



# EVALUATION REPORT

## GERMANY

### Third evaluation round

#### **G R E T A**

Group of Experts  
on Action against  
Trafficking  
in Human Beings

Access to justice  
and effective remedies  
for victims of trafficking  
in human beings

GRETA(2024)07  
Published on 7 June 2024



Secretariat of the Council of Europe Convention  
on Action against Trafficking in Human Beings  
(GRETA and Committee of the Parties)  
Council of Europe  
F-67075 Strasbourg Cedex  
France

[trafficking@coe.int](mailto:trafficking@coe.int)

[www.coe.int/en/web/anti-human-trafficking](http://www.coe.int/en/web/anti-human-trafficking)

## Table of contents

<b>Preamble .....</b>	<b>4</b>
<b>List of acronyms .....</b>	<b>5</b>
<b>Executive Summary .....</b>	<b>7</b>
<b>I. Introduction .....</b>	<b>9</b>
<b>II. Overview of the current situation and trends in the area of trafficking in human beings in Germany .....</b>	<b>11</b>
<b>III. Developments in the legislative, institutional and policy framework for action against human trafficking .....</b>	<b>12</b>
<b>IV. Access to justice and effective remedies for victims of human trafficking .....</b>	<b>15</b>
1. Introduction .....	15
2. Right to information (Articles 12 and 15) .....	17
3. Legal assistance and free legal aid (Article 15) .....	19
4. Psychological assistance (Article 12) .....	21
5. Access to work, vocational training and education (Article 12) .....	22
6. Compensation (Article 15) .....	22
7. Investigations, prosecutions, sanctions and measures (Articles 22, 23 and 27) .....	25
8. Non-punishment provision (Article 26) .....	31
9. Protection of victims and witnesses (Articles 28 and 30) .....	32
10. Specialised authorities and co-ordinating bodies (Article 29) .....	34
11. International co-operation (Article 32) .....	36
12. Cross-cutting issues .....	37
a. gender-sensitive criminal, civil, labour and administrative proceedings .....	37
b. child-sensitive procedures for obtaining access to justice and remedies .....	38
c. role of businesses .....	39
d. measures to prevent and detect corruption .....	40
<b>V. Follow-up topics specific to Germany .....</b>	<b>40</b>
1. Data collection .....	40
2. Measures to prevent and combat trafficking for the purpose of labour exploitation ..	41
3. Measures to discourage demand .....	44
4. Identification of victims of trafficking .....	45
5. Assistance to victims of trafficking .....	49
6. Identification of, and assistance to, child victims of trafficking .....	51
7. Recovery and reflection period and residence permits .....	53
<b>Appendix 1 – List of GRETA’s conclusions and proposals for action .....</b>	<b>55</b>
<b>Appendix 2 - List of public bodies and civil society actors with which GRETA held consultations .....</b>	<b>62</b>
<b>Government's comments .....</b>	<b>64</b>

## Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) was established pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), which entered into force on 1 February 2008. GRETA is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party.

In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions of the Convention on which the evaluation procedure is based.

The first round of monitoring of the Convention provided an overview of its implementation by State Parties. The second evaluation round of the Convention examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings, the protection of the rights of victims of trafficking, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking.

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims' access to justice and effective remedies, which is essential for victims' rehabilitation and reinstatement of rights, and reflects a victim-centred and human-rights based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic, in particular articles 12, 15, 23, 26, 27, 28, 29, 30 and 32.

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, access to translation and interpretation, when appropriate, regularisation of the victim's stay, the right to seek and enjoy asylum, and full respect for the principle of *non-refoulement*. These preconditions, corresponding to various provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA's previous recommendations on selected topics through a separate country-specific part of the questionnaire. GRETA's findings and analysis of these topics are presented in a separate chapter.

---

## List of acronyms

AA	Foreign Office
ArbGG	Labour Courts Act
AufenthG Territory	Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory
BAFA	Federal Office for Economic Affairs and Export Control
BAMF	Federal Office for Migration and Refugees
BerHG	Act on Advisory Assistance and Representation for Citizens with a Low Income
BGH	Federal Court of Justice
BJA	Federal Criminal Police Office
BMAS	Federal Ministry of Labour and Social Affairs
BMF	Federal Ministry of Finance
BMFSFJ	Federal Ministry for Family Affairs, Senior Citizens, Women and Youth
BMG	Federal Ministry of Health
BMI	Federal Ministry of the Interior and Community
BMJ	Federal Ministry of Justice
BMWK	Federal Ministry of Economic Affairs and Climate Action
BPol	Federal Police Office
CC	Criminal Code
CPC	Criminal Procedure Code
DGB	German Trade Union Confederation
DIMR	German institute for Human Rights
DRA	German Judicial Academy
EMPACT	European Multidisciplinary Platform against Criminal Threats
FIU	Financial Intelligence Unit
FKS	Unit for Financial Control of Undeclared Work
FTE	Full Time Equivalent
GRECO	Group of States against Corruption

---

GVG	Courts Constitution Act
GZD	General Customs Administration
ILO	International Labour Organisation
IOM	International Organisation for Migration
JIT	Joint Investigative Team
KOK	NGO Network against Trafficking in Human Beings
LKA	Länder Criminal Police Office
LkSG	Act on Corporate Due Diligence in Supply Chains
NAP	National Action Plan
NRM	National Referral Mechanism
NRW	North Rhine-Westphalia
OEG	Crime Victims Compensation Act
OHCHR	(UN) Office of the High Commissioner for Human Rights
ProstSchG	Prostitute Protection Act
RBC	Responsible Business Conduct
SchwarzArbG	Act to Combat Undeclared Work and Unlawful Employment
Service Centre	Service Centre against Labour Exploitation, Forced Labour and Human Trafficking
SGB XIV	Book XIV of the Social Code
UBSKM	Independent Commissioner for Child Sexual Abuse Issues
UNHCR	United Nations High Commissioner for Refugees
UNODC	UN Office on Drugs and Crime
ZPO	Civil Procedure Code

## Executive summary

Since the second evaluation round of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, Germany has continued to develop the legislative and policy framework relevant to action against trafficking in human beings. Following amendments to the legislation related to combating unlawful employment, in 2019 the mandate of the Unit for Financial Control of Undeclared Work (FKS) was expanded to cover human trafficking. The Act on Corporate Due Diligence in Supply Chains, adopted in 2021, introduced mandatory human rights due diligence for large companies and designated the Federal Office for Economic Affairs and Export Control to supervise its implementation. Further, the German Institute of Human Rights was designated in 2022 as the National Reporting Mechanism on trafficking in human beings. However, GRETA once again urges the authorities to develop a comprehensive national action plan or strategy against human trafficking which addresses all forms of exploitation.

Germany is primarily a country of destination for trafficked persons, as well as to some extent a country of origin and of transit. The total number of identified victims of trafficking and related offences (including commercial sexual exploitation of children) in the period 2019-2022 was 3 743. 62% of the identified victims were subjected to sexual exploitation, 34% to labour exploitation, and the remainder to forced criminality, forced marriage and forced begging. About 40% of the identified victims for the purpose of sexual exploitation were German citizens. Foreign victims mainly originated from Eastern European and Southeast Asian countries.

The focus of the third evaluation round of the Convention being on trafficking victims' access to justice and effective remedies, the report analyses in detail the implementation of provisions of the Convention establishing substantive and procedural obligations relevant to this topic.

Specialised NGOs provide information for victims of trafficking about their rights in multiple languages. However, the information provided by different authorities to victims of crime contains little specific information on human trafficking and does not explain victims' rights in an accessible language. GRETA considers that the authorities should continue making efforts to ensure that presumed victims of trafficking are proactively informed of their rights, including the right to a recovery and reflection period, the available support services and how to receive them.

Victims of trafficking are entitled to free legal aid in criminal proceedings, but lawyers are sometimes asked at a very late stage to support victims as civil claimants in the criminal proceedings against the perpetrators. Further, the criteria for access to free legal assistance in proceedings before civil, administrative, labour and social courts are rather restrictive. GRETA considers that the German authorities should ensure that legal assistance is provided as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, and that access to free legal aid for adult victims of labour exploitation does not depend on proof of lack of financial means to pay for a lawyer.

GRETA notes that the number of victims of trafficking who have been awarded compensation from the perpetrators in criminal proceedings is low because victims often know too little about the different compensation options available to them and there are various bureaucratic hurdles to overcome. GRETA urges the German authorities to enable all victims of trafficking, irrespective of their residence status, to effectively exercise their right to compensation as a priority through criminal proceedings, or in civil and labour law proceedings. Further, GRETA welcomes the amendments to the Social Code recognising psychological violence suffered by trafficking victims as a form of violence eligible for state compensation, and making foreign victims, regardless of their residence status, eligible for state compensation.

Even though the number of investigations, prosecutions and convictions for human trafficking and related offences has increased, GRETA is concerned by the significant proportion of suspended or partially suspended sentences, as well as by the length of court proceedings. GRETA considers that the German authorities should ensure that all human trafficking offences are proactively investigated, regardless of whether a report has been filed or not, making use of all possible evidence gathered through special investigation techniques and financial investigations, and not having to rely on the testimony of victims. Further, GRETA considers that the authorities should conduct a comprehensive assessment of the effectiveness of the criminal law provisions concerning human trafficking and related offences, and ensure that the liability of legal entities for criminal offences is effectively implemented.

Noting that there have been no legal developments in Germany regarding the non-punishment provision, GRETA urges the German authorities to ensure consistent application of the principle of non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so.

As regards the protection of victims and witnesses, GRETA urges the authorities to ensure that direct confrontation of victims and defendants in human trafficking cases is avoided, to the extent possible, making use of audio-visual equipment and other appropriate methods.

GRETA welcomes the existence of police officers and prosecutors specialised in dealing with human trafficking cases in many Länder and considers that the authorities should promote further specialisation to deal with human trafficking, including of judges, and provide systematic and periodically updated training to police officers, prosecutors, judges and other relevant professionals.

The report also examines progress made on the implementation of previous GRETA recommendations on selected topics. Noting the absence of comparable data, GRETA urges the German authorities to set up a comprehensive and coherent statistical system on human trafficking by compiling reliable data from all main actors, including specialised NGOs, on measures to protect and promote the rights of victims.

While welcoming the expansion of the mandate of the FKS, GRETA considers that the authorities should intensify their efforts to prevent and combat human trafficking for the purpose of labour exploitation by providing sufficient staff and resources to the FKS and ensuring that FKS inspectors prioritise the detection of persons working in irregular situations who are vulnerable to human trafficking.

Moreover, GRETA urges the authorities to ensure that, in practice, the identification of victims of trafficking is not linked to the prospects of the investigation and prosecution. Increased attention should be paid to detecting victims of trafficking amongst asylum seekers, including by providing systematic training and instructions to staff of the reception centres.

Whilst welcoming the increased state funding for assistance programmes for victims of trafficking in several Länder, GRETA urges the German authorities to provide adequate assistance, including safe accommodation, adapted to the specific needs of victims. GRETA also calls on the authorities to increase their outreach work to identify and assist child victims of trafficking, including among unaccompanied migrant children.

Finally, GRETA calls upon the German authorities to ensure, in compliance with their obligations under Article 13 of the Convention, that all possible foreign victims of trafficking, including those falling under the Dublin Regulation, are offered a recovery and reflection period and are able to fully benefit from all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.



# I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") entered into force for Germany on 1 April 2013. GRETA's first evaluation report on Germany was published on 3 June 2015,<sup>1</sup> and the second evaluation report on 20 June 2019.<sup>2</sup>
2. On the basis of GRETA's second report, on 18 October 2019, the Committee of the Parties to the Convention adopted a recommendation to the German authorities,<sup>3</sup> requesting them to inform the Committee within a one-year period of measures taken to comply with the recommendation. The report submitted by the German authorities was considered at the 27th meeting of the Committee of the Parties (4 December 2020), and was made public.<sup>4</sup>
3. On 24 June 2022, GRETA launched the third round of evaluation of the Convention in respect of Germany by sending the questionnaire for this round to the German authorities. The deadline for submitting the reply to the questionnaire was 25 January 2023 and the authorities' reply was received on 25 January 2023.
4. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the German authorities,<sup>5</sup> the above-mentioned report and additional information submitted by them in reply to the Committee of the Parties' recommendation. An evaluation visit to Germany took place from 8 to 12 May 2023 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:
  - Ms Ia Dadunashvili, member of GRETA;
  - Ms Dorothea Winkler, member of GRETA;
  - Ms Petya Nestorova, Executive Secretary of the Convention;
  - Mr Roemer Lemaître, Administrator in the Secretariat of the Convention.
5. During the visit, the GRETA delegation held consultations with Ms Ekin Deligöz, Parliamentary Secretary of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, as well as officials from that ministry, the Federal Ministry of Labour and Social Affairs, the Federal Ministry of Justice, the Federal Ministry of the Interior and Community, the Federal Ministry of Health, the Federal Ministry of Economic Affairs and Climate Action, the Federal Ministry of Finance, and the Foreign Office. Furthermore, GRETA's delegation held meetings with representatives of the Federal Office for Migration and Refugees, the Federal Criminal Police Office, the Federal Police, the Federal Office for Economic Affairs and Export Control, public prosecutors and judges. The GRETA delegation also met with members of the German Federal Parliament (*Bundestag*). A separate meeting was held with the National Reporting Mechanism for Trafficking in Human Beings within the German Institute for Human Rights.
6. In addition to holding meetings in Berlin, the GRETA delegation travelled to the federal states (Länder) of North Rhine-Westphalia and Saxony where it met representatives of the state authorities, law enforcement officers, prosecutors and judges.
7. Separate meetings were held with representatives of non-governmental organisations (NGOs), trade unions, lawyers, researchers and victims of human trafficking.

<sup>1</sup> <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631c3b>

<sup>2</sup> <https://rm.coe.int/greta-2019-07-fgr-deu-en/1680950011>

<sup>3</sup> <https://rm.coe.int/recommendation-on-the-implementation-of-the-council-of-europe-conventi/16809860fa>

<sup>4</sup> <https://rm.coe.int/cp-2020-10-germany/1680a09ae3>

<sup>5</sup> <https://rm.coe.int/reply-from-germany-to-greta-questionnaire-3rd-round-/1680aa60cf>

- 
8. During the visit, GRETA's delegation visited counselling centres and shelters for victims of human trafficking in Berlin, Dortmund and Dresden, the BMAS funded Service Centre against Labour Exploitation and Human Trafficking (Service Centre) in Berlin, as well as a community housing centre for refugees in Berlin.
9. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them.
10. GRETA wishes to place on record the excellent co-operation provided by the German authorities in the preparation and carrying out of the evaluation visit, and in particular by Mr Florian Wehner, policy officer of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, fulfilling the role of contact person for GRETA at the time of the evaluation. GRETA notes the general coherence of facts and standpoints received both from the authorities and civil society, reflecting the openness of interlocutors as well as the degree of accuracy of the information.
11. The draft version of the present report was approved by GRETA at its 49th meeting (13-17 November 2023) and was submitted to the German authorities for comments. The authorities' comments were received on 26 February 2024 and were taken into account by GRETA when adopting the final report at its 50th meeting (18-22 March 2024). The report covers the situation up to 22 March 2024; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.

## II. Overview of the current situation and trends in the area of trafficking in human beings in Germany

12. Germany continues to be primarily a country of destination for trafficked persons, as well as to some extent a country of origin and of transit. According to information provided by the German authorities, which is based on the annual status reports on trafficking in human beings (THB) of the Federal Criminal Police Office (BKA),<sup>6</sup> the number of identified victims of THB and related offences (including victims of commercial sexual exploitation of minors) was 589 in 2019, 682 in 2020, 800 in 2021, and 1 672 in 2022.<sup>7</sup> The sharp rise in 2022 is due to two large scale investigations into labour exploitation – one in the beverage logistics sector and another one in the meat industry – with more than 800 victims in total (see paragraph 89). As regards the forms of exploitation, 2 330 (62%) of the identified victims were trafficked for the purpose of sexual exploitation, 1 282 (34%) for labour exploitation, 45 (2%) for forced criminality, 31 (1%) for forced marriage and 20 (1%) for forced begging.

13. Trafficking for the purposes of sexual exploitation and forced marriage concerned mostly women and girls (more than 85% of identified victims), while the identified victims of trafficking for the purpose of labour exploitation, forced criminality and forced begging were mostly male. About 40% of the identified victims of THB for the purpose of sexual exploitation were German citizens. The main countries of origin of foreign victims of THB for the purpose of sexual exploitation were Bulgaria, Romania, Thailand, Hungary, China and Vietnam. In cases of labour exploitation, the main countries of origin were Ukraine, Romania, Georgia, Bosnia and Herzegovina, Bulgaria, Slovakia, Moldova and Lithuania.

14. The number of identified child victims of THB and related criminal offences in the period 2019-2022 was 980, but 55% of the pending proceedings concerned section 182(2) of the Criminal Code (CC) – sexual abuse of juveniles against payment – and not THB in the narrow sense. There has been an increasing digitalisation of human trafficking in Germany, the Internet/social media being not only used to recruit new victims – often children or young adults – but also to control victims and exert pressure on them after they have escaped from their traffickers.<sup>8</sup>

15. Since 2020 the German NGO Network against Trafficking in Human Beings (KOK), which brings together over 50 specialised counselling centres for trafficked persons, has published statistical data provided by KOK's member organisations on trafficking in human beings and exploitation in Germany. According to the latest KOK report, in 2022 there were 733 cases of THB in the database of KOK released for data analysis with the consent of the victim.<sup>9</sup> 88% of KOK cases concerned women. As regards the forms of exploitation, more than 65% of victims were trafficked for the purpose of sexual exploitation and 25% for other purposes (including 5% who were exploited as domestic workers).<sup>10</sup> In 20% of the cases the form of exploitation was not registered. 35% of the victims originated from Nigeria, 10% from Guinea, 7% from Gambia, while German victims represented less than 7%.<sup>11</sup> 53% of the victims in KOK's database were exploited outside Germany, mainly in Italy and Libya.

<sup>6</sup> [BKA - Trafficking in Human Beings](#)

<sup>7</sup> By way of comparison, during the period covered by GRETA's second report, the number of identified victims of trafficking was 583 in 2014, 470 in 2015, 536 in 2016, 671 in 2017 and 503 in 2018.

<sup>8</sup> KOK, [Trafficking in Human Beings 2.0 – Digitalisation of Trafficking in Human Beings in Germany](#), 2022.

<sup>9</sup> In 2022 there were a total of 875 cases in the database of KOK, but only 733 were released for data analysis by the respective counselling centre with the consent of the victim (see paragraph 15).

<sup>10</sup> For some victims multiple forms of exploitation were registered.

<sup>11</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publikationen\\_KOK/KOK\\_Data\\_Report\\_2022\\_web.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publikationen_KOK/KOK_Data_Report_2022_web.pdf)

16. The above-mentioned statistics from BKA and KOK differ and are partially overlapping because the BKA data refers to cases in which criminal investigations have been initiated and concluded, whereas the KOK data is collected from 19 specialised counselling centres providing assistance to victims of THB and only includes cases in which the victims agreed that their data be processed. GRETA notes that the statistics collected by BKA and KOK do not reveal the full scale of human trafficking in Germany (see also paragraphs 150-152).

17. The number of asylum seekers registered in Germany has increased from 165 938 in 2019 to 244 132 in 2022.<sup>12</sup> However, there are no statistics on the number of victims of THB identified amongst asylum seekers (see also paragraph 187). In addition, since the outbreak of the war in Ukraine on 24 February 2022, Germany has registered more than one million arrivals from Ukraine. The German authorities have taken a series of measures aimed at protecting Ukrainian refugees from the risk of THB.<sup>13</sup> By way of example, the Federal Office for Migration and Refugees (BAMF) launched a website which includes information on THB.<sup>14</sup> With the financial support of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) KOK initiated the Ukraine Project to raise awareness, prevent trafficking in human beings and strengthen co-operation structures with regard to refugees from Ukraine in Germany.<sup>15</sup> A KOK research paper reported less than 10 suspected cases of THB involving refugees from Ukraine, which could be due to the fact that refugees from Ukraine have been offered leave to remain legally in the country, accommodation, benefits, healthcare and access to the labour market and education, all with minimal red tape; nevertheless, KOK cautioned to remain vigilant because trafficking in human beings often remains undetected.<sup>16</sup> Since April 2022, 34 suspected cases have been reported to the BKA. In two cases (one for sexual exploitation and one for labour exploitation) the allegations were substantiated through a criminal investigation. In 21 cases the investigation was closed for lack of evidence and another case was dismissed by the prosecutor. In the remaining 10 cases (four for labour exploitation, three for sexual exploitation, two for forced criminality and one for forced prostitution) the investigation was ongoing at the time of adoption of this report.

### III. Developments in the legislative, institutional and policy framework for action against human trafficking

18. Since the second evaluation of Germany by GRETA in 2018, the legislative framework relevant to action against THB has undergone several changes. In July 2019 the Act to Combat Unlawful Employment and Benefit Fraud entered into force, amending the 2004 Act to Combat Undeclared Work and Unlawful Employment (SchwarzArbG) by increasing the responsibilities of the Unit for Financial Control of Undeclared Work (FKS) to combat exploitative working conditions and THB in relation to employment (see paragraph 155). In the wake of media reports about exploitative working conditions in the parcel delivery and meat processing industries, the Parcel Deliverer Protection Act was adopted in November 2019 and the Occupational Safety and Health Inspection Act was extensively amended in December 2020 and entered into force on 1 January 2021 (see paragraph 158).

