



German Institute  
for Human Rights

National Rapporteur Mechanism on trafficking  
in human beings

Summary

# Monitoring Report: Human Trafficking in Germany

First Periodic Report

## **The Institute**

The German Institute for Human Rights is the independent National Human Rights Institution of Germany (§ 1 GIHR law). It is accredited according to the Paris Principles of the United Nations (A-status). The Institute's activities include the provision of advice on policy issues, human rights education, information and documentation, applied research on human rights issues and cooperation with international organizations. It is supported by the German Bundestag. The Institute is mandated to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child and established Monitoring Bodies for these purposes. It is also mandated as National Rapporteur Mechanism under the Council of Europe Conventions on Violence against Women and Domestic Violence (Istanbul Convention) and on Trafficking in Human Beings.

## **National Rapporteur Mechanism on trafficking in human beings**

In 2022, the Federal Government tasked the German Institute for Human Rights with reporting on the Council of Europe Convention on Action against Trafficking in Human Beings and on the EU Anti-trafficking Directive. The Institute set up the independent National Rapporteur Mechanism for this purpose. The core tasks of the Rapporteur Mechanism are to make trafficking in human beings visible, establish a solid base of data and monitor case law and legislation in order to report on the implementation of the Convention and the Directive. It provides practical advice for policymakers, bodies of public administration and civil society.



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# 1 Introduction

The Council of Europe Convention on Action against Trafficking in Human Beings and the EU Anti-Trafficking Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims not only place an obligation on Germany to ensure the effective prosecution and prevention of human trafficking but also require it to take steps to protect and support its victims. For instance, victims have a right to assistance adequate to ensure their subsistence, to safe accommodation and to compensation. The Federal Government has tasked the German Institute for Human Rights with monitoring (and reporting on) the implementation of these two legal instruments (abbreviated as the CoE Anti-Trafficking Convention and the EU Anti-Trafficking Directive, respectively, below). The monitoring report is aimed at policymakers, public administration and civil society bodies, academia and the interested public. A periodic report will be issued at two-year intervals.

Trafficking in human beings involves serious human rights violations. For the purpose of exploitation, victims of trafficking are subject to severe restrictions of their self-determination and often suffer grave violations of other fundamental human rights. Among the forms of exploitation are the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, (for instance as care workers, in agriculture, the meat-processing industry or in the con-

struction industry) including begging or the exploitation of criminal activities or the removal of organs. On July 14 2024, an amendment to the Anti-Trafficking Directive came into force. According to the amendment, human trafficking also includes the exploitation of surrogacy as well as forced marriage and illegal adoption.

Germany has an obligation under the CoE Anti-Trafficking Convention and the EU Anti-Trafficking Directive to prevent and combat human trafficking in all its forms of exploitation.

The Monitoring Report: Human Trafficking in Germany brings the available data from federal and Länder (federal state) authorities, specialised counselling centres (often abbreviated as SCCs below), other counselling centres and other civil society organisations together in one publication for the first time. The report contains data relating to victims of all forms of exploitation for all federal states as well as information on the measures adopted to implement the CoE Anti-Trafficking Convention and the EU Anti-Trafficking Directive in Germany during the 2020-2022 period and also presents more recent developments in a few selected areas. The collection of data on a regular basis will enable future monitoring reports to depict developments in the human trafficking situation in Germany and to draw attention to areas where action is needed.

## 2 Scale of Human Trafficking in Germany

In the past, there has been no systematic compilation and analysis of data on trafficking in human beings in Germany, although various entities have published reports and statistics relating to specific issues or their particular areas of responsibility. The Federal Criminal Police Office (BKA: Bundeskriminalamt), for instance, publishes annually the National Situation Report on Human Trafficking and Exploitation. There are also publications at the non-governmental level, such as the annual KOK Data Report, an analysis of data relating to cases of human trafficking collected by the SCCs within the KOK network (KOK: the German NGO Network against Trafficking in Human Beings), which the KOK has been publishing since 2020.

Overall, the data situation improved over the monitoring period (2020-2022). This is due largely to new systems for collecting statistical data from civil society organisations, and to the additional generation of data on human trafficking and labour exploitation by inspections and investigations carried out by the German Customs Administration's financial control of undeclared work unit (FKS: Finanzkontrolle Schwarzarbeit), thanks to a broadening of the unit's mandate in 2019.

