

**Input from the German alliance Gemeinsam gegen Menschenhandel**

**(Together against Trafficking) for SR VAWG’s report**

**on violence against women and prostitution**

**January 2024**

Gemeinsam gegen Menschenhandel e.V. ([GGMH](https://www.ggmh.de/)) is an alliance of more than 35 organizations and experts who work against human trafficking throughout Germany. Based on the understanding that sexual exploitation violates a person’s basic human dignity, GGMH places a special focus on preventing and combating forced prostitution. Some member organizations are active in the area of prevention, for example by educating in schools about “loverboys”. Other organizations work in the area of victim protection and victim assistance.

1. **The connection between prostitution and human trafficking**

According to many experts, prostitution and human trafficking are usually inseparable *(e.g. UN GA, Res. 63/156, Preamble;* [*DIAKA*](https://www.diaka.org/)*, 2023).* This is demonstrably the case in Germany as well. Successful intensive police investigations in brothels show the close connection between human trafficking, organized crime and so-called "regular" prostitution. For example, investigations into a brothel in Augsburg showed that the brothel operator regularly ordered women from a wholesaler in southeastern Europe. He could order them as if from a catalog – according to size, hair color, age and other physical characteristics. The wholesaler worked with several recruiters from Romania and Hungary. These specialized in recruiting naive young girls with no social ties. Experts such as the retired senior criminal counselor Helmut Sporer emphasize that sufficient supply, especially for larger brothels, is only possible if there are connections to corresponding sources such as smugglers and human traffickers who can guarantee such organized supply *(Sporer, 2021).* This has also been proven in the case of the large brothel "Paradise" in Stuttgart. After the operator initially presented the "Paradise" for years in talk shows as a model brothel, he was, after extensive investigations, convicted of aiding and abetting human trafficking and pimping *([Bilger, 2020](https://www.stuttgarter-nachrichten.de/inhalt.grossbordell-bei-stuttgart-insolvenzverfahren-fuer-das-bordell-paradise-eroeffnet.f90d46c1-a70a-4244-9dec-99f2d3bc07db.html)).*

1. **Challenges in the German Prostitution Legislation**

Germany tries to regulate prostitution through its legislation. The aim therefore is to enable voluntary, "regular" prostitution on the one hand, and to protect people in prostitution and prevent human trafficking and exploitation on the other hand.

German legislation is based on the understanding that prostitution is an "autonomous decision to engage in a risky activity" *(*[*BMFSFJ, 2007*](https://www.bmfsfj.de/resource/blob/84046/f0c60f25ee8cd96f2560be3b070d7b05/bericht-bureg-auswirkungen-prostitutionsgesetz-data.pdf)*:6f.).* In this context, the legislator defines this autonomous decision as follows: "Voluntariness, in the context of the right to sexual self-determination, means that individuals are free to decide the "if," the "when," and the "how" of a sexual encounter." *(ibid.:9).* However, in its evaluation of the Prostitution Act (ProstG), the federal government describes it as a "social reality that many prostitutes find themselves in a social and psychological situation in which it is questionable whether they can really decide freely and autonomously for or against this activity" *(ibid.:9).*

This assessment is consistent with the experiences of our member organizations. At least 80 percent of prostituted persons in Germany are migrants, especially from Eastern Europe, Asia, South America or Africa *([Giertz](https://www.n-tv.de/panorama/Corona-Krise-trifft-Prostituierte-article21790455.html) et al., 2020; Sporer, 2013:5;* [*TAMPEP*](https://tampep.eu/wp-content/uploads/2017/11/report_tampep_7.pdf)*, 2007:223).* Among them are many (often young) women who are pushed to migrate and to engage in prostitution, especially due to economic constraints and lack of prospects in their home countries *(Bernitz et al., 2018:90; Wege, 2015:86).* They often leave behind young children in their country of origin, whom they have to support through their prostitution activities *(Howe 2015:38;* [*Giertz*](https://www.n-tv.de/panorama/Corona-Krise-trifft-Prostituierte-article21790455.html) *et al., 2020).* It is not uncommon for family members to act as their pimps *(Franke, 2020:79; Schmitt 2007:15; Le Breton 2011:207; Hinz/Petrova 2013:137-139).*

Accordingly, poverty prostitution is particularly widespread in Germany. As Niesner *(2014)* very aptly pointed out in her statement as an expert in the Committee on Human Rights and Humanitarian Aid, these are often "women who have decided or had to decide within their limited means to work in the milieu, work under extremely degrading and inhumane conditions, are exploited and forced by pimps and human traffickers, and cannot (yet) get out" *(Niesner, 2014).* According to Niesner *(2014),* typical characteristics of people in poverty prostitution include lack of education and vocational training, lack of language skills, early experiences of violence, vulnerable livelihoods, and poor health care. These circumstances make them particularly vulnerable to exploitation and trafficking *(ibid.).* Many are unable to negotiate prices and demand their rights, which ultimately leads to serving a very high number of clients at dumping prices and engaging in risky sexual practices *(ibid.).* As a result of the precarious living conditions, experiences of violence in any form are part of the women's life situation and, according to Wege (*2021)*, "point to the everyday struggles for survival in the red light milieu." This corresponds to the situation that many of our member organizations encounter in their frontline work.