<sup>12</sup> <https://www.bamf.de/DE/Themen/Statistik/Asylzahlen/AktuelleZahlen/aktuellezahlen-node.html>

<sup>13</sup> [https://www.bundespolsizei.de/Web/DE/04Aktuelles/01Meldungen/2022/04/220407-flyer-seien-sie-sicher-unterwegs.pdf;jsessionid=98F148CA6A6D684E99F11AC94B225E6A.1\\_cid388?\\_blob=publicationFile&v=2](https://www.bundespolsizei.de/Web/DE/04Aktuelles/01Meldungen/2022/04/220407-flyer-seien-sie-sicher-unterwegs.pdf;jsessionid=98F148CA6A6D684E99F11AC94B225E6A.1_cid388?_blob=publicationFile&v=2)

<sup>14</sup> <https://www.germany4ukraine.de/hilfeportal-en> Further information materials for victims of THB are listed per Land on the KOK website <https://www.kok-gegen-menschenhandel.de/en/news/news/kok-news/protection-against-trafficking-in-human-beings-and-exploitation-of-refugees>

<sup>15</sup> <https://www.kok-gegen-menschenhandel.de/projekte-themen/ukraine-projekt>

<sup>16</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publikationen\\_KOK/Trafficking\\_in\\_human\\_beings\\_in\\_the\\_context\\_of\\_the\\_Ukraine\\_War\\_-\\_Report\\_of\\_the\\_KOK\\_Ukraine\\_Project.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publikationen_KOK/Trafficking_in_human_beings_in_the_context_of_the_Ukraine_War_-_Report_of_the_KOK_Ukraine_Project.pdf)

19. The Act on Corporate Due Diligence in Supply Chains (LkSG), adopted in July 2021, introduced mandatory human rights due diligence for large companies and designating the Federal Office for Economic Affairs and Export Control (BAFA) to supervise the implementation of the law (see paragraphs 143-144).

20. In August 2021 the scope of section 232a(6) of the Criminal Code (CC), which criminalises the use of services from victims of THB for the purpose of sexual exploitation, was broadened to include users of services who fail to recognise the trafficking victim's situation due to recklessness (see paragraph 169).

21. Due to Germany's federal structure, the implementation of measures against THB, including prevention, identification of and assistance to victims, as well as the investigation and prosecution of offences, lies within the remit of the 16 German federal states (Länder). At the federal level, the co-ordination of anti-trafficking action continues to be carried out through three structures. First, the Federal-Länder Working Group on Trafficking in Human Beings, chaired by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), which includes officials from relevant federal and regional ministries and agencies, representatives from NGOs and the German Institute for Human Rights (DIMR), is tasked with the overall co-ordination of action against THB. The working group meets twice per year. Second, the Federal-Länder Working Group on Trafficking in Human Beings for the Purpose of Labour Exploitation, headed by the Federal Ministry of Labour and Social Affairs (BMAS), is composed of officials from relevant federal and regional ministries and agencies, representatives of social partners and NGOs, including the BMAS funded Service Centre against Labour Exploitation, Forced Labour and Human Trafficking. It meets once or twice per year. Third, the National Council against Sexual Violence Committed against Children and Adolescents, established in 2019 by the BMFSFJ and the Independent Commissioner for Child Sexual Abuse Issues (UBSKM), brings together federal, regional and local authorities, as well as civil society partners.<sup>17</sup> It meets once a year. The National Council has a working group dealing with protection against exploitation and international co-operation, which has held two informal expert meetings.

22. Co-ordination of anti-trafficking action at the level of the federal states takes place through co-operation agreements which differ from one Land to another.<sup>18</sup> Some Länder have streamlined co-operation between law enforcement agencies and specialised counselling centres for THB based on the model co-operation agreement promoted by the BMFSFJ. Other Länder use different co-operation agreements. Some agreements are limited to THB for the purpose of sexual exploitation (Hamburg, Lower-Saxony,<sup>19</sup> North Rhine-Westphalia) while others include THB for the purpose of labour exploitation (Mecklenburg-Vorpommern, Rhineland-Palatinate) and other types of exploitation (Bavaria and Saxony-Anhalt). In Baden-Württemberg there are separate agreements for sexual exploitation and labour exploitation. In Berlin the co-operation agreement includes sexual and labour exploitation but is limited to adult female victims; however, according to the authorities, in practice, the agreement is applied to all genders in accordance with a provision in an annexe.<sup>20</sup> In Hesse and Saarland the agreement only concerns female victims of sexual exploitation. In Saxony, the 2023 agreement concerns sexual exploitation of male and female victims of THB, but not child victims. The co-operation agreement in Brandenburg has expired<sup>21</sup> and three Länder (Bremen, Schleswig-Holstein and Thuringia) never had a co-operation agreement. In addition, in several Länder there are regular round table meetings between officials and specialised NGOs.

<sup>17</sup> <https://www.nationaler-rat.de/de/> (in German)

<sup>18</sup> For an overview, see <https://www.institut-fuer-menschenrechte.de/das-institut/abteilungen/berichterstattungsstelle-zu-menschenhandel/nationaler-verweismechanismus/saeule-1-identifizierung-und-schutz> (in German)

<sup>19</sup> A co-operation agreement for labour exploitation is under preparation since 2022.

<sup>20</sup> In addition, a working group has been set up to draft a co-operation agreement for child victims of THB.

<sup>21</sup> [Brandenburg - Servicestelle gegen Zwangsarbeit \(servicestelle-gegen-zwangsarbeit.de\)](https://www.brandenburg.de/service/brandenburg-gegen-zwangsarbeit)

**23. Stressing the obligation in Article 29(2) of the Convention to ensure co-ordination of policies and actions against THB, GRETA considers that the German federal and Länder authorities should take steps to ensure that all Länder have co-operation agreements on combating THB which involve all relevant stakeholders, address all forms of THB, and identify and assist victims of trafficking without discrimination. The aim should be to ensure greater coherence and effectiveness of the actions of all stakeholders across Germany in combating and preventing THB in all its forms.**

24. In November 2022 Germany designated the German Institute of Human Rights (DIMR) as the National Reporting Mechanism on THB.<sup>22</sup> Within the DIMR the National Reporting Mechanism on THB was set up as a new department. The role of the National Reporting Mechanism is to support and enhance measures and reporting on THB through structured and regular collection of data. In addition to DIMR's annual reports to the Federal Parliament (Bundestag), the National Reporting Mechanism is expected to prepare bi-annual status reports, with the first bi-annual report due to be published in November 2024. In July 2023 the National Reporting Mechanism published a report on the data situation on THB in Germany (see paragraph 152). The National Reporting Mechanism is fully funded by the BMFSFJ for the next four years. However, the mandate of the National Reporting Mechanism is not established through an act of parliament.

**25. GRETA welcomes the appointment of the German Institute of Human Rights as the National Reporting Mechanism and invites the German authorities to take further measures to strengthen the National Reporting Mechanism through the adoption of legislation on its mandate.**

26. In its previous reports, GRETA has urged the German authorities to adopt a National Action Plan (NAP) against THB.<sup>23</sup> In 2021 the new German coalition government agreed to intensify the fight against THB and adopt an action plan against THB for sexual exploitation.<sup>24</sup> In September 2023 the BMFSFJ published a two-page discussion paper about the content of the NAP.<sup>25</sup> The BMFSFJ's paper stresses the importance of including THB for all types of exploitation in the NAP. As part of a written consultation procedure 20 submissions from specialised NGOs and academia were received and are currently being reviewed by the Federal Government. In their comments on the draft report the German authorities reiterated their commitment to adopt the NAP within the current legislative period (i.e. by September 2025). At the same time the BMAS is developing a NAP against labour exploitation and forced labour, which aims to improve the general conditions on the labour market and focuses on the structural causes and risk factors that contribute to the emergency of exploitative employment relationships and forced labour.<sup>26</sup> The two NAPs are intended to complement each other. **GRETA would like to be kept informed about the progress made in the preparation of a national action plan against THB.**

**27. In order to ensure that action to combat THB is comprehensive and involves all stakeholders, GRETA once again urges the German authorities to develop a comprehensive national action plan or strategy against THB which addresses all forms of exploitation.**

<sup>22</sup> [Berichterstattungsstelle Menschenhandel | Institut für Menschenrechte \(institut-fuer-menschenrechte.de\)](https://www.institut-fuer-menschenrechte.de/) (in German)

<sup>23</sup> See GRETA's second report on Germany, paragraphs 33-37.

<sup>24</sup> <https://www.bundesregierung.de/resource/blob/974430/1990812/1f422c60505b6a88f8f3b3b5b8720bd4/2021-12-10-koav2021-data.pdf?download=1>, pages 107 and 115.

<sup>25</sup> <https://www.bmfsfj.de/resource/blob/229996/c6c6675b9c6c2c5b681c79704b7c5fbc/20230905-diskussionspapier-nap-menschenhandel-data.pdf> (in German).

<sup>26</sup> [Mehr Schutz für Arbeitskräfte in Deutschland - BMAS](https://www.bmas.de/SharedDocs/Pressemitteilungen/DE/2023/09/mehr-schutz-fuer-arbeitskraefte-in-deutschland.html) (in German).



## IV. Access to justice and effective remedies for victims of human trafficking

### 1. Introduction

28. Victims of human trafficking, by virtue of their status as victims of crime and victims of human rights violations, have the right to access to justice and effective remedies for any harm committed against them. These rights must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of parties to the Convention, irrespective of their immigration status or presence on the national territory, and notwithstanding their capacity or willingness to co-operate in any criminal investigation.

29. The right to effective remedies is a reflection of the human rights-based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of THB, and effectively investigate trafficking offences.<sup>27</sup>

30. According to the Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons,<sup>28</sup> the right to an effective remedy is considered to include restitution,<sup>29</sup> compensation,<sup>30</sup> rehabilitation,<sup>31</sup> satisfaction<sup>32</sup> and guarantees of non-repetition.<sup>33</sup> All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in the victims' recovery, as well as social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power<sup>34</sup> and the Council of Europe Committee of

<sup>27</sup> *Rantsev v. Cyprus and Russia*, application no. 25965/04, judgment of 7 January 2010; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgment 30 March 2017; *S.M. v. Croatia*, application No. 60561/14, Grand Chamber judgment 25 June 2020.

<sup>28</sup> UN General Assembly, Basic principles on the right to an effective remedy for victims of trafficking in persons, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, 28 July 2014, A/69/33797.

<sup>29</sup> Restitution includes restoration of liberty, including release of the victim from detention; enjoyment of human rights and family life, including reunification and contact with family members; safe and voluntary repatriation; temporary or permanent residence status, refugee status, complementary/subsidiary protection or third-country resettlement; recognition of the victim's legal identity and citizenship; restoration of the victim's employment; assistance and support to facilitate social integration or reintegration; return of property, such as identity and travel documents and other personal belongings.

<sup>30</sup> Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, child care or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

<sup>31</sup> Rehabilitation includes medical and psychological care, legal and social services, shelter, counselling and linguistic support, independently of the capacity or willingness of the victims to co-operate in legal proceedings.

<sup>32</sup> Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims of their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; public apologies; judicial and administrative sanction against the perpetrators.

<sup>33</sup> Guarantees of non-repetition include ensuring the effective investigation, prosecution and sanctioning of traffickers; all measures necessary to protect victims from re-trafficking; providing or strengthening training of relevant officials; strengthening the independence of the judiciary; modifying practices that cause, sustain or promote tolerance to trafficking, including gender-based discrimination and situations of conflict and post-conflict; effectively addressing the root causes of trafficking; promoting codes of conduct and ethical norms for public and private actors; protecting legal, medical and other professionals and human rights defenders who assist victims.

<sup>34</sup> United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: [https://www.unicef-irc.org/portfolios/documents/472\\_un-declaration-crime.htm](https://www.unicef-irc.org/portfolios/documents/472_un-declaration-crime.htm)

Ministers Recommendation CM/Rec(2023)2 on rights, services and support for victims of crime,<sup>35</sup> which outline the main steps to be taken to improve access to justice, and fair treatment, restitution, compensation and social assistance for victims of crime.

31. The Convention provides specifically for the substantive right of victims of trafficking to compensation and legal redress, as well as for a number of procedural rights necessary to ensure access to these entitlements. These include the rights to be identified as a victim of trafficking, to be granted a recovery and reflection period, as well as a residence permit (to enable a victim to remain in the country and seek access to remedies), and to receive counselling, information, legal assistance and free legal aid. Another important procedural right is provided by the non-punishment provision of the Convention (Article 26), according to which victims of human trafficking must not be subjected to penalties for their involvement in unlawful activities that they have been compelled to commit. Further, the Convention requires State Parties to enable the seizure and confiscation of the assets of traffickers, which could be used to fund State compensation schemes for victims.

32. Children need special support to access remedies, the best interests of the child being the primary consideration in all actions concerning trafficked children.<sup>36</sup> The appointment of legal guardians to represent unaccompanied or separated children plays a vital role in enabling child victims of trafficking to access justice and remedies. Further, facilitating family reunification can be an important element of restitution.<sup>37</sup>

33. Civil society, including NGOs, trade unions, diaspora organisations and employer organisations, plays a vital role in enabling victims of THB to claim compensation and other remedies.<sup>38</sup> In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons and Justice at Last - European Action for Compensation of Victims of Crime,<sup>39</sup> which aim to enhance access to compensation for trafficked persons.

34. The private sector should also play a role in enabling access to, as well as providing, remedies to trafficked persons, in accordance with the UN 'Protect, Respect and Remedy' Framework and the United Nations Guiding Principles on Business and Human Rights.<sup>40</sup> The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate victims' access to remedies for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.<sup>41</sup> States should therefore ensure that business enterprises implicated in human trafficking are held responsible and take steps to reduce barriers that could lead to a denial of access to remedies.

35. Because human trafficking is often a transnational crime, effective international co-operation is essential for fulfilling the obligations with regard to the right to justice and effective remedies. This includes co-operation in tracing and seizing criminal assets, and in returning confiscated proceeds for the purpose of compensation.

<sup>35</sup> Council of Europe Committee of Ministers Recommendation CM/Rec(2023)2 on rights, services and support for victims of crime, available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680aa8263](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680aa8263)

<sup>36</sup> Article 3(1) of the UN Convention on the Rights of the Child.

<sup>37</sup> UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pages 7 & 8, available at: [http://icat.network/sites/default/files/publications/documents/Ebook%20ENG\\_0.pdf](http://icat.network/sites/default/files/publications/documents/Ebook%20ENG_0.pdf)

<sup>38</sup> OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pages 48 to 53.

<sup>39</sup> <http://lastradainternational.org/about-lsi/projects/justice-at-last>

<sup>40</sup> United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

<sup>41</sup> UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pages 8 & 9.



## 2. Right to information (Articles 12 and 15)

36. Victims who are no longer under their traffickers' control generally find themselves in a position of great insecurity and vulnerability. Two common features of victims' situation are helplessness and submissiveness to the traffickers, due to fear and lack of information about how to address their situation. Article 12, paragraph 1, sub-paragraph d, of the Convention provides that victims are to be given counselling and information, in particular as regards their legal rights and the services available to them, in a language that they understand. Further, pursuant to Article 15, paragraph 1, of the Convention, Parties must ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings, in a language they can understand.

37. The information that victims of trafficking must be provided with deals with essential matters, including availability of protection and assistance arrangements, the various options open to the victim, the risks they run, the requirements for legalising their presence in the Party's territory, the various possible forms of legal redress, how the criminal-law system operates (including the consequences of an investigation or trial, the length of a trial, witnesses' duties, the possibilities of obtaining compensation from persons found guilty of offences or from other persons or entities, and the chances of a judgment being fully and effectively enforced). The information and counselling should enable victims to evaluate their situation and make an informed choice from the various possibilities open to them.<sup>42</sup>

38. Many victims do not speak, or barely speak, the language of the country they have been brought to for exploitation. Ignorance of the language adds to their isolation and is one of the factors preventing them from claiming their rights. The provision of translation and interpretation, where needed, is an essential measure for guaranteeing access to rights, which is a prerequisite for access to justice. GRETA has stressed the need for ensuring the availability, quality and independence of interpreters.<sup>43</sup>

39. In Germany, the rights of victims of crime, including THB, are set out in the fifth book of the Criminal Procedure Code (CPC). Pursuant to section 406i of the CPC victims are to be notified as early as possible, as a rule in writing and as far as possible in a language they understand, of their rights in criminal proceedings, including the right to legal assistance and compensation. The majority of the Länder co-operation agreements state that the police must involve the specialised counselling centres in suspected cases of THB, with the consent of the victim, or at the very least inform victims about their right to counselling and the range of services offered by specialised counselling centres.

40. Information for victims of THB is available on the websites of KOK,<sup>44</sup> the Service Centre against Labour Exploitation, Forced Labour and THB and specialised NGOs in multiple languages. The support hotline "Violence against women" also provides information to female victims of THB.<sup>45</sup> In addition, information for all victims of crime, including THB, is available on the websites of the federal police,<sup>46</sup> BMAS,<sup>47</sup> BMJ<sup>48</sup> and their equivalents in the Länder. These official websites are in German and sometimes in English, but they do not explain victims' rights in an accessible language and contain no specific information on THB except for links to specialised NGOs. Furthermore, basic information on support services for all victims of crime, including THB, is available from a BMAS-funded database available in seven languages (Arabic, English, French, German, Russian, Spanish and Turkish).<sup>49</sup> The NGO "Weisser Ring," advises crime victims in person, by phone or online, and also helps, for example, by issuing assistance checks to pay for an initial visit to a lawyer or a psychologist.<sup>50</sup>

<sup>42</sup> See Explanatory Report on the Convention, paragraphs 160-162.

<sup>43</sup> See 8th General Report on GRETA's activities, paragraphs 168-169.

<sup>44</sup> <https://www.kok-gegen-menschenhandel.de/menschenhandel/was-ist-menschenhandel/opferrechte>

<sup>45</sup> <https://www.hilfetelefon.de/>

<sup>46</sup> [https://www.bundespolizei.de/Web/DE/02Sicher-im-Alltag/03\\_Opferschutz/opferschutz\\_node.html](https://www.bundespolizei.de/Web/DE/02Sicher-im-Alltag/03_Opferschutz/opferschutz_node.html)

<sup>47</sup> [Soziale Entschädigung - BMAS](https://www.bmj.de/SharedDocs/Publikationen/DE/Broschueren/Opferfibel.html?nn=110568#nav1)

<sup>48</sup> <https://www.bmj.de/SharedDocs/Publikationen/DE/Broschueren/Opferfibel.html?nn=110568#nav1>

<sup>49</sup> <https://www.odabs.org/index.html>

<sup>50</sup> [Home | WEISSER RING e. V. \(weisser-ring.de\)](https://www.odabs.org/index.html)

41. According to the German authorities, law enforcement officers provide suspected victims of trafficking with information materials created and supplied by specialised NGOs. For example, in Saxony-Anhalt, pursuant to point 3.2 of the circular of the Ministry of the Interior and Sports of 20 August 2021, the police informs female victims of THB as early as possible about the offer of assistance by the counselling centre "Vera." In practice, however, specialised counselling centres stated that when suspected victims of THB are referred to them by the police, the initial interview has usually already taken place and the victims are often not sufficiently informed about their rights, in particular when they were detected by non-specialised police and in rural areas. According to the KOK data report for 2022, only 12% of victims who contacted the specialised counselling centres were referred by the police.<sup>51</sup> NGO representatives informed GRETA that trafficking victims are frequently just given a flyer.

42. As regards in particular information to child victims of THB, there are no specific information materials issued by the authorities and the information prepared by ECPAT in 2017 for child victims of THB on their rights and access to support services is outdated.<sup>52</sup>

43. Representatives of anti-trafficking NGOs also raised concerns about the lack of information provided to asylum seekers and irregular migrants, who may include victims of THB. According to the authorities, asylum seekers are provided with information by BAMF case officers (see paragraph 185).

44. Victims who do not speak German can get translation and interpretation services free of charge during the criminal investigation and court proceedings (sections 161a (5) and 163 (7) CPC and sections 185 and 187 (4) GVG). The 2019 Court Interpreters Act (GDolmG) sets professional and ethical standards for sworn interpreters. Victims are informed about their right to interpretation and translation at the moment of first contact with the authorities. Free-of-charge interpretation is also available during asylum proceedings. The BAMF uses freelance interpreters or interpreters hired from service providers, but interpreters should attend training to sensitise them about victims' vulnerabilities. In several Länder (for example, Brandenburg and Thuringia) authorities have funded a phone and video interpretation system which is free of charge for registered institutional users.

45. According to the KOK there are not always enough officially recognised interpreters for some of the victims' native languages and outside big cities, and officials must hire unsworn interpreters from an agency, leading to frequent changes of interpreters during criminal proceedings.<sup>53</sup> In addition, few interpreters are sensitised to the issue of human trafficking and, as there is no rule stating that the interpreter and the victim must be of the same sex, female victims may feel uncomfortable when the interpreter is male. NGOs also stated that outside of criminal proceedings specialised counselling centres rely on the language skills of their own staff or use volunteers because they do not always have sufficient financial resources for interpreters.

**46. GRETA considers that the German authorities should continue to make efforts to ensure that all presumed victims of trafficking, including children and those detected among asylum seekers and migrants, are proactively informed of their rights, including the right to a recovery and reflection period, the available support services and how to receive them, and the consequences of them being recognised as victims of trafficking, taking into account victims' age, maturity, intellectual and emotional capacity, literacy and any mental, physical, or other disabilities which may affect their ability to understand the information provided.**

**47. GRETA also considers that the German authorities should take measures to increase the number of qualified interpreters who are sensitised to the issue of human trafficking and the vulnerabilities of victims, and to ensure their timely availability.**

<sup>51</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publikationen\\_KOK/KOK\\_Data\\_Report\\_2022\\_web.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publikationen_KOK/KOK_Data_Report_2022_web.pdf)

<sup>52</sup> <https://ecpat.de/2018/01/22/react-reinforcing-assistance-to-child-victims-of-trafficking/>

<sup>53</sup> KOK, [Rechte von Betroffenen von Menschenhandel im Strafverfahren](#), pages 33 and 39 (in German; English summary available [here](#)).

