



DATA COLLECTION IN THE CONTEXT OF TRAFFICKING IN HUMAN BEINGS AND EXPLOITATION IN GERMANY

KOK Report

2020/2021

KOK

German NGO Network against
Trafficking in Human Beings

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KOK Report – Preliminary version 2020/2021



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INTRODUCTION AND HUMAN RIGHTS CONTEXT

There are many gaps in the data available on prevalence of trafficking in human beings and exploitation in Germany. Statistics that do exist are neither comprehensive nor substantiated; the only reliable data is collected in connection with the Federal Situation Report on Human Trafficking drawn up by the German Federal Criminal Police Office. However, this situation report only tells part of the story, as it relies on cases known to the police in which investigations have been opened and subsequently concluded.

Both in Germany and at international level, those reports on trafficking in human beings that are currently available and based on verified sources draw on cases reported by law enforcement agencies, and consequently they focus solely on investigations and data regarding the trafficked persons and perpetrators involved. Though this information is important, it nonetheless paints a very limited picture.

At the same time, reliable statistics and reports on trafficking in human beings and exploitation in Germany are urgently needed in order to plan more targeted measures to combat these phenomena and to raise awareness about shortcomings and issues with the current system. It is of great pertinence both to the political sphere as well as to civil society to find answers to questions such as: roughly how many cases are referred to specialised counselling centres each year? What types of exploitation are most common? What type of support is provided to trafficked persons?

That is why in Germany, too, discussions are ongoing at political and civil society level regarding data collection in the context of trafficking in human beings and the establishment of a corresponding national reporting mechanism, like the ones that already exist in many European countries. The obligation to set up a national rapporteur on trafficking in human beings or a similar mechanism arises primarily from a number of European legal instruments which Germany has signed and ratified as a contracting party. Although the idea of having such a national reporting mechanism in Germany in principle enjoys the support of all the various stakeholders involved in combating trafficking in human beings and in supporting trafficked persons, major concerns remain with respect to the data collection process, especially when it comes to data protection and the right of trafficked persons to decide what happens with their data.

The outcomes and points discussed as part of the project jointly carried out by KOK and European NGO network La Strada International (LSI), '*datACT – data protection in anti-trafficking action*' (2012–2015) and the political mandate to establish a national reporting mechanism on traf-

ficking in human beings also sparked a debate within KOK regarding data collection and data protection in anti-trafficking efforts. It is in everyone's interest to learn more about the actual extent and nature of trafficking in human beings and exploitation in Germany. From a civil society perspective, the primary objective is to collect data that provides an insight into the enforcement of the rights of those affected by trafficking and exploitation.

In order to reach a better understanding of this subject, a working group was established in autumn 2016 that is comprised of representatives of member organisations, a data activist and the IT company 3plusx, with the aim of discussing the possibility of collating the data from specialised counselling centres and discussing and testing the specifications for a data collection tool which would meet up with in advance defined requirements. The working group came up with a basic framework for the content of a software program for collecting data on cases of trafficking in human beings referred to specialised counselling centres, the aim being that it should make it possible to assess the effectiveness of measures to combat trafficking in human beings and to protect the human rights of trafficked persons.

To mark the occasion of the European Anti-Trafficking Day 2020, KOK published its first report on data collection in the context of trafficking in human beings in Germany. This report provided an introduction to KOK's participatory, civil society approach to data collection¹, which focuses on the social and legal situation of those affected by trafficking in human beings and exploitation. It also included a detailed discussion of international and national developments in human trafficking policy, and addressed the often thorny issue of the interplay between data policy, migration and trafficking in human beings. Moreover, the report gave an insight into the development of the KOK data tool, a process that revolved around the question of how to collect and analyse data for the purpose of documenting and assessing the ability of trafficked persons to exercise their rights whilst also respecting their right to decide what happens with their data and ensure that counsellors are able to maintain confidentiality.

The data tool at hand is meant to provide an overview of the situation with respect to trafficking in human beings and exploitation in Germany from the perspective of the specialised counselling centres. By just collating all the cases referred to the participating specialised counselling centres at national level a better understanding is achieved of how many cases of trafficking in human beings and exploitation occur in Germany and what forms of exploitation exist. In addition, the data available in Germany is broadened. However, the ultimate goal is to determine the extent to which trafficked persons are able to exercise their rights.

To allow a clearer understanding of the results, the next section first presents the structure of the KOK data tool and how it works. In the sub-

sequent analysis section, the results of the data collection endeavour are presented and evaluated with a focus on specific issues. In this first report, the analyses primarily focus on the following questions: to what extent can trafficked persons in Germany actually exercise their rights as victims in accordance with international regulations and German law? What support is available to trafficked persons, and is it called upon? How are trafficked persons referred to the specialised counselling centres? Which criminal offences are seen most frequently, and in what areas does exploitation most commonly occur? The analyses were performed using data from the period between 01/01/2020 and 30/06/2021.

This report makes an important contribution to expanding available knowledge on trafficking in human beings and exploitation in Germany by providing data that was previously not systematically merged regarding the rights of trafficked persons and the work done by the support network for trafficked persons.

From now on, KOK will publish an analysis produced using the KOK data tool at regular intervals. Each publication will focus on a particular topic.

2

KOK DATA TOOL: BACKGROUND AND EXPLANATIONS

KOK, together with the specialised counselling centres that fall under its aegis, spent several years determining the nature and purpose of the data tool, as well as the type of personal data this software program would be used to process. In accordance with Article 26 of the General Data Protection Regulation (GDPR), KOK and the specialised counselling centres are jointly responsible for the processing of the personal data collected. As regards the shared use of the data tool, an agreement is in place that sets out the relevant rights and obligations between KOK and the participating member organisations. In order to use the KOK data tool, this agreement must be signed by both parties.

The objective behind collecting the data is to determine the extent to which trafficked persons have access to their rights and are able to actually exercise them. It is hoped that the data collected will provide an insight into the barriers to support services and enforcing the legal rights of trafficked persons, and will highlight examples of best practice. The intention is to use the data to help draw up reports that reflect the perspective of the specialised counselling centres and other organisations on the ground, and to corroborate and further elaborate on the demands and recommendations of KOK itself.

