







Excerpt from the book:

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GERMANY

	POPULATION 82,1 million		GDP PER CAPITA 44,469.9 USD
	POLITICAL SYSTEM Federal Republic		HUMAN DEVELOPMENT INDEX 4 th rank among 187 countries
	GENDER INEQUALITY INDEX 9 th rank among 147 countries		CORRUPTION PERCEPTIONS INDEX 12 th rank among 180 countries

With the intention of improving the rights of prostituted people and combating mafia networks, Germany passed a law in 2002 that regulated prostitution. As a result, prostitution has become a profession in its own right, with brothel managers being described as mere businessmen and prostituted people being described as "sex workers".

More than a simple legislative change, the 2002 law normalized prostitution and rooted it within German society. The Red Light districts of German cities are now tourist attractions with guided tours. Procurers are treated as successful businessmen and reality TV stars; men to go to brothels with their colleagues or friends to celebrate a diploma or a promotion. In a study on the sex lives of German citizens, 8% of men surveyed claimed to have had sexual relations with at least one prostituted person (*Deutsche Welle*, August 24, 2017). Advertisements for brothels are seen on buses, taxis and city walls, making

prostitution simply another consumer product...

Twelve years later, the toll is heavy: the development of clandestine prostitution, the surge of human trafficking, the stranglehold of organized crime over prostitution, the omnipresence of violence, and more. Germany is the "brothel of Europe", as described by *Der Spiegel* magazine in 2013. In recent months, the German government has focused its efforts on strengthening laws regarding human trafficking and prostitution. As a result, the Trafficking in Persons Act and the Prostitution Act have been amended. Germany is thus entering into a transitional phase. What do these new measures provide for? How do they improve (or do not) Germany's situation?

Current situation

Prostitution is a thriving market in Germany. Its revenue is estimated to be

around EUR 14.6 billion (USD 16.53 billion) per year (*Die Welt*, November 3, 2013).

All cities in Germany have their own prostitution establishments. Duisburg, for example, has a population of less than 500,000 persons (North Rhine-Westphalia), yet about 30 places dedicated for prostitution (brothels, saunas, Swinger clubs, etc.) where about 500 women are prostituted each day (WAZ, April 25, 2017).

There is no official estimate on the amount of prostitution occurring within Germany. Estimates are diverse: 150,000 to 700,000 prostituted persons (Feminist magazine *Emma*), 400,000 prostituted persons (NGO *Hydra*), between 100,000 to 200,000 prostituted persons (*Die Welt*¹), 200,000 prostituted persons (MGEPA, October 8, 2014)...

In the explanatory memoranda in the Law on the Protection of Prostituted Persons (May 25th, 2016), the government estimated there were around 200,000 prostituted persons in the country.

European victims

According to the annual report from the Federal Office of Criminal Police (Bundeskriminalamt - BKA), 488 victims of human trafficking for sexual exploitation purposes were identified in 2016, 95% of whom were women, a 17% increase compared to 2015 (416 victims).

However, these figures follow a declining trend, as they are much lower than the 2014 results (557 victims

identified). Almost 82% of the identified victims (or 363 persons) are of foreign origin and 85% of them (75% in 2014) come from a European country. 19% (or 92 victims) are of Bulgarian origin (16% in 2014, 15% in 2015), and 16% (71 victims) are of Romanian origin (a significant decrease compared to previous years: 37.9% in 2014, 24% in 2015).

Hungary, Ukraine and Poland are among the other countries of origin of European victims.

The number of German victims is continuously growing, so much that they are becoming the primary group of identified victims: 26% of victims in 2016 (compared to 23% in 2015 and 15.8% in 2014). 22% of them are young women aged 19 to 26, victims of *loverboys*, procurers who seduce victims before forcing them into prostitution.

Yet, these high figures are not representative of prostitution. German young women, who are more socially integrated, have a better knowledge of their rights and are more likely to report the exploitation they experience to the police.