### 3. Legal assistance and free legal aid (Article 15)

48. Article 15(2) of the Convention obliges Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. As court and administrative procedure is often very complex, legal assistance is necessary for victims to be able to claim their rights. It is for each Party to decide the requirements for obtaining such free legal aid. Parties must have regard not only to Article 15(2) of the Convention, but also to Article 6 of the ECHR. Even though Article 6(3)(c) of the ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, European Court of Human Rights case-law<sup>54</sup> also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in a civil matter, it is for the courts to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

49. GRETA's reports highlight the value of a lawyer being appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before the person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to take civil actions for compensation and redress.<sup>55</sup>

50. In Germany, victims of crime have the right to be assisted by a lawyer in criminal proceedings for the duration of the interview (section 68b(1) of the CPC). Victims of crime, including victims of THB, are entitled to bring a private accessory prosecution against the perpetrator (section 395(1)4 of the CPC), lodge a property claim for compensation as part of the criminal proceedings (section 403 of the CPC – adhesion procedure) and receive legal assistance from a lawyer. According to KOK, victims of THB supported by the specialised counselling centres were allowed to join proceedings as a private accessory prosecutor in 83 of the 259 criminal investigations entered into the KOK data report for the year 2022.<sup>56</sup> According to sections 397a(1)1 and 5 and 406h(3) of the CPC, legal assistance by a lawyer in proceedings before criminal courts is provided free of charge and regardless of means or level of income to all victims of THB and related offences, with the exception of adult victims of section 233 of the CC (labour exploitation).<sup>57</sup>

51. In proceedings before civil, administrative, labour and social courts all victims of THB and related offences are entitled to apply for free legal assistance by a lawyer provided they are destitute, their case has sufficient prospects of success and does not seem frivolous (sections 114 to 121 of the Civil Procedure Code (ZPO)). These conditions also apply for adult victims of section 233 of the CC (labour exploitation) in criminal proceedings (see section 397a(2) of the CPC). The application for free legal assistance along with supporting documents is to be submitted to the court hearing the case. If the financial situation of the victim improves within four years after the court granted free legal aid, the victim might be required to repay the free legal aid (section 120a ZPO). In practice, victims of THB often pay themselves the fees related to residence permits or asylum claims.

52. Prior to or outside of court proceedings victims of THB can apply to the competent district court for an advisory legal assistance voucher under the Act on Advisory Assistance and Representation for Citizens with a Low Income (BerHG). Pursuant to section 1 of the BerHG, advisory legal assistance is granted if applicants are unable to raise the necessary financial resources due to their personal and economic circumstances, the use of advisory assistance does not seem frivolous and there are no other possibilities for assistance. Applicants for advisory legal assistance pay 15 euros and in practice advisory

<sup>54</sup> *Airey v. Ireland* judgment, 9 October 1979.

<sup>55</sup> See 8th General report on GRETA's activities, paragraph 167.

<sup>56</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publikationen\\_KOK/KOK\\_Data\\_Report\\_2022\\_web.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publikationen_KOK/KOK_Data_Report_2022_web.pdf), page 24.

<sup>57</sup> The other provisions are sections 232, 232a, 232b and 233a of the CC, see GRETA's second report on Germany, paragraphs 122-127. Section 233 criminalises "labour exploitation" ("Ausbeutung der Arbeitskraft") and should not be confused with "human trafficking for the purpose of labour exploitation", which is criminalised under section 232 of the CC.

legal assistance lawyers often do not require applicants to pay this fee. Advisory legal assistance can be requested in any legal matter but in cases of criminal or administrative offences advisory legal assistance is limited to legal consultation and does not cover legal representation (section 2 of the BerHG).

53. Specialised counselling centres rely on existing contacts with lawyers with experience in representing victims of THB. These lawyers tend to be specialists in criminal law. One of the problems encountered is that these lawyers are less or not at all equipped to deal with questions relating to the residence status of their clients or their rights under labour and social law. Moreover, the situation differs between Länder, and there are very few lawyers with expertise in THB in rural areas. An additional issue raised by lawyers met by GRETA is that because of the limited fees they receive for free legal assistance, they usually do not accompany victims during police investigation interviews. GRETA was also informed that lawyers are sometimes asked at a very late stage to support victims of THB as civil claimants in the criminal proceedings against the perpetrators and, as a result, these victims do not have sufficient legal representation.

54. As stated in paragraph 51, adult victims of labour exploitation (section 233 of the CC) have to fulfill a number of conditions in order to receive free legal assistance. These conditions also apply if the investigative authorities decide to (re-)qualify human trafficking as a less serious crime, for example, exploitation of prostitutes (section 180a of the CC) or withholding wages and salaries (section 266a of the CC), as well as in proceedings before civil, administrative, labour and social courts. A particular difficulty for victims of labour exploitation is initiating proceedings before a labour court. Pursuant to section 12a(1) of the Labour Courts Act (ArbGG), everybody must bear the costs of their own lawyers.

55. The German authorities could not provide statistical data on the number of trafficking victims who benefited from advisory legal assistance and legal aid (see paragraph 152). At the same time, based on information received from NGOs and lawyers, GRETA concludes that victims of THB are, as a rule, represented by a lawyer in criminal proceedings. However, GRETA notes that legal assistance is seldom provided to victims of THB during the initial interview with law enforcement agencies, even though the outcome of this interview may have major legal consequences (see paragraph 41).

56. **GRETA considers that the German authorities should make additional efforts to guarantee access to justice for victims of trafficking, in particular by ensuring that:**

- **legal assistance is provided as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the person concerned has to decide whether or not he/she wants to co-operate with the authorities and/or make an official statement;**
- **access to free legal aid for adult victims of labour exploitation under section 233 of the CC does not depend on proof of lack of financial means to pay for a lawyer.**
- **victims of trafficking have effective access to free legal assistance in related fields, such as civil, labour and immigration law;**
- **sufficient funding is provided for legal assistance to victims of trafficking;**
- **Bar Associations are encouraged to offer specialised training to lawyers assisting and representing victims of trafficking.**

#### 4. Psychological assistance (Article 12)

57. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic intervention due to the violence they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of their particular readiness for therapy, conducted by an experienced clinician.<sup>58</sup> In the case of trafficked children, specialist child psychologists should be employed.

58. In Germany, victims of THB have access to general health services, which include psychological assistance.<sup>59</sup> However, according to NGOs supporting victims of THB, there are long waiting lists for psychologists and victims of THB are not given priority.

59. A few specialised counselling centres employ part-time mental health professionals, while others have an agreement with other institutions to provide mental health services, such as psycho-social centres for refugees. In 2022 the specialised counselling centres in the KOK network offered psychosocial counselling and support to 636 victims.<sup>60</sup> For example, the NGO Hydra in Berlin has a project for trauma assistance, for up to 10 hours. The NGO ONA in Berlin refers victims to a psychologist who provides up to 10 hours of short-term therapy (covered by the health insurance). In Dortmund (North Rhine-Westphalia), the NGO "Mitternachtsmission" co-operates with the NGO "Psychosocial Centre for Refugees" to offer psychological assistance to trafficking victims. However, as there are not enough psychologists, victims are put on a waiting list for months or the standard number of therapy sessions is reduced to allow more victims to receive assistance. Furthermore, finding and funding appropriately trained interpreters to accompany non-German speaking victims to a psychologist is problematic, especially outside large cities. Providing proper psychological assistance services to child victims and male victims of THB is equally challenging.

60. Pursuant to section 406g of the CPC victims of THB have the right to psychosocial support during court proceedings. In some Länder, for example Baden-Württemberg, psychosocial support is regularly applied for and granted by the court in most cases. The KOK data report for 2022 has 51 entries for cases where psychosocial support was provided to victims during court cases. In 11 of these 51 cases, the victims had (already) testified as a witness in criminal proceedings.<sup>61</sup>

61. GRETA was informed that victims of THB amongst asylum seekers are often accommodated in remote areas and as a result lose their access to psychologists.

**62. GRETA considers that the German authorities should guarantee timely access of victims of trafficking to psychological assistance, including by providing sufficient funding for the specialised counselling centres, and ensure that it is provided for as long as their individual situation requires, in order to help them overcome the trauma they have been through and achieve a sustained recovery and social inclusion.**

<sup>58</sup> OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, page 115.

<sup>59</sup> In addition, pursuant to the Bavarian Mental Health Assistance Act (BayPsychKHG) persons with acute mental problems are provided assistance via 24/7 hotline or by mobile specialists who can work on site upon request.

<sup>60</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publikationen\\_KOK/KOK\\_Data\\_Report\\_2022\\_web.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publikationen_KOK/KOK_Data_Report_2022_web.pdf), page 17.

<sup>61</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publikationen\\_KOK/KOK\\_Data\\_Report\\_2022\\_web.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publikationen_KOK/KOK_Data_Report_2022_web.pdf), page 22.

## 5. Access to work, vocational training and education (Article 12)

63. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, micro-businesses and social enterprises.<sup>62</sup> GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.<sup>63</sup>

64. In Germany, there is an extensive network of civil society organisations, including the Service Centre against Labour Exploitation, Forced Labour and THB and specialised counselling centres (see paragraph 196), that provide assistance to victims to access the labour market, vocational training and language courses.

65. However, in practice, victims of THB often face barriers in obtaining access to the labour market, due to factors such as the trauma of having been exploited, insufficient command of the German language, low level of education or lack of professional skills, and, on the part of prospective employers, prejudice and social stigmatisation. The economic and social inclusion of foreign victims of THB is also hampered by the difficulty of obtaining a residence permit in Germany (see paragraph 219). Victims who have no residence permit have no access to education or vocational training. According to specialised NGOs more systematic efforts are therefore needed to support the successful inclusion of victims of THB.

66. **GRETA considers that the German authorities should strengthen effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst employers, and the promotion of micro-businesses, social enterprises and public-private partnerships, including through state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking.**

## 6. Compensation (Article 15)

67. Article 15(3) of the Convention establishes a right of victims to compensation. The compensation is pecuniary and covers both material injury (such as the cost of medical treatment) and non-material damage (the suffering experienced). However, even though it is the trafficker who is liable to compensate the victim, in practice there is rarely full compensation whether because the trafficker has not been found, has disappeared or has declared him/herself bankrupt. Article 15(4) therefore requires that Parties take steps to guarantee compensation of victims. The means of guaranteeing compensation are left to the Parties, which are responsible for establishing the legal basis of compensation, the administrative framework and the operational arrangements for compensation schemes. In this connection, Article 15(4) suggests setting up a compensation fund or introducing measures or programmes for social assistance to, and social integration of, victims that could be funded by assets of criminal origin. Of relevance in this respect is the European Convention on the Compensation of Victims of Violent Crimes, pursuant to which, when compensation is not fully available from other sources, the State shall contribute to compensate those who have sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence, as well as the dependents of persons who have died as a result of such crime, even if the offender cannot be prosecuted or punished.

<sup>62</sup> Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

<sup>63</sup> See 8th General report on GRETA's activities, paragraph 183.



68. GRETA notes that the compensation of victims of THB fulfils multiple purposes: payment of reparation for injury, loss or harm caused by the offender, access to justice, empowerment of victims, as well as being seen as a form of punishment and deterrence of traffickers. As such, compensation plays a crucial role in the fight against human trafficking, not only as an instrument of restorative justice, but also as a means of prevention and of recognition by States of their failure to meet their human rights obligations.

69. Victims often leave the country where they were exploited at the end of the criminal proceedings. This creates obstacles to making civil claims for compensation, which in addition are associated with a number of other barriers, such as high costs, unavailability of free legal aid and victim-support services, as well as the claimant bearing the burden of proof of the amount of the damage. State parties should therefore consider adopting a procedure through which victims are entitled to obtain a decision on compensation by the offender as part of the criminal trial, within a reasonable time.

70. The legal framework for compensation of victims of THB in Germany remains as described in GRETA's second evaluation report.<sup>64</sup> Namely, victims may seek compensation for material and moral damages from the perpetrator during the criminal proceedings as civil claimants (section 403 of the CPC) in what is referred to as "adhesion procedure". Alternatively, victims can pursue their compensation claim before a civil court. In addition, victims of labour exploitation can claim compensation for unpaid wages before a labour court, pursuant to the ArbGG. As already mentioned in paragraph 39, victims must be informed of their right to compensation and of the requirements for claiming compensation during their initial contact with a law enforcement officer. Victims do not need to be present in Germany in order to claim compensation.

71. Compensation covers material and non-material (moral) damages. Material damages can include loss of wages in cases of labour exploitation. In accordance with section 98a(6) of the Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory (AufenthG) an employer is required to pay remuneration even if the employee was not authorised to work in Germany. Victims of THB can claim compensation for earnings resulting from exploitation in prostitution. Material and non-material damages are calculated in accordance with the general principles of German tort law (sections 823 and 249sq of the Civil Code).

72. The German authorities do not collect data on the number of victims of THB who claimed and were awarded compensation from the perpetrators in criminal proceedings, but according to the KOK, the compensation rate is low because victims often know too little about the different compensation options available to them, and there are various bureaucratic hurdles to overcome, including the question of who is liable to pay lawyer's fees, as well as uncertain or short-term residence permits.<sup>65</sup> Some NGOs noted that victims of THB have to pay for the legal costs in advance and legal aid is rarely provided due to the restrictive conditions (see paragraph 51).

73. There are rare examples of compensation awarded by courts to victims of THB from the perpetrators. By way of example, the Duisburg Regional Court, by judgment of 25 January 2019, awarded a trafficking victim material damages of 18 400 euros for earnings from six months of exploitation in prostitution, and moral damages of 4 000 euros.<sup>66</sup> The Braunschweig Regional Court, by judgment of 5 April 2023, ordered the perpetrator to reimburse 19 508 euros to seven women exploited in prostitution.<sup>67</sup> Three of the women were victims of forced prostitution and one was a victim of human trafficking. In North Rhine-Westphalia, a compensation of 68 000 euros for material damages and 10,000 Euros for moral damages was reportedly ordered by a criminal court in a case of THB for forced prostitution

<sup>64</sup> See GRETA's second report on Germany, paragraph 198.

<sup>65</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publikationen\\_KOK/KOK\\_Data\\_Report\\_2022\\_web.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publikationen_KOK/KOK_Data_Report_2022_web.pdf), page 25.

<sup>66</sup> [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/lq\\_duisburg\\_25\\_01\\_2019.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/lq_duisburg_25_01_2019.pdf)

<sup>67</sup> [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/lq-braunschweig\\_05\\_04\\_2023.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/lq-braunschweig_05_04_2023.pdf)

in 2020. In Berlin, a girl exploited in prostitution was reportedly awarded 5 000 euros upon the conviction of the perpetrator; half of the compensation was paid immediately and the rest in instalments.

74. However, the fact that criminal courts award damages to victims does not necessarily mean that victims actually obtain compensation, because perpetrators either do not have assets or are able to hide them. As there are relatively few trials in cases of THB, it is often not possible to obtain compensation through the adhesion procedure. Furthermore, GRETA was informed that adhesion proceedings for compensation are sometimes denied, in particular in Lower Saxony, or, more frequently, criminal courts recognise victims' compensation claims in principle, but still refer them to a civil court to calculate the actual amount of compensation. For example, the Düsseldorf Regional Court, by judgment of 19 April 2019,<sup>68</sup> and the Hanau Regional Court, by judgment of 3 June 2020,<sup>69</sup> decided that dealing with the victims' compensation claims would entail a disproportionate burden or delay in the criminal trial.

75. KOK informed GRETA that in practice victims of THB do not have recourse to civil proceedings to claim compensation from their traffickers, because of limitations on the availability of free legal aid (see paragraph 54). In addition, victims must pay a fee to file a claim in a civil court and need to prove their claim and, if compensation is awarded, victims have to recover the award from the trafficker themselves. Victims of labour exploitation who want to claim compensation for unpaid wages before a labour court must pay for their own lawyer (see paragraph 57). Moreover, there is a risk that they will have to pay the court fees, including for interpretation, if they lose their case. GRETA was informed by the counselling centre BEMA that a trade union lawyer assisted victims of trafficking pro bono to claim back wages in labour courts. BEMA claims some 200 000 euros in back wages on behalf of victims every year. However, many employers go into insolvency and the back wages awarded by courts are not paid.

76. Although trafficking victims have access to compensation, irrespective of their immigration status, in practice there are a number of barriers that prevent irregular migrants from accessing compensation. Pursuant to section 87 of the AufenthG, public bodies, including court officials, are obliged to report any person believed to have an irregular residence status to the immigration authorities. The fear of being reported prevents victims of THB with an irregular residence status from initiating proceedings before labour courts and claiming outstanding wages or compensation.

77. Until 31 December 2023 victims of THB could apply for state compensation under the Crime Victims Compensation Act (OEG). As described in GRETA's previous reports, only victims of trafficking who experienced direct physical violence could apply for compensation under the OEG.<sup>70</sup> In addition, the procedure under the OEG was lengthy and discriminatory towards foreigners, and the amount of compensation awarded low. According to statistics collected by the NGO "Weißer Ring," in 2022 less than 25% of all persons who filed an application under OEG received compensation in accordance with the Act.<sup>71</sup> The German authorities do not collect data on the number of victims of THB who were awarded compensation under the OEG (see paragraph 152). According to the KOK data report for 2022, five victims applied for compensation under the OEG.<sup>72</sup>

78. In December 2019 the Act regulating social compensation was adopted. The Act added a 14<sup>th</sup> Book to the German Social Code (SGB XIV) and entered into force on 1 January 2024. The Act, *inter alia*, replaces the OEG. The new legislation recognises psychological violence as a form of violence eligible for social compensation and clarifies that all cases of human trafficking are covered by the definition of psychological violence. Foreign victims, regardless of their residence status, are also eligible; since 1 July 2018, they can claim benefits under the same conditions as Germans. Compensation benefits include, *inter alia*, medical care, cash benefits and welfare benefits. In addition, victims and their

<sup>68</sup> [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/lq\\_duesseldorf\\_17\\_04\\_2019.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/lq_duesseldorf_17_04_2019.pdf)

<sup>69</sup> [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/LG\\_Hanau\\_03.06.2020\\_kl.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/LG_Hanau_03.06.2020_kl.pdf)

<sup>70</sup> See GRETA's first report on Germany, paragraphs 176-179 and GRETA's second report on Germany, paragraph 206.

<sup>71</sup> [https://weisser-ring.de/system/files/domains/weisser\\_ring\\_dev/downloads/oegstatistik2022.pdf](https://weisser-ring.de/system/files/domains/weisser_ring_dev/downloads/oegstatistik2022.pdf)

<sup>72</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publikationen\\_KOK/KOK\\_Data\\_Report\\_2022\\_web.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publikationen_KOK/KOK_Data_Report_2022_web.pdf), page 25. The KOK data do not specify if the applications were granted.



(surviving) relatives and closely related people are entitled to benefit from a trauma outpatient clinic. A simplified, low-threshold procedure ensures that the services of a trauma outpatient clinic can be claimed quickly and unbureaucratically. Further, the new legislation provides for the coverage of interpreter and translation costs. The new provisions are likely to improve access to state compensation for victims of THB but it remains to be seen if a positive impact is also seen on the ground.

79. According to the German authorities the topic of compensation is part of the training of police officers, prosecutors and judges. Although training falls mainly within the responsibility of the Länder, the German Judicial Academy (DRA), which is partly funded by the federal government, regularly offers professional development courses on THB for prosecutors and judges that cover the topics of victim protection, asset recovery and compensation (see also paragraph 127). Victim compensation is also part of training courses organised by the North Rhine-Westphalia Judicial Academy. Officials are encouraged to participate in further international training through the European Judicial Training Network and the Academy of European Law.

80. **While welcoming the recent changes to the legislation on state compensation, GRETA urges the German authorities to make efforts to guarantee effective access to compensation for victims of human trafficking, in line with Article 15 (4) of the Convention, including by:**

- **enabling all victims of trafficking, irrespective of their residence status, to effectively exercise their right to compensation as a priority in criminal proceedings, or in civil and labour law proceedings;**
- **making full use of the legislation on the freezing and forfeiture of assets, as well as international co-operation, to secure compensation to victims of THB (see paragraphs 97 and 102).**

81. **Furthermore, GRETA considers that the German authorities should take further steps to:**

- **include victim compensation in training programmes for law enforcement officials, prosecutors and judges;**
- **enable access to compensation for victims of trafficking by making compensation awarded in criminal proceedings payable by the State if the perpetrator has not paid the victim within a set period of time, and the State taking the responsibility to try to recover the amount from the perpetrator.**

82. **Finally, GRETA invites the German authorities to take measures to collect statistics on compensation claims brought by victims of trafficking and the amounts granted (see also paragraph 153).**

## **7. Investigations, prosecutions, sanctions and measures (Articles 22, 23 and 27)**

83. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. Article 27(1) of the Convention establishes that the investigation or prosecution of THB offences must not depend on victims' reports. The aim is to avoid traffickers' subjecting victims to pressure and threats in attempts to deter them from complaining to the authorities. Pursuant to Article 27(2), if the competent authority with which the complaint has been lodged decides that it does not itself have jurisdiction in the matter, then it must forward the complaint without delay to the competent authority of the Party in whose territory the offence was committed. Further, under Article 27(3), each Party shall ensure to non-governmental organisations and other associations which aim at fighting trafficking in human beings or protection of human rights, the possibility to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence of trafficking in human beings.

84. Article 23 requires Parties to match their action to the seriousness of the offences and lay down criminal penalties which are “effective, proportionate and dissuasive”. Further, paragraph 3 of Article 23 places a general obligation on Parties to adopt appropriate legal instruments enabling them to confiscate or otherwise deprive offenders (e.g. by so-called “civil” confiscation) of the instrumentalities and proceeds of human trafficking criminal offences. As trafficking in human beings is nearly always engaged in for financial profit, measures depriving offenders of assets linked to or resulting from the offence are an effective anti-crime weapon. The confiscation of criminal assets is crucial for reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim. It requires as a prerequisite to detect, identify and seize the illegal assets at the time of the criminal investigations and to have adequate procedures to do so. As provided for in Article 15, paragraph 4, of the Convention, the identified, seized and confiscated illegal profits of trafficking could be used to compensate victims of trafficking, directly or through a victim compensation fund.

85. Further, Article 22 of the Convention requires Parties to ensure that legal persons can be held liable for human trafficking offences committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person who has a leading position within the legal person. Liability under this article may be criminal, civil or administrative.

86. In Germany, since 2016 human trafficking and related crimes have been criminalised in five sections of the CC: trafficking in human beings (section 232), forced prostitution (section 232a), forced labour (section 232b), labour exploitation (section 233), and exploitation involving deprivation of liberty (section 233a). The penalty envisaged in section 232 of the CC for the basic offence of trafficking in human beings is imprisonment for a term of between six months and five years, increased to 10 years’ imprisonment if the victim is below 18 or in the presence of other aggravating circumstances.