As such, it is not merely a question of empirical, statistical data collection. In fact, this would not even be feasible given the principles on which the database is founded, namely data minimisation, data protection and a person's right to determine what happens with their data.

The web-based software that has been developed in-house allows KOK and its member organisations to compile data about the cases of trafficking in human beings they handle and to analyse that data and put it to use in their policy work.

Applicable data protection law and technical specifications

KOK owns the rights to the KOK data tool software, and extends the necessary usage rights to the specialised counselling centres.

The database and application software are hosted by a company whose servers are located in Germany and are subject to high-level security protocols. Since 2017, KOK has been collaborating with a software developer that assures the administration, maintenance and development of the software program.

The software is easy to use. The website is easily accessible at a web address only known to users, and is also very secure thanks to the use of two-factor authentication among other features.

The KOK data tool is used in a way that fully guarantees respect of the principles of comprehensive data protection set out in the GDPR. All other applicable data protection provisions, especially those in force in Germany, are observed; that includes full adherence to the data secrecy obligation under Section 203 of the German Criminal Code (*Strafgesetzbuch*), in particular as regards the special obligations of those subject to professional secrecy.

The data collected cannot be traced back to individuals.

It is only possible for the KOK office to perform statistical analyses on the metadata. Users cannot view details of single cases. As for the specialised counselling centres, they can only access the data they themselves have entered. This also means that no-one but the relevant specialised counselling centre is able to view their own datasets. Only the KOK office is able to obtain a summarised overview of all cases in the database.²

The specialised counselling centres only enter case data with their clients' consent, and the data entered is pseudonymised. Instead of entering

2 Third parties may be granted access to this overview in exceptional cases, but only subject to binding data protection agreements and only for a limited period. This was true in the case of this report, for example, where KOK received support from the ZEP with regard to the analysis and evaluation of data and the drafting of the report.

the name of the person or file reference, an individually generated code consisting of a combination of letters and/or numbers is used. Encryption is mandatory, as the data in question includes both personal data and special categories of personal data which must be processed with particular care and may under no circumstances be traceable. The KOK data tool is structured in such a way that only data that is absolutely essential for the purpose of the processing can be processed.

Data falling under the following categories is entered in the data tool:

1. Data on age, gender, nationality and residence status, encrypted by way of identification codes
2. Information on criminal and civil proceedings, encrypted by way of identification codes
3. Information on services provided by the specialised counselling centres, encrypted by way of identification codes
4. Information on when counselling was concluded, encrypted by way of identification codes

At their own discretion, the specialised counselling centres may enter cases in the KOK data tool purely for statistical purposes without adding any further information. Equally, they may simply note in the KOK data tool that a client has not consented to the collection of their data for statistical purposes.

In line with the GDPR, clients of specialised counselling centres are provided with information regarding the processing of their data and the purposes of that processing in an easily comprehensible and accessible format. KOK provides copies of its declarations of consent in multiple languages. During their counselling session clients are given a briefing, after which they may refuse to allow the processing of their data without fear of this negatively impacting their counselling. Specialised counselling centres and their clients may also request that certain datasets be deleted, and are also entitled to withdraw their consent to the processing of their data.

In order to ensure the highest possible degree of security and to prevent data protection risks as far as possible, KOK regularly enlists the help of independent experts to carry out data protection impact assessments.

Only authorised individuals may access the database using their personal login details.

The data input interface has been programmed to contain over 100 input fields with various options for users to choose from when entering data.

A user manual has been produced to help users when they are entering datasets. The input screen is also designed to be quite intuitive, with a glossary, warning messages and tips displayed to assist users when creating a new case.

In accordance with the principles that KOK has subscribed to, none of the fields are mandatory.

The data tool is constantly being improved, with the software and user interface regularly modified and adapted to users' needs. All features and functions are first piloted on a test platform.

The basic phase of development of the tool was completed in summer 2019, and the KOK member organisations had the opportunity to test the tool and familiarise themselves with it up until the end of that year. Their feedback was collected and most of their suggestions implemented.

It has been possible to enter real case data for analysis since 01/01/2020.

By the end of June 2021, roughly half of the KOK member organisations – 16 in total – that offer specialised counselling services had signed the user agreement.

The data tool makes it easier for the KOK member organisations to produce reports for donor organisations and funding partners. They are able to aggregate the data they enter into the software and analyse it in line with their needs, and KOK is able to do the same with the data from all cases. Moreover, respect of the aforementioned data protection standards is always ensured.

3

RESULTS FROM THE KOK DATABASE FOR 2021

3.1 Preliminary remarks on the underlying data and evaluation of the results

The results of the first data analysis performed using the KOK database are presented and discussed below. In the period from 01/01/2020 to 30/06/2021, 820 cases were entered in the database by a total of 16 specialised counselling centres, 714 of which were unlocked for data analysis. As explained above, the data entered may not be used for data analysis and reporting without the consent of clients.

Consequently, when evaluating the results it is important to remember that the findings presented only represent a portion of the clients of

specialised counselling centres and of the services they provide in cases of trafficking in human beings and exploitation. On the one hand, not all specialised counselling centres have yet begun using the data collection tool, and on the other it is not possible to include all cases entered in the analysis since not all clients have consented to the use of their data in this way. As it is in theory possible for multiple 'cases' to be entered for a single person (e.g. if they seek help from a specialised counselling centre with regard to a different issue), it is entirely possible for one person's basic information to be duplicated in the data base. That said, this is not believed to occur frequently at the current time.

Moreover, it should be borne in mind that clients of the specialised counselling centres are always entitled to refrain from answering certain questions asked by the counsellors who are entering their data. As such, not all fields will always be filled in. In some cases, employees of the specialised counselling centres themselves may decide not to fill in certain fields if the question is not relevant to a particular client. For the most part, all 714 cases were included in the basic population for data analysis when calculating percentages. The only exception to this is those questions which are only asked under specific circumstances.