The harmonisation of data collection by the federal government, the Länder and civil society continues to be lacking, however, meaning that the data cannot be readily combined for collective interpretation and use.

The results of the monitoring of human trafficking in Germany reflect the impacts of the Covid 19 pandemic and the restrictions associated with it: the statistical data from the SCCs and other counselling services show lower numbers of cases in 2021 than in 2020. This is due in part to the lockdown, which made access to SCCs services more difficult for victims. The activity of investigative authorities was also rendered more difficult by the fact that prostitution was more likely to take place in private homes. Despite this, the data from the

BKA show that the number of victims in investigative proceedings increased in 2021 over the previous year and again in 2022 – especially in the area of labour exploitation. Presumably, the increase in the FKS's investigative activities in this area is partly responsible for this. It was not possible to identify any effects of the war of aggression that Russia has been waging against Ukraine since February 2022 in the data analysed.

Human trafficking can affect people of any gender. The criminal investigation statistics illustrate this particularly well: women make up more than 90 percent of the victims in the area of sexual exploitation, while, year after year, more than half of the victims in the area of labour exploitation are male. In the area of the exploitation of children and adolescents, around two thirds of the victims were female, one third were male.

Human trafficking affects German and EU citizens as well as third-country nationals. In the area of sexual exploitation, the greater part of the victims identified by investigative authorities were from Germany, Romania, Bulgaria, China, Hungary, Thailand and Vietnam, whereas SCC clients were mainly from Nigeria and other West African states.

Victims of labour exploitation come primarily from Ukraine, Romania, Georgia, Bosnia and Herzegovina or Bulgaria. German citizens are not recorded in the area of labour exploitation. There is strong fluctuation in the numbers from year to year. Nevertheless, the figures make it clear that even legally resident EU citizens encounter working conditions that are not fair in Germany and that they are not being adequately protected from exploitation. Data from across all relevant sources indicate that exploitative working conditions are particularly frequent in the construction, care and logistics sectors. The FKS also conducts many investigations in the catering industry as well as at hairdressers and beauty parlours.



The National Rapporteur Mechanism on trafficking in human beings (abbreviated as the Rapporteur Mechanism below) contributes to evidence-based policy by collecting and analysing data on human trafficking in Germany and making it available to political actors. In order to combat and prevent human trafficking effectively and to support victims and facilitate their access to their rights, it is essential that the data situation be continually improved in accordance with human rights, European law and data protection regulations. The EU Anti-Trafficking Directive also emphasises this,

calling on Member States to ensure that a system is in place for the recording, production and provision of anonymised statistical data to monitor the effectiveness of their systems to combat human trafficking. Data on victims must be collected in all key authorities and organisations. To enable the depiction of more of the cases recorded in crime statistics nationwide, the promotion and harmonisation of data collection activities by all authorities (beyond the sphere of law enforcement) that have interactions with victims and by the networks of counselling services providers is necessary.

## 3 Status of Implementation of the CoE Convention and the EU Directive

The National Rapporteur Mechanism on trafficking in human beings is tasked with providing substantiated findings on the implementation of the two anti-trafficking instruments (CoE Anti-Trafficking Convention and EU Anti-Trafficking Directive) in Germany and depicting the relevant developments over time. To this end, the Rapporteur Mechanism assesses implementation on the basis of human rights indicators. These indicators enable comparisons to be drawn between units being monitored, for instance between Länder or between calendar years. The first periodic report depicts the current situation using human rights indicators. Future reports will be able to use this as a basis to measure progress and formulate policy objectives.

The report contains findings and recommendations for actions in the following areas: strategic and institutional framework, prevention, identification, support of victims, the law governing residence, and access to compensation.

### 3.1 Strategic and institutional framework

The various bodies at the federal and Länder level should coordinate the fight against trafficking in human beings as effectively as possible. Thus, there are anti-trafficking working groups at both the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) and the Federal Ministry of Labour and Social Affairs (BMAS). The National Council against Sexual Violence Committed against Children and Adolescents also has a working group devoted to this issue. At the Länder level, the Rapporteur Mechanism has identified 44 bodies/structures tasked with coordinating and supporting cooperation among the authorities and organisations active in this area. These include roundtables, task forces or *jour fixes*. Three federal states reported having no such bodies/struc-

tures. Sixteen of the bodies/structures reported focused primarily on sex work, one focused on the issue of agricultural work of a seasonal nature. The federal states were given the option of listing bodies that met at the municipal government level: 17 were cited.

