MAX PLANCK INSTITUTE
FOR FOREIGN AND INTERNATIONAL
CRIMINAL LAW

TRAFFICKING IN HUMAN BEINGS
AN EMPIRICAL STUDY ON CRIMINAL PROSECUTION
IN GERMANY

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A. Summary of Research Findings

I. Object and Aim of the Study

Since the late 1980s with the downfall of the Iron Curtain, trafficking in human beings for the purpose of sexual exploitation (THB) is increasingly at the centre of public as well as political attention in Germany. Within Europe, Germany is considered to be the main destination for trafficked women. Without any reliable empirical basis the number of women trafficked into prostitution is estimated at tens of thousands of persons and expected to further increase. At the same time the number of trafficking cases recorded by the police is said to show only a small fraction of the actual extent of THB. The assumption of a large dark figure is based on the following presumptions: The criminal investigation of trafficking cases is said to be complex and time consuming. Besides the fact that the cases are often related to the jurisdiction of other countries, the structures of the criminal groups are hard to penetrate as they are highly organised. However, it is especially the central but at the same time highly problematic role of the victim-witnesses that impairs successful investigations. The women’s ability and willingness to testify as well as the credibility of their testimony are often limited. This is due to their illegal status, their basic willingness to migrate as well as the fact that many women consent to prostitution at least temporarily. When looking at the police statistics on THB one can also notice that the annual number of cases is subject to considerable fluctuations and that the numbers vary on a regional level. These observations raise questions of how the prosecution of THB is implemented in practice and how the competent authorities deal with this criminal offence. Criminological knowledge of these questions is scarce. A systematic, comprehensive empirical study is lacking so far. The aim of this study is to fill this gap.

1 IOM, Migrant Trafficking and Human Smuggling in Europe (Genf 2000), 91; Robert F. OBERLOHER, Moderne Sklaverei im OK-Netz (Wien 2003), 240.
3 See public hearing of the Committee of Family, Elderly People, Women and Young People Affairs of the German Parliament on „Trafficking in Women for Sexual Exploitation“, 25 May 1998 (Frauenhandel mit dem Ziel der sexuellen Ausbeutung“ des Ausschusses fuer Familie, Senioren, Frauen und Jugend vom 27.05.1998 (Ausschuss-Drs. 13/350 vom 25.05.1998)).
1. Review of Existing Empirical Research Findings and Statistical Data

In Germany, the few existing empirical studies on THB only focus on specific aspects of the phenomenon. The study of Heine-Wiedenmann/Ackermann provides a first examination of the official handling of human trafficking cases at a time when the subject only started to become an issue of public interest and the victims primarily came from the Philippines, Africa and South America.\(^4\) Sieber/Boegel concentrate on the connection of THB with organised crime.\(^5\) The study by Koelges/Thoma/Welter-Kaschub takes on the perspective of a relief organisation for victims of THB and focuses on the role of victim-witnesses in criminal proceedings.\(^6\) All of the aforementioned studies are qualitative in nature, i.e. none of them systematically examines the criminal prosecution of THB in practice – from the moment the investigation is triggered to the time of criminal conviction. Apart from procedural aspects, the existing studies equally fail to analyse comprehensively the role of the victims and perpetrators as well as crime structures.

On the police level, THB is recorded by means of two official statistics: the Police Crime Statistics (\textit{Polizeiliche Kriminalstatistik}, hereafter PKS) as well as the Situation Report on Human Trafficking by the Federal Criminal Police Office (\textit{Lagebild Menschenhandel des Bundeskriminalamts}, hereafter Situation Report).\(^7\) The recorded number of police investigations has been subject to fluctuations. The trafficking cases recorded in the PKS increased considerably in the early 1990s up until 1996. In 1999 and – to a lesser extent – in 2001, however, the number of recorded cases decreased only to recover in the following year. In general, the number of recorded cases tends to decrease since 1996. The Situation Reports more or less reflect the developments of the PKS. The differences in number are caused by the different recording procedures.\(^8\)

\(^4\) Dagmar HEINE-WIEDENMANN/Lea ACKERMANN, Umfeld und Ausmaß des Menschenhandels mit auslaendischen Maedchen und Frauen (Stuttgart 1998).
\(^5\) Ulrich SIEBER/Marion BOEGEL, Logistik der Organisierten Kriminalitaet (Wiesbaden 1993).
\(^6\) Barbara KOELGES/Birgit THOMA/Gabriele WELTER-KASCHUB, Probleme der Strafverfolgung und des Zeuginnenschutzes in Menschenhandelsprozessen (Boppard 2002).
\(^7\) An English version of the Police Crime Statistics and the Situation Reports on Human Trafficking can be found at http://www.bka.bund.de.
\(^8\) While the PKS records cases the Situation Reports focus on investigation proceedings. Furthermore, the PKS is a so called “outgoing statistic“, as it registers cases only after they have been finalised by the police and before the files are transferred to the public prosecutor’s office. The Situation Reports, in contrast, are „incoming statistics“, as they are based on the number of police investigations reported by the criminal investigation departments of the Federal States during the reported years.
Figure 1: Number of cases and investigations as registered by the PKS and the Situation Reports (1994 - 2003)


Figure 2 reflects the number of trafficking cases recorded from 1992 to 2002.