The KOK data tool is still a work in progress, and is constantly being updated in order to make it easier for the specialised counselling centres to enter data and in order to optimise the data analysis process. With each additional year and with each additional specialised counselling centre that participates in the data collection endeavour, the possibilities for analysis grow and deepen. The results presented below demonstrate that the KOK data tool is already contributing to expanding the existing knowledge base regarding exploitation and trafficking in human beings in Germany, even if it cannot claim to be representative of all trafficked persons. Whereas the annual situation report published by the German Federal Criminal Police Office only discusses cases for which investigations have been concluded, the KOK database covers a broader spectrum of cases and can therefore provide some insight into those cases that would ordinarily slip under the radar.³ Among those who call upon the services of specialised counselling centres, there are individuals whose case has not (yet) been the subject of a completed criminal investigation or has not (yet) been subject to investigation at all. This allows the KOK report to shed further light on this grey area. Moreover, the KOK database has made it possible for the very first time to map out the needs of those affected by trafficking in human beings and exploitation whilst also highlighting the broad range of support services provided by specialised counselling centres.

3 By way of comparison, the German Federal Criminal Police Office's 2019 Situation Report declares that there were 287 proceedings regarding sexual exploitation, and 14 cases of labour exploitation. A further 122 proceedings regarding exploitation of minors were also documented.

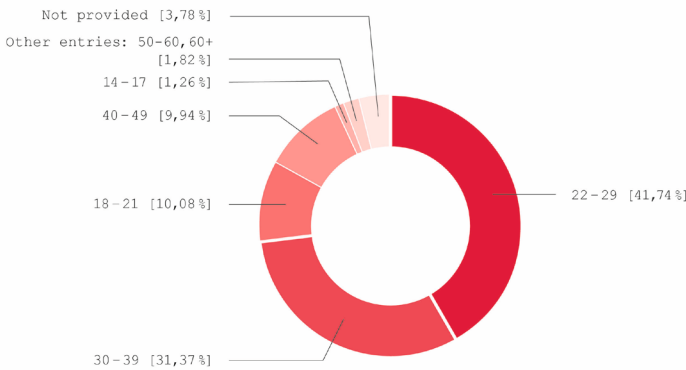
3.2 Personal information on individuals seeking counselling

As explained above, the data entered in the KOK database is primarily intended to expand available knowledge about the support services offered to, and enforcement of the legal rights of trafficked persons. Furthermore, on grounds of data protection and the right of individuals to decide what happens to their data, only minimal information on the personal background of the individual seeking counselling is collected. The initial results regarding the age, gender, nationality, and parental status of trafficked persons are presented below.

It becomes apparent that it is almost exclusively women and girls who seek the assistance of the participating specialised counselling centres after being subjected to trafficking in human beings and exploitation (94%).

With regard to age (see Fig. 1), the individuals registered by the collaborating specialised counselling centres mostly fell into the age categories 22-29 (42 %) and 30-39 (31 %).

Fig. 1 – Age



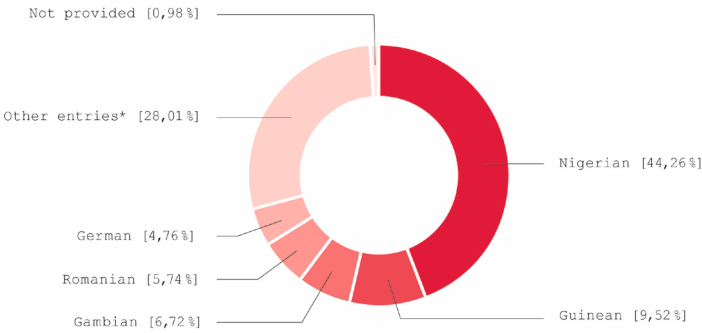
Source: KOK data tool

Approximately 9 % of clients were minors at the time the offence was committed.

In the period from 01/01/2020 to 30/06/2021, a great number of individuals who received support from the specialised counselling centres were nationals of African countries. Of these, 44 % were from Nigeria, making this the largest group of nationals (see Fig. 2). Based on the available data, it is difficult to determine the extent to which this is due to the EU-wide focus

on combating Nigerian human trafficking rings. Only 5 % of clients had German nationality. This figure deviates substantially from that presented in the German Federal Criminal Police Office’s Federal Situation Report on Human Trafficking⁴. It is not known exactly why this is the case, nor is it possible to determine the reason for this based on the information collected, so further investigations are required. One contributing factor could be that clients from West African countries were often subject to exploitation on their way to Germany, which usually means that the offences are not investigated in Germany.

Fig. 2 – Nationality



* Bulgarian, Hungarian, Ugandan, Ukrainian, Sierra Leonean, Serbian, Cameroonian, Ghanaian, Albanian, Senegalese, Afghan, Beninese, Thai, Tanzanian, Polish, Eritrean, Ethiopian, Congolese, Russian, Somali, Togolese, Bosnian/Herzegovinian, Chinese, Vietnamese, Liberian, Ivorian, Columbian, Georgian, Syrian, Portuguese, Slovakian, Nigerian, Spanish, Bissau-Guinean, Croatian, Yemeni, Palestinian, Rwandan, Mauritanian, Congolese (DRC), Venezuelan, Egyptian, British, Greek, Iranian, Brazilian, Turkish, Korean, and Moldovan.

Source: KOK data tool

In more of half of the cases for which information was available, clients stated that they had children (57 %). In the majority of these cases, the children were also in Germany (73 %). In 18 % of cases, clients stated that they had no children, and in 24 % of cases no information was provided on this subject.

4 According to the German Federal Criminal Police Office’s 2019 Federal Situation Report, 22 % of trafficked persons were German nationals.