87. In its second report, GRETA welcomed the introduction of the new offence of THB and the related amendments to the CC, but noted that the practical impact of the amended legislation remained to be seen.<sup>73</sup> During the third evaluation visit, legal practitioners and civil society representatives met by GRETA noted that the distinction between THB and the four related offences was not clear and was challenging in practice. Doubts were expressed as to whether the new legislation had facilitated the prosecution of THB offences. According to a report by KOK examining the impact of the 2016 reform of the provisions of the CC relating to THB, there has not been a significant increase in the number of criminal proceedings relating to THB.<sup>74</sup> Another study of the relevant provisions of the CC commissioned in 2020 by the BMJ and published in 2021 concluded that there were still few proceedings for THB for forms of exploitation other than sexual exploitation because the provisions of the CC were considered to be too complex for application beyond legal theory.<sup>75</sup> Judges met by GRETA during the visit noted that there continued to be reliance on the victim’s statement as evidence for a THB offence and it was easier to reach convictions for other crimes, such as migrant smuggling, tax evasion or exploitation of prostitutes, as it was easier to collect evidence. In Saxony, for example, civil society representatives and lawyers noted that the prosecutor’s office systematically dismissed cases of THB or requalified them as other offences. Even if these offences might carry similar imprisonment penalties to THB, the victims are not entitled to the same rights.

<sup>73</sup> See GRETA’s second report on Germany, paragraph 228.

<sup>74</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publikationen\\_KOK/Untersuchung\\_Rechte\\_von\\_Betroffenen\\_von\\_Menschenhandel\\_im\\_Strafverfahren\\_web\\_2021\\_07\\_07.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publikationen_KOK/Untersuchung_Rechte_von_Betroffenen_von_Menschenhandel_im_Strafverfahren_web_2021_07_07.pdf), 2021, (in German; English summary available [here](#)).

<sup>75</sup> Criminological Research Institute of Lower Saxony, [Evaluierung der Strafvorschriften zur Bekämpfung des Menschenhandels](#), 2021 (in German).

88. According to information provided by the German authorities, which is based on BKA's annual status reports on THB, there were 1 858 investigations, involving 2 575 suspects, for THB and related offences (including the commercial sexual exploitation of minors) in the period 2019-2022 (379 investigations in 2019, 464 in 2020, 510 in 2021 and 505 in 2022). The annual number of investigations is higher than those during the preceding reporting period. The overwhelming majority of the investigations concerned THB for the purpose of sexual exploitation (1 676, of which 29% concerning internal trafficking), followed by 98 cases of THB for the purpose of labour exploitation, 36 cases on THB for forced criminality, 30 cases on THB for forced marriage, and 12 cases of THB for forced begging. In 2019-2022, 399 persons were defendants in cases of THB and related offences (81 in 2019, 123 in 2020, 97 in 2021 and 98 in 2022).<sup>76</sup> During the same period, 273 persons (234 male and 59 female) were convicted of THB (61 in 2019, 85 in 2020, 70 in 2021 and 77 in 2022).<sup>77</sup>

89. As stated in paragraph 12, the BKA's status report on THB mentioned the completion of two large-scale investigations into THB for the purpose of labour exploitation – one in the meat industry and another in the beverage logistics sector. In the first case, investigated by the Federal Police (BPol), the perpetrators operated a network of companies in Lower Saxony involved in placing at least 110 non-EU nationals in slaughterhouses and meat processing businesses, using fake EU documents. In May 2020 the perpetrators started using workers from Ukraine, who were brought to Germany with fake student enrolment certificates. During the investigation eight suspects and 301 victims were identified. In the second case, in 2020 the law enforcement authorities of North Rhine-Westphalia uncovered a chain of subcontractors who brought at least 555<sup>78</sup> workers from Eastern Europe, charging them high fees for job placement, housing and transportation, and thereby leaving them with only a symbolic salary. Six suspects were arrested while four others remain on the run. Assets worth more than one million euros were seized. Criminal proceedings initiated before the Duisburg Regional Court in April 2022 were ongoing at the time of adoption of this report. According to the German authorities, all victims were informed of their rights but none of them requested support, and so far no victims have received any compensation.

90. Concerning convictions for THB, GRETA refers, by way of example, to the following judgments:

- Judgment of Stuttgart Regional Court of 7 July 2021.<sup>79</sup> The case concerns THB for labour exploitation and other crimes committed by a farmer and his wife. Between 2008 and 2011 they employed 10-15 workers from Poland on their farm and potato processing plant. The workers had to work between 11 and 20 hours a day, up to seven days a week. They were paid 25-30 euros per day, but the money was not given to them until the end of their contract to avoid them leaving early. They were also threatened by a Polish foreman working for the farmer. The Regional Court convicted the farmer and his wife of THB for labour exploitation in relation to three of the workers.
- Judgment of Itzehoe Regional Court of 18 May 2020.<sup>80</sup> The case concerns THB for forced criminality. In 2016 three men brought a homeless person to Germany promising him a job and forced him to commit thefts from shops. The lower instance court convicted two of the men for theft, but following appeal by the prosecutor, the Regional Court convicted all three perpetrators of trafficking in human beings and other criminal offences, with sanctions ranging from nine months to three years and six months of imprisonment.

<sup>76</sup> Includes defendants for criminal offences under sections 232 to 233a of the CC.

<sup>77</sup> The statistics on convicted persons provided by the authorities do not specify the type of exploitation and only include convictions that are final and not subject to appeal. Data for 2022 is provisional and subject to possible adjustments.

<sup>78</sup> The Police were able to establish the country of origin of 397 of the 555 victims: Ukraine (101), Georgia (57), the Slovak Republic (49), Bulgaria (43), Romania (31), Lithuania (30) and the Republic of Moldova (26).

<sup>79</sup> [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/lq\\_stuttgart\\_12\\_07\\_2021\\_.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/lq_stuttgart_12_07_2021_.pdf) A part of the judgment convicting the defendants of further charges was quashed by the Federal Court of Justice on 23 March 2022 and the case was sent back to a lower court for re-sentencing, see [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/BGH\\_23\\_3\\_2022.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/BGH_23_3_2022.pdf)

<sup>80</sup> [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/lq\\_itzehoe\\_18\\_05\\_2020.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/lq_itzehoe_18_05_2020.pdf)

- Judgment of Aachen Regional Court of 25 September 2019.<sup>81</sup> The case concerns THB for sexual exploitation and other crimes. In 2015 and 2017 the perpetrator established contact online with two women to whom he made false promises of a future life together. Using physical and psychological violence, he forced the women into prostitution in order to pay for his rent and drug addiction. The Regional Court convicted him to nine years and six months' imprisonment, *inter alia*, for THB for the purpose of sexual exploitation, through which the perpetrator had earned more than 100 000 euros.
- Judgment of Berlin Regional Court of 4 March 2019.<sup>82</sup> The case concerns THB for sexual exploitation and other crimes. In 2017 and 2018 the perpetrator forced his sons, aged 13 and 14 years, into prostitution, monitoring their whereabouts through regular phone calls and collecting the money earned. The court sentenced the perpetrator to five years and nine months' imprisonment.

91. Reference is also made to a case which illustrates both good practices and shortcomings in the handling of THB cases in Germany:

- **Trial court:** Duisburg Regional Court
- **Date and number of judgments:** 27 January 2020, case no. 32 KLS 8/18 < [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/LG\\_Duisburg\\_27\\_01\\_2020.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/LG_Duisburg_27_01_2020.pdf) >
- **Time and duration of the proceedings:** two years and two months from the arrest of the defendant until the first instance judgment. No information is available about any appeal proceedings.
- **Victim:** three adult female victims
- **Defendants:** one adult female and one male accomplice.

**Type of exploitation:** THB for the purpose of sexual exploitation. The three victims and two defendants are all Nigerian. The first defendant, who is illiterate and worked as a domestic servant in Nigeria from the age of five, initially arrived in France in 2009 and was made to work there as a prostitute to repay a huge debt. The second defendant became her intimate partner in 2016. The three victims arrived in Germany in 2016 and were forced to work as prostitutes to repay between 35,000 and 60,000 Euros each to their traffickers, who also made them go through a "juju" ritual and promise that they would not complain to police. The victims had to transfer almost all their earnings to the first defendant, who kept part of the earnings for herself and transferred the rest to Nigeria. The first defendant repeatedly reminded the victims of their "juju" oath and beat up one of the victims for not making enough money. Both defendants were arrested in November 2017 and remanded in custody. The criminal proceedings lasted two years and the trial was conducted over 45 days. The victims, who were each assisted by a lawyer, acted as private accessory prosecutors (section 395(1)4 of the CPC). The victims' corroborating testimonies were the main evidence against the defendants.

**Sentences:** The first defendant was convicted of aggravated THB (section 232(3) of the CC), forced prostitution (section 232(1), (3) and (4) of the CC), inflicting bodily harm (section 223(1) of the CC) and illegal transferring foreigners into Germany (sections 96(1) (1) (a) and (b) and 96(2) of the AufenthG) and sentenced to five years and nine months' imprisonment. The second defendant was convicted as her accomplice and sentenced to two years and three months' imprisonment.

#### **Good practices:**

- o Each victim was represented by a lawyer during the criminal proceedings;
- o The defendants received effective sentences;
- o Information about the traffickers in Nigeria was transmitted to the Nigerian authorities for further investigation via a BKA liaison officer.

#### **Shortcomings:**

- o Excessive length of the criminal proceedings, which was noted by the court as an attenuating circumstance during the sentencing of the first defendant;
- o The victims did not file compensation claims in the course of the criminal proceedings.

<sup>81</sup> [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/lq\\_aachen\\_25\\_09\\_2019.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/lq_aachen_25_09_2019.pdf)

<sup>82</sup> [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/lq\\_Berlin\\_04\\_03\\_19\\_1\\_.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/lq_Berlin_04_03_19_1_.pdf)

92. The KOK data report for 2022 states that, although law enforcement authorities initiated an investigation regarding 259 out of the 733 victims of THB registered in the KOK database and 216 victims gave statements during these investigations, criminal charges were pressed in only 77 cases (10% of the total number), confirming the widely held view among stakeholders in Germany that THB rarely leads to prosecutions.<sup>83</sup>

93. According to government statistics, during the period 2018-2022, the average prison sentence imposed for THB was one to two years and frequently (part of) the sentence was suspended.<sup>84</sup> Eight defendants received an (unsuspended) prison sentence of a term between five and 10 years and one defendant a prison sentence of a term of between 10 and 15 years.<sup>85</sup> These statistics raise concerns about lenient sentencing for human trafficking.

94. Criminal liability for legal persons does not exist in Germany, but administrative sanctions can be imposed on legal persons.<sup>86</sup> GRETA was not provided with data on prosecutions and sanctions imposed on legal persons for THB.

95. Plea bargaining can be used in cases of THB. The conditions and procedure for concluding a plea agreement are provided in section 257c of the CPC. The court announces what the content of the agreement could be and may also indicate an upper and lower sentence limit, based on an evaluation of all the circumstances of the case and taking into account general sentencing considerations. Parties to the proceedings must be given the opportunity to make submissions on the proposal but the consent of the victim is not needed, and the plea agreement comes into existence if the defendant and the prosecutor agree to the court's proposal. The victim can appeal against the verdict regardless of whether or not a plea agreement was concluded (section 401(1) of the CPC). Accordingly, GRETA notes that the CPC appears to provide adequate guarantees for the protection of victims' rights in plea bargaining proceedings. Official statistics do not provide a breakdown revealing the specific criminal charges in cases in which the plea bargaining procedure was applied, but according to the German authorities plea bargaining is very rarely applied in THB cases.

96. According to the German authorities, financial investigations are a key aspect of criminal investigations into trafficking cases. The legal framework for the confiscation of assets, including confiscation and extended confiscation of proceeds of crime, as well as substituted confiscation of the value of the proceeds of crime, is stipulated in sections 73 to 76b of the CC. Assets subject to confiscation at the moment of conviction can be temporarily seized by law enforcement authorities at the investigation stage (section 111b to 111q of the CPC). Section 459h and 459i of the CPC allow for the return of confiscated assets or their equivalent value to the victim(s) if they are entitled to them. If the victim is not identified the assets remain with the state.

97. According to available statistics, in 2018 confiscation was ordered in 20 guilty verdicts relating to THB (section 232 to 233a of the CC), in 26 verdicts in 2019, 37 verdicts in 2020, 23 verdicts in 2021, and 37 verdicts in 2022. No information on the total value of confiscated assets was provided. By way of example, reference is made to the judgment of 17 January 2022 of the Laufen District Court (case No. 2 Ls 600 Js 12867/20), ordering the confiscation of 40 800 euros from the owner of a nail studio found guilty of forced labour,<sup>87</sup> and the judgment of 30 September 2020 of the Hannover Regional Court (case No. 96 KLS 6433 Js 12616/19 (6/20) ordering the confiscation of 42 155 euros in a case of THB for sexual exploitation.<sup>88</sup> In the first case, approximately 7 000 euros were used to pay outstanding social security contributions, while the remainder of the confiscated assets went to the state treasury because the victims

<sup>83</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publikationen\\_KOK/KOK\\_Data\\_Report\\_2022\\_web.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publikationen_KOK/KOK_Data_Report_2022_web.pdf)

<sup>84</sup> Includes prison sentences for criminal offences under section 232 to 233a of the CC.

<sup>85</sup> The statistics provided by the authorities do not indicate the exact length of prison sentences.

<sup>86</sup> See GRETA's second report on Germany, paragraph 235.

<sup>87</sup> [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/AG\\_Laufen\\_17\\_01\\_2022.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/AG_Laufen_17_01_2022.pdf)

<sup>88</sup> [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/lq\\_hannover\\_30\\_09\\_2020\\_.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/lq_hannover_30_09_2020_.pdf)



were either of unknown residence or could not be identified. In the second case, the victim received the confiscated amount in full as compensation.

98. The Financial Intelligence Unit (FIU), a directorate in the General Customs Administration (GZD) under the authority of the BMF, is responsible for receiving, collecting and analysing suspicious transaction reports that might be related to money laundering or terrorist financing, in accordance with the Anti-Money Laundering Act (GWG). In their comments on the draft report the German authorities stated that the FIU had come across several cases and transactions related to THB. These were further analysed and transmitted to relevant law enforcement authorities. The data was also incorporated into evaluation reports and the FIU's international co-operation.

99. As stated in paragraph 14, the growing digitalisation of human trafficking poses challenges for state and non-state stakeholders involved in action against THB. In the framework of the THB LIBERI project (see paragraph 131), the BKA developed and rolled out an innovative tool for automatic research on adult services websites to counter the shift of prostitution into the digital sphere, identify victims of THB and link suspicious sex offers to organised crime. More than 60 police units in Germany and Austria have now been given access to this tool. However, according to a recent study by KOK, there is still limited awareness of the subject of digital and technology-facilitated THB among state and non-state stakeholders and there is an urgent need for law enforcement authorities and specialised counselling centres to develop or expand their human and technological capabilities.<sup>89</sup>

100. As regards the average length of criminal proceedings in trafficking cases, according to KOK, there are significant differences between the Länder and sometimes between cities and rural areas. One specialised counselling centre stated that first instance court proceedings typically last between two and four months. However, a counselling centre in another region reported that in complex cases, where THB is often only one aspect of the prosecution's case, or in cases involving organised crime, court proceedings can take considerably longer. Judges met by GRETA during the visit confirmed this, stating that the examination of numerous victims/witnesses is time-consuming, in particular in cases of transborder THB. In Berlin, GRETA was informed of cases of victims supported by counselling centres who had waited between five and 12 years for the trial of the perpetrators. GRETA notes that in the judgment of the Stuttgart Regional Court mentioned in paragraph 90, the defendants' sentences were reduced by five months because the proceedings lasted unreasonably long.<sup>90</sup>

101. Although the numbers of investigations and prosecutions for THB for the purposes of labour exploitation and forced criminality have increased compared to the previous reporting period (see paragraph 88), GRETA notes with concern that these numbers remain relatively low. GRETA is also concerned by the significant proportion of suspended or partially suspended sentences. GRETA stresses that failure to convict traffickers and the absence of effective, proportionate and dissuasive sanctions, undermines efforts to support and empower victims to testify and to combat THB.

**102. Consequently, GRETA considers that the German authorities should step up their efforts to ensure that trafficking offences are classified as such every time the circumstances of a case allow this, and lead to effective, proportionate and dissuasive sanctions for those convicted, including by:**

- **ensuring that all human trafficking offences are proactively investigated, regardless of whether a report has been filed or not, making use of all possible evidence gathered through special investigation techniques and financial investigations, and not having to rely on the testimony of victims;**

<sup>89</sup> KOK, [Trafficking in Human Beings 2.0 – Digitalisation of Trafficking in Human Beings in Germany](#), 2022.

<sup>90</sup> As stated in footnote 79, the judgment was partially quashed by the Federal Court of Justice on 23 March 2022 but the reduction of the sentences was upheld.

- **ensuring that property used to commit THB, or which can reasonably be considered to constitute proceeds of this crime, is seized to the greatest extent possible;**
- **further strengthening the investigation and prosecution of THB for the purpose of labour exploitation (see also paragraph 168);**
- **ensuring that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ).<sup>91</sup>**

103. **GRETA also considers that the German authorities should continue taking measures to:**

- **conduct a comprehensive assessment of the effectiveness of the criminal law provisions concerning THB and related offences. The authorities should be prepared to readjust on the basis of such an assessment the content and/or the application of the relevant provisions with a view to addressing any shortcomings identified;**
- **ensure that the liability of legal entities for criminal offences is effectively implemented;**
- **develop the legal framework to enable the use of technological developments to gather digital evidence and strengthen the awareness of the subject of digital and technology-facilitated THB among state and non-state stakeholders.**

## **8. Non-punishment provision (Article 26)**

104. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties upon victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. As previously stressed by GRETA, the criminalisation of victims of THB not only contravenes the state's obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the state's obligation to investigate and prosecute those responsible for THB.<sup>92</sup> Furthermore, GRETA has noted that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of differential treatment, depending on the prosecutor in charge of the case.

105. There have been no legal developments in Germany with regard to the non-punishment provision. Section 154c(2) of the CPC states that when a victim of THB files a criminal complaint against the trafficker, and if, as a result, a less serious criminal offence committed by the victim comes to light, the prosecutor's office may dispense with prosecution of the less serious criminal offence, unless expiation is imperative owing to the severity of the offence. In addition, general provisions of criminal law, such as duress (section 35 of the CPC) or lack of public interest in prosecuting (sections 153 and 153a of the CPC)) can be used by prosecutors to halt a criminal case against a victim of THB.<sup>93</sup>

106. As already noted in GRETA's second report, section 154c(2) of the CPC leaves too much discretion to prosecutors and does not apply to victims of crimes related to THB, notably sections 232a, 232b, 233 and 233a of the CC.<sup>94</sup> Moreover, the non-punishment provision should be applicable to all offences that victims of THB were compelled to commit. It should also be noted that the non-punishment principle can only be applied by prosecutors and not by judges.

<sup>91</sup> <https://rm.coe.int/cepej-2018-26-en-rapport-calvez-regis-en-length-of-court-proceedings-e/16808ffc7b>

<sup>92</sup> See 2nd General Report on GRETA's activities, paragraph 58.

<sup>93</sup> See GRETA's second report on Germany, paragraph 243.

<sup>94</sup> See GRETA's second report on Germany, paragraph 242.

107. Civil society organisations have provided examples of criminal investigations launched against victims of THB for criminal offences they were compelled to commit. Frequent grounds for investigations include residing in the country illegally, using counterfeit identity documents and performing undeclared work. Nevertheless, charges are usually dropped by prosecutors and convictions are rare. However, in some cases prosecutors only drop criminal charges if the trafficking victim(s) agree(s) to testify in the criminal proceedings against the trafficker(s).

108. GRETA's observations from the visit suggest that not all prosecutors are aware of the non-punishment provision and the application of section 154c(2) of the CPC. In this context, GRETA notes with concern that the German authorities have not yet issued guidance to prosecutors and other relevant professionals on how to apply the non-punishment provision to victims of THB.

109. GRETA notes that victims of THB cannot always rely on exceptions based on general criminal law provisions (e.g. duress or necessity) because these concepts are often narrower in scope than the non-punishment principle enshrined in the Convention and/or shift the burden of proof to the victim of trafficking. GRETA stresses that the fear of reprisals for activities carried out under compulsion can be a persisting factor which deters victims of THB from contacting the authorities and/or support organisations, and co-operating during the investigation. The non-punishment principle is an essential cornerstone in the fight against human trafficking, preventing re-victimisation and ensuring that victims can access services.<sup>95</sup>

**110. GRETA urges the German authorities to take further steps to ensure consistent application of the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. Consideration should be given to amending section 154c(2) of the CPC and issuing of guidance to prosecutors and other relevant professionals on how to apply the non-punishment provision to victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so.**

## **9. Protection of victims and witnesses (Articles 28 and 30)**

111. Under Article 28 of the Convention, Parties must take the necessary measures to provide effective and appropriate protection from potential retaliation or intimidation to victims and witnesses of human trafficking, as well as to members of civil society organisations supporting victims during criminal proceedings and, where appropriate, to victims' family members. Intimidation of victims and witnesses is nearly always aimed at suppressing evidence against defendants. Effective protection can be of various types (physical protection, relocation, identity change...) and depends on the assessment of the risks that victims and witnesses run. In addition, Article 28(3) provides that a child victim shall be afforded special protection measures, taking into account the best interests of the child. Regarding the period during which the protection measures are to be provided, the Convention aims in a non-exhaustive manner at the period of investigation and of the proceedings or the period following them. The period in which protection measures have to be provided depends on the threats to the persons concerned. Moreover, because trafficking in human beings is often international and some countries are small, Article 28(5) encourages Parties to enter into agreements or arrangements with other countries so as to implement Article 28.

