



January 29, 2024

Input for SR VAWG's report on violence against women and prostitution

We would like to point out that there are no girls in prostitution. Commercial sex with minors is punishable by law on principle and must remain so. The suffering of those affected must not be trivialized by misleading formulations. Commercial sex with minors is child trafficking for the purpose of sexual exploitation, not child prostitution.

On point 2.) It is estimated that there are around 400,000 women in prostitution in Germany.¹ In Germany, a distinction is made by law between voluntary prostitution and forced prostitution; those affected by sexual exploitation (who are most frequently trafficked into prostitution) and women who appear to work as prostitutes voluntarily are recorded in different data reports.

It is estimated that 85-95%² of prostitutes do not engage in this activity voluntarily.

In 2022, the Federal Criminal Police Office (BKA) in Germany counted 476 victims of human trafficking for the purpose of sexual exploitation (only completed investigations were included in the count). As trafficking in human beings for the purpose of sexual exploitation is a crime of low reportability, it can be assumed that the number of unreported cases is significantly higher. Since 95.2% of the affected people are female, we must speak of gender-specific violence.³

According to the current German Prostitutes Protection Act (ProstSchG), the Federal Statistical Office in Germany counted around 28,280 officially registered prostitutes in 2022⁴.

Unfortunately, we only have current figures with a specific breakdown by the Federal Statistical Office in Germany for 2021⁵:

registration certificate available	number of prostitutes
Total count:	23,743
18 - 21 years old:	743
21 - 45 years old:	18,055
45 years and older:	4,945
German nationals:	4,509
Non-German nationals:	19,234
Non-German nationals from European countries (the majority being Bulgarian, Romanian and Hungarian nationals):	17,405

On 3.) Digitalization is making it easier for human traffickers and pimps to coerce women into prostitution via social media or OnlyFans, for instance. Many of the *Loverboys* activities (mostly adult men) are punishable by law (especially in the case of minors): Human trafficking (section 232 German criminal code [StGB]), forced prostitution (section 232a StGB), exploitation through deprivation of liberty (section 233a StGB), exploitation of prostitutes and pimping (sections 180a/181a StGB).

According to the Federal Situation Report published by BKA in 2022, 19.1% of trafficked persons are recruited for the purpose of sexual exploitation using the Loverboy Method and are exploited in prostitution as a result.

On 4.) Research by health experts indicates that the rate of violence and psychological stress among prostitutes is significantly higher than among women in other occupational fields. Prostitutes are more than twice as likely to develop post-traumatic stress disorder as victims of war.⁶

A representative study by the German Ministry for Family Affairs (BMFSFJ) found that 92% of all

¹ There is no well-founded statistical data on how many prostitutes there are in Germany; only estimates are available. One frequently quoted estimate, which is based on the Berlin prostitutes' advice center Hydra e.V., assumes that there are up to 400,000 prostitutes in Germany.

² Mack, E., Rommelfanger, U., 2023. *Sexkauf. Eine rechtliche und rechtsethische Untersuchung der Prostitution*. S. 220 et seq.

³ Bundeskriminalamt, 2023. *Menschenhandel und Ausbeutung*.

⁴ Statistisches Bundesamt, 2022. *Prostituiertenschutz*. https://www.destatis.de/DE/Themen/Gesellschaft-Umwelt/Soziales/Prostituiertenschutz/_inhalt.html (accessed on Dec. 5, 2023)

⁵ Deutscher Bundestag, 2023. *Drucksache 20/6517*, p. 20

⁶ Farley et al., 2022. *Männer in Deutschland, die für Sex zahlen und was sie uns über das Versagen der legalen Prostitution beibringen - ein Bericht über das Sexgewerbe in 6 Ländern aus der Perspektive der gesellschaftlich unsichtbaren Freier*



prostitutes surveyed had experienced at least one form of sexual harassment, 82% had experienced psychological violence and 87% had experienced at least one form of physical violence since the age of 16. In addition, 59% of respondents had experienced at least one form of sexual violence since the age of 16.⁷ The connection between early childhood experiences of violence and daily experiences of violence that are reproduced in sexual services is devastating.