The revised EU Anti-Trafficking Directive tasks the Member States with developing and implementing national anti-trafficking action plans. These may include objectives, priorities and measures to combat trafficking in human beings for all forms of exploitation, including specific measures for child victims. Both the Federal Government, with the BMFSFJ taking the lead as the coordinating body, and the BMAS are currently developing national action plans (NAPs) relating to human trafficking, one relating to all forms of exploitation (Federal Government/BMFSFJ), and one on the prevention of forced labour and labour exploitation (BMAS). Adoption during the current legislative period is the aim for both. The Rapporteur Mechanism recommends that stakeholders active in the relevant area, such as counselling services, should be involved in the implementation of both NAPs and that they be furnished with the resources appropriate to this task. A particular focus should also be placed on getting victims themselves involved in the process; the victims' advisory body of the JADWIGA specialised counselling centres as a positive example in this respect.

At the Länder level, concept documents addressing policy strategies for combatting human trafficking are still quite rare. The Länder should therefore elaborate and review their objectives, measures, responsibilities, finances and timelines in this area. In conjunction with this, new cooperation agreements should be drawn up and existing cooperation agreements should be updated and their scope broadened to ensure that all groups of victims, forms of exploitation and stakeholders are addressed.

To further strengthen the institutional framework, the national organisations specialising in this area, KOK, ECPAT, and the Service Centre against Labour Exploitation, Forced Labour and Human Trafficking should be provided with resources on a long-term basis. In addition, a permanent legislative basis for the National Rapporteur Mechanism on trafficking in human beings should be provided.

### 3.2 Prevention

The CoE Anti-Trafficking Convention lays on obligation on its States Parties to take action to prevent human trafficking. A coordinated approach is essential for effective prevention. Relevant bodies at the federal and Länder level should therefore systematically consider all forms of exploitation, developments relating to groups of victims, and human traffickers' *modi operandi*. They should also define the objectives and target groups of prevention measures. Sufficient financial resources should be allocated for such measures, and they should be evaluated regularly. Along with the prevention work carried out by the police forces, for example within the nationwide Police Crime Prevention Program, the SCCs' contribution towards the prevention of human trafficking is also substantial. In addition to supporting victims in individual cases, the SCCs run training events for relevant professional groups or potential victims. They also perform important education and awareness raising work in their Länder. The data available is not sufficiently differentiated to allow the levels of funding made available specifically for this prevention work to be ascertained.

Refugees make up one of the groups of persons who are at particular risk of human trafficking. Systematic protections against violence in reception and collective accommodation facilities are necessary in order to protect residents from recruitment by human traffickers. Twelve federal states have in place what are known as "violence protection concepts" (*Gewaltschutzkonzepte*), policy documents applicable for all refugee accommodation facilities in the state, that either identify victims of trafficking as persons in need of particular protection or include specific provisions on their protection and support. Four federal states have provisions governing protection against vio-

lence in place elsewhere. The preparation of violence protection concepts alone is not sufficient ensure that refugees receive protection in practice: also required are financial resources and additional staff positions, for instance violence prevention coordinators. According to the information provided by the Länder, additional positions have been created in eight federal states, and ten federal states have allocated funding for this purpose. Twelve federal states reported the initiation of training on the implementation of measures to protect against violence.

### 3.3 Identification of victims

Many factors can determine whether the victims of trafficking are identified as such. Although the numbers of victims identified are rising, it must be assumed that a large number of cases continue to go undetected. The visibility of victims of trafficking can be increased by making counselling services more accessible. The National Rapporteur Mechanism on trafficking in human beings therefore recommends that action be taken to make low-threshold specialised counselling services for all forms of exploitation and all groups of victims available nationwide. In the future, the specialised counselling services should have the legal authority to attest to the existence of concrete indications of human trafficking, for the purposes of a provisional identification of victims.

To date, Germany has no nationally standardised procedure for the purpose of identifying victims of trafficking as such for all forms of exploitation and facilitating their access to justice. Thus, even in the context of the first-level reception of refugees, there is no standardised, systematic procedure for the identification of human trafficking victims in place nationwide. The recently introduced independent counselling for asylum seekers may contribute to the identification of victims in asylum proceedings – however, civil society organisations have stressed the necessity of ensuring sufficient and long-term funding for this counselling.