The growing emergence of Nigerian prostitution

As in most European countries, the number of victims from West African countries, particularly Nigeria, has increased steadily in recent months:

	2014	2015	2016
Victims from West African countries	32 (5.7%)	20 (4.8%)	36 (7.4%)
Nigerian victims	18 (3.2%)	10 (2.4%)	25 (5.1%)

In May 2016, the BKA, in cooperation with EUROPOL, initiated a major police operation against Nigerian prostitution networks (EUROPOL, May 4, 2016). Airports within 17 European countries and over 650 prostitution sites within Germany were inspected, resulting in the identification of more than 400 potential victims. Finally, we can highlight the still limited development of Chinese prostitution: 13 victims were identified in 2016 (9 in 2015, 7 in 2014).

Increasingly younger victims

During 2016, the overall number of victims under the age of 21 decreased: 214 victims (44%) in 2016 compared to 225 victims (54%) in 2015. The proportion of victims who were minors, however, continued to increase (after a period of decline between 2012 and 2014): 96 underage victims in 2016, which was a 25% increase (77 victims in 2015, 57 victims in 2014). In 2016, 145 investigations into the sexual exploitation of minors were conducted. Through these investigations, 214 underage victims were identified: 180 were victims between 14 to 17 years old, and 33 were victims under the age of 14 (GRETA, February 5, 2018). 72% of the underage victims were of German origin.

Refugees and asylum seekers: A population at risk of prostitution

For NGOs, the increase in the number of asylum seekers has had a definite impact on the number of victims identified and on the number of people at risk of prostitution. In 2015, Germany registered about 1.1 million asylum seekers and refugees (635,000 in 2016). Among them, more than 40,000 were unaccompanied minors. On several occasions, NGOs have reported cases of refugee women being sexually exploited from within refugee camps and where refugee women are

being exploited in the pornography industry (*Mail Online*, 16 October 2015). Since 2015, there has been the surge of a new trend: "Refugee Porn". This trend includes films that are widely distributed on the Internet, featuring characters of refugee women who are played either by real refugee women or by porn actresses playing the role of refugee women subjected to acts of humiliation inflicted by Caucasian men. These productions, which reveal the way the refugee population is viewed, are very successful throughout several European countries, particularly in Germany: 800,000 Internet searches for this material were registered in September 2017 alone (*Zeit Online*, May 15, 2018). In April 2017, the NGO *Hilfe für Jungs* reported cases involving the prostitution of young men, some minors, principally of Pakistani, Afghan and Iranian origins in Berlin's parks. According to the BKA, in July 2017, there were nearly 6,000 missing refugee minors (5,502 aged 14 to 17 and 945 aged 13 or under) (*Daily Sabah*, July 6, 2017).

In October 2017, a ZDF report publicized the existence of prostitution networks in migrant shelters in Berlin. Security guards, working in these municipal homes, reportedly encouraged refugees to prostitution. The guards mostly encouraged men, who were very often minors ("the younger they are, the more expensive," commented one of the guards). They acted as intermediaries, arranging appointments with sex buyers (*The Local Germany*, October 25, 2017).

Places of exploitation: increasingly clandestine prostitution

According to the German government, there are 1,700 prostitution vehicles (love mobiles, sex drive-ins, and boxes called *Verrichtungsbox*) and more than 10,000 prostitution businesses: 62% are

apartments or private houses, 14% are clubs, bars and saunas, 12% are brothels, 1% are classified as 'other', less than 1% are escort agencies. In 2016, while the BKA observed the same development of prostitution in private places, its estimates are slightly different: 29% in hotels, 26% in apartments, 41% in bars and brothels and 12% in streets.

These figures indicate that most occurrences of prostitution escape the attention of authorities as it develops in clandestinity. This is confirmed in the example of the city of Stuttgart, which, according to the city councilor in charge of equal opportunities, Ursula Matschke, has 1,500 legal prostituted persons and 3,000 underground prostituted persons.

Simultaneously, prostitution also continues to develop on the Internet: 11% of the victims identified in 2016 were recruited online. The Internet is the preferred tool for *loverboys*, who seek out their victims on social networks and chat rooms, then organize their meetings via Messenger Services such as *WhatsApp*,

which are more difficult to monitor. In addition, online brothels have been created. These so-called "erotic" sites primarily offer sex-toys, but also prostitution advertisements, organize orgies, and auctions of women (sometimes young virgins). Users can also comment and rate the sexual services they purchased... One of these websites has more than 6 million visitors per month. The operator, who is behind several of these websites, made a profit of EUR 15.3 million (USD 17.3 million) in 2015 (*Révolution féministe*, December 15, 2017).

