

Trafficking in human beings

Labour exploitation

Sexual exploitation

Forced criminal activities
and begging



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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:

- Labour exploitation
- 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.

For many years, specialised counselling centres have addressed trafficking for the purpose of labour exploitation or exploitative employment relationships as part of their everyday work, alongside cases of trafficking in human beings for sexual exploitation. We are seeing an increasing number of cases in which persons are exploited by being coerced into begging or criminal activities.

This brochure is **part of a range of information brochures**. Each one aims to take a closer look at a 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 labour exploitation.

2. Trafficking in human beings for labour exploitation

When talking about **trafficking in human beings for labour exploitation and forced labour**, we are referring to situations in which employers take advantage of a worker's predicament or force them to perform work and exploit them. Their freedom of action is limited to the point where they no longer have a say in the work relationship. They receive insufficient or no remuneration and are forced to work in bad or even dangerous conditions.

In 2005, trafficking in human beings for the purpose of labour exploitation was defined as a separate criminal offence by the German Criminal Code. The relevant legislation was extended and re-structured in 2016. Broadly speaking, criminal law provisions regarding **trafficking in human beings** and **labour exploitation** now cover three activities:

- Recruiting (trafficking in human beings)
- Initiating the exploitative activity (forced labour)
- Exploitation (labour exploitation)

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 this person is recruited, transported or accommodated with the aim of exploiting them.

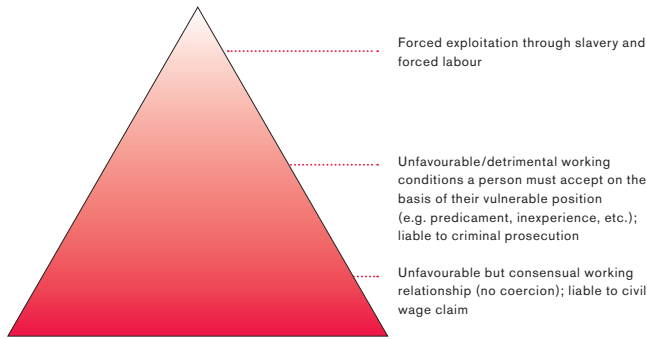
Actually initiating the exploitative activity, i.e. causing the trafficked person to engage in it or continue to engage in it, is provided for by **Section 232b of the German Criminal Code (Forced labour)**.

This may or may not be carried out by the same person as the one who organised the recruitment or transport.

Employment relationships that fall within the scope of **labour exploitation (Section 233 of the German Criminal Code)** 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.

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

In many cases, the **shift** from unfavourable and poor working conditions to labour exploitation is **blurred**. Sometimes, working conditions that were originally "only" unfavourable become worse over time to the extent that they become cases of labour exploitation or even exploitation by use of unlawful restraint.



Adapted from: Source: Cyrus, Norbert in BMAS (2011): Entwicklung tragfähiger Unterstützungsstrukturen für die Betroffenen von Menschenhandel zur Arbeitsausbeutung in Deutschland, p. 48.

Some **industries** seem more prone to trafficking in human beings, forced labour and exploitation than others. The affected industries are currently believed to include in particular:

- Agriculture
- Care
- Private households (among others, domestic helpers, cleaners and au pairs)
- Hospitality industry
- Building trade
- Prostitution and sex industry
- Conveyance and transport services
- Meat processing industry

Although the public discourse often essentially associates labour exploitation with men, this is not always the case. Women also face labour exploitation, especially with regards to domestic services and care work, but also in industries in which we typically expect to find women to a lesser extent, such as meat processing.¹

Reasons why persons may be affected by trafficking in human beings, forced labour and exploitation and cannot leave the exploitative situation include:

- False promises regarding job and livelihood opportunities
- Lack of knowledge regarding their rights and the legal situation in Germany (also with respect to employment law)
- Predicament regarding the economic situation or residence status which is used by the perpetrators
- Dependency on employers (due to their work/residence permit)
- Need to support their family in their country of origin
- Confiscated documents
- Alleged debts which have to be paid off
- Use of violence, threats, humiliation, control, pressure or coercion
- Isolation, e.g. due to lack of language skills and contacts

¹ See Mitwalli, J. (2016): *Menschenhandel zum Zweck der Arbeitsausbeutung und schwere Arbeitsausbeutung von Frauen – ein nicht gesehenes Phänomen?*

Although they have a higher risk of being trafficked, **migrants** that come to Germany from countries with weaker economies are not the only people affected. **Residents in Germany** also face trafficking in human beings and labour exploitation. Contrary to popular belief, 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 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 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.