The FKS has two victim protection coordinators at each of the 41 main customs offices. These coordinators are tasked with networking with the relevant counselling service and other stakeholders.

The FKS has a legal mandate to conduct broad inspections and investigations and to investigate any indications of criminal activity that it finds in its jurisdiction. This means that any individual can come under investigation as a potential offender – including possible victims of trafficking. This duty might conflict with an identification procedure which prioritizes the rights of the victims. Identifying cases of human trafficking may be rendered more difficult when the victims must fear that they themselves may become the focus of an investigation. For this reason, GRETA, the Council of Europe’s Group of Experts on Action against Trafficking in Human Beings, has recommended that Germany ensure a separation of the FKS’s role of prosecuting human trafficking offenses from its role of prosecuting the other offenses of “undocumented work” or “irregular employment”. The feasibility of implementing this recommendation should be assessed. Investigating authorities should bring an SCC in as early in the process as possible and should inform persons affected of their rights.

To enable the swiftest possible identification of victims of trafficking, officials potentially involved in this task should receive training aimed at sensitising them to the relevant issues, including for example the staff of foreigners authorities (German immigration authorities), benefits authorities and investigative authorities, but also the staff of labour inspectorates. Under the revised EU Anti-Trafficking Directive, the training must be human rights-based, victim-centred, gender-sensitive and must take the interests of children and persons with disabilities into account.

The SCCs in all Länder should be furnished with sufficient resources to enable them to offer training. The national organisations specialising in this area, KOK, ECPAT, and the Service Centre against Labour Exploitation, Forced Labour and Human Trafficking also have extensive offerings that the police services, the FKS, the BAMF, benefits authorities and foreigners authorities should make greater use of. These organisations should receive sufficient long-term federal funding and resources for this purpose.

### 3.4 Support of victims

Victims of trafficking have a right to support, counselling and protection. These rights arise from the CoE Anti-Trafficking Convention and the EU Anti-Trafficking Directive in combination with the Victims’ Rights Directive.

#### 3.4.1 Specialised counselling centres

Accordingly, victims must be given assistance with applying for residence permits, social benefits (benefits to cover accommodation and other subsistence costs) or health care services. Although there are now SCCs in all federal states, access to specialised counselling services is not yet available to all victims of all forms of exploitation, all genders or all age groups throughout the country. One positive development is that the country’s first SCC specifically aimed at child and adolescent victims took up its work in the first half of 2024. Counselling resources should be built up throughout the country for all forms of exploitation and groups of victims.

The level of funding provided by the Länder for the SCCs remained stable over the period under report, actually increasing in more than half of the Länder. Psychosocial counselling, crisis intervention, accommodation in shelters or arrangement of safe accommodation, provision of legal advice or referring and accompanying victims to clinics/practises for medical or psychological offerings: the tasks performed by the SCCs – are often time-intensive and, thus far, they are financed almost exclusively through project funding provided by the federal states. It is imperative that sufficient and reliable long-term funding be afforded to the SCCs receive, whose services are provided free of charge and on an anonymous basis. To enable them to provide swift and un-bureaucratic support for victims, the SCCs should also have access to funds to bridge temporary gaps in provisions for basic needs (for instance with regard to clothing or food) that might arise as a result, for instance, of the time required for authorities to process applications for benefits.

### 3.4.2 Accommodation and other means of subsistence

Victims of trafficking have a right to social benefits – to accommodation and other means of assistance. Gaining access to these rights is often difficult, not only for victims who are third-country nationals but for EU citizens as well. This is because an individual's status under the law governing social benefits is linked to their residence status and because of the complexity of the rules applying for EU citizens. The Rapporteur Mechanism recommends that entitlements to a residence permit and social benefits should not be linked to cooperation in investigative or criminal proceedings. It also recommends the introduction of an initial three-month entitlement to social benefits for EU citizens identified as human trafficking victims – for instance, through the incorporation of a provision to this effect into section 7 of the Book II of the Social Code.

Eight federal states fund shelters that specifically cater to the needs of victims of human trafficking. There are no facilities specialising in the accommodation of child or adolescent victims in Germany. Shortfalls in accommodation suitable for men, couples, families and groups are not uncommon either. Women's shelters often have to be used as alternative accommodation for female victims. Some Länder make funds available to accommodate victims locally in hotels or pensions because placing them in a specialised shelter is not always possible.