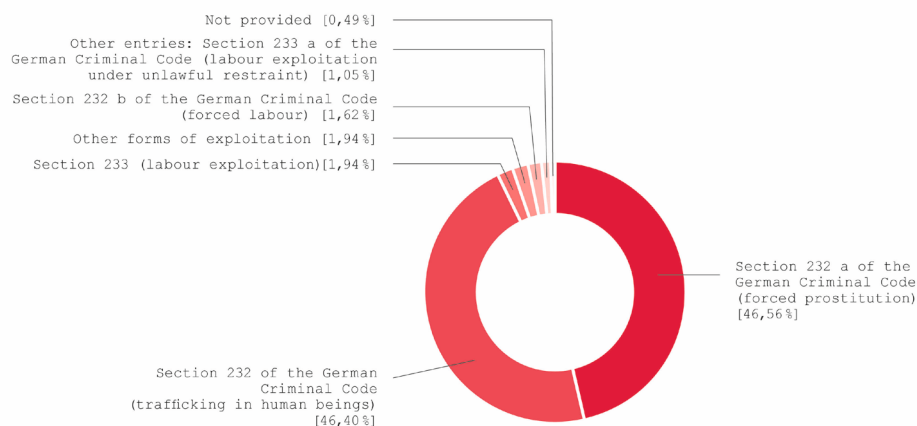
3.3 Most common forms of exploitation

In Germany, trafficking in human beings and exploitation are present in numerous forms and areas. Since 2016, trafficking in human beings, forced prostitution, forced labour, labour exploitation, labour exploitation under unlawful restraint, and organ trafficking have been criminal offences under Sections 232 et seq. of the German Criminal Code. However, the German Criminal Code defines the term 'human trafficking' merely as the recruitment, transportation and accommodation of a person for the purpose of exploiting them (Section 232 of the German Criminal Code). Exploitation and its various forms are defined in the following paragraphs.

The offences of forced labour and labour exploitation also include exploitation involving criminal activities and begging. The latter involves individuals being persuaded or forced to go out and beg, then made to hand over all or most of the money they receive. In the case of exploitation involving criminal activities, individuals are persuaded to carry out criminal offences such as theft, debit card fraud or selling drugs. The financial gains from the offences are kept by the perpetrators. The most well-known form of trafficking in human beings and exploitation among the general public is sexual exploitation, largely because it has been a criminal offence since 1973 and is most frequently identified by specialised counselling centres and the police. Labour exploitation became a criminal offence in 2005. As a result, most of the knowledge and existing support structures relate to these two forms of exploitation. The specialised counselling centres advise individuals affected by various forms of trafficking in human beings and exploitation, but since most were founded in the 1980s off the back of a women's rights and feminist platform, they tend to focus on women. Some limit their services to those affected by sexual exploitation due to their funding situation and their mandate, but many also offer counselling to women who are subject to labour exploitation. Due to a lack of adequate support structures in other areas, KOK's specialised counselling centres also counsel those affected by other forms of exploitation, as well as, in some cases, men and trans people. They do so in line with their areas of expertise and with the support of good collaboration networks.

Staff at the specialised counselling centres are able to enter the criminal offences related to a particular case into the KOK database, provided that their clients have consented to this (see Fig. 3). In each case, they may list multiple offences. According to the specialised counselling centres who contribute to the database, 81 % of cases meet the criteria for being classed as forced prostitution (Section 232a of the German Criminal Code). Trafficking in human beings was reported in almost as many cases (80 %). Labour exploitation was seen in 3 % of cases, as was forced labour.

Fig. 3 – Criminal offence classification
(in the opinion of the specialised counselling centres)

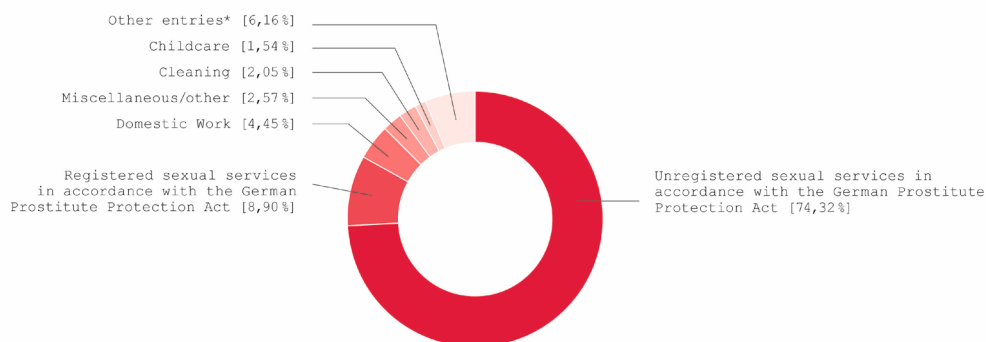


Source: KOK data tool

Multiple answers possible

Moreover, it is possible to enter the areas in which the exploitation occurred (see Fig. 4). This field was completed for 532 cases. Based on these cases alone, it can be concluded that exploitation was most frequently reported in the area of *unregistered sexual services in accordance with the German Prostitute Protection Act* (82 %), whereas 9 % of cases were reported to have occurred in the area of *registered sexual services in accordance with the German Prostitute Protection Act*. 4 % of cases were reported to have involved exploitation in the area of *domestic work*.

Fig. 4 – Areas in which exploitation occurred



* catering, criminal activities, general services, not provided, begging, au pair, care work, security, agriculture, transport/logistics, organ trafficking and other unskilled labour in manufacturing

Source: KOK data tool

Multiple answers possible

The majority of the individuals affected by trafficking in human beings and exploitation and supported by the specialised counselling centres were recruited in their home country (70 %). Just under a fifth were recruited in Germany (18 %) or in a transit country (18 %).

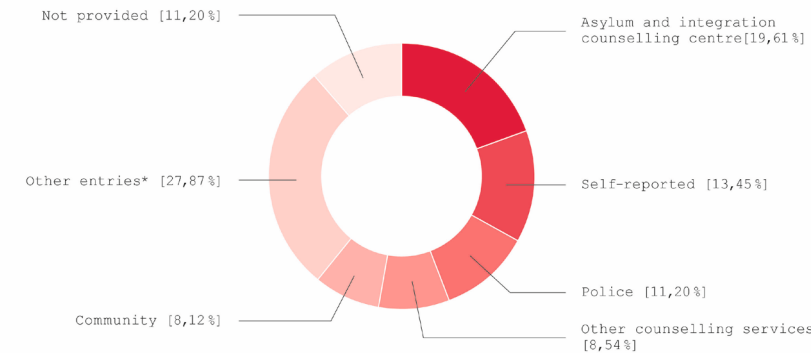
Germany was identified as the place of exploitation in 41 % of cases. Italy (31 %) and Libya (12 %) were also relatively frequently listed as countries in which the offences were committed. Trafficked persons from West Africa in particular are often transported to Germany via Libya and Italy, and are subject to extreme exploitation on the journey. Organised crime plays an enormous role in this case, as such groupings boast well-networked structures and connections. There have been repeated reports from the media and NGOs about the brutal exploitation of refugees in Libya. The specialised counselling centres commonly report that the violence perpetrated against migrants continues once they reach Europe, with trafficked persons brought to Italy via Libya continuing to be exploited once in Italy. As a result, they travel to Germany in order to flee the exploitative situation and to seek protection and support.