Germany in the fight against human trafficking for sexual exploitation purposes

Investigations and prosecutions: results in decline

Despite the severity of the current situation within Germany, the government's actions are still insufficient. Year after year, the number of prosecutions, trials and convictions for offences of human trafficking for sexual exploitation purposes continues to decline:

	2014	2015	2016
Investigations	392	364	363
Identified suspects	507	573	524
Convictions	79	72	-

The low number of investigations is due to the difficulty in classifying acts of human trafficking for sexual exploitation purposes. As a result, police and judges tend to lean towards easier qualifications. Prison sentences are rarely imposed (30% of sentences were prison sentences in 2015; only 19 sentences of 2 to 10 years of imprisonment were handed down in 2014). Similarly, the number of suspects remains stagnant: 524 suspects in 2016, 573 in

2015 and 507 in 2014. 25% of these suspects were German nationals.

Legislative progress...

As part of the transposition of Council of Europe Directive 2011/36 EU into national law (expected since April 2013), several articles relating to human trafficking within the Criminal Code were amended in October 2016:

- The law now covers new forms of trafficking (forced begging, forced

criminality), as it was previously solely focusing on forced labor and sexual exploitation;

- Penalties have been increased when victims are under the age of 18;
- Demand is now sanctioned: sex buyers who are aware they are buying sexual services from prostituted victims of human trafficking are liable to a penalty of 3 months to 5 years' imprisonment (however if the sex buyer reports the victim to the police, he or she is granted amnesty) (*US Department of State*, June 2017 ; *German Criminal Code*, §232a.6);
- Better protection for victims of human trafficking who are willing to testify.

...but lasting weaknesses

Despite these legislative changes, the German anti-trafficking policy continues to be the target of criticism from international organizations and national NGOs (KOK, October 4, 2017). Germany is criticized for:

- The lack of a comprehensive action plan that standardizes identification and assistance measures for Germany's 16 federal states;
- The inefficiency and inadequacy of the victim protection policy: in 2016, only one third of identified victims were able to benefit from special protection, and more than half of the victims received no care at all (*US Department of State*, June 2017). This is due to the lack of homogeneous assistance measures within federal states, but also due to the fact that assistance for victims continues to depend on their willingness to provide testimonies.
- The lack of resources provided for specialized centers.

The Law on the Protection of Prostituted Persons

The new Prostitution Act (*Prostituiertenschutzgesetz* - ProstSchG),

following five years of debate, came into force on July 1st, 2017. Its objective is to "better inform people about their rights and obligations when they are prostituted, to strongly encourage them to exercise their rights and to obtain help, if necessary" (Preamble of the Act). According to Federal Minister Manuela Schwesig, "the new legislation will protect men and women who are in brothels from exploitation and violence" (*Metro Canada*, September 23, 2016). This law provides for:

- The obligation of registration (*Anmeldepflicht*): prostituted people, whether regular or occasional, must first undergo a medical consultation (*Gesundheitliche Beratung*), at the end of which they are given a certificate. With this document, they must then personally register their activities. Registration consists of an interview with a skilled authority figure, which determines whether or not there is an exploitative third party involved, informs the interviewee of their rights and obligations as a prostituted person, and provides them with advice and emergency numbers. Following this interview, a second certificate is given to prostituted people, which is renewable every two years. Prostituted people must be able to present both certificates at any time, under penalty of a fine. These documents also have to be checked by brothel operators:

- Specific obligations for persons under 21 years of age: medical check-ups every 6 months and registration each year. It is prohibited to issue permits to a prostituted person under the age of 18, a person under 21 who was encouraged by a third party to practice prostitution, a person practicing prostitution under the coercion of a third party, or a person who is more than 7 months pregnant;

- The obligation to use condoms (*Kondompflicht*) during all sexual relations:

prostituted persons have the right to refuse unprotected sexual relations. Customers who do not use condoms are liable to fines of up to EUR 50,000 (USD 56,593);