***a) Even the obvious victims of human trafficking and/or exploitation are not protected***

Victims of human trafficking often do not identify themselves as such. There can be many different reasons for this, such as fear of the perpetrators, who often threaten not only them but also their families in their home countries *(e.g. Franke, 2020:89)*. Even if there are usually offers of safe accommodation for the victims, the police have few possibilities to protect the families in the home country *(ibid.:88f.).* Other reasons are shame, language barriers, lack of knowledge of their rights or lack of trust in authorities *(Bartsch T. et. Al., 2021:37).* Also, many victims simply do not feel as victims. Some are exploited by their own families and do not know anything else *(ibid., p.79f.).* These and other circumstances can be the reasons why victims of human trafficking refrain from filing a report with the police.

However, a statement by the victim is required in most cases in order to convict the perpetrator *(Franke, 2020:74).* This leads to the fact that there are women working legally in street prostitution, who both the police and NGOs assume to be victims of sexual exploitation *(ibid.:81).* Frontline workers hardly have any opportunities to get in touch with the women in question. The women are often not allowed to talk to social workers for any length of time and additionally, they lack knowledge of German or English. These circumstances strongly challenge the widespread assumption that liberal German legislation gives support organizations better access to those affected by human trafficking.

***b) The COVID-19 pandemic made the precarious situation of people in prostitution visible***

According to our member organization SOLWODI, which studied the impact of the COVID-19 pandemic on female adult victims of human trafficking for the purpose of sexual exploitation, the pandemic highlighted how "dangerous, undignified, and precarious the situation of women in prostitution is" *(Wells, 2021).*

The shutdown of brothels in Germany showed that the majority of women working in prostitution are migrants who are not eligible for state social assistance. *(ibid.)* Due to the COVID-related brothel closures, they found themselves completely destitute and homeless on the streets and in urgent need of help. *([Giertz](https://www.n-tv.de/panorama/Corona-Krise-trifft-Prostituierte-article21790455.html), et al., 2020)*

The German Institute for Applied Crime Analysis ([DIAKA](https://www.diaka.org/)) points out that here the "governmental conclusion to the question [was] missing as to why the women, who undoubtedly had considerable income before (with 1,000,000 johns daily according to the federal government's communication), were so obviously destitute and helpless" *(DIAKA, 2023:4).* It can be assumed that many were not allowed to keep the money for themselves, but either had to spend it on horrendous rents in the prostitution sites or had large portions taken from them by pimps *(ibid.:4).*

**3. The ‘Equality Model’ is the only efficient legislative framework to prevent violence against women and girls**

The German Prostitution Act (ProstG) came into force in 2002 with the aim of strengthening the legal position of prostitutes, improving working conditions, making it easier to exit prostitution, and reducing the criminal aspects associated with prostitution *(*[*BMFSFJ, 2007b*](https://www.bmfsfj.de/resource/blob/84046/f0c60f25ee8cd96f2560be3b070d7b05/bericht-bureg-auswirkungen-prostitutionsgesetz-data.pdf)*, 6[2])*. In 2005, an evaluation of this legislation commissioned by the federal government already showed that the law did not achieve any of these goals and that only the comparatively small group of registered and voluntarily-working prostitutes could benefit at all from the ProstG *(*[*BMFSFJ, 2005*](https://researchprojectkorea.files.wordpress.com/2012/03/bundesministeriums-fc3bcr-familie-senioren-frauen-und-jugend-auswirkungen-des-prostitutionsgesetzes-11-2005.pdf)*:286f.).*

It was not until 2017 that the federal government reacted by introducing the Prostitution Protection Act (ProstSchG), intended to ensure the protection of prostitutes particularly by requiring them to register with the authorities. This should create an opportunity to identify trafficked and forced prostitutes. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), in cooperation with the Federal Statistical Office, used a figure of 200,000 prostitutes as a basis for the draft law on the ProstSchG *(c.f.* [*Bundestagsdrucksache 18/8556*](https://dserver.bundestag.de/btd/18/085/1808556.pdf)*, p. 38f).* However, only about 24,900 prostitutes were registered at the end of 2020 and only about 23,700 at the end of 2021 *(Federal Statistical Office, 2022).* And neither the old law nor the new legislation has changed anything about the precarious situation of people in prostitution.

As an alliance of many organizations working frontline in different areas of Germany, we believe that the German prostitution legislation has failed.

According to the Council of Europe, “Gender-based violence is defined as a form of violence that is directed against a woman because she is a woman and/or that affects women disproportionately and that seriously inhibits the ability of women and girls to enjoy their rights and freedoms on an equal basis with men.” By this metric, prostitution in itself constitutes a form of sexual violence against women and girls. The normalization of prostitution fosters acts of violence against women by sending the social signal that women are commodities. It is not about sex, it is about power, and equality between women and men cannot be achieved as long as prostitution exists.

We believe that adopting the “Equality Model” (or“Nordic Model”) as a legal framework is the first step to undertake to end this exploitative system.

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