Under the revised EU Anti-Trafficking Directive, EU Member States will have to provide a sufficient number of easily accessible shelters. Specialised shelters for all genders and age groups should be maintained in all federal states, and they should meet the standard of appropriate and safe accommodation.

### 3.5 Recovery and reflection period

Under the terms of the CoE Anti-Trafficking Convention, Germany must provide what is called a recovery and reflection period to victims of trafficking. The purpose of this is to enable the victims to escape the influence of the human traffickers, recover from physical injuries and

stabilize mentally. This reflection period is to begin as soon as there are concrete indications of human trafficking, and thus before the identification process has been completed. The (possible) victims must not be deported during this period. The recovery and reflection period is also intended to give victims time to consider cooperating in possible criminal proceedings. Its actual application, though, presents a different picture: as a rule, victims of trafficking must already be in contact with law enforcement authorities for a determination to be made that concrete indications of human trafficking exist. In Germany, the entitlement to a recovery and reflection period is established in section 59 (7) of the Residence Act in the form of an extended period allowed for departure, and it is known as the reflection and stabilization period (Bedenk- und Stabilisierungsfrist).

To facilitate more rapid decision-making on the granting of this extended period for departure, the Rapporteur Mechanism recommends that action be taken allow for the submission to proceedings of a foreigners authority of a statement by an SCC attesting to the existence of concrete indications of human trafficking is possible and for such a submission to constitute a sufficient basis for a determination that concrete indications exist. Foreigners authority officials should receive appropriate training on this matter. Further, the authorities should record data depicting how frequently extended departure periods are granted to victims of trafficking. A recovery and reflection period should be granted to all victims of trafficking who apply for asylum, including those coming under a provision calling for their transfer to another EU member state (Dublin procedure).

### 3.6 Residence permits

Victims of trafficking need a secure residence status. The sense of security this brings and the access to benefits covering subsistence and health services enable them to start recovering, to escape from the influence of the traffickers and to begin to see and plan for a future. The number of people who received a residence permit under Section 25(4a) of the Residence Act – temporary residence permits granted to enable victims of trafficking to cooperate in criminal proceedings –

fell continually over the period from 2017 to 2021: in 2017, 55 such permits were granted, while only five were granted in 2021. The National Rapporteur Mechanism on trafficking in human beings recommends that the barriers to obtaining residence permits under Section 25(4a) be reduced and that these permits be granted to victims as soon as they have clearly declared their willingness to testify in investigative proceedings. Under the current provision, not only must the victim's cooperation in the investigation to determine the facts of the case be deemed expedient, but the victim's testimony must also be expected to facilitate the success of a criminal prosecution. Under some circumstances, victims may place themselves and their families in danger simply by cooperating with criminal justice authorities. Moreover, the success or failure of a criminal prosecution does not typically rest in the hands of the victims.

The Rapporteur Mechanism also suggests the introduction of a right of residence for victims of trafficking regardless of their willingness to cooperate in criminal proceedings, for humanitarian and personal reasons alone.

Finally, the Monitoring Report recommends the creation of a residence permit for child and adolescent victims of trafficking for which the best interests of the child are the primary consideration.

### 3.7 Compensation

Victims of trafficking in human beings can assert a right to compensation in criminal proceedings or in proceedings of a civil court or labour court. To do so, they must first receive information in a language they are able to understand. They also have a right to free legal assistance. However, the bureaucratic hurdles involved in obtaining this assistance are very high. The Rapporteur Mechanism recommends that victims not be left to bear the full cost-risk of the legal aid test. In order to afford the guarantees under the rule of law, the compensation rates paid to lawyers for their assistance under the legal aid scheme should be increased to cover all costs. The Rapporteur Mechanism also recommends that data depicting the following be added to the official statistics recorded in the area of social compensation law: how many victims of trafficking assert their right to state compensation, how long the relevant proceedings last and how many of the applications submitted under the provisions governing social compensation are successful.

## 4 Legislation and Case Law

Implementing the revised EU Anti-Trafficking Directive will require the amendment of some statutes in Germany. There are four areas of activity involved here: criminal prosecution, prevention, the protection of victims and the support of victims. In addition, there are also some changes to the requirements relating to the structural and institutional framework. Along with the new provisions previously mentioned, such as criminal liability for the additional forms of exploitation, the EU Anti-Trafficking Directive also contains provisions introducing the following:

In the future, the possibility of refraining from the criminal prosecution of victims, also known as the non-punishment principle, will also apply to administrative offenses, such as the pursuit by a third-country national of an economic activity without the permission of the competent authority.