- Inspections of brothel owners: an administrative authorization is required to open and manage a prostitution establishment (*Erlaubnis für Prostitutionsgewerbe*) of any nature (brothels, saunas, naturist clubs, prostitution vehicles, Internet escort agencies, prostitution events such as paid sex evenings). This authorization is renewable every three years. To obtain it, operators must provide their criminal records, present their "business models", and meet the defined legal requirements (health facilities, safety of the premises...). From now on, state services (police, hygiene services, etc.) may carry out inspections at any time within these establishments;

- The prohibition of injunctions (*Weisungsverbot*): brothel managers must not impose sexual services upon prostituted people. The sexual services are defined only between the prostituted persons and sex buyers. Practices contrary to human dignity, e.g. flat-rates (where sex buyers pay an entrance fee of about EUR 70 to EUR 100 (USD 79 to USD 113) , which allows them to "consume food, drinks, sex at will"), gangbang parties (form of violent pornography aimed at the humiliation of a woman by several partners), etc. are prohibited. It is also prohibited to restrict the rights of prostituted persons. Thus, women cannot be forced to practice naked and their identity documents cannot be confiscated.

While the new law has come into force, it continues to receive universal criticism. For representatives of associations promoting "sex work", the obligation for prostituted persons to register is considered discriminatory, and several demonstrations have taken place throughout different cities

in Germany to denounce it. For human rights defenders, the registration of prostituted persons is also disturbing, as it violates data protection rules. Finally, abolitionist activists and representatives of victim support associations believe the law to be a "bureaucratic monster" that is too difficult to enforce. There is still a lack of sufficient measures to assist prostituted persons and there are no programs to facilitate exiting prostitution (*Deutsche Welle*, July 2, 2017).

Law enforcement: a slow and laborious process

As the new law is so administratively complex, a six-month transitional period has been provided for its implementation by the federal states and municipalities. Yet, the lack of resources dedicated to its implementation has slowed down the process. The procedure for registering prostituted persons and establishment operators requires the hiring of specific personnel, the provision of premises, and more. In Munich, three doctors, one social worker, and two administrative employees were hired. In addition, eight new jobs were created for the purpose of registering prostituted people and nine new jobs were created with the purpose of inspecting brothels with a budget of EUR 1.5 million (USD 1.7 million). In the absence of a specific budget, some federated states charge prostituted people fees for medical examinations and registration (e.g. EUR 35/USD 40 in Bavaria and Saarland). As of January 1st, 2018, this law, particularly concerning the registration of prostituted persons, was not being enforced. In Hamburg, there were 2,200 prostituted persons registered according to Norddeutscher Rundfunk and between 4,000 and 6,000 according to the city's social services. Only 600 prostituted persons have registered and some 150 certifications issued so far (*Deutsche*

Welle, January 18, 2018). By the spring of 2018, Berlin had not yet officially registered prostituted people, only distributed provisional certificates in the event of an examination. Other feedback also shows the difficulty of implementing the law's other articles:

- Registration interviews with prostituted persons: the social workers in charge of these interviews express skepticism. How can one detect if a person is a victim of exploitation in just a few minutes of conversation when it takes months to establish trust within a relationship with a prostituted person? The victims know in advance what they will be asked, and often pre-prepare their answers. They sometimes come to interviews with translators, who are none other than their procurers (Kraus, May 24, 2018).

- Condom use requirement: the enforcement of this measure often seems to be limited to the distribution of a flyer to sex buyers. Some complaints have been recorded and subsequently investigated: one woman reported a sex buyer, and a sex buyer was thus convicted for unprotected sex (*Révolution Féministe*, December 15, 2017).

- Prohibition of undignified practices, such as gangbangs: there is no evidence that gangbangs have actually disappeared from prostitution sites, especially since these practices are often known to no longer fall under the law. Thus, gangbangs become "sex orgies"! This practice continues to be very popular on the Internet: pornographic films that feature gangbang scenes are shot in giant brothels with prostituted people and sex buyers who, for EUR 35 (USD 40), have unlimited food, drinks and sex. Sex buyers have unprotected sexual intercourse. Their faces are blurred. They are simply asked to produce an HIV/AIDS test (or they are tested before filming). Illegal or not, advertisements for such events continue to be circulated on the

Internet. In addition, other practices that are not specified by the law are developing: for example, paid relationships with pregnant women, which is authorized if they are under 7 months pregnant.