3.4 Access to specialised counselling centres

Trafficked persons end up being in contact with the specialised counselling centres via a number of routes, for example referral by the police, self-referral, via authorities or agencies (e.g. the German Federal Office for Migration and Refugees in connection with asylum hearings), via accommodation facilities and counselling services for refugees, or via their personal contacts (e.g. prostitution clients or acquaintances).

The results from the KOK database show that initial contact between specialised counselling centres and their clients was most often made via asylum and integration counselling centres (20 %). The second most frequent method was for clients of the specialised counselling centres to seek counselling themselves. The police were reported only as the third most common referring institution (11 %). In 9 % of cases, clients were referred to the specialised counselling centres by other counselling centres, and in 8 % of cases contact was made based on information from within the community (see Fig. 5).

Fig. 5 – Initial contact made via



* other, other multipliers, specialised counselling centre for trafficked persons, initiatives and institutions, other authorities, unknown, doctors and other medical professionals, authorities under the German Act on Sex Worker Protection, women's shelter, client, 'Violence against Women' support hotline, social media, and Federal Police Force

Source: KOK data tool

Clients were also asked how they found out about the specialised counselling centre in question. Their responses to this question also highlight the importance of asylum and integration counselling services in referring individuals to specialised counselling centres – 16 % of clients said they found

out about the services offered by specialised counselling centres via this route. 9 % received information from within the community, and 8 % found out via other counselling centres. 14 % fell into the *Other* category, which is a relatively high figure. This covers referrals to the specialised counselling centres via bodies or organisations that do not fall under any of the options available for selection.

3.5 Services provided by the specialised counselling centres and ability of their clients to assert their rights and access services

KOK brings together around 50 specialised counselling centres for trafficked persons, both directly in the form of member organisations and via its offices. Some focus exclusively on this target group, whilst many provide general counselling to migrants and women who are victims of violence and offer counselling for trafficked persons as an additional service. All of these centres are NGOs working either independently or under the auspices of charitable organisations. The specialised counselling centres vary in terms of their size and resources; some have up to ten members of staff, whereas others may only employ one or two (sometimes only part-time) due to a lack of funding. The specialised counselling centres offer a plethora of services ranging from outreach work, crisis intervention and initial counselling to longer-term psychosocial counselling and support, support during asylum proceedings, support during criminal proceedings, support in returning home, or help building a new life in Germany. Awareness-raising, political campaigning and networking, and collaboration with a variety of stakeholders such as prosecuting authorities and social service providers are essential components of the work done by the specialised counselling centres. KOK's specialised counselling centres have all undertaken to observe shared guidelines and quality standards in their work.

Although not all specialised counselling centres are participating in the KOK database yet, the results of the analysis clearly show just how broad a spectrum of support services and assistance the specialised counselling centres offer to trafficked persons. Psychosocial counselling and support as well as dissemination of information play a major role in almost all cases (see Table 1). This also applies to crisis intervention, which was required in 424 cases (59 %).

Table 1: Services provided by the specialised counselling centres

	Number	Percentage
Psychosocial counselling and support	613	85,85 %
Provision of information	588	82,35 %
Crisis intervention	424	59,38 %
Support during asylum proceedings	421	58,90 %
Other official formalities (acquiring a passport, documentation etc.)	360	50,42 %
Residence proceedings	346	48,45 %
Organisation of services providing access to means of subsistence	323	45,23 %
Referral to other counselling centres	281	39,35 %
Support with pregnancy and childcare	186	26,05 %
Help asserting other rights (Crime Victims Compensation Act, statutory accident insurance claims, claims for unpaid wages etc.)	86	12,04 %
Support during criminal proceedings	75	10,50 %
Psychosocial support during court cases	42	5,88 %

Since many of their clients do not have German nationality and do not (yet) have a definitive residence status, the specialised counselling centres also frequently provide counselling and support in asylum proceedings (59 %). In around half of cases, the specialised counselling centres also provide support with respect to official formalities and proceedings concerning the right of residence. It is also relatively common for the specialised counselling centres to refer cases to other specialised services that can help their clients with specific matters.

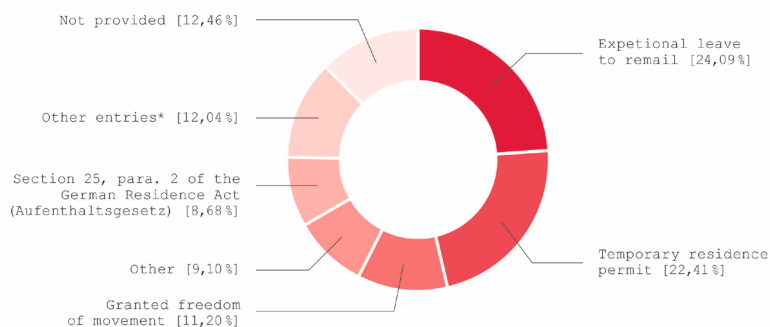
As explained above, many of the individuals who receive counselling have children. The specialised counselling centres also provide support to this group of women and their children. In 186 cases (26 %), the particular needs of pregnant women or children were said to have been a relevant aspect of the counselling provided.

Only in a small number of cases did the specialised counselling centres report having offered support during criminal proceedings or with the assertion of other rights (see Section 3.5.3 for more details).

3.5.1 Access to protection

It is clear from the figures on residence status (see Fig. 6) that a large proportion of clients are not German nationals. In those cases for which the relevant information was available, the residence status most frequently reported by the specialised counselling centres was exceptional leave to remain (24 %), followed by temporary residence permits (22 %). Consequently, the residence status of many of their clients is either not yet definitive, or uncertain. It is therefore unsurprising that support during asylum and residence proceedings represents a major portion of the work done by the specialised counselling centres.