Under the revised EU Anti-trafficking Directive, Member States are required to promote specialised training for professions who come into contact with (potential) victims of human trafficking, such as front-line police officers, social services workers and healthcare workers. The training should be aimed at enabling them to prevent and combat human trafficking, avoid secondary victimisation and detect, identify, assist, support and protect the victims.

The revised directive now also requires measures relating to the online dimension of human trafficking. Individuals and bodies responsible for investigating or prosecuting offenses should have sufficient expertise and technological capabilities. If appropriate, specialised units should be created for this purpose. The directive now also provides for training and campaigns on prevention that pay specific attention to the online dimension to discourage and reduce demand.

To assist and support victims of human trafficking, the revised directive provides for a national referral mechanism.

The revised directive calls for national anti-trafficking coordinators or equivalent mechanism and independent bodies that take on tasks such as the promotion, coordination and, funding of programmes to combat human trafficking or setting up contingency response plans for use in the event of crisis situations. They will also be responsible for measuring the results of anti-trafficking actions, gathering statistics in close cooperation with relevant civil society organisations active in the area and reporting. With regard to Germany, this lattermost task has been assigned by the Federal Government to the independent National Rapporteur Mechanism on trafficking in human beings at the German Institute for Human Rights.

Another relevant legislative development in Germany was the reform of the law governing social compensation. The most significant changes include the recognition that human trafficking constitutes psychological violence, a relaxation of the rules relating to the burden of proof and the provision of rapid assistance services, in particular immediate psychotherapeutic offerings in trauma outpatient clinic. Whether the new legislation will genuinely make it easier for victims to obtain access to social compensation remains to be seen.

As far as could be determined, references to the CoE Anti-Trafficking Convention or the EU Anti-Trafficking Directive are very rare in German court practice. The training of judges, including in relation to the relevant international and European law provisions, could contribute to greater consideration of the rights of victims in decision-making by the courts. The revised EU Anti-Trafficking Directive also call states to promote training on human trafficking for judges and public prosecutors. All training must be human rights based and gender sensitive and take the interests of children and adolescents and persons with disabilities into account.

## 5 Areas of focus in the Monitoring Period

Each year, the National Rapporteur Mechanism on trafficking in human beings works on one topic as a focus area for that year. In 2023, the focus was on the establishment of a national referral mechanism, and in 2024, it was on labour exploitation.

### 5.1 Focus area in 2023: national referral mechanism

The early recognition of victims of trafficking in human beings as such is vital to enable victims to avail themselves of the protection and support available to them should they need it. A national referral mechanism is needed to coordinate the cooperation among all relevant bodies (law enforcement authorities, benefits authorities, SCCs, etc.). A binding and transparent mechanism of this kind supports the authorities involved in connection with referring victims on to an SCC or some other competent body.

There is not yet a national referral mechanism in Germany that coordinates cooperation among all relevant bodies. Victims of trafficking can have no certainty that they will be accorded the same rights, in the same timeframe regardless of where they are identified. The need to set up an NRM remains, and to do so would be to fulfil a requirement under article 11 (4) of the EU Anti-Trafficking Directive (as amended). Cooperation agreements are already fulfilling an important function in this area and can make greater contributions towards the establishment of uniform national standards in the future. In the past decades, five agreements aimed at coordinating cooperation between federal authorities and counselling networks and umbrella organisations have been drawn up at the federal level. As of July 2024, thirteen federal states had approved agreements governing cooperation among the relevant authorities and organisations in the area human trafficking. The Rapporteur Mechanism has published an overview of the content of these cooperation agreements in

the form of a digital Länder map on its website. There are not yet cooperation agreements in place in all federal states addressing all victim groups and all forms of exploitation. Moreover, it is often the case that the agreements do not cover all relevant organisations and authorities.

In February 2024, representatives of SCCs met in an online focus-group coordinated by the Rapporteur Mechanism to discuss the role that cooperation agreements play in determining the effectiveness of cooperation. They emphasised that effective cooperation is based on mutual understanding and acceptance of each party's role, indicating the authorities should recognise counsellors as equal partners. The cooperation agreements serve as guidelines for the relevant processes and provide an overview of the relevant regulations. There is considerable regional variation in the quality of cooperation between counselling centres and the authorities, and much depends on the training of the staff involved and their experience with dealing with victims. Thus, cooperation agreements are of key importance for ensuring uniform standards. The Rapporteur Mechanism has therefore published guidance on the drafting or revising of cooperation agreements that meet the minimum standards of the CoE Anti-Trafficking Convention and the EU Anti-Trafficking Directive.