- Closure of illegal venues: As early as November 2017, sociologist and activist Manuela Schon testified: "In my city (Wiesbaden), 90% of brothels are illegal, which means that most will have to close, or be legally registered. Many have already closed because they do not meet the conditions for a permit and these closures will continue into 2018". While the closure of these establishments is welcomed, there is fear that this new law will lead to owners reorganizing and strengthening their control over large brothel chains and wellness-centers in the "market". The managers of these establishments do not seem worried: "The purpose (of the law) is to have more information about women to take more taxes from them, not to help them," Michaël Beretin, spokesman for "Paradise", cynically explains.

Paradise, Pascha, Artemis... Behind the scenes

"Since then (the 2002 law), there has never been so much investment in this sector," said Jürgen Rudloff, the head of the brothel chain "Paradise", in September 2017. "Paradise" (found in Stuttgart, Frankfurt, Saarbrücken...), "Artemis" (Berlin), and "Pascha" (Cologne, Munich, Stuttgart...) are some of the most famous *Freie Körper Kultur* (FKK). FFKs are large-scale brothels in luxurious settings which, under the label of well-being and naturism, offer men food, swimming pools, saunas (and more), but above all, prostituted persons.

Around 60 to 90 young females are prostituted every day at "Paradise", which welcomes around 300 sex buyers daily for an entrance fee of EUR 79 (USD 90). This

fee covers unlimited access to the buffet (excluding alcoholic drinks) and rooms. Prostituted persons, most of whom are from Eastern Europe, pay the same admission fee. They directly charge sex buyers for their services and pay a flat-rate tax of EUR 25 (USD 28.3) to Paradise, who transfers the tax to German tax authorities, as required by law. Those who want to sleep on site (dormitories with 2 to 6 beds) pay EUR 23 (USD 26) per "night" (*Les Echos*, September 21, 2017). Another important rule in "Paradise", similarly to other prostitution establishments, is that men are required to wear bathrobes whilst women are almost naked.

The reality of the FKK: tax evasion, human trafficking, procurement...

Mediatized, heroes of reality TV shows (Red light Experts, Bordell SOS, Puff my Pimp, etc.), bosses of FKKs represent success and money. However, current judicial events show that these institutions are far from being the economic, entrepreneurial and "humanist" models that they claim to be. Several police operations have taken place in recent months in Goch, Leipzig, and Frankfurt, including in the most prestigious establishments. In 2014, "Paradise" establishments were subjected to police raids. Jürgen Rudloff, the network's owner and a regular on TV talk shows, fled to Switzerland. In September 2017, upon his return to Germany, he was arrested for commercial fraud, human trafficking and procuring. In April 2016, a major police raid took place at Berlin's "Artemis" following suspicions of tax evasion, procuring of prostituted persons and human trafficking. 96 prostituted persons were questioned, 6 procurers were arrested, and EUR 6.4 million (USD 7.24 million) in cash, real estate and vehicles was seized (*Slate.fr*, April 15, 2016). However, the investigation was unsuccessful. In September 2017, Hermann Müller, owner of the

"Pascha" chain in Munich and Cologne and the owner of establishments in Linz, Graz and Salzburg, was tried and sentenced to 3 years and 9 months' imprisonment for tax evasion. He was suspected of not having paid social contributions and not having paid the taxes levied on sexual services for his institutions. In these three cases, the justice system questioned the "independence" of the prostituted women within these establishments. Those responsible were suspected of keeping prostituted women against their will, with several criminal gangs being accomplices, particularly Hell's Angels. The involvement of these groups (Hell's Angels, United Tribunals, Bandidos, etc.) in prostitution circles is not surprising: "The fact that Hell's Angels deliver women to brothels in many cities and control the market is not new," explains feminist Alice Schwarzer. "In the prostitution district of Stuttgart, they run an "office", ensuring the security of the nearby Paradise (...) In Duisburg, for example, the gangs, including Hell's Angels, divided the brothels among themselves..." (*Slate.fr*, April 15, 2016). In the Leinfelden-Echterdingen brothel, run by Jürgen Rudloff, there are also rumors of women being "forced, exploited, beaten" (*SWR Aktuell*, April 17, 2018). These accusations of procuring and human trafficking are combined with suspicions of tax evasion, embezzlement and illegal work. In some institutions, prostituted people were reportedly forced to declare themselves as autonomous "workers", in order for the institutions to avoid taxes. "Artemis" is suspected of never having paid social security contributions. Thus, since the opening of the establishment in 2006, more than EUR 17 million (USD 19.24 million) have been embezzled. In conclusion, recent events in Germany have been marked by the adoption of this new law on prostitution, after several months of debate. Will this law achieve its

