for example, and forced to engage in or to continue to engage in exploitative services and activities. Trafficking in human beings can take various forms and occurs in different areas:

- Exploitative employment relationships
- Sexual exploitation
- Exploitation in marriage
- Forced begging
- Coercion to commit criminal offences
- 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.

From the early 1980s, German counselling centres for women started addressing more and more the issue of trafficking in human beings (THB) for the purpose of sexual exploitation in view of the increasing numbers of trafficked persons identified. This led to the emergence of specialised counselling centres that have intensified networking among various stakeholders to address the issue of trafficking in human beings for sexual exploitation and to offer support to trafficked persons.

Here we will provide general and legal information regarding this criminal offence, as well as an overview of all the existing specialised support structures available to trafficked persons in Germany and presenting in particular the services and work of **KOK** members and the **KOK** office.

2. Trafficking in human beings for the purpose of sexual exploitation

When talking about trafficking in human beings (THB) for the purpose of sexual exploitation, we are referring to situations in which persons are forced to work in prostitution or to offer other sexual services, or to work in conditions to which they did not consent. 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 are forced to work in dreadful conditions.

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 either as the exploitation of prostitutes or **procuring** (“pimping”) in accordance with Articles 180a and 181a of the German Criminal Code (*Strafgesetzbuch*).

The **threshold for trafficking in human beings for the purpose of sexual exploitation** is deemed to have been breached if deception, coercion, threats or violence have been used to make or force persons to engage in and to continue engaging in prostitution or sexual services. Persons trafficked for the purpose of sexual exploitation **cannot freely decide whether** they want to practise sex work **and how**. In practice, the shift is often blurred, and it is often

difficult to discriminate between exploitation in prostitution and trafficking in human beings.

The **conditions** in which trafficked persons are forced to work are characterised by low wages or non-payment of salary, very long working hours, very little or no time off, extortionate rent prices, dangerous working conditions and/or pressure to offer particular sexual practices against their will. Although the term suggests that affected persons are trafficked from one country to another, this is not automatically the case. The definition of “trafficking in human beings” as set out by German law does not require borders to be crossed. Although migrants can be particularly at risk, there are also cases of trafficking in human beings among German citizens.

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, they are lied to about the **nature of the activity in which they will be engaging**.

It is also common for trafficked persons who originally chose to work in prostitution to be confronted later 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 relationship with the trafficked person and use emotional leverage to force them into prostitution. Many German girls and young women have also fallen prey to this trick.

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

- Confiscating documents or providing fake documents
- Imposing specific sexual practices (e.g. working without a condom)
- Making victims compliant by means of sexual or physical violence, alcohol, drugs or medication
- Putting pressure on trafficked persons by pretending to have good relations with the police or using videos or photos, for example
- Constant surveillance
- Unacceptable accommodation and working conditions
- 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 yearly report, currently the majority of trafficked persons in Germany are from Eastern and Southeastern Europe as well as from Germany. However, it must be noted that the cases listed in the report only include those known to the police. In view of the high number of unreported cases, it is impossible to provide a conclusive overview of the countries of origin of trafficked persons. It is highly likely that most persons trafficked for the purpose of sexual exploitation are women or girls.¹

¹ According to the German Federal Criminal Police Office's yearly report on trafficking in human beings, 95% of all identified trafficked persons in 2014 were women or girls.

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 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 for the “Protection against Trafficking of Girls” (1904), the “Suppression of the Traffic in Women and Children” (1921) or 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 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 Protocol (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 battle 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.

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 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 1973. Since a criminal legislation reform that took place in 2005, which added trafficking in human beings for the purpose of labour exploitation to German criminal law, trafficking in human beings for the purpose of sexual exploitation is provided for by Article 232 of the German Criminal Code. In accordance with Article 232 of the German Criminal Code, it is illegal to exploit another person’s predicament or helplessness in order to induce them to engage in or continue to engage in prostitution or to engage in exploitative sexual activity with the use of violence or deception. In the case of persons under 21, no coercion is necessary. The fact of making someone engage in prostitution alone can be prosecuted.

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

The offence is punishable by prison sentences varying from six months to ten years. 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.

Jurisdiction

District court of Kassel, 20.03.2013,
KOK Case Law Database

The District court of Kassel sentenced a Bulgarian and a Greek citizen accused of trafficking in human beings for the purpose of sexual exploitation to a suspended sentence of one year and six months' imprisonment. During winter 2012, the accused enticed a Bulgarian 20-year-old to Germany by means of false promises and forced her to engage in sexual acts. After having her documents confiscated, she was forced to engage in prostitution and had to hand over her earnings to the accused. They used physical violence to overcome her resistance. Because she had to engage in unprotected sex and unwanted sexual practices, she now suffers from chronic STDs and long-term traumas. The court granted her €9,300 in compensation of unpaid prostitution wages and €10,000 in damages for pain and suffering.

[Reference: 266Ls – 8852Js 4361/13]

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 also considered to be a model of successful networking.

One of the main **goals 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;
- Improving 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:

- Specialised counselling centres and shelters for trafficked persons
- Autonomous projects for female migrants
- Counselling centres for sex workers
- Women's shelters

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- Women's and human rights groups, lobbying organisations
 - Church-led groups
 - 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 concur and can reinforce each other. **KOK's** work focuses on **representing women's** and, in particular, **migrants' interests**. Moreover, thanks to their experience, **KOK** offers expertise covering 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.**

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- 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 commented on her excellent manual skills. Later on, the woman suggested Lisha travelling 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 customer, 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 specialised counselling centre JADWIGA was contacted.

The counselling centre 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's 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 help to assert the rights of trafficked persons and sustainably improve their lives. Trafficked persons receive psycho-social 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.

KOK members' staff have extensive experience in **psycho-social 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 a 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 **minors** affected by THB for the purpose of sexual exploitation.

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

These include:

- Prevention training courses
- Training courses for prosecuting authorities
- Information events 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



6. Networking and cooperation at the national and regional level

KOK has member counselling centres 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 networking, counselling centres can offer each other support and complement each other.

The **Working Group on Trafficking in Human Beings** established in 1999 under the auspices of the Federal Ministry of Family, Senior Citizens, Women and Youth created a scheme to improve cooperation among stakeholders and the protection of trafficked persons with the “Cooperation agreement 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 cooperation, **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 still needs to be done in Germany, especially to comply with EU legislation.

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 therapies 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 receive the necessary funding.

Further information

- **KOK:**
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:
www.bka.de/nn_194550/EN/SubjectsAZ/TraffickingInHumanBeings/traffickingInHumanBeings__node.html?__nnn=true
- Federal Ministry of Family, Senior Citizens, Women and Youth:
www.bmfsfj.de/BMFSFJ/gleichstellung,did=73022.html
- German Institute for Human Rights:
www.institut-fuer-menschenrechte.de/en/topics/prohibition-of-slavery.html
- Global Alliance against Traffic in Women:
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/human-trafficking/

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.boost-project.com.

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