Fig. 6 – Residence status



* Section 25, para. 3 of the German Residence Act, Section 25, para. 4a of the German Residence Act (trafficking in human beings), not provided, German citizenship, residence permit for another EU country, Section 25, para. 5 of the German Residence Act, and Section 25, para. 4b of the German Residence Act (German Act to Combat Undeclared and Illegal Employment or wage claims)

Source: KOK data tool

Trafficked persons who have managed to escape their predicament require time and support in order to recover. EU Directive 2004/81/EC, which has already been in force for some time, stipulates that third-country nationals residing irregularly in a country must be granted a reflection and stabilisation period, during which expulsion decisions may not be enforced. In Germany, this reflection and stabilisation period is guaranteed by way of suspension of deportation as provided for in Section 59, para. 7 of the German Residence Act (*Aufenthaltsgesetz*), and lasts at least three months. In many federal states, in order for a reflection and stabilisation period to be granted it must be signed off by the police (see KOK, 2018). In the KOK

database, a reflection period was applied for in 130 out of the 262 cases for which this information is available. In 90 % of these cases, the reflection and stabilisation period was applied for without it having been signed off by the police. In 123 cases, it was indicated in the database that clients had been granted a reflection period.

The specialised counselling centres usually help their clients in finding accommodation, or put them up in their own safehouses. It is worth noting at this stage that the existing system of accommodation for trafficked persons is severely deficient and not harmonised at national level. For women, there are essentially two options: accommodation in a women's refuge or safehouse, or in another kind of secure accommodation provided by the specialised counselling centres (KOK, 2018). However, due to the limited number of places in women's refuges and the relatively small stock of safehouses, this often presents a challenge. In some cases, no accommodation is organised, for example because no funding or places are available, or because the affected individuals have already found accommodation. There is no accommodation system for men who are subject to trafficking in human beings, and as such solutions must be sought on a case-by-case basis. As for minors, child and youth welfare services are responsible for providing accommodation. However, the options they provide and the accommodation they offer are often not adapted to the special needs of children and young people who have been subject to trafficking in human beings. In the KOK database, information was provided on funding for accommodation in 376 cases; in 108 of these it was reported that no accommodation was provided. In those cases where accommodation was organised, funding was primarily provided at the local level (80 %) and at the federal state level (49 %).

3.5.2 Access to benefits

As explained above, the residence status of many clients often remains uncertain. This makes it more difficult for them to access the labour market and earn an income. It was reported that around a quarter of those receiving counselling were not currently in employment (27 %). 18 % had completed a language course, whilst 8 % were in salaried employment. No information was available on employment situation in 277 cases. In only 61 cases was it reported that clients were earning their own income from employment.

The specialised counselling centres often help their clients access subsistence benefits. In fact, staff at the centres reported that they provided support services of this nature in 323 cases. Many of their clients receive subsistence benefits. In almost half of cases (49 %), clients were receiving benefits under the Asylum-Seekers Benefits Act (*Asylbewerberleistungsgesetz*), whilst 20 % were receiving unemployment benefits under the Unemployment Benefits II scheme (*Arbeitslosengeld II*).

As well as access to subsistence benefits, help getting into training and further education or finding a job play a key role in helping these individuals regain their autonomy (see Table 2). In 139 cases, clients received help and/or support in finding training and further education courses. Clients were given help accessing the labour market in 64 cases.

Table 2: Referral and support provided by specialised counselling centres

Further training and education	Number	Percentage
Referral	104	14,56 %
Accompaniment	3	0,42 %
Referral and Accompaniment	32	4,48 %
Employment		
Referral	49	6,86 %
Accompaniment	2	0,28 %
Referral and Accompaniment	13	1,82 %
Literacy		
Referral	74	10,36 %
Referral and Accompaniment	9	1,26 %
Language courses		
Referral	191	26,75 %
Referral and Accompaniment	118	16,52 %

On the path to regaining autonomy, literacy and language courses can be an essential gateway to becoming an active member of society. In 392 cases (55 %), the specialised counselling centres helped clients find and get onto the relevant courses, and sometimes accompanied them during those courses (Table 2). The comparatively high number of cases where these kinds of referrals were called upon illustrates just how high demand for them is.

Those affected by trafficking in human beings and exploitation have often been subjected to years of grave threats, isolation and deprivation of liberty as well as physical, psychological and sexual violence. This can have a severe impact on their physical and mental health (see European Commission, 2020), the consequences of which they may have to live with for years to come. As such, access to proper medical care and psychotherapy is essen-

tial. The KOK database indicates that the specialised counselling centres provided medical referrals and/or accompanied clients to their appointments in 451 cases (see Table 3).

Table 3: Medical referrals and accompaniment

Medical treatment	Number	Percentage
Referral	189	26,47 %
Accompaniment	9	1,26 %
Referral and Accompaniment	253	35,43 %

3.5.3. Support during criminal proceedings and access to compensation

If a trafficked person decides to make a statement and are consequently expected to testify during criminal proceedings, they are able to rely on the support of the specialised counselling centres. Since 2017, it has been possible for particularly vulnerable defendants to request professional assistance and counsel during the entire criminal proceedings. This is known as ‘psychosocial support during court cases’, and is governed by Section 406g of the German Penal Procedure Code (*Strafprozessordnung*). Some of the specialised counselling centres have staff who are certified to provide psychosocial support during court cases, and who then take responsibility for this particular task. However, this is not the case for most specialised counselling centres, meaning that they either have to bring in external psychosocial support professionals⁵, or the trafficked persons do not receive any psychosocial support during their court case within the meaning of the aforementioned law, and instead receive psychosocial counselling and support from the specialised counselling centre during their criminal proceedings. As those affected by trafficking in human beings and exploitation are eligible to bring an accessory prosecution when testifying as a witness, they are also appointed a lawyer to represent them with respect to this accessory prosecution and explain to them how criminal proceedings work and what their rights are during those proceedings.

Trafficking in human beings for the purpose of sexual exploitation has been a criminal offence since 1973, and trafficking for the purpose of labour exploitation since 2005. The other forms of exploitation became criminal offences in 2016 under the German Act improving the fight against traffick-

5 This tends to occur only rarely, as they are not available in every federal state.

ing in human beings and amending the Federal Central Criminal Register Act and Social Code, Part VIII (*Gesetz zur Verbesserung der Bekämpfung des Menschenhandels und zur Änderung des Bundeszentralregisters sowie des Achten Buches Sozialgesetzbuch*). The German Federal Criminal Police Office's 2019 Federal Situation Report on Human Trafficking and Exploitation reported that in 2018, 287 proceedings were completed regarding sexual exploitation, 14 regarding labour exploitation, and 122 regarding exploitation of minors.