Figure 2: Trafficking Cases Registered in Selected Federal States (Total/Per 100,000 Inhabitants, 1992 - 2002)

In the different Federal States of Germany, the number of trafficking cases registered by the police varies considerably. Here, differences in number exist not only in regard to the total amount of cases but also in relation to the extent of fluctuations.

A more detailed analysis of the cases allocated to those states that were included in the study (Baden-Wurttemberg, Bavaria, Berlin, Brandenburg, Hamburg, Hesse, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia, and Saxony) reveals that during the last ten years Hamburg and Berlin as well as Lower Saxony and North Rhine-Westphalia showed high figures. The opposite can be observed in Bavaria and Baden-Wurttemberg but especially in Brandenburg, Mecklenburg-Western Pomerania and Saxony.

2. Design and Methodology

In Germany, specific legislation on THB was introduced in 1973 and amended in 1992 (§§ 180b, 181 a.F. German Penal Code/StGB). These penal provisions only applied to trafficking in relation to sexual exploitation. On 28 October 2004 the German Parliament agreed anew to an amendment of the trafficking provisions to fulfil its obligation in relation to international agreements and introduced §§ 232, 233, 233a StGB. The decisive difference compared to the preceding regulations is that the new articles not only apply to sexual exploitation but also include the exploitation of labour. However, this study was realised before the latest amendment. Hence, it is based on the preceding penal provisions (§§ 180b, 181 a.F. StGB). The same applies to provisions criminalising the smuggling of migrants (§§ 92a, 92b Aliens Law/AuslG). The amendments of the

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9 a.F. stands for former version.
10 § 181 StGB a.F. (Human Trafficking/Menschenhandel) was originally introduced by the 4. Penal Reform Law (Strafrechtsreformgesetz/StrRG) of 23 November 1973 (BGBl. 1973 I, p. 1725). With the 26. Amendment Law (Strafrechtsaenderungsgesetz, hereafter StrAendG) of 14 July 1992 (BGBl. 1992 I, S. 1255) the law differentiated between § 180b a.F. StGB (Human Trafficking) and § 181 a.F. StGB (Serious Human Trafficking).
12 §§ 180b, 181 a.F. StGB have now been replaced by § 232 (Trafficking for the Purpose of Sexual Exploitation), § 233 (Trafficking for the Purpose of Exploitation of Labour), and § 233a (Promotion of Trafficking) StGB.
13 The empirical part of the study was conducted between March 2003 and April 2004.
15 The Aliens Law has been abrogated 1 January 2005 by the Immigration Law (Zuwanderungsgesetz) of 30 July 2004 (BGBl. 2004 I, S. 1950). Accordingly, §§ 92a, 92b AuslG were replaced by §§ 96, 97 Residence Law (Aufenthaltsgesetz/AufenthG).
trafficking provisions and the provisions on aliens do not affect the relevance of this study as the main elements of the previous regulations were included in the amendments.

Articles 180b, 181 a.F. StGB focus on the elements of recruitment and the bringing into prostitution of another person. Generally, they apply to situations in which one person urges another to take up or continue prostitution. If a perpetrator takes resort to qualified means, such as coercion, the conditions for aggravated trafficking are fulfilled. The provisions do not require transborder action. Thus, the decisive element that is criminalised is the interference with another person’s own will. The protected sphere is the person’s right to sexual self-determination.

This project follows a multi-dimensional approach as it applies the following methods of social research: The analysis of public prosecutor’s files, questionnaires and face-to-face interviews.\(^\text{16}\) The analysis of 91 files aimed at collecting basic information on the course of investigations and criminal proceedings in trafficking cases. Equally, characteristics of prosecution were deduced. Furthermore, the findings helped preparing the questionnaires and face-to-face interviews. The questionnaire study included 549 test persons\(^\text{17}\), the face-to-face interviews 30 test persons\(^\text{18}\). Here, those factors were of interest that determined trafficking proceedings but could typically not be extracted from the files such as organisational and strategic aspects or crime policies. Finally, the questionnaire study and the interviews served as a means to illustrate and to validate the results of the file analysis. While the questionnaire study addressed representatives of the police, public prosecutors, and judges, the face-to-face interviews also included lawyers, members of relief organisations and owners of brothel-like locations.