### 5.2 Focus area in 2024: labour exploitation

According to the BKA's "Human Trafficking and Exploitation: National Situation Report", 2022 was the first year in which the number of victims of labour exploitation identified in investigations exceeded the number of victims of sexual exploitation identified. The number of investigations in the area of labour exploitation increased in 2023, as it had in the preceding years. The national situation report addresses only the extreme forms of labour



exploitation, such as forced exploitative employment in which the freedom of employees is forcibly restricted (section 232 et seq. of the German Criminal Code).

In order to analyse the phenomenon of labour exploitation in greater detail, the report also examines offenses that involve working conditions that are “clearly less favourable” (see, for instance, section 10 of the Act to Combat Undeclared Work and Unlawful Employment, SchwarzArbG). The Rapporteur Mechanism performed a separate analysis on data relating to such offenses from the General Directorate of Customs and arrived at the following findings:

In three federal states (Hesse, Mecklenburg-Vorpommern and Thuringia), no investigations have been initiated in connection with the offenses defined in section 232 et seq. of the Criminal Code. The federal states with the greatest number of investigations of this kind in the 2019–2023 period are Rhineland-Palatinate (38) and Berlin (27), followed by Baden-Württemberg (19) and North Rhine-Westphalia (15). The picture with respect to the other labour exploitation offenses (see, for instance, section 10 or 10a SchwarzArbG) is very different: Hesse reported 161 investigations in this category, more than any other federal state.

The breakdown of the proceedings by economic sectors shows that around half of the investigations into labour exploitation involved operations in the restaurant and hotel sector (129) and the construction sector (128). In more than one in six of these investigations, the sector is unknown

(“other”). Looking at only investigations into extreme forms of labour exploitation (section 232 et seq.) over the same period, the food services sector accounts for the largest number of the investigation followed by hairdressers and beauty parlours (26) and “other” (24).

A digital exchange of expertise among the Rapporteur Mechanism and members of the police, and of the staff of public prosecutor’s offices and SCCs as well as legal practitioners confirmed the existence of numerous problems associated with the investigation and prosecution of crimes in this area: the definitions of the criminal offenses are unclear and complex. Moreover, there are also difficulties associated with the susceptibility to proof of individual constitutive elements of the offenses, the application of the non-punishment principle, the concurrent conduct of labour and criminal law proceedings, and general conditions unfavourable to investigations. As a result of these challenges, the rights of victims cannot always be ensured. The National Rapporteur Mechanism on trafficking in human beings will further address many of these problems in the future.

The Rapporteur Mechanism recommends the investigation of the reasons for the differences in the numbers of investigative proceedings, the consideration of children and adolescents as victims of labour exploitation, the redefinition of the relevant criminal offenses, the provision of appropriate and safe accommodation for victims and the improvement of the collection of data in respect of labour exploitation.

## 6 Conclusion

The detailed analyses in the “Monitoring Report: Human Trafficking in Germany” indicate that efforts to combat trafficking in human beings and to support victims in Germany have been strengthened in many areas. The focus of the data-based monitoring was on the 2020–2022 period. In addition to reporting on that activity, the report addresses political and institutional developments up to July 2024. Particularly noteworthy are the following:

### Developments at the structural level

- Two positive central developments are the development of two national action plans which encompass strategies and measures for combatting human trafficking and for the prevention of labour exploitation and forced labour.
- The establishment of three new cooperation agreements at the federal level addressing practical cooperation among relevant authorities and organisations should also be highlighted in this context, the agreement governing cooperation between the Federal Ministry of Finance, the Federal Ministry of Labour and Social Affairs and the German Trade Union Confederation can serve as an example here.

### Developments in realising victims’ rights

- Funding for measures in the area of prevention and awareness raising was increased in the context of the Russian war of aggression against Ukraine, with the aim of raising awareness among refugees from Ukraine of the risks

of human trafficking. The structures for the counselling of migrants on labour law issues were continually expanded and were placed on a permanent footing.