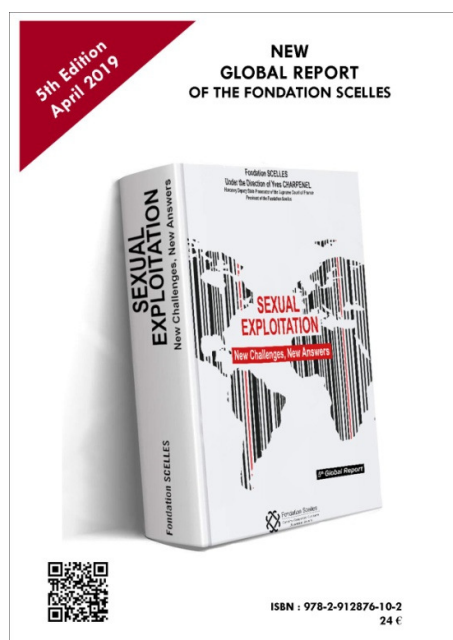
objective of safety and protection for prostituted people? Will the registration of prostituted people have a real impact on the fight against human trafficking? Only the official evaluation of the law, scheduled for 2022, will be able to answer these questions. Whatever its application, the new law will not be enough to fundamentally change the German situation. There is no provision to help women exit prostitution. Indeed, the proposed protection measures are insufficient, the shelters for victims and, in particular, for minors are lacking... Beyond these shortcomings, the law does not call into question the regulationist model put into place in 2002. Consequently, how is it possible to change an industry as prosperous and powerful as the sex market in Germany without incriminating sex buyers and brothel operators or denouncing the exploitation imposed on prostituted women? However, to call into question the bosses of Germany's largest FKK chains could perhaps change the situation. Behind the luxurious facades of these establishments, there is a worrying reality: fraud, violence, and the control of criminal circles. The boss of "Pascha" has already been convicted in court and the boss of "Paradise" is liable to 10 years of imprisonment according to his trial, which began in April 2018 and isn't expected to end before March 2019 (after examining 145 pages of charges) (*Emma*, September 29, 2017). Will these cases be able to dethrone the kings of German prostitution? Will they show the way for a more in-depth reflection about the very foundation of the regulation system? One can only hope.

¹ See Chapter "Ukraine", in Fondation Scelles, Charpenel Y. (under the direction of), *Prostitution. Exploitation, Persecution, Repression (4th Global Report)*, Ed. Economica, 2016

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The **Fondation Jean et Jeanne Scelles**, recognized as a public utility since 1994 and as a consultative status with ECOSOC, is an independent, non-profit organization based in Paris (France) dedicated to fight the system of prostitution and the exploitation of prostituted persons, through information, analysis, advocacy, trainings, awareness initiatives and legal actions. The **Fondation Jean et Jeanne Scelles** is a co-founding member of the Coalition for the Abolition of Prostitution (CAP International) which was launched in 2013 and today brings together 28 abolitionist NGOs from 22 countries.

The **International Observatory on Sexual Exploitation** (Observatoire international de l'exploitation sexuelle) is a worldwide hub which allows for information exchange on the system of prostitution. The hub is regularly consulted by French and foreign experts including NGOs, institutions, journalists, lawyers, researchers and those involved in the defense of human rights. The goals of the **International Observatory on Sexual Exploitation** are:

- to analyze all the aspects of the phenomenon: prostitution, sex tourism, procurement, child pornography, sex buyers, human trafficking for the purpose of commercial sexual exploitation...
- to encourage reflection and to take a stand
- to inform the public who are interested in these issues

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