On 5.) According to BKA, 74.6% of suspects who sexually exploit women are male and 23.2% are female. Germans represent the largest group of suspects, followed by Romanian and Bulgarian suspects. A recently published survey on sex buyers sheds light on the suffering and brutality that prostitutes are exposed to daily. "55% of German sex buyers admitted to having watched or paid a pimp or trafficker. According to their statements, pimps in Germany regularly use forms of violence that meet international definitions of torture." Only 1% of German sex buyers reported cases of suspected human trafficking to the authorities.⁸

The BMFSFJ estimates that 1.2 million men in Germany pay for sexual services every day⁹; given the number of 28,280 registered prostitutes, this would mean that one prostitute would have to serve around 42 sex buyers (per day) to satisfy demand. These figures show a clear dissonance between supply and demand and confirm that the inadequate data situation favors this imbalance.

On 6.) Germany accepts that these women are deprived of their human dignity, which has been considered inviolable under the German constitution since 1949, daily. Not only Article 1 of the Basic Law is violated, but also Articles 3, 4, 5 and 29. On principle, one's own rights and freedom must end where the freedom and rights of others are curtailed.¹⁰

Therefore, this approach should take priority over the legal obligations arising from the ratification of international agreements such as the European Convention on Human Rights¹¹, the Convention on Action against Trafficking in Human Beings¹², the Istanbul Convention¹³, as well as considering the EU's strategies to combat trafficking in human beings¹⁴ and organized crime¹⁵ and the GRETA report¹⁶ of the Council of Europe's Group of Experts for Germany.

The European Parliament's decision to adopt Maria Noichl's own-initiative report¹⁷ on September 14, 2023 provides a decisive direction that must be considered in the report to the UN Human Rights Council session. The own-initiative report strongly calls for the reduction of demand for exploitative services as one of the most effective preventive measures against sexual exploitation and classifies prostitution as a form of violence against women. Since 2011, the EU directives¹⁸ on combating human trafficking have required member states to take measures to reduce demand. In Germany concrete measures have not yet been taken.

The UN Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949 has not yet been signed by Germany either, and with the liberalization of prostitution in 2002 and its consolidation in 2017 the current political direction contradicts the Convention.

On 8.) The purchase of sex always constitutes sex without consensus. The power imbalance is deliberately used as an instrument of oppression and the method of payment is used as a proxy for consent.

⁷ BMFSFJ, 2005. *Lebenssituation, Sicherheit und Gesundheit von Frauen in Deutschland*, p.409

⁸ Farley et al., 2022. *Männer in Deutschland, die für Sex zahlen und was sie uns über das Versagen der legalen Prostitution beibringen - ein Bericht über das Sexgewerbe in 6 Ländern aus der Perspektive der gesellschaftlich unsichtbaren Freier*

⁹ BMFSFJ, 2012. *Regulierung von Prostitution und Prostitutionsstätten*. <https://www.bmfsfj.de/resource/blob/95214/3aefa6a5331be6c1d6a5094c74d1f8c1/prostitutionsregulierung-data.pdf>. p. 52 (accessed on Dec. 11, 2023)

¹⁰ Mack, E., Rommelfanger, U., 2023. *Sexkauf. Eine rechtliche und rechtsethische Untersuchung der Prostitution*. p. 24 et seq.

¹¹ Europäischer Gerichtshof für Menschenrechte, 2013. *Die Europäische Menschenrechtskonvention*. https://www.echr.coe.int/documents/d/echr/convention_deu (accessed on Sep. 10, 2023)

¹² Council of Europe, 2005. *Übereinkommen des Europarats zur Bekämpfung des Menschenhandels*.