Labour exploitation and trafficking in human beings for the purpose of labour exploitation has received much less attention than sexual exploitation in the past few years in Germany and **the data available remains scarce**. Despite increasing interest, very few academic studies² or reports have been published on this topic and the understanding of the real extent of the phenomenon and its forms is therefore still limited.

2 Study: *Entwicklung tragfähiger Unterstützungsstrukturen für die Betroffenen von Menschenhandel zur Arbeitsausbeutung in Deutschland* (2011) [Developing Sustainable Support Structures for Persons Affected by Trafficking in Human Beings for the Purpose of Labour Exploitation in Germany], coordinated by KOK and commissioned by the Federal Ministry of Labour and Social Affairs, edited by the Federal Ministry of Labour and Social Affairs | Hoffmann, U./Rabe, H. (2014): *Severe Forms of Labour Exploitation – Country Report Germany*, European Union Agency for Fundamental Rights.

Labour exploitation of a domestic worker

Alina is an illiterate 53 year old from Romania. She earns a small income by doing needlework for convents. Hoping to improve her situation, she asks an acquaintance to find her a placement as a domestic worker in a private household in Germany. For seven weeks, she works from six a.m. to one 1 a.m. She cleans, cooks, irons and looks after the children. She does not have a single day off and does not receive payment for her work. After being threatened with physical violence, she finally runs away after seven weeks.

She spends two nights on the streets before ending up at an NGO, the 'Bahnhofsmission'.

The police then refer her to a counselling centre specialised in trafficking in human beings. She is afraid of retribution from the intermediaries who organised her move to Germany, while feeling deep

mistrust for the police and all other public authorities. In this case, the centre's counsellor is the first trustworthy person she meets and who speaks the same language. She manages to stabilise Alina over the course of several consultations. The centre's counsellor informs Alina of the possibility and consequences of filing a report with the police and organises her accommodation. Despite encouraging Alina to pass on information to the police, Alina's fear and misgivings cannot be overcome.

All the counselling centre can do is organise her journey home with help of the police, who protected Alina, and to provide her with small financial assistance to make sure that Alina does not go back to Romania empty-handed.

3. Legislative developments

Crucial advances have been made in the legal framework to address trafficking in human beings, both at the international and European level and the national level in the past few years.

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 fight against crime.

At the European level, an additional and more detailed 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 a directive on preventing and combating trafficking in human beings and protecting its victims (2011/36/EU). 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 and criminal activities, and trafficking in human beings for the purpose of the removal of organs, to the list of forms of trafficking in human beings that are liable to result in prosecution – alongside sexual and labour exploitation.

In **Germany**, trafficking in human beings for the purpose of labour exploitation has been a criminal offence since 2005. However, in the past the provision has seldom been applied. Prosecutions were few and far between and very few perpetrators have been sentenced. According to the German Federal Criminal Police Office’s Report on Trafficking in Human Beings, 19 criminal investigations were completed in this field in 2015, with 24 suspects registered.³ The criminal justice statistics issued by the German Federal Statistical Office reveal a similar situation, with 5 sentences in 2015.⁴

Since the criminal legislation reform that took place in 2016, trafficking in human beings has been provided for in Section 232, forced labour in Section 232b and labour exploitation in Sections 233 and 233a of the German Criminal Code. All provisions include an age of consent, which means that these deeds are all liable to prosecution if the trafficked persons are under 21, even if there was no exploitation of an individual’s situation or predicament. 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.

3 German Federal Criminal Police Office (2017) Bundeslagebild Menschenhandel 2015 [2015 Report on Trafficking in Human Beings], p.12.

4 German Federal Statistical Office (2017) Strafverfolgungsstatistik 2015 [Criminal Justice Statistics for 2015], Fachserie 10, Reihe 3, p. 35.

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.

One of the main goals pursued by KOK and its member organisations is to improve the living conditions of trafficked persons and to help them assert their rights.

KOK brings together **most specialised counselling centres in Germany working with victims of trafficking in human beings** as well as other organisations addressing 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, conferences**
- PR and media work
→ **Publications, newsletter, website, etc.**
- Raising awareness and educating about trafficking in human beings and violence against women in the migration process
→ **Training courses, presentations, 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 level**

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

Exploitation of cheap labour

In one case, five men from a group of over 20 young men from Afghanistan received support after they were exploited in particularly dreadful conditions. The men were granted asylum in Italy and Hungary but lived on the streets in extremely precarious situations, something that was exploited by the two perpetrators. They recruited the men in Italy and Hungary by promising them jobs in Germany.