3. **Leading Questions**

This project is the first empirical study in Germany to comprehensively examine the actual criminal prosecution of THB in practice. The factors determining

\(^{16}\) The questionnaires and the face-to-face interviews in turn originate from a project of the Max Planck Institute for Foreign and International Criminal Law Freiburg and the Central Agency for Criminology Wiesbaden (Annette HERZ/Eric MINTHE, Straftatbestand Menschenhandel: Verfahrenszahlen und Determinanten der Strafverfolgung (anticipated year of publication: Neuwied 2005). This project was commissioned by the Federal Ministry of the Interior and the Federal Ministry of Family, Elderly People, Women and Young People Affairs to examine the causes for the receding numbers of the annually recorded trafficking cases.

\(^{17}\) Police: n = 336; public prosecutors: n = 109; judges: n = 104. Response rate approx. 60%.

\(^{18}\) Police officers n = 12; public prosecutors n = 3; district court judges n = 3; defence lawyers n = 3; lawyers for joint plaintiff n = 2; members of relief organisations n = 4, and brothel owners n = 3.
Prosecution are assessed from the initiation of investigations to the moment of criminal conviction. In this context, impediments to continuous and successful investigations are of special interest. Characteristics of crime structures, victims, and perpetrators are analysed against the background of this information. The overall aim of the project is to identify the necessary conditions for an effective prosecution of THB.

In detail, the following questions are at the centre of the research:

- How are investigations typically triggered and how do they develop (inter alia role of proactive policing, resources, crime policies)?
- What are characteristics of trafficking victims (inter alia victim-offender relationship, circumstances of recruitment, role of victim-witnesses)?
- What are characteristics of crime structures and perpetrators (inter alia organised crime structures, role of brothel owners, results of proceedings)?
- What problems of investigation and evidence arise?

II. Empirical Results

In the following, selected results of the study are presented. As far as reference is made to “interviews”, the questionnaire study and the face-to-face interviews are included.

1. Characteristics of Proceedings

Initiation of Investigations

Sixty-four per cent of the analysed files were initiated by reports to the police: In 35 cases it was the victim herself that filed a report; the other incidents were reported by third persons.19 However, in the interviews the majority of representatives of the police and the judiciary describe proactive policing in the form of stop-and-search-operations in the red light district and undercover investigations as primary triggers of trafficking investigations. The interview results correspond to previous assessments according to which THB – like drug trafficking – is a “control crime”, meaning that investigations are typically initiated proactively by the police not the victims, as the latter do not dare to report the perpetrators to the police.20 Thus, the question arises of how the findings of the file analysis have to

19 Apart from those investigations that were instituted by reports, 19 cases were initiated by findings from other proceedings and 15 cases by proactive police measures. In one case, an informant was the initiator.
20 See amongst others BUNDESMINISTERIUM DES INNERN/BUNDESMINISTERIUM DER JUSTIZ, Erster Periodischer Sicherheitsbericht (Berlin 2001), 105.
be interpreted and whether the classification of THB as “control crime” can be sustained.

In the questionnaire study, members of the police judge the dark figure of THB to be extensive. In the interviews, it is further indicated that if the police undertake proactive measures in the red light district, they regularly detect THB. Other research findings indicate that especially foreign victims of THB are often in a situation of vulnerability due to their illegal residence status, dependencies or exploitive structures. This in turn reduces their ability and their willingness to report to the police. Against this background, the potential relevance of control measures of the police becomes apparent, regardless of the fact that reports of victims occur, as the file analysis shows. As a consequence, it is of interest to what extent proactive police measures effectively take place and if so, under which circumstances.

**Control Measures in the Red Light District**

In the questionnaire study, representatives of the police were asked about the frequency of control measures such as stop-and-search operations by their departments in the red light district. Pre-defined categories were “no controls”, “controls in reaction to concrete suspicions of THB”, “irregular controls irrespective of suspicions of THB”, and “regular controls irrespective of suspicions of THB”. Roughly half of the participants state that their department conducts controls in reaction to concrete suspicions of THB. This was followed by “irregular controls irrespective of suspicions” (43%), “regular controls irrespective of suspicions” (23%), and “no controls” (19%).

The questionnaire study shows that police control measures predominantly take place in reaction to concrete suspicions; preventive actions are rather the exception. Furthermore, preventive measures are more frequent in cities with more than 100,000 inhabitants. This indicates a correlation between the size of a city and the frequency of measures of control, and it offers an explanation for the fact that THB statistics are higher in urban than in rural areas.