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168047c9dd> (accessed on Sep. 24, 2023)

¹³ Council of Europe, 2011. *Übereinkommen des Europarats zur Verhütung und Bekämpfung von Gewalt gegen Frauen und häuslicher Gewalt*. <https://rm.coe.int/1680462535> (accessed on Sep. 23, 2023)

¹⁴ Europäische Kommission, 2021. *Die Strategie der EU zur Bekämpfung des Menschenhandels*. <https://eur-lex.europa.eu/legal-content/DE/TXT/HTML/?uri=CELEX:52021DC0171&from=EN> (accessed on Sep. 23, 2023)

¹⁵ Europäische Kommission, 2021. *EU-Strategie zur Bekämpfung der organisierten Kriminalität 2021-2025*. <https://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:52021DC0170> (accessed on Sep. 24, 2023)

¹⁶ GRETA, 2019. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Germany*. <https://rm.coe.int/greta-2019-07-fgr-deu-en/1680950011> (accessed on Sep. 24, 2023)

¹⁷ Noichl, M., 2023. *BERICHT über die Regulierung der Prostitution in der EU: ihre grenzübergreifenden Auswirkungen und die Konsequenzen für die Gleichstellung und die Frauenrechte | A9-0240/2023* | Europäisches Parlament. Europäisches Parlament. https://www.europarl.europa.eu/doceo/document/A-9-2023-0240_DE.html (accessed on Sep. 24, 2023)

¹⁸ Europäisches Parlament, 2011. *RICHTLINIE 2011/36/EU DES EUROPÄISCHEN PARLAMENTS UND DES RATES*. Europäische Union. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011L0036:de:HTML#d1e430-1-1> (accessed on Sep. 23, 2023)



In this respect, there can be no meaningful form of consent for prostitutes that promotes their protection and self-determination.

On 9.) The German Prostitution Act (ProstG) of 2002 was supposed to improve the legal and social situation of prostitutes and abolish the double standard of immorality. According to an assessment of the law commissioned by the German government in 2007 these goals have not been achieved.¹⁹ The ProstSchG, which came into force in 2017, failed to improve the legal situation of prostitutes and no effective support structures, such as services allowing women to leave prostitution, were established. The ProstSchG is currently being evaluated by the Criminological Research Institute of Lower Saxony, Germany (final report due in 2025), but it is clear at this stage that a liberal prostitution policy neither curbs human trafficking for the purpose of sexual exploitation nor offers better protection for prostitutes. The German government is aware of these circumstances but argues that the current ProstSchG is yet to be evaluated. Consequently, the German government is complicit in the suffering of women, which is well reported, but has failed to act.

Fighting human trafficking has not been successful either. A European Commission working document²⁰ on the directive against human trafficking stated that there have been no convictions since 2015 in connection with the offense of “knowing use”, which aims to prosecute anyone purchasing sexual services of a prostitute under duress.

In Germany, the criminalization of sex buyers purchasing sexual services of a prostitute under duress was introduced in 2016, and the German criminal law was reinforced in 2021. These criminal provisions are rarely applied, however, as the ProstG and ProstSchG assume that prostitution is voluntary “sex work”.²¹

On 11.) Since August 2021, the federal government has been funding a total of five pilot projects for three years respectively to support women who wish to leave prostitution. According to the counseling centers, these projects will no longer be funded after the initial three years.²²

In addition, the EU-funded EVI program²³, which was implemented by various counseling centers to help women affected by gender-based violence access a new workplace, ran until the end of 2023.

Furthermore, there is repatriation counseling services for female migrants. Women’s shelters are supposed to provide women affected by violence with easily accessible and immediate, safe accommodation. However, it must be paid for by the victims themselves or financed with social benefits. This is hardly feasible for women wanting to leave prostitution but are not entitled to benefits and therefore do not have health insurance in many cases. If a woman is not in a situation of imminent risk, she is not entitled to stay at a women’s shelter; if the woman is in a hazardous situation, the social workers need to assess whether the shelter’s anonymity and the residents’ safety could be guaranteed if she were admitted.

There are various organizations that provide shelters, counseling centers or apartments for prostitutes or offer them outpatient care. The network Gemeinsam gegen Menschenhandel²⁴ (Together Against Human Trafficking) and the KOK²⁵ provide most of the services for prostitutes and trafficked persons. This indicates a broad spectrum of counseling services, but the needs of women affected by sexual exploitation are not adequately met.²⁶

On 12.) The complex problems of those affected and their great need for help present many aid organizations and counseling centers with major challenges in offering a holistic approach in their support services.