On arriving in Germany, the recruits inserted leaflets in newspapers in a storehouse and delivered the newspapers around the area. The men were promised a daily wage of EUR 30–35. They sometimes had to work twelve-hour shifts or more. Most of them lived in the extremely dirty and mouldy storehouse, with up to 22 people living in three rooms. They slept on cardboard boxes on the floor or on mattresses they found at the rubbish tip. The men had to pay between EUR 100 and 150 per month for their accommodation.

They were fed one low-quality meal per day. The promised wages were only paid out after repeated requests, if at all. They were sometimes beaten for demanding the money they had been promised.

The disastrous conditions faced by recognised refugees in Italy and Hungary made it easy for perpetrators to exploit these persons, who were so desperate that they were prepared to accept any offer of work. The men were arrested during a police check. Five of them were willing to testify.

The specialised counselling centre was able to provide the following support:

- Securing livelihoods (benefits)
- Referral to a specialised lawyer to act as the private accessory prosecutor
- Support and accompaniment with everyday procedures (opening bank accounts, medical appointments, communicating with authorities, help with issuance of a work permit)
- Job search assistance
- Place on a German language course
- Help with finding accommodation
- Comprehensive counselling with regard to the situation of trafficked persons, legal opportunities and compensation

5. Specialised counselling centres for trafficked persons

KOK specialised counselling centres offer trafficked persons **holistic counselling and support**, including counselling with regard to their work situation, but also to their social, residence and civil rights, along with any other issues, including psychosocial support. They also offer help with finding accommodation or medical assistance, as well as assistance during criminal proceedings.

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



Due to the context in which they were created, many specialised counselling centres who are members of KOK work primarily with **women**, regardless of the type of exploitation they have faced. The majority of KOK member organisations also occasionally counsel **men and whole families**. Specialised counselling centres who only offer services to trafficked women aim to refer male clients to other specialised counselling centres, such as trade-union organisations. Counselling centres also support and counsel trafficked minors.

In addition to comprehensive and holistic counselling for trafficked persons, specialised counselling centres also offer training and information events to raise awareness on trafficking in human beings. These include:

- Prevention training courses
- 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 and their local branches



6. Networking and cooperation with other specialised counselling centres

KOK member counselling centres are located **all over Germany**, with at least one centre in almost every federal state. 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.

KOK organises an annual networking event to strengthen these ties, allowing German-speaking counselling centres to discuss current issues and build on cooperation initiatives.

In the past few years, **trade unions** have increasingly addressed the phenomenon of labour exploitation of mobile/foreign workers. Trade union centres primarily offer advice relating to labour issues and social rights and sometimes specialise in specific sectors or groups.

Trade union centres offering advice on labour exploitation and, sometimes, trafficking in human beings include the centres of the *Faire Mobilität* [Fair Mobility] project and those of the association *Arbeit und Leben e.V.*

7. What needs to be done

Victims of violent crimes have a fundamental right to be protected and states must adhere to their obligations. **A lot still needs 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 the **legal opportunity to reside and work** in the country, even beyond the duration of the criminal proceedings.

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

In order for trafficked persons to be offered support and counselling, specialised **counselling centres must have sufficient and secure funding**.

Existing and future **cooperation networks must be broadened** to include all forms of trafficking in human beings and all target groups, and cooperation with local authorities, NGOs and trade unions must be enforced.

Finally, **training courses** regarding trafficking in human beings for the purpose of labour exploitation must be organised to **raise awareness among a variety of stakeholders** (e.g. tax authorities in charge of illegal employment, intermediation and temporary work agencies, trade licensing authorities, etc).

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
- **Federal Criminal Office:**
https://www.bka.de/EN/CurrentInformation/AnnualReports/TraffickingInHumanBeings/traffickinginhumanbeings_node.html
- **Fair Mobility:**
<http://www.faire-mobilitaet.de/en/>
- **German Institute for Human Rights:**
<http://www.institut-fuer-menschenrechte.de/en/topics/prohibition-of-slavery/>
- **Arbeit und Leben e. V. in various federal states, e.g. Lower Saxony:**
<http://www.mobile-beschaeftigte-niedersachsen.de/typo3/index.php?id=6&L=2>
- **Counselling office for posted workers in Berlin:**
http://berlin-brandenburg.dgb.de/beratung/eb/?tab=tab_0_6#tabnav
- **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

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- **UN Special Rapporteur on trafficking in persons:**

<http://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

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



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 – sexual exploitation** and **Trafficking in human beings – Forced criminal activities and begging**

26 Also available in German.

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