In 188 of the cases entered in the KOK database, the specialised counselling centres reported that investigations had been launched. In 153 cases, clients of the centres' services gave a statement during investigations.

In 51 cases it was reported that charges were pressed, whilst in 24 cases the investigations were discontinued due to failure to identify the perpetrator, and in 12 cases they were discontinued due to there being insufficient grounds for suspicion. Criminal proceedings are most frequently initiated regarding offences against personal freedom (forced prostitution, trafficking in human beings, unlawful restraint). In 54 cases recorded in the KOK database, it was reported that the clients of specialised counselling centres testified as witnesses.

Often, trafficked persons themselves are at risk of having to face criminal proceedings, for example because they are residing in Germany illegally or because they are in breach of residence restrictions, the German Narcotics Act or tax regulations. In addition, most are not familiar with German criminal law. Perpetrators exploit this in order to put pressure on them, warning them that they too could be punished for their actions. That makes it all the more important to inform those affected by trafficking in human beings and exploitation about their rights and obligations during investigations and criminal proceedings. The specialised counselling centres provided support during criminal proceedings in 75 cases, thereby helping their clients to exercise their rights.

The ordeal of participating in criminal proceedings can be very stressful for witnesses. Consequently, psychosocial support during court cases is highly important, and in many cases essential. In the case of certain offences, those affected have a right to psychosocial support during court cases in accordance with the German Act on Psychosocial Support During Criminal Proceedings (*Gesetz über die psychosoziale Prozessbegleitung im Strafverfahren*, PsychPbG), for example if they were minors when the offence was committed or in severe human trafficking cases. For other offences, the decision on whether to grant psychosocial support falls to the discretion of the court in accordance with Section 406g of the German Penal Procedure Code, for example in less severe cases of trafficking in human beings. Psychosocial support during court cases in accordance with the PsychPbG was reported to have been provided in 42 cases registered in the KOK database,

though this was often provided by certified staff at the specialised counselling centres.

Victims of violence or exploitative working conditions may be entitled to compensation. Claims for compensation for pain and suffering or for damages are often dealt with as part of civil proceedings, although it is also possible to file a basic claim during criminal proceedings. Those affected by trafficking in human beings and exploitation are eligible to claim compensation for the injuries they have suffered under the German Crime Victims Compensation Act (*Opferentschädigungsgesetz*, OEG), under statutory accident insurance, or by filing a claim for compensation for unpaid wages or damages during civil or consolidated civil and criminal proceedings.

However, it was only reported in 86 of the cases recorded in the KOK database that the specialised counselling centres supported individuals in asserting these rights. Wage compensation was only claimed in 13 cases, and victim compensation in only 6.

These results corroborate the claim made in other reports that it is very difficult in practice to enforce compensation claims filed by trafficked persons. There are various bureaucratic hurdles to overcome (e.g. the question of who is liable to pay lawyers' fees or uncertain, short-term residence permits) and knowledge remains sparse about the different options available to trafficked persons who wish to claim compensation, for example through statutory accident insurance or during a consolidated civil and criminal procedure. Even if a trafficked person is granted compensation, for example during a consolidated civil and criminal procedure, this does not guarantee that they will actually receive the money from the perpetrator. The latter often have no above-board assets, and are therefore unable to pay.

As for the German Crime Victims Compensation Act, this law is often difficult to apply in cases of trafficking in human beings, for example because it does not recognise psychological violence as a form of violence that gives rise to a right to compensation, or because the proceedings under this act are often lengthy, and may take years to reach a conclusion.

4

CONCLUSIONS AND RECOMMENDATIONS

This report is the first to use data collected by the specialised counselling centres for trafficked persons in order to describe the situation regarding trafficking in human beings and exploitation in Germany, thereby providing valuable insights and contributing to the data currently available. The KOK data tool is still in its infancy, and this report is the culmination of the first year and a half of productive data collection. Some of the collaborating

specialised counselling centres have not yet entered all case data for their current clients, and other clients may have declined consent for their data to be processed using the data tool. Nonetheless, a comprehensive dataset has already been compiled, illustrating how trafficking in human beings is a human rights violation that cannot exclusively be combated at national level. There is a huge demand for a whole host of protection and support services provided by civil society stakeholders. The discrepancy between the case data in the German Federal Criminal Police Office's Situation Report on Human Trafficking and that found in the KOK database demonstrates just how important it is for prosecuting authorities to be granted additional resources with a view to protecting human rights and better combating trafficking in human beings through more effective prosecution. The available data clearly shows that many of the individuals in Germany who are affected by trafficking in human beings and exploitation do not enter into contact with the prosecuting authorities or cooperate with them.

The results also show that trafficking in human beings cannot be combated by way of criminal law alone; the protection, promotion and enforcement of the rights of those affected forms an essential cornerstone in the fight against human trafficking, and must continue to do so in future. Not least since this report clearly demonstrates that there is a real need among clients of specialised counselling centres for protection and support, a need that those centres are able to meet in many cases.

Another key finding from this report is that there are multiple facets to counselling and supporting trafficked persons. The specialised counselling centres offer an enormous range of services, all of which they are regularly called upon to provide. Demand for the services offered by specialised counselling centres is high, as clearly demonstrated by the data. This renders the staff of specialised counselling centres key players in the implementation of measures to protect trafficked persons. The demanding work done by the specialised counselling centres requires a range of skills and diverse knowledge. Sustainable funding will be essential to guaranteeing this high degree of professionalism in future, and to allowing these centres to live up to the applicable quality standards and their specific requirements and duties. Unfortunately, this funding is far from assured. This report underlines the need for that funding. In order to maintain the quality of the counselling services offered, the specialised counselling centres must be guaranteed stable, long-term funding. It is equally crucial for additional funding to be made available so that the existing counselling services can be opened up to those affected by other forms of exploitation.

The data gathered by civil society and compiled in this report should be used in the development of policy strategies for combating trafficking in human beings and for protecting trafficked persons.