112. Further, Article 30 of the Convention requires Parties to adapt their judicial procedure so as to protect victims' privacy and ensure their safety, including special protection measures for child victims. While the measures provided for in Article 28 address extra-judicial protection, the measures referred to in Article 30 are concerned with the procedural measures to be introduced. The following means can be used, in accordance with the European Convention on Human Rights and the case-law of the European Court of Human Rights, to achieve the objectives of Article 30: non-public hearings, audio-visual technology, recordings of testimony, and anonymous testimony.

<sup>95</sup> With regard to the non-punishment provision, see [V.C.L. and A.N. v. the United Kingdom](#) European Court of Human Rights final judgment of 5 July 2021.



113. As stated in GRETA's previous reports, the competent police units at the federal level and in the Länder (victim protection unit, investigative unit or witness protection unit) conduct an assessment of the risks faced by trafficking victims. These units usually work in close co-operation with the specialised counselling centres supporting the victims and, if necessary, victims can be relocated to another town or region.<sup>96</sup> According to the KOK, adequate protection measures are provided, if not always, at least in most cases, although there have been accidental safety breaches (for example, a failure to conceal the victim's mobile number or address in case files) and in rural areas the location of shelters is widely known and/or there are no staff present on the premises 24/7.

114. If there exists a sufficiently serious threat, the victim can be given witness protection under the Witness Protection Harmonisation Act (ZSHG), if the victim's testimony is considered crucial evidence in the criminal case against the perpetrator(s), or operational victim protection, if the victim's testimony is only considered subsidiary evidence. In practice, operational victim protection and witness protection are similar. Both require the consent of the victim and the victim must sever all ties with the trafficker. The Directive on Operational Victim Protection, adopted in June 2020 by the Standing Conference of Interior Ministers of the Länder, harmonises different operational victim protection programmes, thereby facilitating the cross-Länder relocation of victims. The German authorities do not collect data on the number of trafficking victims included in witness protection programmes but according to the classified federal status report on operational victim protection protection measures were taken in eight cases concerning human trafficking and/or forced prostitution in 2021 and in five cases in 2022; these figures do not show the number of people offered protection, but rather the number of cases, which means that the actual number of victims might be higher.

115. As stated in GRETA's second report, the CPC and GVG provide numerous mechanisms to prevent intimidation and re-traumatisation of trafficking victims during the investigation and trial.<sup>97</sup> However, a recent study by KOK found that judges rarely allow the use of pre-recorded victim testimony in court (section 58a of the CPC), testimony provided by the victim from a separate room (sections 168e and 247a of the CPC) or in the court room but without the presence of the defendant (sections 168c(3) and 247 of the CPC), and exclusion of the public from the courtroom (section 171b of the GVG), unless the victim is a child. According to the study, judges and prosecutors fear that allowing these measures could be used by defendants as grounds for an appeal. Even when a pre-recorded testimony is made, judges usually insist on seeing the victim in court and consider that it is important to have a confrontation between the defendant and the victim. Specialised lawyers met by GRETA in Berlin and Dresden confirmed that their clients were usually required to testify in court in the presence of their traffickers. Some judges met by GRETA pointed out that the personal impression from the victims had an impact on the length of the sentences imposed on the perpetrators. Even if judges stressed that they tried to make the victim appear in court only once, in one case in Berlin, a victim of THB was reportedly called 10 times to appear in court to testify. During the COVID-19 pandemic the willingness to allow video testimony (live-streaming) in court apparently increased. However, GRETA was informed that courts in some Länder (for example, Mecklenburg-Western Pomerania) do not have the necessary technical equipment.<sup>98</sup> In North Rhine-Westphalia, technical equipment reportedly exists in all courts, but not all judges are using it.

116. Furthermore, the study by KOK found that trafficked persons are not always protected against victimisation, intimidation and disrespectful attitudes on the part of police officers and judges interviewing them. They are sometimes treated as though they were on trial themselves or had acted wrongfully. Trafficked persons are often expected to be able to show evidence of a level of rationality that is impossible due to their circumstances. For example, trafficked persons may be told that they should have had a real

<sup>96</sup> For example, see paragraph 2.2 of the 2020 Joint Circular of the Ministries of Internal Affairs, Social Affairs and Justice of Lower Saxony, available at [https://www.ms.niedersachsen.de/download/50436/Erlass\\_vom\\_16.07.2020.pdf](https://www.ms.niedersachsen.de/download/50436/Erlass_vom_16.07.2020.pdf) (in German).

<sup>97</sup> See GRETA's second report on Germany, paragraph 267.

<sup>98</sup> KOK, [Rechte von Betroffenen von Menschenhandel im Strafverfahren](#), 2021, pages 73 to 75, (in German; English summary available [here](#)).

plan of action before setting off abroad. In some cases, the plausibility of their testimony is called into question due to the culture they belong to or to their gender identity.<sup>99</sup>

117. Since 2017 victims of THB are entitled to request the presence of a person of trust during their questioning (section 406f of the CPC) and to receive psychosocial support during the legal proceedings (section 406g of the CPC and the 2015 Act on Psychosocial Assistance in Criminal Proceedings). Judges met by GRETA pointed out the importance of psychosocial support for victims. However, victims of THB are reportedly accompanied by staff of the specialised counselling centres only in some Länder because there are not enough staff. Secondly, there exists a risk that counselling centre staff who accompanied the victim during questioning could subsequently be called to testify as a witness in the criminal proceedings, which they would be obliged to do by law (section 48 of the CPC). According to KOK, counselling centre staff should be given the same right to refuse to testify as staff of official drug and pregnancy counselling centres (section 53 of the CPC).

118. As regards the protection of children in criminal proceedings, see paragraphs 140 and 141.

119. **GRETA urges the German authorities to ensure that direct confrontation of victims and defendants in THB cases is avoided, to the extent possible, making use of audio-visual equipment and other appropriate methods.**

120. **Furthermore, GRETA considers that the German authorities should take additional measures to strengthen the protection of victims and witnesses of THB, including by:**

- **making full use of the existing measures to protect vulnerable victims and witnesses of THB and to prevent their re-traumatisation and intimidation during the investigation, as well as during and after the court proceedings, including by avoiding the repeated questioning of victims of trafficking and using pre-recorded statements in court;**
- **building the knowledge of all actors in the criminal justice system on how to avoid re-victimisation and stigmatisation of victims of THB through training and awareness-raising, as well as prioritising the rights, needs and interests of victims.**

121. **Finally, GRETA invites the German authorities to consider codifying a right of refusal to testify for staff of the specialised counselling centres about information received while acting in their official capacity of providing assistance to victims of THB.**

## **10. Specialised authorities and co-ordinating bodies (Article 29)**

122. Under Article 29(1) of the Convention, Parties have to adopt the necessary measures to promote specialisation of persons or entities in anti-human-trafficking action and victim protection. Each country must have anti-trafficking specialists in sufficient numbers and endowed with appropriate resources. The staff of specialised authorities and co-ordinating bodies should, as far as possible, be composed of both women and men. To combat trafficking effectively and protect its victims, it is essential that proper training is provided to relevant officials.

123. As noted in paragraph 21, the implementation of anti-trafficking measures mainly lies with the competency of the respective authorities in the Länder. This includes prevention of THB, identification of, and assistance to, victims, as well as investigation and prosecution of trafficking cases. The co-operation between regional actors and civil society is formalised in co-operation agreements (see paragraph 21).

<sup>99</sup> Ibid., page 74.

124. Criminal investigations of THB offences are carried out either by local criminal police units or the regional criminal police office (LKA). In most Länder, investigations in THB cases are assigned to units specialised in tackling organised crime. For example, in Baden-Württemberg THB cases are investigated by the LKA's Joint Investigative Group on Smuggling which is made up of both federal and regional police officers. No country wide statistics, aggregated by gender, on the number of law enforcement involved in combating THB are available. By way of example, in North Rhine-Westphalia, 231 police officers distributed among 47 police districts work on THB cases. The police in Bremen and Bremerhaven have 5.5 full-time equivalents at their disposal for combating THB, budgeted at 321 431 euros (personnel costs) and 53 350 euros (workplace costs). Financial investigations into human traffickers are usually conducted by financial investigation and/or asset recovery units available in larger police districts and in the LKAs.

125. As regards prosecution services, THB offences are mostly dealt with by units specialised in organised crime (in cases of sexual exploitation) or economic crime (in cases of labour exploitation). Within these units trafficking cases are managed by experienced prosecutors who are also in charge of prosecuting other offences. Apart from larger cities (Berlin, Munich, Düsseldorf), there are no specialised prosecution units for THB. In 2024 two specialised prosecution units were set up in Saxony-Anhalt to deal with cases involving exploitation of prostitutes, procuring, THB and forced prostitution.

126. In recent years a number of entities at the federal level, notably BKA, FKS and BPol, which is *inter alia* responsible for border protection, have been increasingly involved in combatting human trafficking. For example, in 2019 the FKS was given broad powers to fight THB for labour exploitation (see paragraph 155). These federal entities have concluded co-operation agreements with specialised counselling centres, following the example of the co-operation agreements existing at the level of the Länder. In July 2021 the Federal Ministry of Finance (BMF), BMAS and the German Trade Union Confederation (DGB) agreed to intensify co-operation between FKS, the Service Centre and the counselling centres for foreign workers of "Fair Mobility" and "Fair Integration" (see also paragraph 162).<sup>100</sup> In 2022 the FKS signed a co-operation agreement with the counselling centres that are funded by the Länder. In July 2022 KOK and BPol signed a co-operation agreement, laying out under what circumstances the BPol and the specialised counselling centres co-operate in suspected cases of THB in order to improve the identification and protection of trafficking victims.<sup>101</sup> Different stakeholders met during the evaluation visit assessed positively the increased role for federal entities like BKA, BPol and FKS because it will hopefully lead to a harmonious and more efficient approach in the fight against THB.

127. GRETA's second report on Germany contained details on the training of relevant professionals provided by the BKA training centre, the Länder police academies, and the German Judicial Academy.<sup>102</sup> The BKA, the KOK, the Service Centre against Labour Exploitation, Forced Labour and THB and the specialised counselling centres regularly organise training, round tables and workshops to discuss new trends and developments in the area of THB, and strengthen co-operation between different stakeholders. By way of example, at the time of the visit to North Rhine-Westphalia, a two-day training on THB was being held for the police and the judiciary. However, GRETA was informed that in most Länder judges have no obligation to undergo any training after their judicial appointment. According to civil society organisations, training and awareness-raising regarding THB and the rights of trafficking victims (notably the recovery and reflection period and the right to compensation) are still lacking among relevant professionals. The recent appearance of new stakeholders who have become potential first points of contact for victims of THB, such as BPol and FKS, and the constant staff turnover within the law enforcement authorities increase the need for training.

<sup>100</sup> <https://www.bmas.de/DE/Service/Presse/Pressemitteilungen/2021/arbeitsausbeutung-und-schwarzarbeit-ein-ende-setzen.html>

<sup>101</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/Dokumente\\_Ueber\\_uns\\_Sektion/2022\\_07\\_22\\_BPOL\\_KOK\\_Kooperationsvereinbarung.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/Dokumente_Ueber_uns_Sektion/2022_07_22_BPOL_KOK_Kooperationsvereinbarung.pdf)

<sup>102</sup> See GRETA's second report on Germany, paragraphs 38-41.

**128. While welcoming the existence of police officers and prosecutors specialised in dealing with THB in many Länder, GRETA considers that the German authorities should promote further specialisation to deal with THB, including of judges, and provide systematic and periodically updated training to police officers, prosecutors, judges and other relevant professionals which covers the rights of victims of THB and the importance of preventing secondary victimisation.**

## **11. International co-operation (Article 32)**

129. Article 32 of the Convention requires parties to co-operate to the widest extent possible to prevent and combat THB, to protect and to provide assistance to victims, and to investigate and prosecute cases of THB. International co-operation between State Parties to the Convention is also essential for enabling access to effective remedies for victims of trafficking. Parties must co-operate with one another “to the widest extent possible”. This principle requires them to provide extensive co-operation to one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. As regards international co-operation in criminal matters for the purposes of investigations or proceedings, the provisions of the Convention neither cancel nor replace the provisions of relevant international or regional instruments<sup>103</sup> on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

130. The BKA cooperates with other countries within the framework of Europol and Interpol by initiating investigations or supporting investigations at home and abroad. Since 2019 a total of 13 Joint Investigative Teams (JIT) have been established with law enforcement authorities in Bulgaria (six), Romania (three), Czech Republic (one), Spain (one), Spain and Romania (one) and Hungary and Romania (one). For example, in 2019 police in Saarland participated in a JIT with Spain to dismantle a trafficking ring from Romania who were sexually exploiting young women from Romania in Germany and Spain. As a result, 16 arrests were made, and 17 victims were rescued.

131. Furthermore, the BKA has continued its activities under the European multidisciplinary platform against criminal threats (EMPACT), holding the lead in two EU-funded projects: ETUTU (THB of Nigerians, with a focus on sexual exploitation) and PAYDAY (THB of Vietnamese, with a focus on labour exploitation). The two-year PAYDAY project, which was finalised at the end of 2023, highlighted the need for a multidisciplinary approach in order to identify and support victims and break up the trafficking networks. In the framework of EMPACT, the BKA is also co-leader of a project on human trafficking from China and a project on internet/social media as enabler of THB. Both BKA and FKS participated in the Europe-wide Joint Action Days on Human Trafficking. The BKA further leads the EU-funded project THB LIBERI, which focuses on combating trafficking of children and young adults through a multidisciplinary approach. This project involves seven regional police departments (LKA) from Germany, as well as the Austrian Federal Criminal Police Office and the Swiss Federal Police. The initial project (2018-2023) covered three main topics: exploitation of children and young adults through the Internet, exploitation of children and young adults by family structures and strengthening child and young adults’ testimonies. In May 2021 a two-day conference on the THB LIBERI project was held in Strasbourg during the German Presidency of the Committee of Ministers of the Council of Europe. The second, follow-up phase of the project THB LIBERI II (2023-2025) will focus on the exploitation of children and young adults through the internet, and training, education and support with gathering testimonies. Further, in 2021 and 2022 the BKA participated in the Europol Hackathon to highlight the digital landscape of trafficking in human beings. The BKA also participates on behalf of the German police in the Santa Marta Group, a gathering of church and police leaders combating THB.<sup>104</sup>

<sup>103</sup> For example, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters and its protocols, Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member states, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

<sup>104</sup> <https://santamartagroup.org/>

132. During the German Presidency of the G7 in 2022 the Interior and Security Ministers of the G7 States issued a statement identifying THB as a threat to international security and calling for co-ordinated action in the fight against THB.<sup>105</sup>

133. Moreover, the German authorities contribute to international action against THB through the funding of projects in various countries and regions. For example, the German Development Co-operation (GIZ) implements the projects "Prevention and combating smuggling and THB in the Western Balkans,"<sup>106</sup> "Support of the host communities for refugees in the border region of Colombia, Ecuador and Peru"<sup>107</sup> and "Better Migration Management."<sup>108</sup> All three projects are co-funded by the Federal Ministry for Economic Co-operation and Development (BMZ) and the EU. The Foreign Office (AA) also funded various projects to combat human trafficking in different regions, partnering with OSCE, Interpol, UNODC and other organisations.

134. From 1 July 2022 until 30 June 2023 Germany held the presidency of the Council of Baltic Sea States (CBSS). During the German presidency, BMAS chaired the CBSS Task Force against Trafficking in Human Beings (CBSS TF-THB). BMAS and BMFSFJ organised three Task Force meetings dedicated to the risks of THB facing Ukrainian refugees, the growth of online sexual exploitation and fair recruitment practices.

**135. GRETA welcomes the efforts made by Germany in the area of international co-operation against THB, including the participation in JITs and the engagement in EMPACT, and invites the German authorities to continue developing multilateral and bilateral co-operation in combating human trafficking.**

## 12. Cross-cutting issues

### a. gender-sensitive criminal, civil, labour and administrative proceedings

136. As noted in CEDAW General recommendation No. 33 on women's access to justice, discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men.<sup>109</sup> The Council of Europe Gender Equality Strategy 2018-2023 notes that while accessing justice might be difficult for everyone, it is even more so for women, due to gender inequality in society and in the justice system, and therefore one of the objectives of the Strategy is to ensure the equal access of women to justice.<sup>110</sup> GRETA notes that in the case of trafficking in human beings, gender stereotypes, prejudices, cultural barriers, fear and shame impact women's access to justice, and these barriers may persist during investigations and trials. This is particularly true for some groups of women, such as victims of gender-based violence, migrant, refugee and asylum-seeking women, ethnic minority women and women with disabilities. On the socio-economic level the obstacles include lack of awareness of one's legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, and access to information. A further obstacle may be the lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts or child care.<sup>111</sup> Such obstacles, and remedies to them, are listed in a Council of

<sup>105</sup> <https://www.auswaertiges-amt.de/en/newsroom/news/g7-foreign-ministers-statement/2561876>

<sup>106</sup> <https://www.giz.de/en/worldwide/80971.html>

<sup>107</sup> [Supporting host communities in Colombia, Ecuador and Peru - giz.de](https://www.giz.de/en/worldwide/80971.html)

<sup>108</sup> [Promoting safe, orderly and regular migration from and within the Horn of Africa - giz.de](https://www.giz.de/en/worldwide/80971.html)

<sup>109</sup> CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en)

<sup>110</sup> Council of Europe Gender Equality Strategy 2018-2023, pp.24-26, <https://rm.coe.int/prems-093618-gbr-gender-equality-strategy-2023-web-a5/16808b47e1>

<sup>111</sup> Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, page 13, available at <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>



Europe training manual for judges and prosecutors on ensuring women's access to justice, as well as in the publication "Women's Access to Justice: Guide for Legal Professionals".<sup>112</sup>

137. The German authorities have stressed that the different needs of men and women are taken into account in the context of different support services to victims of THB, including when accommodation is arranged, as well as in the asylum procedure. In general, female victims of THB are able to ask to be interviewed by a police officer of the same sex.<sup>113</sup> Within the asylum procedure, all case officers are obliged to follow gender training developed by the EU Agency for Asylum.

138. However, GRETA notes the concern expressed in CEDAW's 2023 Concluding observations on the ninth periodic report of Germany about the lack of sufficient capacity building programmes at federal and Länder levels for the police and other law enforcement officials on gender-sensitive investigation and interrogation procedures in cases of sexual violence against women.<sup>114</sup> According to civil society organisations, the criminal justice process is not gender-sensitive. Interviews with officials are reportedly rarely gender-sensitive, regardless of whether they are conducted by a man or a woman. The situation is even more difficult for transgender persons, where there is an even greater lack of sensitivity. Transgender persons affected by THB are seldom offered appropriate accommodation and have little or no access to specialised psychological care.

**139. GRETA considers that the German authorities should promote a gender-sensitive approach to access to justice for victims of THB, including through gender mainstreaming and training of relevant officials.**

b. child-sensitive procedures for obtaining access to justice and remedies

140. Special measures exist for child victims and witnesses during criminal proceedings, in addition to the general protection measures mentioned in paragraphs 113 to 117. According to section 48a(2) of the CPC, hearings, examinations and other investigatory acts involving child victims are to be conducted in a particularly expedited manner if necessary in the individual case. Pursuant to section 26 of the GVG criminal proceedings involving child victims/witnesses should be conducted in a special youth chamber of the court ("Jugendkammer"). For child victims of THB and related crimes, an entitlement to free legal representation arises from section 397a(1)5 of the CPC. The Act on Combating Sexual Violence against Children, adopted in June 2021, contains a number of measures intended to safeguard children during judicial proceedings, stipulating that criminal proceedings involving victims who are children must be fast-tracked and setting out special requirements for the qualification of prosecutors and judges in the special youth chambers.

141. Civil society organisations have confirmed that these special arrangements for the protection of child victims of THB are generally implemented across Germany. For example, in Berlin child victims of THB can be treated in the "Childhood Haus," operated by the Charité hospital.<sup>115</sup>

<sup>112</sup> Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

<sup>113</sup> For example, point 4.5 of [Circular no. 42-6503](#) of the Ministry of the Interior of North Rhine-Westphalia on Processing of Crimes Against Sexual Self-determination stipulates that a victim's wishes regarding the sex of the interviewer must be taken into account wherever possible.

<sup>114</sup> CEDAW, [Concluding observations on the ninth periodic report of Germany](#), adopted in May 2023, paragraphs 31 and 32. In addition, the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) was concerned by the information it obtained regarding experiences of discrimination allegedly faced by migrant women, LBTI women, homeless women, women with disabilities and women in prostitution when reporting violence to the law-enforcement agencies, see GREVIO, [Baseline evaluation report on Germany](#), published in July 2022, paragraph 292.

<sup>115</sup> [https://kinderschutz.charite.de/childhood\\_haus/](https://kinderschutz.charite.de/childhood_haus/)

### c. role of businesses

142. A German government review of the extent to which companies based in Germany with more than 500 employees were meeting their (voluntary) due diligence commitments, enshrined in the National Action Plan for Business and Human Rights 2016-2020,<sup>116</sup> showed that only around 15% of companies complied.

143. To improve compliance, in June 2021 Germany adopted the Act on Corporate Due Diligence in Supply Chains (LkSG). The Act entered into force on 1 January 2023. Based on the UN Guiding Principles on Business and Human Rights, the LkSG introduces mandatory human rights due diligence. The LkSG covers 11 human rights and ILO conventions and protocols, as well as three environmental protection treaties (see annex to sections 2(1) and 7(3) LkSG), but does not explicitly include the Council of Europe Convention on Action against Trafficking in Human Beings, nor the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime ("the Palermo Protocol"). According to the Act, companies must examine whether their activities may have any negative impacts on human rights and the environment and take appropriate measures to prevent, mitigate and remedy them. The Act initially applied to companies with more than 3 000 employees in Germany, but this threshold is lowered to 1 000 as of 1 January 2024 (section 1(1) *in fine* LkSG). Companies falling under the scope of the LkSG have to create an internal complaint mechanism (section 8 LkSG). Companies' risk management covers own operations, direct and indirect suppliers in a tiered approach, independently from geographical operational locations.