One major problem is the lack of support services that are easily accessible. Staying in women’s shelters, sheltered apartments or participating in projects helping women leave prostitution is often linked to the condition of abstinence, which is a condition to secure funding in many cases. For many

¹⁹ BMFSFJ, 2007. *Bericht der Bundesregierung zu den Auswirkungen des Gesetzes zur Regelung der Rechtsverhältnisse der Prostituierten.*

²⁰ EUROPEAN COMMISSION, 2022. *COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT REPORT.* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022SC0425&qid=1659272913320&print=true> (accessed on Dec. 5, 2023)

²¹ Dr. Bosch, J., 2021. *Freierstrafbarkeit – Quo vadis?* <https://kripoz.de/wp-content/uploads/2021/09/bosch-freierstrafbarkeit-quo-vadis.pdf> (accessed on Jan. 10, 2024)

²² BMFSFJ. *Modellprojekte zum Umstieg aus der Prostitution.* <https://www.bmfsfj.de/bmfsfj/themen/gleichstellung/frauen-vor-gewalt-schuetzen/prostituiertenschutzgesetz/modellprojekte-zum-umstieg-aus-der-prostitution-186936> (accessed on Dec. 15, 2023)

²³ Empowerment through Vocational Integration. <https://evj-europe.eu/> (accessed on Dec. 12, 2023)

²⁴ Gemein gegen Menschenhandel e.V. <https://www.ggmh.de/mitgliedsorganisationen/> (accessed on Dec. 12, 2023)

²⁵ KOK Bundesweiter Koordinierungskreis gegen Menschenhandel e.V. <https://www.kok-gegen-menschenhandel.de/der-kok/mitgliedsorganisationen> (accessed on Dec. 12, 2023)

²⁶ Mack, E., Rommelfanger, U., 2023. *Sexkauf. Eine rechtliche und rechtsethische Untersuchung der Prostitution.* p. 311



prostitutes, this condition represents a considerable hurdle or even a criterion for exclusion. Negative thought and behavior patterns make it difficult for women to accept offers of help. Only in benefitting from long-term and continuous trauma management are these women able to regain their independence, e. g. financially, and to improve their lives overall.

High bureaucratic hurdles (e. g. when claiming benefits), a precarious financial situation, family dependencies and a lack of entitlement to social benefits are examples as to why many women return to prostitution.

Since many women are only able to work a few hours a day in a regular job due to trauma, reorientation is difficult for them.

Discrimination, stigmatization and a lack of awareness for post-traumatic stress disorder in society, a lack of trust in authorities, fear of the police and justice system and inadequate counselling services increase the difficulties for women who want to leave prostitution.

On 15.) The targeted reduction of demand is a preventative approach that helps to ensure that fewer people fall into the clutches of human trafficking.²⁷ If potential customers are deterred, the "business model" of human trafficking becomes less attractive and fewer women and girls are forced into prostitution.

We therefore call for the criminalization of purchasing sexual services and exploiting third parties and implore German authorities that are not sufficiently fulfilling their duty of care to protect these women. Reducing demand by criminalizing sex buyers is not only a decisive step towards curbing sexual exploitation, but also serves to protect victims, as reduced demand can prevent revictimization. This measure also enables law enforcement authorities to investigate without having to rely on the testimony of affected persons solely.

Curbing demand is in line with international recommendations and best practices for combating human trafficking. By introducing the Nordic model in 1999, Sweden has been able to drastically restrict the market and bring about a social change that rejects the purchase of sexual services.²⁸

Adopting the Nordic Model would not only reduce the demand for purchasable sexual services, it would also fully decriminalize those affected, improving the overall system of prostitution in establishing and funding exit programs that take the affected persons' needs, traumas and cultural backgrounds into account in the long run.

²⁷ OSCE, 2021. *Discouraging the demand that fosters trafficking for the purpose of sexual exploitation*. https://www.osce.org/files/f/489388_2.pdf (accessed on Dec. 7, 2023)

²⁸ Rasmussen, I., Strøm, S., Sverdrup, S. & Hansen, V. W., 2014. *Evaluation des Verbots, sexuelle Dienste zu kaufen*. <https://linke-gegen-prostitution.de/wp-content/uploads/2016/06/Evaluationsbericht-Norwegen-2014-auf-deutsch-1.pdf> p. 75 et seq. (accessed on Sep. 7, 2023)