- The amount of training provided by Länder-funded SCCs and national organisations increased in the 2020–2022 period. It remains to be seen whether this was primarily due to the lifting of restrictions on contacts associated with the pandemic or whether the trend will continue in the coming years.
- There is as yet no nationally standardised procedure for the purpose of identifying victims of trafficking for all forms of exploitation as such and referring them on to the system providing them with assistance. The Rapporteur Mechanism expects to see further development and revamping of cooperation agreements at the federal and Länder level.
- A positive development with regard to children and adolescents is that the first SCC focussing its services on child and adolescent victims of trafficking has taken up its work in Berlin. IN VIA is the sponsoring organization.

### Developments on the legislative level

- The main legislative developments were the entry into force of new legislation regulating social compensation, Book XIV of the German Social Code (SGB XIV), on 1 January 2024 and that of the revised EU Anti-Trafficking Directive on 14 July 2024. The changes in the directive must be implemented within two years.

## 7 Recommendations

Despite this important progress, considerable efforts are still needed to implement human rights and European standards in the area of trafficking in human beings. This arises in no small degree from the revisions to the EU Anti-Trafficking Directive, which must be implemented rapidly and in full:

### Structural and institutional level

- Setting up of coordination bodies at the federal and Länder level is recommended in order to improve the coordination of measures and relevant authorities and organisations.
- The creation of a national referral mechanism remains necessary to ensure that victims of trafficking in human beings are accorded the same rights, in the same timeframe, regardless of where they are found. The task of setting up and implementing a national referral mechanism at the federal level should be taken on by the coordination body mentioned above or by an existing body suited to this task, and performed in consultation with the federal states and civil society. Since effective cooperation at the Länder level forms the basis for a national referral mechanism, cooperation agreements should be drawn up or if necessary revised in all federal states to this end.
- A great many tasks that are of key importance for the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings and the EU Anti-Trafficking Directive are performed by national organisations active in this field. To perform these tasks, these organisations require sufficient and reliable federal funding.

### Realising victims' rights

- The rights of victims must be considered and realised in all phases of the identification process. This applies from the preliminary identification to the launch of an investigation on through to the criminal prosecution and the enforcement of claims for compensation benefits and other rights. To this end, the relevant authorities nationwide should regularly receive training on this issue.
- The evaluation of measures for the prevention of trafficking in human beings in line with standards is recommended in order to develop targeted and sustainable prevention strategies.
- Action should be taken to further the development of a system that will provide counselling services nationwide for victims of all forms of exploitation, all genders and all age groups is essential. Long-term funding should be secured for this system.
- Appropriate funding should be made available to SCCs to enable them to provide individualised support to victims (accommodation, medical care, means of subsistence). Access to this funding must be low-threshold, transparent and must not entail financial risk for the SCCs.
- The federal states should consider setting up an SCC specifically to provide services to children and youth, taking into account the experiences in Berlin.

**Legislative level**

- The Rapporteur Mechanism suggests that a right to residence should be granted to victims of trafficking regardless of whether they are willing to cooperate in the criminal proceedings.
- To facilitate more rapid decision-making concerning the granting, cancellation or reduction of an extended period allowed for departure (reflection and stabilization period), legislation should be adopted to allow for the submission to proceedings of a foreigners authority of a statement by an SCC attesting to the existence of concrete indications of human trafficking is possible and for such a submission to constitute a sufficient basis for a determination that concrete indications exist.
- The access to social benefits without obstacles should be provided for all victims of trafficking in human beings. An initial three-month entitlement to benefits for victims who are EU citizens should arise directly from, for example, section 7 of Book II of the Social Code.
- The criminal prosecution of human trafficking offenses must be rendered more effective. The relevant criminal offenses (section 232 et seq. of the Criminal Code) should be redefined, and investigations should take a victim-centred approach. Victims should be able to make themselves known to investigative authorities without needing to fear that they will themselves may become the target of criminal proceedings. Concrete proposals for an effective way to resolve this tension (victim vs. possible offender) should be developed.

**Improvement of the data situation**

- There remains a need for better harmonisation of data across the Länder and within the networks of counselling service providers, in order to improve the comparability of data from different sources.
- The establishment of a legislative basis for the National Rapporteur Mechanism on trafficking in human rights is recommended. This would create clarity with regard to the Rapporteur Mechanism's tasks and mandate, ensure that it is able to continue fulfilling its tasks for the long term and strengthen its independence.





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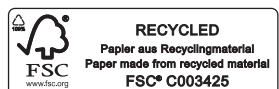
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