144. The LkSG named the Federal Office for Economic Affairs and Export Control (BAFA), an agency under the Federal Ministry of Economic Affairs and Climate Action (BMWK), to supervise the implementation of the LkSG.<sup>117</sup> The BMWK exercises the legal and technical supervision in agreement with the BMAS. Companies have to file annual reports to BAFA, which has far-reaching supervisory powers. It is permitted, for example, to enter business premises, demand information and inspect documents. BAFA can further require enterprises to take concrete action to fulfil their obligations and enforce this by imposing financial penalties of up to 8 million Euros or up to 2% of a company's annual global turnover, as well as excluding companies from participation in public procurement procedures. To fulfil its role under the LkSG, BAFA has recruited 60 additional staff, rising to 100 by the end of 2023. GRETA welcomes the adoption of the LkSG, but notes that according to BAFA's estimates, it is applicable to approximately 1 300 companies in 2023, rising to approximately 5 000 in 2024. GRETA was informed that no BAFA staff had received training on THB.

**145. GRETA invites the German authorities to further strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights<sup>118</sup> and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business<sup>119</sup> and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation,<sup>120</sup> with a view to raising awareness of the role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and facilitation access to remedies.**

<sup>116</sup> <https://www.auswaertiges-amt.de/blob/610714/fb740510e8c2fa83dc507afad0b2d7ad/nap-wirtschaft-menschenrechte-engl-data.pdf>

<sup>117</sup> [https://www.bafa.de/EN/Home/home\\_node.html](https://www.bafa.de/EN/Home/home_node.html)

<sup>118</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>119</sup> [Recommendation CM/Rec\(2016\)3](#) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

<sup>120</sup> [Recommendation CM/Rec\(2022\)3](#) of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation and [Explanatory Memorandum](#), adopted on 27 September 2022.

**146. Furthermore, GRETA considers that the German authorities should provide training on THB to staff of the Federal Office for Economic Affairs and Export Control, with a view to enabling scrutiny of companies' performance to prevent THB and labour exploitation.**

d. measures to prevent and detect corruption

147. Trafficking in human beings can occur in various contexts. Human traffickers may form part of organised criminal groups, which frequently use corruption to circumvent the law, and money laundering to conceal their profits. Other Council of Europe legal instruments, in particular those designed to combat corruption, money laundering and cybercrime, are also relevant to combating human trafficking. The Council of Europe body with the main role to play in the fight against corruption is the Group of States against Corruption (GRECO). Its country reports are relevant in addressing structural shortcomings in preventing corruption, including potentially in a THB context.

148. In its fifth-round report on Germany, GRECO noted that with the Directive concerning the Prevention of Corruption in the Federal Administration and its complementary regulations, Germany has a solid anti-corruption framework in place, including the obligation for all federal agencies to identify areas of activity especially vulnerable to corruption, to be followed by further measures to assess whether existing safeguards are sufficient<sup>121</sup> GRECO noted that the BKA and the BPol had built up a good practice to prevent corruption within their own ranks, with regular corruption risk assessments, and the appointment of dedicated contact persons for the prevention of corruption. Nevertheless, GRECO recommended that the German authorities strengthen the protection of whistleblowers and consider setting up separate investigative or complaints review bodies, to avoid the impression of the "police investigating the police".

149. The German authorities stated having no knowledge of cases of corruption or related misconduct of public officials in THB cases. Both active and passive bribery are criminalised under sections 331 to 335a of the CC.

## **V. Follow-up topics specific to Germany**

### **1. Data collection**

150. In its previous evaluation reports, GRETA urged the German authorities to set up and maintain a comprehensive and coherent statistical system on THB by compiling reliable statistical information from all main actors and allowing disaggregation, to serve as an evidence base for future policy measures.

151. The annual status reports on THB of the BKA is based on available information concerning police investigations and includes statistical data on suspects and victims, partially disaggregated by sex, age, form of exploitation and country of origin of the victims. In addition, the police forces of some Länder produce their own reports. Justice and criminal prosecution statistics are published by the Federal Statistical Office. As mentioned in the second GRETA report, the BKA and the Federal Statistical Office statistics are not comparable due to timing differences in the inclusion of cases and differences in methodology. Since 2020 the KOK has been publishing an annual report on THB and exploitation in Germany, based on data collected from its member organisations, concerning victims who received assistance by the counselling centres, without necessarily being reported to the police. As noted in paragraph 16, the statistics on victims from BKA and KOK differ and are partially overlapping.

152. The first task of the new National Reporting Mechanism (see paragraph 24) was to make a comprehensive overview of existing data collection tools and to what extent they enable a human rights-based monitoring of THB in Germany. The report of the National Reporting Mechanism, published in

<sup>121</sup> <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a0b8d7>



July 2023, highlighted the lack of comparability of different data.<sup>122</sup> The report notes that there are gaps in the availability of data on legal protection, compensation and child and youth welfare, making the monitoring of these topics impossible (see paragraphs 55, 72 and 210). On other issues, for example residence permits, the data only covers part of the relevant regulations. According to the National Reporting Mechanism, the decentralisation of responsibilities for human trafficking to the Länder also poses a considerable challenge to the collection of statistical data. The National Reporting Mechanism recommended strengthening co-ordination among different agencies at federal and Länder levels to allow countrywide harmonisation of data collection according to human rights criteria and providing the necessary resources and political support in this regard. GRETA welcomes the detailed report of the National Reporting Mechanism and notes that its findings and recommendations are consistent with GRETA's previous recommendations.

**153. GRETA once again urges the German authorities to set up and maintain a comprehensive and coherent statistical system on THB by compiling reliable statistical data from all main actors, including specialised NGOs, on measures to protect and promote the rights of victims.**

## **2. Measures to prevent and combat trafficking for the purpose of labour exploitation**

154. In its second evaluation report, GRETA considered that the German authorities should intensify their efforts to prevent trafficking for the purpose of labour exploitation, in particular by sensitising relevant officials, targeting high-risk sectors, and working closely with trade unions, civil society and the private sector.

155. In July 2019 the Act to Combat Unlawful Employment and Benefit Fraud entered into force, amending the 2004 Act to Combat Undeclared Work and Unlawful Employment (SchwarzArbG). The Act gives the Unit for Financial Control of Undeclared Work (FKS), a directorate of the GZD under the Federal Ministry of Finance, wide inspection and investigative powers to take action against exploitative working conditions, including THB, forced labour and labour exploitation, in addition to its statutory audit tasks (reporting requirements, social insurances, social benefits, foreign employees, residence permit, minimum wage, taxes, secondment law). The SchwarzArbG also creates new administrative offences and facilitates interagency co-ordination and co-operation. In order to implement the SchwarzArbG, the German government plans to hire an additional 3 500 FKS staff before 2029.

156. In 2022, the FKS checked a total of 53 182 employers, focusing on high-risk industries such as construction (11 524), hospitality (8 818), logistics (4 308), hairdressers and beauty salons (3 919), nursing (1 743), passenger transport (1 910) and building cleaning (1 528). The planning and timing of the inspections are usually only known to the FKS officials directly involved in order to minimize the risk of leaks. According to the BKA's annual status reports, the FKS completed one human trafficking investigation in 2020, eight in 2021 and nine in 2022. In 2020, five potential victims of human trafficking, forced labour and labour exploitation were identified by the FKS as part of completed investigations, in 2021 the number of identified victims was 78, and in 2022, 48.

157. Although the new powers given to the FKS to combat exploitative working conditions, including THB and forced labour, are a welcome development, there is still no agency in Germany with a comprehensive mandate for performing labour inspections.<sup>123</sup> It should be noted that FKS and GZD fulfil other policing tasks, including tracing social benefit fraud and undocumented or irregular work, which creates risks of undocumented or irregular foreign workers being treated as offenders rather than as possible victims of THB.

<sup>122</sup> <https://www.institut-fuer-menschenrechte.de/publikationen/detail/bericht-ueber-die-datenlage-zu-menschenhandel-in-deutschland> (in German)

<sup>123</sup> See GRETA's second report on Germany, paragraph 74.

158. During the reporting period the German authorities have also taken measures to strengthen control over recruitment and temporary work agencies. Following FKS investigations revealing illegal subcontracting practices in the parcel delivery sector, as well as media reports about exploitative working and living conditions for foreign workers in the meat processing industry, the Parcel Deliverer Protection Act was adopted in November 2019 and the Occupational Safety and Health Inspection Act was extensively amended in December 2020 (entry into force: 1 January 2021), improving working conditions, making subcontractors liable to pay social security contributions and outlawing so-called 'service contracts' in slaughterhouses. The new legislation significantly increased administrative fines and introduced minimum requirements for the accommodation of employees in shared accommodation inside and outside the company premises.

159. BMAS continues to support financially the Service Centre against Labour Exploitation, Forced Labour and THB (set up in 2017), which aims to strengthen co-operation amongst stakeholders and provides training and supports the identification of victims.<sup>124</sup> The Service Centre published a study on forced labour and labour exploitation in parcel delivery and slaughterhouses in 2020<sup>125</sup> and a similar study concerning domestic care and seasonal labour in agriculture in 2022.<sup>126</sup>

160. Furthermore, BMAS and different Länder authorities have continued to provide funding to counselling centres for foreign workers providing them with information on social and labour law.<sup>127</sup> Associations affiliated with DGB operate 13 counselling centres for workers from EU countries ("Fair Mobility")<sup>128</sup> and 25 centres for workers from non-EU countries ("Fair Integration").<sup>129</sup> In addition, there are a large number of smaller organisations active in some of the Länder.<sup>130</sup>

161. During the evaluation visit to Germany GRETA met with representatives of the counselling centre for foreign workers in Saxony ("BABS"),<sup>131</sup> the counselling centre for migration and fair employment in Berlin ("BEMA")<sup>132</sup> and the counselling centre "IN VIA" for female victims of THB in Berlin.<sup>133</sup> GRETA also met several victims of THB for the purpose of labour exploitation (both men and women, originating from EU countries as well as third countries) who had been exploited in restaurants or in hotel cleaning services, and were being supported by the counselling centres to claim back wages and participate in legal proceedings. The victims of THB exploited in the hotel sector were identified by FKS officers. They had had their IDs taken away, were living in cramped conditions, worked 15-16 hours a day cleaning hotel rooms, and had not received any salary. The victims exploited in ethnic restaurants also had their passports taken away and were not registered by their employer for residence and work permits. They worked 12-14 hours a day, six days a week, and were paid a fraction of what had been promised to them.

<sup>124</sup> See GRETA's second report on Germany, paragraph 76.

<sup>125</sup> [https://www.servicestelle-gegen-zwangsarbeit.de/wp-content/uploads/2020/07/2020\\_Servicestelle-gegen-Zwangsarbeit-Analyse-Fleisch-und-Paketbranche.pdf](https://www.servicestelle-gegen-zwangsarbeit.de/wp-content/uploads/2020/07/2020_Servicestelle-gegen-Zwangsarbeit-Analyse-Fleisch-und-Paketbranche.pdf)

<sup>126</sup> [https://www.servicestelle-gegen-zwangsarbeit.de/wp-content/uploads/2023/01/2022\\_Servicestelle\\_Branchenanalyse\\_Saisonarbeit\\_Pflege.pdf](https://www.servicestelle-gegen-zwangsarbeit.de/wp-content/uploads/2023/01/2022_Servicestelle_Branchenanalyse_Saisonarbeit_Pflege.pdf)

<sup>127</sup> See GRETA's second report on Germany, paragraphs 72 and 73.

<sup>128</sup> <https://www.faire-mobilitaet.de/beratungsstellen>

<sup>129</sup> <https://www.faire-integration.de/de/topic/11.beratungsstellen.html>

<sup>130</sup> For an overview, see [Weitere Beratungsstellen | Faire Mobilität \(faire-mobilitaet.de\)](https://www.faire-mobilitaet.de)

<sup>131</sup> <https://sachsen.dgb.de/cross-border-workers/babs>

<sup>132</sup> <https://www.bema.berlin/>

<sup>133</sup> [Beratungsstellen für Frauen, die von Menschenhandel betroffen sind – IN VIA Katholischer Verband für Mädchen- und Frauensozialarbeit für das Erzbistum Berlin gGmbH \(invia-berlin.de\)](https://www.invia-berlin.de)

162. As noted in paragraph 126, a framework co-operation agreement was signed between BMF, BMAS and DGB in July 2021 to intensify co-operation between FKS, the Service Centre against Labour Exploitation, Forced Labour and THB, and the counselling centres for foreign workers of "Fair Mobility" and "Fair Integration." The framework agreement acknowledges the specific needs and rights of victims of forced labour and THB for the purpose of labour exploitation and allows for exchange meetings, mentoring and co-operation in cases of infringement of labour and social rights.

163. GRETA was informed that there are two victim protection co-ordinators in each of the 41 main customs offices of the GZD.<sup>134</sup> However, as the victim protection co-ordinators fulfil other duties as well, they have limited possibilities to follow up cases and to build a network. Victim protection co-ordinators initially received online training on THB, forced labour, labour exploitation and victim protection. In May and July 2022 50 victim protection co-ordinators followed a two-day training organised by the Service Centre against Labour Exploitation, Forced Labour and THB. According to the German authorities in total approximately 500 FKS officers, including victim protection co-ordinators, have received training on THB. The Service Centre is currently developing an e-learning tool entitled "Recognising and Reacting to Forced Labour", consisting of four interactive modules that cover criminal law, victims' rights, identification, and networking, and featuring practical case studies and quizzes. The tool, which should be launched in June 2024, will be used by the GZD to train all relevant officials of the FKS.

164. GRETA notes that the legal framework for carrying out inspections in private homes remains highly restrictive. Officials met during the evaluation visit were unaware of any inspections by FKS in domestic households. According to the German authorities an estimated 200,000 to 500,000 individuals work as so-called "live-ins" in private households, mainly looking after elderly people. These "live-ins" are mostly middle-aged women, mainly coming from Poland, but increasingly also from Romania, Bulgaria, Croatia and Hungary. They rarely get proper employment contracts and receive low pay, even though they are required to be available on call around the clock. The German authorities have reiterated that it is not legally possible for FKS officers to enter private households, unless it is to avert an acute danger to public safety and order. In this context, GRETA notes that Germany has ratified ILO Domestic Workers Convention (No. 189), article 17 of which provides, *inter alia*, that parties shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations. In so far as compatible with national laws and regulations, such measures shall specify the conditions under which access to household premises may be granted, having due respect for privacy.

165. Since June 2019, the Office for Equal Treatment of EU Workers at the Federal Government Commissioner for Migration, Refugees and Integration<sup>135</sup> is financing a project aiming at providing domestic workers with expert information and advice through social media. The project is implemented within the context of a larger project called "MB 4.0 decent work in Germany," which provides information and counselling in social media channels such as Facebook, YouTube, Instagram and Telegram in different languages. For example, a closed Facebook group with more than 3 000 members exists for Polish domestic workers. The group is administered and fed with content by three employees of MB 4.0., who are specialised on labour law, and are able to answer concrete questions or refer to specialised counselling centres for individual support. During the COVID-19 pandemic, the Facebook group grew significantly with a lot of questions about border restrictions and quarantine rules. Given the success of the project, it has been decided to expand the project by creating closed groups in Romanian, Bulgarian and Croatian.

166. For domestic workers in diplomatic households, the AA continues to organise annual events in co-operation with the specialised counselling centre "Ban Ying" in Berlin to provide domestic workers with information about their rights and to offer them the opportunity to exchange their experiences.

<sup>134</sup> Apart from the central GZD, located in the city of Bonn, there are 41 main customs offices, 247 customs offices and eight investigative offices across the country. FKS staff is present in 115 of those offices.

<sup>135</sup> [EU Equal Treatment Office | \(eu-gleichbehandlungsstelle.de\)](https://www.eu-gleichbehandlungsstelle.de)

167. GRETA welcomes the expansion of the mandate of the FKS and the additional efforts of the German authorities to combat exploitative working conditions, forced labour and THB, including in high-risk sectors. The often-poor living and working conditions of migrant workers, including undocumented workers, became especially visible during the COVID-19 pandemic and led to increased detection. However, the number of investigations and prosecutions of THB for the purpose of labour exploitation remains relatively low (see also paragraph 87) and do not reflect the real scale of the problem.

168. **GRETA considers that the German authorities should intensify their efforts to prevent and combat THB for the purpose of labour exploitation, taking into account GRETA's Guidance Note on combating trafficking for labour exploitation<sup>136</sup> and the CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation,<sup>137</sup> in particular by:**

- **ensuring that sufficient staff and resources are made available to FKS to enable it to play a frontline role in the prevention and identification of THB for the purpose of labour exploitation, and in the collection of data on identified victims;**
- **ensuring that FKS, the police and other relevant stakeholders increase their capacity to detect and identify victims of THB for the purpose of labour exploitation, paying particular attention to at-risk sectors, such as construction, logistics and agriculture;**
- **ensuring that there is a separation in FKS between its inspection role concerning exploitative labour conditions and its other policing tasks, and that FKS inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;**
- **further strengthening the monitoring of recruitment and temporary work agencies;**
- **implementing additional measures to prevent abuse of domestic workers, including developing the conditions under which access to private households can be granted for labour inspection;**
- **strengthening co-operation between FKS, police, trade unions and other civil society actors, with a view to collecting evidence necessary for successfully investigating and prosecuting cases of THB for the purpose of labour exploitation.**

### **3. Measures to discourage demand**

169. As noted in GRETA's second report, since 2016 the use of services from victims of THB for the purpose of sexual exploitation has been criminalised in section 232a (6) of the CC.<sup>138</sup> In August 2021 section 232a (6) of the CC was amended. Under the amended provision, which entered into force on 1 October 2021, the users are not only held liable if they were aware of the fact that the person was trafficked, but also if they failed to recognise the victim's situation due to recklessness. According to the German authorities, this amendment aims to achieve better protection of victims of THB for the purpose of sexual exploitation and forced prostitution. According to the German authorities, since 2016, several criminal investigations have been opened under section 232a (6) of the CC (for example, in Berlin, there were two criminal cases in 2022 and three in 2023), but there have been no convictions so far.

<sup>136</sup> <https://rm.coe.int/guidance-note-on-preventing-and-combating-trafficking-in-human-beings-/1680a1060c>.

<sup>137</sup> Recommendation CM/Rec(2022)21 of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation and Explanatory Memorandum, adopted by the Committee of Ministers on 27 September 2022 at the 1444th meeting of the Ministers' Deputies.

<sup>138</sup> See GRETA's second report on Germany, paragraphs 232 and 233.

170. Prostitution is regulated by the 2017 Prostitute Protection Act (ProstSchG), which aims to strengthen the sexual self-determination rights of persons engaged in prostitution, and combat crimes such as THB, violence, exploitation of persons engaged in prostitution and pimping.<sup>139</sup> In 2020 and 2021 prostitution establishments were closed for extended periods of time due to the COVID-19 pandemic. As a result, prostitution shifted into private homes and online, decreasing the chances of detection of abusive situations involving THB for the purpose of sexual exploitation and forced prostitution.

171. In accordance with section 38 of the ProstSchG the BMFSFJ selected the Criminological Research Institute of Lower Saxony to conduct an evaluation of the Act. The evaluation started on 1 July 2022 and the evaluation report to the Bundestag is not due until 1 July 2025.

172. In Munich, the NGO "Jadwiga"<sup>140</sup> is invited to meet persons wanting to register as sex workers when they come to the municipal authority to register and informs them about their rights and the support services available. This is being done systematically in the case of persons under 21 years of age and Ukrainian nationals. The NGO has apparently identified some 20-25 victims of THB for the purpose of sexual exploitation in this way. These persons provided feedback on the registration interview, which was useful for identifying areas for improvement. In Saxony-Anhalt the counselling centre "Magdalena" will start an exit-programme for sex workers.

173. During its evaluation visit GRETA held meetings with members of the Bundestag and representatives of a range of civil society organisations who held divergent viewpoints on the strengths and weaknesses of the ProstSchG and referred to different estimates of non-registered sex workers. In May 2023 CEDAW expressed concern that the ProstSchG did not provide adequate protection for women engaged in prostitution.<sup>141</sup> CEDAW was also concerned at the unavailability of estimates regarding non-registered sex workers and that support services and exit programmes for women engaged in prostitution have been maintained but not necessarily strengthened and were not consistent across the Länder.

174. GRETA notes that the use of services from victims of THB for purposes other than sexual exploitation is still not criminalised **and invites the German authorities to establish as a criminal offence the use of services of victims of trafficking, with the knowledge that the persons concerned are victims, for forms of exploitation other than sexual exploitation, in accordance with Article 19 of the Convention.**

175. **GRETA considers that the German authorities should strengthen their efforts to discourage demand for the services of trafficked persons, by adopting legislative, administrative, educational, social and cultural measures to discourage demand that fosters all forms of exploitation that leads to trafficking, in partnership with civil society, trade unions and the private sector.**

#### 4. Identification of victims of trafficking

176. In its previous evaluation reports, GRETA urged the German authorities to strengthen multi-agency involvement in the identification of victims of trafficking by giving a formal role in the identification process to frontline actors who may come into contact with victims of trafficking and enabling identification independently of the initiation of criminal investigations.

177. As already explained in GRETA's previous reports, there is no National Referral Mechanism (NRM) in Germany which sets country-wide procedures and standards of interaction between relevant actors in the process of identifying victims of THB. The procedures for detecting and identifying victims of trafficking and referring them to assistance services are set up at Länder level, on the basis of co-operation

<sup>139</sup> See GRETA's second report on Germany, paragraph 110.

<sup>140</sup> [Jadwiga Fachberatungsstelle - About JADWIGA \(jadwiga-online.de\)](https://www.jadwiga-online.de/)

<sup>141</sup> CEDAW, [Concluding observations on the ninth periodic report of Germany](#), adopted in May 2023, paragraph 37.

agreements concluded between relevant public and civil society actors. As noted in paragraph 21, these co-operation agreements do not always cover all forms of exploitation, nor do they involve all relevant stakeholders who may come into contact with victims of THB. The co-operation agreements are aimed at adults, but a few concern only women. Currently, there are no co-operation agreements in four Länder (Brandenburg, Bremen, Schleswig-Holstein and Thuringia). In the absence of a co-operation agreement, co-operation between the authorities and specialised counselling centres takes place on a case-by-case basis. In addition to the co-operation agreements in the Länder, two framework co-operation agreements were recently concluded involving respectively BPol and FKS (see paragraph 126).