Trafficking in human beings is an offence that is mainly identified through checks and controls. The fact that trafficked persons are rarely

referred to the specialised counselling centres by the police and other prosecuting authorities highlights the need for better, regular training and awareness-raising among investigating authorities, for upgrading of collaboration structures, and for more resources and prioritisation within the police.

Similar conclusions can be drawn from the finding that only a small number of criminal cases ever reach court, most of which concern sexual exploitation. Only rare accounts of criminal proceedings with regard to other forms of exploitation have been recorded, either in the German Federal Criminal Police Office's Situation Report or in this report. It is important to raise awareness among all stakeholders in order to improve the handling of the relevant offences in practice. A key aspect in this regard is the development of specialist public prosecutors and specialist squads within the state offices of criminal investigation. More resources must be made available for effective, targeted prosecution. Given the number of cases reported where trafficked persons were exploited somewhere other than Germany, cross-border cooperation among prosecuting authorities must be improved.

The KOK dataset confirms the impression shared by many of those on the ground that trust and collaboration between prosecuting authorities and specialised counselling centres is key to ensuring the success of investigations.

Precisely because criminal proceedings are never initiated in many cases of trafficking in human beings, the ability of trafficked persons to exercise their rights should not be conditional upon the existence of such proceedings. Only in this way can Germany fully meet its obligations with respect to the protection and support of those affected by trafficking in human beings and exploitation, for example the obligations set out in the EU Directive or the Council of Europe Convention on Action against Trafficking in Human Beings.

There is not yet enough data available regarding trafficked persons' access to compensation to draw any general conclusions and place them in a national context. However, at the very least it can be said that claims take a long time to enforce, and may never be enforced at all in most cases. Trafficked persons should no longer be deprived of their rights and entitlement to compensation.

The KOK data tool is helping to improve the quality of available data and knowledge on the extent of trafficking in human beings and exploitation in Germany. Although the datasets collected are far from all-encompassing, the fact that they primarily focus on the rights of trafficked persons means they nonetheless provide illuminating insights into the situation of trafficked persons in Germany and the broad range of services offered by specialised counselling centres in the area of trafficking in human beings.

By continuing to develop the data tool, encouraging more of the specialised counselling centres to use that tool, and publishing its series of reports, KOK aims to continue playing its part in establishing a human-rights-oriented anti-human-trafficking policy in Germany.

APPENDIX

Selected tables

Table 4: Age

Age	Number	Percentage
22 – 29	298	41,74 %
30 – 39	224	31,37 %
18 – 21	72	10,08 %
40 – 49	71	9,94 %
14 – 17	9	1,26 %
Other entries: 50 – 60, 60+	13	1,82 %
Not provided	27	3,78 %

Table 5: Nationality

Nationality	Anzahl	Prozent
Nigerian	316	44,26 %
Guinean	68	9,52 %
Gambian	48	6,72 %
Romanian	41	5,74 %
German	34	4,76 %
Other entries: Bulgarian, Hungarian, Ugandan, Ukrainian, Sierra Le-onean, Serbian, Cameroonian, Ghanaian, Albanian, Senegalese, Af-ghan, Beninese, Thai, Tanzanian, Polish, Eritrean, Ethiopian, Congo-lese, Russian, Somalian, Togolese, Bosnian/Herzegovinian, Chinese, Vietnamese, Liberian, Ivorian, Columbian, Georgian, Syrian, Portuguese, Slovakian, Nigerian, Spanish, Bissau-Guinean, Croatian, Yemeni, Palestinian, Rwandan, Mauritanian, Congolese (DRC), Venezuelan, Egyptian, British, Greek, Iranian, Brazilian, Turkish, Korean, and Mol-dovan.	200	28,01 %
Not provided	7	0,98 %

Table 6: Criminal offence classification

Criminal offence classification in the opinion of the specialised counselling centres)	Number	Percentage
Section 232a of the German Criminal Code (forced prostitution)	576	46,56 %
Section 232 of the German Criminal Code (trafficking in human beings)	574	46,40 %
Section 233 (labour exploitation)	24	1,94 %
Other forms of exploitation	24	1,94 %
Section 232b of the German Criminal Code (forced labour)	20	1,62 %
Other entries: Section 233a of the German Criminal Code (labour exploitation under unlawful restraint)	13	1,05 %
Not provided	6	0,49 %

Multiple answers possible

Table 7: Areas in which exploitation occurred

Bereiche, in denen ausgebeutet wurde	Number	Percentage
Unregistered sexual services in accordance with the German Prostitute Protection Act	434	74,32 %
Registered sexual services in accordance with the German Prostitute Protection Act	52	8,90 %
Domestic work	26	4,45 %
Miscellaneous/other	15	2,57 %
Cleaning	12	2,05 %
Childcare	9	1,54 %
Other entries: catering, criminal activities, general services, not pro-vided, begging, au pair, care work, security, agriculture, transport/logistics, organ trafficking and other unskilled labour in manufacturing	36	6,16 %

Multiple answers possible

Table 8: Referral to specialised counselling centres

Initial contact made via	Number	Percentage
Asylum and integration counselling centre	140	19,61 %
Self-reported	96	13,45 %
Police	80	11,20 %
Other counselling services	61	8,54 %
Community	58	8,12 %
Other entries: other, other multipliers, specialised counselling centre for trafficked persons, initiatives and institutions, other authorities, unknown, doctors and other medical professionals, authorities under the German Act on Sex Worker Protection, women's shelter, client, 'Violence against Women' support hotline, social media, and Federal Police Force	199	27,87 %
Not provided	80	11,20 %

Table 9: Residence status

Residence status	Number	Percentage
Exceptional leave to remain	172	24,09 %
Temporary residence permit	160	22,41 %
Granted freedom of movement	80	11,20 %
Other	65	9,10 %
Section 25, para. 2 of the German Residence Act	62	8,68 %
Other entries: Section 25, para. 3 of the German Residence Act, Section 25, para. 4a of the German Residence Act (trafficking in human beings), not provided, German citizenship, residence permit for another EU country, Section 25, para. 5 of the German Residence Act, and Section 25, para. 4b of the German Residence Act (German Act to Combat Undeclared and Illegal Employment or wage claims)	86	12,04 %
Not provided	89	12,46 %

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