178. NGO representatives stated that where formalised agreements exist and the stakeholders involved regularly exchange information, for example through round tables or working groups, co-operation in the identification and referral to assistance of victims of THB usually works better. There are still considerable differences between the Länder and also between urban areas and rural areas, resulting in gaps in the identification of victims of THB.

179. As noted in paragraph 12, the annual number of identified victims of THB has increased considerably over the years. The increase is due to the higher number of identified victims of THB for the purpose of labour exploitation, thanks to the measures discussed in previous paragraphs, including the additional powers given to FKS in 2019.

180. GRETA refers to the case of some 120 Serbian construction workers working on public procurement sites in Berlin who were detected as possible victims of THB in 2019. Despite the fact that several agencies (police, GZD, prosecutor's office and counselling centre) considered them as victims of THB, they were denied residence permits and were deported, with an entry ban. According to the German authorities the failure to grant a recovery and reflection period in this case was mainly due to a lack of communication between different authorities and the case was subsequently discussed internally to clarify the procedure for the future.

181. In another large-scale case, some 30 workers from Romania employed in the packaging sector were identified in Baden-Württemberg. The police carried out an investigation. The victims wanted to return to Romania and were provided with assisted voluntary return by IOM.

182. GRETA notes that the official data on the number of identified victims of THB do not reveal the full scale of human trafficking in Germany because law enforcement authorities use a higher threshold to identify trafficking victims, linked to the prospect of successful investigation and prosecution. As noted in paragraph 16, the BKA only counts victims identified in the context of criminal investigations concerning THB. However, the data collected by the KOK suggest that a considerable number of trafficking victims assisted by the specialised counselling centres do not participate in criminal proceedings concerning THB (see paragraph 89). According to the specialised counselling centres, when law enforcement authorities come across potential victims of human trafficking, it very much depends on the context of the police operation as to whether they are recognised and treated as victims. Namely, they are more likely to be identified as victims of THB in the case of planned raids in red-light districts or on construction sites than if they come into contact with the police incidentally in connection with other types of operations.

183. According to NGO representatives and lawyers met by GRETA, victims are expected to be able to articulate during the initial interview with the police why they are victims of THB, but often are incapable of explaining their situation due to traumatisation, fear or other factors (e.g. they might be used to poor working conditions) while, on the other hand, few law enforcement officers have the time and expertise to assess possible victimisation, which may lead to failure to identify the person as a victim of THB. To avoid this outcome there is a need to further intensify the co-operation between law enforcement authorities and anti-trafficking NGOs, including the systematic referral of trafficking victims to specialised counselling centres as soon as there is the slightest indication of THB and before victims are interviewed by police (see paragraph 41). In this context KOK reiterates that there remains a significant need for



awareness raising on THB and victims' rights among relevant frontline actors who may come into contact with victims of THB.

184. In its second report, GRETA urged the German authorities to improve the proactive identification of victims of trafficking for the purpose of labour exploitation, as well as victims of trafficking amongst asylum seekers.<sup>142</sup> The Federal Office for Migration and Refugees (BAMF), an agency under the Federal Ministry of the Interior and Community (BMI), is responsible for the processing of asylum applications, while the responsibility for accommodating asylum seekers falls with the Länder. Every BAMF case officer has the obligation to detect indicators of possible THB. Every BAMF branch office has at least one staff member designated as a special representative for victims of THB. If a BAMF case officer has reasons to believe during the asylum interview that a person is a possible victim of THB, the special representative is contacted in order to inform the presumed victim of the existence of the specialised counselling centres.

185. As noted in paragraph 17, the number of asylum seekers registered in Germany has increased from 165 938 in 2019 to 244 132 in 2022.<sup>143</sup> Due to the increased number of arrivals, it can take more than six months before the first asylum application interview. However, in Dortmund, GRETA was informed that the fast-tracking procedure makes it possible to schedule within two weeks both the asylum and the Dublin return hearings. According to the German authorities, applicants are informed about their rights throughout the asylum procedure and are encouraged to disclose all material facts regarding their individual persecution. In Bavaria, flyers from specialised counselling centres are on display at all accommodation centres for asylum seekers. The BAMF has drafted a systematic, fine-grained concept directing case officers' attention to the different forms of THB and its indicators. Moreover, and to guarantee that information on the subject is contextualized, NGOs may accompany applicants and assist them if they want to. However, according to civil society organisations, BAMF staff often lack the capacity to detect vulnerabilities and do not contact the special representative for victims of THB, or contact them only at a late stage, after the asylum decision has been taken. At the same time, counselling centres lack the means to ensure regular visits to asylum reception centres, or are not entitled to carry out such visits, and staff working in reception centre usually lack training on THB. At Frankfurt international airport, asylum seekers from so-called safe countries undergo an accelerated asylum procedure while remaining in the transit area of the airport, which is not accessible to specialised counselling centres. GRETA is concerned that the procedure for identifying victims of THB among asylum seekers in Germany is ineffective and, as a result, asylum seekers who are victims of THB are not referred to specialised counselling centres for victims of THB.

186. During the evaluation GRETA visited a community housing centre for refugees in Berlin. It accommodated approximately 225 vulnerable individuals at various stages in the asylum procedure. The centre employed two social workers, one of whom had followed a training on THB organised by a specialised counselling centre. The social workers aim to have a confidential meeting with all new arrivals within 10 days of arrival, which is sometimes impossible due to the lack of interpreters or because women with young children have no access to childcare while attending a confidential meeting. There have reportedly been delays in the BAMF special representative for victims of THB reacting when contacted by the social workers to report a suspicion of THB.

187. There are no statistics on the number of victims of THB identified amongst asylum seekers. Neither are there statistics available on the number of persons granted asylum on the grounds of being victims of THB. GRETA was informed that on several occasions German courts had granted asylum to victims of THB who had been sexually exploited in other EU countries. For example, the Freiburg Administrative Court, by judgment of 21 January 2021, reversed the BAMF's refusal to grant asylum to a Nigerian woman who had been subject to THB for the purpose of sexual exploitation in Italy.<sup>144</sup> However, GRETA was also informed that Nigerian victims of THB for the purpose of sexual exploitation are no longer granted asylum

<sup>142</sup> See GRETA's second report on Germany, paragraphs 130 to 133.

<sup>143</sup> In the first eight months of 2023, 220 116 persons applied for asylum, see <https://www.bamf.de/DE/Themen/Statistik/Asylzahlen/AktuelleZahlen/aktuellezahlen-node.html>

<sup>144</sup> [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/vq\\_freiburg\\_21\\_01\\_2021\\_01.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/vq_freiburg_21_01_2021_01.pdf) (in German)



as “members of a particular social group”, but may get subsidiary protection. Further, victims of THB from countries such as Gambia or Guinea have been returned to their countries of origin after the rejection of their asylum applications, on the grounds that they can receive shelter there.

188. Civil society organisations have raised concerns about the application of the Dublin Regulation to victims of trafficking arriving in Germany from other EU countries. In some cases, the victims are granted a recovery and reflection period and start receiving psycho-social support, which is suddenly interrupted by a decision to apply the Dublin Regulation. The Dublin procedure is also applied to victims of THB who participated in criminal proceedings or provided a witness statement, but where the investigation did not result in a criminal prosecution. Civil society actors pointed out that the risk of re-trafficking is not well assessed before deciding to apply the Dublin procedure to victims of THB, sending them to situations of homelessness and destitution. According to the German authorities, the BAMF branch office’s special representative for victims of THB is always consulted when there is any indication of THB, including in the Dublin procedure, and issues an opinion as to whether the person concerned is at risk of being re-trafficked in the EU Member State to which he/she is returned.

189. GRETA recalls that Article 10, paragraph 2, of the Convention stipulates that if the competent authorities have reasonable grounds to believe that a person has been a victim of THB, that person shall not be removed from its territory until the identification process has been completed by the competent authorities. GRETA stresses the State’s obligation to identify victims of trafficking among asylum seekers who are subject to the Dublin Regulation procedure, in order to avoid any risk of reprisals from traffickers or re-trafficking and to ensure that the State’s obligations to provide a recovery and reflection period, assistance and protection to victims in accordance with Articles 12 and 13 of the Convention, are fulfilled.<sup>145</sup> In this context, GRETA notes that Article 17.1 of the Dublin Regulation III permits States to unilaterally take responsibility for the determination of an asylum claim, even where the objective responsibility criteria allow for a request to be submitted to another Member State of the EU.

190. Concerning the identification of victims of THB among Ukrainian refugees, civil society organisations reported that they had come across several attempts to bring women into prostitution and exploit them, but the number of suspected cases remains far lower than some observers had expected. Noting that THB often remains undetected, the KOK referred to several factors that reduced the risk of THB, including the fact that refugees from Ukraine are allowed to stay in Germany under the EU Temporary Protection Directive and are provided with accommodation, benefits, healthcare and access to the labour market and education.<sup>146</sup> In addition, many specialised counselling centres have conducted awareness raising campaigns targeting Ukrainian refugees and some counselling centres hired Ukrainian speaking staff, using special funds provided by the BMFSFJ.

**191. GRETA once again urges the German authorities to make further efforts to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:**

- **setting up and further developing co-operation agreements in all Länder which cover all forms of THB and follow a multi-agency approach to victim identification;**
- **ensuring that, in practice, the identification of victims of THB, is not linked to the prospects of the investigation and prosecution;**
- **paying increased attention to the identification of victims of trafficking among asylum seekers and migrants, including by recruiting a sufficient number of staff, interpreters and cultural mediators, and providing them with training on THB. In this respect, reference is made to GRETA’s Guidance note on the entitlement of**

<sup>145</sup> See GRETA Guidance Note, <https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>.

<sup>146</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publikationen\\_KOK/Trafficking\\_in\\_human\\_beings\\_in\\_the\\_context\\_of\\_the\\_Ukraine\\_War\\_-\\_Report\\_of\\_the\\_KOK\\_Ukraine\\_Project.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publikationen_KOK/Trafficking_in_human_beings_in_the_context_of_the_Ukraine_War_-_Report_of_the_KOK_Ukraine_Project.pdf)

**victims of trafficking, and persons at risk of being trafficked, to international protection;<sup>147</sup>**

- **providing specialised counselling centres involved in the identification of victims of trafficking amongst asylum seekers with sufficient resources to enable them to fulfil this task;**
- **review the application of the Dublin Procedure to presumed victims of THB and conduct risk assessments in order to prevent victims being returned to the country where they first applied for asylum, but where they face the risk of being re-trafficked.**

**192. Furthermore, GRETA considers that the German authorities should continue and further strengthen their efforts to proactively identify victims of trafficking by reinforcing the capacity and training of all relevant officials, including at the municipal level.**

## **5. Assistance to victims of trafficking**

193. In its second evaluation report, GRETA urged the German authorities to provide adequate assistance, including safe accommodation, adapted to the specific needs of male victims of THB. GRETA also considered that the authorities should ensure that assistance measures are guaranteed in practice for all victims of THB, irrespective of the purpose of exploitation and regardless of whether they co-operate with the law enforcement authorities.

194. German and EU victims, as well as third-country nationals with legal residence in Germany, have access to assistance regardless of whether they co-operate with the investigative authorities. Third-country national victims without legal residence are entitled to assistance during the reflection and recovery period of three months, independent of their willingness to co-operate with the investigation. However, beyond the recovery and reflection period, they can continue to receive assistance on condition that human trafficking is reported to the police and a criminal investigation is initiated.

195. As described in GRETA's previous reports, the provision of assistance to victims of THB is the responsibility of the Länder, which mandate specialised counselling centres to provide victims of THB with a range of assistance measures.

196. There is an extensive network of specialised counselling centres and shelters or safehouses for female victims of trafficking. According to the KOK report for 2022, trafficking victims benefited from the following assistance services from specialised counselling centres: psychosocial counselling and support (87% of victims), provision of information (84%), crisis intervention, including accommodation (56%), access to social benefits (52%), advice and support in asylum proceedings (51%), residence status (43%), assistance with other formalities (53%), support with pregnancy and child care (23%) and support during criminal proceedings (11%).<sup>148</sup> The specialised counselling centres receive funding from the Länder and/or the municipalities, and in some cases the funding has been increased (e.g. in North Rhine-Westphalia, in 2023 the counselling centres received approximately 2 million euros, an increase of some 16% compared to 2022). However, the funding is not always sufficient to fulfil all their tasks and the centres have to seek additional funding from private donors. Representatives of specialised counselling centres informed GRETA that often they do not have enough capacity to provide support and safe accommodation to all victims in need.

<sup>147</sup> <https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>

<sup>148</sup> [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publikationen\\_KOK/KOK\\_Data\\_Report\\_2022\\_web.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publikationen_KOK/KOK_Data_Report_2022_web.pdf)

197. In the course of its evaluation visit, GRETA visited a shelter for female victims of THB in Berlin operated by the NGO "ONA", which is one of two specialised shelters for victims of THB in Berlin. It is located at a confidential address, with fictitious names on the mailbox. With a capacity of seven places (three double and one single room), it accommodates adult women and any children they may have (boys are allowed up to the age of 7). The length of stay varies (up to two years in some cases). The staff comprises a full-time and a half-time social worker (funded by the Berlin Senate). The NGO works with four specialised lawyers who assist victims to claim asylum, apply for residence permits or social benefits, as well as represent victims in criminal proceedings when they act as plaintiffs. Victims are provided with German language classes and help to sign up for vocational training and to seek employment.

198. In Dortmund GRETA visited the NGO "Mitternachtsmission" which provides counselling to persons engaged in prostitution or exiting prostitution and victims of THB (mostly women, but also men). On average three to four persons per week turn for assistance. Some 400 persons are supported on an annual basis. The NGO registers them with the social affairs office and for health insurance, and they receive a document certifying that they can stay in Germany for the three-month recovery and reflection period. There is a shortage of shelter capacity and victims can be accommodated in hotels or flats. Further, there are difficulties with finding interpreters for some languages.

199. In Dresden GRETA held a meeting with the NGO "KOBRAnet", which operates the specialised counselling centre for victims of THB in Saxony. In 2022, KOBRAnet provided initial counselling to 28 victims of THB. KOBRAnet also provides safe accommodation for up to four female victims of THB in two three-room flats, one in Leipzig and another one in Dresden. Although KOBRAnet is only mandated to provide assistance to female victims of THB, it also receives referrals of male victims of THB and provides them with initial counselling, but cannot offer them accommodation.

200. Since the second evaluation by GRETA, several Länder have increased the funding provided to organisations offering counselling and support to men and boys who are victims of violence, including THB. For example, in October 2019 the Federal Coordination Office for the Protection of Male Victims of Violence was established in Dresden.<sup>149</sup> However, GRETA notes that these organisations are focused on male victims of domestic violence and have very little expertise on THB. Specialised accommodation for male victims of trafficking remains essentially non-existent. At the same time, there is an increase in the number of male victims of sexual exploitation. Counselling centres for victims of THB can provide them with counselling, but no accommodation. Male victims may be accommodated in shelters for homeless people or reception centres for asylum seekers, but many are left without accommodation, which increases the risk of re-victimisation. Furthermore, there is no shelter accommodation for victims of THB who are a couple or family. Neither are there facilities for transgender victims.

201. NGOs have also raised concerns about the situation of victims of THB among EU nationals (e.g. women from Bulgaria and Romania who are forced into prostitution). After the three-month recovery and reflection period, if they do not press charges, they are not issued residence permits and have no access to assistance. Counselling centres try to help them receive social benefits, which depends on having a work permit and having been registered for five years. Many of them are destitute, homeless and/or suffering from drug addiction, and end up returning to prostitution.

202. **GRETA once again urges the German authorities to provide adequate assistance, including safe accommodation, adapted to the specific needs of victims, including male and transgender victims of THB.**

**203. Furthermore, GRETA considers that the German authorities should make additional efforts to ensure that:**

- **access to assistance for victims of THB is not made conditional on their willingness to co-operate in the investigation or prosecution;**
- **specialised counselling centres have sufficient human and financial resources to adapt their capacity to demand.**

## **6. Identification of, and assistance to, child victims of trafficking**

204. In its second evaluation report, GRETA urged the German authorities to improve the identification of, and the assistance to, child victims of THB by effectively implementing the Federal Co-operation Guidance on Protecting and Supporting Child Victims of Trafficking and Exploitation and ensuring that relevant actors take a proactive approach, increasing their outreach work to identify child victims, and providing further training to stakeholders and guidance on the identification of child victims of THB.

205. As noted in paragraph 14, the overwhelming majority of identified child victims of THB were subjected to sexual exploitation. The BKA reported that approximately 25% of child victims of sexual exploitation were male. According to the German government, action against child trafficking remains a priority for law enforcement authorities, for example through the implementation of the THB-LIBERI project, which is being co-ordinated by the BKA (see paragraph 131). However, according to specialised NGOs, there is a lack of understanding of child trafficking for other purposes, such as forced criminality, among law enforcement officials.

206. During the reporting period the German authorities have continued to promote the Federal Co-operation Guidance on Protecting and Supporting Child Victims of Trafficking and Exploitation, adopted in 2018, through workshops and conferences for relevant staff of child welfare services, police, prosecutors, specialised NGOs and other stakeholders. As explained in GRETA's second report, the Federal Co-operation Guidance provides a framework for co-operation mechanisms between relevant actors with responsibilities for the identification and protection of child victims of THB.<sup>150</sup> Furthermore, the National Council against Sexual Violence Committed against Children and Adolescents has established a working group dealing with protection against exploitation and international co-operation (see paragraph 21).

207. According to the German authorities round tables on combating child trafficking have been established in most Länder, but not in all. For example, in 2022 Berlin established a working group headed by the Senate Department for Education, Youth and Family Affairs, which is tasked to develop a concept for the implementation of the Federal Co-operation Guidance. The working group includes representatives from several Senate Departments, law enforcement bodies and local and family courts. The working group is tasked with drafting a co-operation agreement between district youth welfare offices, law enforcement bodies and specialised NGOs and developing awareness-raising and training courses for child and youth professionals. ECPAT Germany also receives funding from the BMFSFJ to raise awareness about the Guidance. KOK and ECPAT Germany stated that, since the responsibility to implement the Federal Co-operation Guidance lies with the Länder, the level of awareness and the resources put into action against child trafficking are not the same everywhere. No information materials specifically adapted for child victims of THB have been developed by the authorities in recent years.

208. In several Länder (for example, North Rhine-Westphalia)<sup>151</sup> there are specialised shelters for girls and young women who are threatened or affected by violence, including forced marriage. In Berlin a specialised counselling centre for victims of child THB and exploitation is set to open in 2024. However, large gaps remain in the support structures for child victims of THB. According to KOK the existing care institutions run by the child welfare offices, charities and faith-based organisations, have repeatedly proven

<sup>150</sup> See GRETA's second report on Germany, paragraphs 28 and 153.

<sup>151</sup> [Gewaltprävention | Chancen NRW \(mkifgfi.nrw\)](https://www.gewaltpraevention.nrw.de/mkifgfi.nrw) (in German)

to be unsuitable for child victims of THB. The specialised counselling centres, which are tailored to the needs of adult victims of THB for the purpose of sexual exploitation (see paragraph 196), are usually only able to provide counselling for children older than 14 years.

209. GRETA is concerned that there are no specialised counselling centres and accommodation facilities for child victims of THB in Germany.

210. According to the annual federal reports on the situation of unaccompanied foreign children in Germany, 2 689 unaccompanied children applied for asylum in 2019, 2 232 in 2020, 3 249 in 2021 and 7 277 in 2022.<sup>152</sup> All unaccompanied children arriving in Germany are provisionally taken into care by the youth welfare office in whose district the child/young person arrives and then registered as part of the nationwide distribution procedure and assigned to a local authority or youth welfare office. The increase in the number of unaccompanied children among asylum seekers presents the responsible authorities with major challenges, particularly in terms of accommodation and care. The fact that staff have to look after more unaccompanied children than ever before increases the risk of abuse and exploitation. According to NGO representatives, unaccompanied children are sometimes accommodated in hostels, without supervision, creating risks for them being recruited for the purpose of exploitation. Their vulnerability is increased due to failure or delay to appoint legal guardians. The government's annual report referred to a 2021 study which found that 55.8% of young refugee women and girls, 45.2% of male adolescents and 48.9% of intersex and transgender adolescents were victims of exploitation or human trafficking in their home country or while fleeing.<sup>153</sup> The Berlin police conducted several preliminary investigations (four in 2019, one in 2020, zero in 2021 and four in 2022) into THB of unaccompanied children but initial suspicions were not confirmed. According to the BKA, there were approximately 1,500 missing unaccompanied asylum-seeking children in 2020, 2 000 in 2021 and 2 800 in 2022.<sup>154</sup> 90% of them were boys and almost all of them were between 14 and 17 years old.

211. **GRETA urges the German authorities to:**

- **ensure that relevant stakeholders (police, public prosecutors, immigration officials, social workers, child-care services, health-care professionals and teachers) take a proactive approach and increase their outreach work to identify child victims of THB, paying increased attention to online trafficking and forms of THB other than for sexual exploitation;**
- **ensure that child victims of human trafficking, including unaccompanied and separated children, are provided with accommodation which creates a safe and enabling environment for children, paired with enough adequately trained staff, and have access to health care and education;**
- **continue to take actions to reduce the risk of unaccompanied and separated children going missing.**

212. **GRETA also considers that the German authorities should continue their efforts to improve the identification of, and assistance to, child victims of trafficking, in particular by:**

- **streamlining the implementation of the Federal Co-operation Guidance on Protecting and Supporting Child Victims of Trafficking and Exploitation, at all levels of government; to this end, federal, Länder and local authorities should deploy the necessary financial and staff resources;**
- **providing further training and tools to all relevant stakeholders on the identification of child victims of THB for different forms of exploitation.**

<sup>152</sup> <https://www.bmfsfj.de/resource/blob/226298/d7892947d8ee39cc1b91503ed9dd234c/bericht-der-br-unbegleitete-auslaendische-minderjaehrige-in-deutschland-data.pdf>, page 104.

<sup>153</sup> <https://www.bmfsfj.de/resource/blob/226298/d7892947d8ee39cc1b91503ed9dd234c/bericht-der-br-unbegleitete-auslaendische-minderjaehrige-in-deutschland-data.pdf>, pages 38 and 39.

<sup>154</sup> [BKA - Bearbeitung von Vermisstenfällen](#) (in German)



## 7. Recovery and reflection period and residence permits

213. In its second evaluation report, GRETA urged the German authorities to ensure that all possible foreign victims of trafficking are consistently provided with a recovery and reflection period and relevant public officials are instructed to offer the recovery and reflection period in compliance with Article 13 of the Convention, i.e. not making it conditional on the victims' co-operation and offering it before formal statements are made to investigators.

214. The legal framework concerning the recovery and reflection period remains unchanged. In accordance with section 59(7) of the AufenthG, the Foreigners Registration Office sets a deadline of at least three months for leaving the country in order to give the possible victim sufficient time to decide whether he/she is prepared to testify as a witness in the criminal proceedings, if it has concrete grounds that a foreigner has been a victim of human trafficking.<sup>155</sup> The granting of the recovery and reflection period takes place in the form of an "order to leave the territory", valid for at least three months, with the possibility of extension. The German authorities have provided no statistics on the number of recovery and reflection periods granted to victims of THB.<sup>156</sup>

215. According to civil society organisations, the right of trafficking victims to a recovery and reflection period is not observed in the same way in the different Länder. Section 59(7) of the AufenthG is applied differently since Foreigners Registration Offices are organised at the district level. A problem that occurs almost everywhere is that the Foreigners Registration Offices require confirmation from the police or the prosecutor's office that there are signs of human trafficking in order to grant the recovery and reflection period. In addition, many law enforcement authorities are not aware of the right to a recovery and reflection period. This also includes federal authorities like BPol and FKS who have recently become involved in the fight against THB (see paragraphs 126 and 155). NGOs noted that the recovery and reflection period is not really observed in the case of labour exploitation, even though the legislation is in place.

216. An expert legal opinion published by the Service Centre in 2021 concluded that awareness of the recovery and reflection period is low.<sup>157</sup> As the recovery and reflection period functions as the gateway for further victims' rights, the failure to grant this period implies that victims of THB are unable to access other rights such as safe accommodation, health care and counselling. The report highlights the importance of applying a very low threshold for granting a recovery and reflection period, including to victims of THB who fall under the Dublin Regulations.

217. GRETA notes with concern that victims of trafficking are still not granted a recovery and reflection period in compliance with Article 13 of the Convention. Therefore, **GRETA once again urges the German authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that all possible foreign victims of trafficking, including those falling under the Dublin Regulations, are offered a recovery and reflection period and are able to fully benefit from all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.**

218. As stated in GRETA's second evaluation report, victims of THB can obtain a residence permit if they agree to co-operate with the investigative authorities (Section 25(4a) of the AufenthG).<sup>158</sup> In addition, victims of THB can also obtain a residence permit, irrespective of their willingness to co-operate with the investigative authorities, in case of hardship (section 23a of the AufenthG), on urgent

<sup>155</sup> See GRETA's second report on Germany, paragraphs 178-185.

<sup>156</sup> The 2023 report of the National Reporting Mechanism, discussed in paragraph 152, stated that only two Länder collect statistical data on the number of recovery and reflection periods granted to victims of THB.

<sup>157</sup> [https://www.servicestelle-gegen-zwangsarbeit.de/wp-content/uploads/2021/04/210329\\_Rechtsgutachten\\_DINA4\\_web.pdf](https://www.servicestelle-gegen-zwangsarbeit.de/wp-content/uploads/2021/04/210329_Rechtsgutachten_DINA4_web.pdf) (in German)

<sup>158</sup> See GRETA's second report on Germany, paragraphs 187 to 192.

humanitarian or personal grounds or due to substantial public interests (section 25(4) of the AufenthG), and in situations where the departure of a foreign person is impossible (section 25(5) of the AufenthG).<sup>159</sup>

219. According to information provided by the BKA for the period 2018-2020, 69 women and 23 men were issued a document (residence permit, permanent settlement permit or visa) allowing them to stay in Germany.<sup>160</sup> Specialised NGOs noted that the above-mentioned provisions on residence permits are seldomly applied and even victims of THB who testify are sometimes refused a residence permit. In this respect, reference is made to the case described in paragraph 180 of Serbian construction workers detected as possible victims of THB who were denied residence permits and were deported.

220. In 2021 the three parties forming the Federal Government agreed to introduce a right of residence for victims of THB irrespective of their willingness to testify.<sup>161</sup> However, during the evaluation visit, several interlocutors stated that there had been little progress in this respect. According to them, despite the coalition agreement, there is a lack of political will to grant residence permits to victims of THB who do not testify.

**221. GRETA considers that the German authorities should take further steps to ensure that victims of THB can benefit in practice from the right to obtain a residence permit, including owing to their personal situation, without prejudice to the right to seek and enjoy asylum. The authorities should review the application of the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied.**

---

<sup>159</sup> See GRETA's second report on Germany, paragraph 193.

<sup>160</sup> The statistics do not include "notices of intention to deport valid for three months" which are issued for the duration of the recovery and reflection period; see footnote 156.

<sup>161</sup> <https://www.bundesregierung.de/resource/blob/974430/1990812/1f422c60505b6a88f8f3b3b5b8720bd4/2021-12-10-koav2021-data.pdf?download=1>, page 139.



## **Appendix 1 – List of GRETA’s conclusions and proposals for action**

The position of the proposals for action in the text of the report is shown in parentheses.

### **Topics related to the third evaluation round of the Convention**

#### ***Right to information***

- GRETA considers that the German authorities should continue to make efforts to ensure that all presumed victims of trafficking, including children and those detected among asylum seekers and migrants, are proactively informed of their rights, including the right to a recovery and reflection period, the available support services and how to receive them, and the consequences of them being recognised as victims of trafficking, taking into account victims’ age, maturity, intellectual and emotional capacity, literacy and any mental, physical, or other disabilities which may affect their ability to understand the information provided (paragraph 46);
- GRETA considers that the German authorities should take measures to increase the number of qualified interpreters who are sensitised to the issue of human trafficking and the vulnerabilities of victims, and to ensure their timely availability (paragraph 47).

#### ***Legal assistance and free legal aid***

- GRETA considers that the German authorities should make additional efforts to guarantee access to justice for victims of trafficking, in particular by ensuring that:
  - legal assistance is provided as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the person concerned has to decide whether or not he/she wants to co-operate with the authorities and/or make an official statement;
  - access to free legal aid for adult victims of labour exploitation under section 233 of the CC does not depend on proof of lack of financial means to pay for a lawyer.
  - victims of trafficking have effective access to free legal assistance in related fields, such as civil, labour and immigration law;
  - sufficient funding is provided for legal assistance to victims of trafficking;
  - Bar Associations are encouraged to offer specialised training to lawyers assisting and representing victims of trafficking.

#### ***Psychological assistance***

- GRETA considers that the German authorities should guarantee timely access of victims of trafficking to psychological assistance, including by providing sufficient funding for the specialised counselling centres, and ensure that it is provided for as long as their individual situation requires, in order to help them overcome the trauma they have been through and achieve a sustained recovery and social inclusion (paragraph 62).

### ***Access to work, vocational training and education***

- GRETA considers that the German authorities should strengthen effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst employers, and the promotion of micro-businesses, social enterprises and public-private partnerships, including through state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking (paragraph 66).

### ***Compensation***

- GRETA urges the German authorities to make efforts to guarantee effective access to compensation for victims of human trafficking, in line with Article 15 (4) of the Convention, including by:
  - enabling all victims of trafficking, irrespective of their residence status, to effectively exercise their right to compensation as a priority in criminal proceedings, or in civil and labour law proceedings;
  - making full use of the legislation on the freezing and forfeiture of assets, as well as international co-operation, to secure compensation to victims of THB (paragraph 80);
- GRETA considers that the German authorities should take further steps to:
  - include victim compensation in training programmes for law enforcement officials, prosecutors and judges;
  - enable access to compensation for victims of trafficking by making compensation awarded in criminal proceedings payable by the State if the perpetrator has not paid the victim within a set period of time, and the State taking the responsibility to try to recover the amount from the perpetrator (paragraph 81);
- GRETA invites the German authorities to take measures to collect statistics on compensation claims brought by victims of trafficking and the amounts granted (paragraph 82).

### ***Investigations, prosecutions, sanctions and measures***

- GRETA considers that the German authorities should step up their efforts to ensure that trafficking offences are classified as such every time the circumstances of a case allow this, and lead to effective, proportionate and dissuasive sanctions for those convicted, including by:
  - ensuring that all human trafficking offences are proactively investigated, regardless of whether a report has been filed or not, making use of all possible evidence gathered through special investigation techniques and financial investigations, and not having to rely on the testimony of victims;
  - ensuring that property used to commit THB, or which can reasonably be considered to constitute proceeds of this crime, is seized to the greatest extent possible;
  - further strengthening the investigation and prosecution of THB for the purpose of labour exploitation (see also paragraph 168);
  - ensuring that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ) (paragraph 102);

- GRETA considers that the German authorities should continue taking measures to:
  - conduct a comprehensive assessment of the effectiveness of the criminal law provisions concerning THB and related offences. The authorities should be prepared to readjust on the basis of such an assessment the content and/or the application of the relevant provisions with a view to addressing any shortcomings identified;
  - ensure that the liability of legal entities for criminal offences is effectively implemented;
  - develop the legal framework to enable the use of technological developments to gather digital evidence and strengthen the awareness of the subject of digital and technology-facilitated THB among state and non-state stakeholders (paragraph 103).

### ***Non-punishment provision***

- GRETA urges the German authorities to take further steps to ensure consistent application of the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. Consideration should be given to amending section 154c(2) of the CPC and issuing of guidance to prosecutors and other relevant professionals on how to apply the non-punishment provision to victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so (paragraph 110).

### ***Protection of victims and witnesses***

- GRETA urges the German authorities to ensure that direct confrontation of victims and defendants in THB cases is avoided, to the extent possible, making use of audio-visual equipment and other appropriate methods (paragraph 119);
- GRETA considers that the German authorities should take additional measures to strengthen the protection of victims and witnesses of THB, including by:
  - making full use of the existing measures to protect vulnerable victims and witnesses of THB and to prevent their re-traumatisation and intimidation during the investigation, as well as during and after the court proceedings, including by avoiding the repeated questioning of victims of trafficking and using pre-recorded statements in court;
  - building the knowledge of all actors in the criminal justice system on how to avoid re-victimisation and stigmatisation of victims of THB through training and awareness-raising, as well as prioritising the rights, needs and interests of victims (paragraph 120);
- GRETA invites the German authorities to consider codifying a right of refusal to testify for staff of the specialised counselling centres about information received while acting in their official capacity of providing assistance to victims of THB (paragraph 121).

### ***Specialised authorities and co-ordinating bodies***

- GRETA considers that the German authorities should promote further specialisation to deal with THB, including of judges, and provide systematic and periodically updated training to police officers, prosecutors, judges and other relevant professionals which covers the rights of victims of THB and the importance of preventing secondary victimisation (paragraph 128).

### ***International co-operation***

- GRETA welcomes the efforts made by Germany in the area of international co-operation against THB, including the participation in JITs and the engagement in EMPACT, and invites the German authorities to continue developing multilateral and bilateral co-operation in combating human trafficking (paragraph 135).

### ***Gender-sensitive criminal, civil, labour and administrative proceedings***

- GRETA considers that the German authorities should promote a gender-sensitive approach to access to justice for victims of THB, including through gender mainstreaming and training of relevant officials (paragraph 139).

### ***Role of businesses***

- GRETA invites the German authorities to further strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation, with a view to raising awareness of the role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and facilitation access to remedies (paragraph 145);
- GRETA considers that the German authorities should provide training on THB to staff of the Federal Office for Economic Affairs and Export Control, with a view to enabling scrutiny of companies' performance to prevent THB and labour exploitation (paragraph 146).

## **Follow-up topics specific to Germany**

### ***Developments in the legislative, institutional and policy framework for action against human trafficking***

- Stressing the obligation in Article 29(2) of the Convention to ensure co-ordination of policies and actions against THB, GRETA considers that the German federal and Länder authorities should take steps to ensure that all Länder have co-operation agreements on combating THB which involve all relevant stakeholders, address all forms of THB, and identify and assist victims of trafficking without discrimination. The aim should be to ensure greater coherence and effectiveness of the actions of all stakeholders across Germany in combating and preventing THB in all its forms (paragraph 23);
- GRETA welcomes the appointment of the German Institute of Human Rights as the National Reporting Mechanism and invites the German authorities to take further measures to strengthen the National Reporting Mechanism through the adoption of legislation on its mandate (paragraph 25);
- GRETA urges the German authorities to develop a comprehensive national action plan or strategy against THB which addresses all forms of exploitation (paragraph 27).

### ***Data collection***

- GRETA urges the German authorities to set up and maintain a comprehensive and coherent statistical system on THB by compiling reliable statistical data from all main actors, including specialised NGOs, on measures to protect and promote the rights of victims (paragraph 153).

***Measures to prevent and combat trafficking for the purpose of labour exploitation***

- GRETA considers that the German authorities should intensify their efforts to prevent and combat THB for the purpose of labour exploitation, taking into account GRETA's Guidance Note on combating trafficking for labour exploitation and the CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation, in particular by:
  - ensuring that sufficient staff and resources are made available to FKS to enable it to play a frontline role in the prevention and identification of THB for the purpose of labour exploitation, and in the collection of data on identified victims;
  - ensuring that FKS, the police and other relevant stakeholders increase their capacity to detect and identify victims of THB for the purpose of labour exploitation, paying particular attention to at-risk sectors, such as construction, logistics and agriculture;
  - ensuring that there is a separation in FKS between its inspection role concerning exploitative labour conditions and its other policing tasks, and that FKS inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;
  - further strengthening the monitoring of recruitment and temporary work agencies;
  - implementing additional measures to prevent abuse of domestic workers, including developing the conditions under which access to private households can be granted for labour inspection;
  - strengthening co-operation between FKS, police, trade unions and other civil society actors, with a view to collecting evidence necessary for successfully investigating and prosecuting cases of THB for the purpose of labour exploitation (paragraph 168).

***Measures to discourage demand***

- GRETA invites the German authorities to establish as a criminal offence the use of services of victims of trafficking, with the knowledge that the persons concerned are victims, for forms of exploitation other than sexual exploitation, in accordance with Article 19 of the Convention (paragraph 174);
- GRETA considers that the German authorities should strengthen their efforts to discourage demand for the services of trafficked persons, by adopting legislative, administrative, educational, social and cultural measures to discourage demand that fosters all forms of exploitation that leads to trafficking, in partnership with civil society, trade unions and the private sector (paragraph 175).

***Identification of victims of trafficking***

- GRETA urges the German authorities to make further efforts to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:
  - setting up and further developing co-operation agreements in all Länder which cover all forms of THB and follow a multi-agency approach to victim identification;
  - ensuring that, in practice, the identification of victims of THB, is not linked to the prospects of the investigation and prosecution;
  - paying increased attention to the identification of victims of trafficking among asylum seekers and migrants, including by recruiting a sufficient number of staff, interpreters and cultural mediators, and providing them with training on THB. In this respect, reference is made to GRETA's Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection;

- providing specialised counselling centres involved in the identification of victims of trafficking amongst asylum seekers with sufficient resources to enable them to fulfil this task;
- review the application of the Dublin Procedure to presumed victims of THB and conduct risk assessments in order to prevent victims being returned to the country where they first applied for asylum, but where they face the risk of being re-trafficked (paragraph 191);
- GRETA considers that the German authorities should continue and further strengthen their efforts to proactively identify victims of trafficking by reinforcing the capacity and training of all relevant officials, including at the municipal level (paragraph 192).

### ***Assistance to victims of trafficking***

- GRETA once again urges the German authorities to provide adequate assistance, including safe accommodation, adapted to the specific needs of victims, including male and transgender victims of THB (paragraph 202);
- GRETA considers that the German authorities should make additional efforts to ensure that:
  - access to assistance for victims of THB is not made conditional on their willingness to co-operate in the investigation or prosecution;
  - specialised counselling centres have sufficient human and financial resources to adapt their capacity to demand (paragraph 203).

### ***Identification of, and assistance to, child victims of trafficking***

- GRETA urges the German authorities to:
  - ensure that relevant stakeholders (police, public prosecutors, immigration officials, social workers, child-care services, health-care professionals and teachers) take a proactive approach and increase their outreach work to identify child victims of THB, paying increased attention to online trafficking and forms of THB other than for sexual exploitation;
  - ensure that child victims of human trafficking, including unaccompanied and separated children, are provided with accommodation which creates a safe and enabling environment for children, paired with enough adequately trained staff, and have access to health care and education;
  - continue to take actions to reduce the risk of unaccompanied and separated children going missing (paragraph 211);
- GRETA considers that the German authorities should continue their efforts to improve the identification of, and assistance to, child victims of trafficking, in particular by:
  - streamlining the implementation of the Federal Co-operation Guidance on Protecting and Supporting Child Victims of Trafficking and Exploitation, at all levels of government; to this end, federal, Länder and local authorities should deploy the necessary financial and staff resources;
  - providing further training and tools to all relevant stakeholders on the identification of child victims of THB for different forms of exploitation (paragraph 212).

---

***Recovery and reflection period and residence permits***

- GRETA urges the German authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that all possible foreign victims of trafficking, including those falling under the Dublin Regulations, are offered a recovery and reflection period and are able to fully benefit from all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period (paragraph 217);
- GRETA considers that the German authorities should take further steps to ensure that victims of THB can benefit in practice from the right to obtain a residence permit, including owing to their personal situation, without prejudice to the right to seek and enjoy asylum. The authorities should review the application of the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied (paragraph 221).



## **Appendix 2 - List of public bodies and civil society actors with which GRETA held consultations**

### **Public bodies**

#### Federal ministries and agencies

- Federal Ministry for Family Affairs, Senior Citizens, Women and Youth
- Federal Ministry for Labour and Social Affairs
- Federal Ministry of the Interior and Community
- Federal Ministry of Justice
- Federal Foreign Office
- Federal Ministry of Economic Affairs and Climate Action
- Federal Ministry of Finance
- Federal Ministry of Health
- Federal Office for Economic Affairs and Export Control
- Federal Office for Migration and Refugees
- Federal Criminal Police Office
- Federal Police Office
- Unit for Financial Control of Undeclared Work
- Members of the German Federal Parliament (*Bundestag*)

#### Länder bodies and agencies

##### Berlin

- Public Prosecutor's Office
- Berlin District Court

##### North-Rhine Westphalia

- Ministry for Children, Youth, Family, Equality, Refugees and Integration
- Ministry of Home Affairs
- Ministry of Justice
- Ministry of Labour, Health and Social Affairs
- Public Prosecutor's Office
- Criminal Police Office
- Cologne and Düsseldorf Regional Courts

##### Saxony

- State Ministry of Justice, Democracy, Europe and Equality
- State Ministry of the Interior
- State Ministry of Social Affairs and Social Cohesion
- Public Prosecutor's Office Leipzig
- State Criminal Police Office

---

**Civil society organisations**

- Alliance Nordic Model
- BABS
- Ban Ying
- BEMA
- Dortmunder Mitternachtsmission
- ECPAT
- Fair Mobility Berlin
- German Institute for Human Rights
- German Police Trade Union
- Hydra Berlin
- Internationaler Sozialdienst (ISD/ISS)
- IN VIA Berlin
- JADWIGA Munich
- KARO
- KOBRANET
- KOK (German NGO network against THB)
- ONA
- Service Centre against Labour Exploitation and Human Trafficking
- SOLWODI Berlin
- "Together against Trafficking in Human Beings"

## **Government's comments**

**The following comments do not form part of GRETA's analysis concerning the situation in Germany**

GRETA engaged in a dialogue with the German authorities on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version.

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the German authorities on 15 April 2024 and invited them to submit any final comments. The comments of the authorities, submitted on 6 May 2024, are reproduced hereafter.



Federal Ministry for  
Family Affairs, Senior Citizens,  
Women and Youth



**Iris Muth**

Head of Division

Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 11018 Berlin, Germany

Executive Secretary of the Council of  
Europe Convention on Action against  
Trafficking in Human Beings  
Ms Pety Nestorova  
Council of Europe

F-57075 Strasbourg Cedex

DIVISION Combating Trafficking of Human Beings  
and Prostitute Protection Act  
STREET ADDRESS Glinkastraße 24, 10117 Berlin  
POSTAL ADDRESS 11018 Berlin

PHONE +49 30 18 555-1213  
E-MAIL IrisAlice.Muth@bmijsf.bund.de  
WEBSITE www.bmijsf.de

PLACE, DATE Berlin, 06. May 2024

### Comments of Germany on the Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings – Third evaluation round

Dear Ms Nestorova,

on the 15th of April 2024 Germany received the final report on the Report concerning  
the implementation of the Council of Europe Convention on Action against Trafficking  
in Human Beings – Third evaluation round.

I would like to inform you, that the German Government refrains from making any  
official comments on the report.

I want to thank GRETA for the constructive and close exchange during the third  
evaluation round, especially during GRETA's monitoring visit to Germany in May 2023.  
The report contains very valuable recommendations for further improving our effort on  
action against trafficking in human beings.

Yours sincerely,

Iris Muth, PhD

Service hotline: +49 30 20179130  
Fax: +49 30 18 555 4400  
Email: info@bmijsf.service.bund.de  
De-Mail: poststelle@bmijsf-bund.de-mail.de

GETTING TO THE MINISTRY  
BY PUBLIC TRANSPORT  
(OLINKASTRASSE OFFICE)

Underground train: U2 (Mohrenstraße),  
U5, U6 (Unter den Linden)  
Bus: 200 (Stadtmitte); 300, M48 (Mohrenstraße)  
S-Bahn city train: S1, S2, S25 (Brandenburger Tor)