**Relevance of Resources**

In the interviews, members of the police and the prosecution service express their opinion according to which to a large extent the police are in the position to determine the number of investigations by the frequency of control measures. Whether investigations take place continuously and thoroughly depends on hu-

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21 Police representatives assessed the dark figure of offenders at 83% and of victims at 91%.
22 Multiple responses were possible.
man and technical resources. The aforementioned stated fluctuations in investigation numbers could also be explained in this manner. According to the participants, however, the capacities were often so limited, that they did not allow for more frequent forms of control.

Furthermore, trafficking proceedings are described as particularly time and resource consuming. This is due to want of evidence, the necessity of undercover policing, and the adaptation of offenders to investigation strategies. Trafficking cases often also lead to further investigations as they tend to encompass numerous victims and offenders and to extend to other areas of crime. Hence, the duration of the investigations was also of interest: The average length of the analysed cases was about one year.23

Crime Policies

In the interviews, it became evident that most of the police and judicial departments responsible for dealing with THB do not have sufficient capacities to put emphasis on this area of crime. This is especially true for small departments and departments in rural areas. Members of the police express their opinion according to which the resources invested in investigating certain types of crimes reflect the importance allocated to them.24 Often decision makers are not willing to lay the foundations for more investigations by investing resources in departments responsible for THB as these investigations tended to consume incalculable resources.

In the questionnaire study, the majority of participants agree with the hypothesis according to which currently THB is not of high priority on the agenda of criminal policy makers.25 Several participants – especially from the police – believe that politicians are eager to avoid high THB rates.26 In the face-to-face interviews, policemen warn taking low numbers of trafficking cases as an argument for the low relevance of THB and point out the interdependency of resources, the frequency of police measures, and the number of investigations.

23 In cases in which judicial proceedings were discontinued, this was done on average after 254 days (median: 196 days). If perpetrators were being charged this was done on average after 344 days (median: 247).
24 This is significant in so far as German law of criminal procedure is governed by the so called legality rule (Legalitaetsprinzip) meaning that the autonomy of the prosecution service is limited as it has to initiate proceedings in all cases of reasonable suspicion of a criminal act. However, in practice it has long been acknowledged that in the face of limited resources the police as well as the prosecution service have to prioritise.
Undercover Investigation Methods

In 28 of the analysed files, undercover investigation measures were registered. Here, observations and the use of telecommunication monitoring were most prevalent (71% and 54% respectively).\textsuperscript{27} In the questionnaire study, the majority of participants emphasise the importance of telecommunication monitoring for the successful investigation of trafficking cases.\textsuperscript{28}

At the time of research, the use of telecommunication monitoring was possible in specific cases of serious human trafficking (§ 181 I No. 2, 3 a.F. StGB). Accordingly, the majority of respondents favour admissibility of this kind of undercover investigation method to all forms of serious trafficking\textsuperscript{29} – an opinion that was taken up by the latest amendment of the trafficking provisions.\textsuperscript{30} Several representatives of the police and the prosecution service also support telecommunication monitoring in cases of “simple” trafficking (§ 180b a.F. StGB) and pimping (§ 181a StGB)\textsuperscript{31} – a consideration that was not included in the latest amendment of the trafficking provisions.

Dropping of Trafficking Charges

It is generally assumed that trafficking proceedings are often stopped; at the same time the law enforcement agencies prefer to base their investigations on other penal provisions that are easier to prove.\textsuperscript{32} In this respect, the project produced the following results: In principle, the file analysis could not deliver general information on the quota of discontinued proceedings as the files were not a random sample. Nevertheless, the analysis reflects the assumed selection process: Public prosecutors stopped the proceedings against two thirds of those suspected of THB. In the remaining cases, almost half of the trafficking charges were dropped by the courts. In the interviews, representatives of the police and the judiciary confirm these observations.

\textsuperscript{27} In 5 cases, police informants were used; undercover agents and investigations by financial intelligence units were recorded in one case respectively.
\textsuperscript{28} Frequency of responses: police: „important“ 94%; public prosecutors: „important“ 95%; judges: „important“ 71%.
\textsuperscript{29} Frequency of responses: police 87%; public prosecutors: 75%; judges: 60%.
\textsuperscript{30} The 37. StrAendG amended the German Code of Criminal Procedure in so far as telecommunication monitoring is now applicable in all cases of serious trafficking for sexual exploitation as well as exploitation of labour as far as they amount to indictable offences.
\textsuperscript{31} Approval in respect to „Simple“ Trafficking (frequency of responses): police 71%; public prosecutors: 52%; judges: 26%. Approval in respect to Serious Trafficking: police 67%; public prosecutors: 51%; judges: 20%.
\textsuperscript{32} Vgl. Markus DREIXLER, Der Mensch als Ware (Frankfurt a.M. 1998), 253.
According to the research findings, investigations in trafficking cases tend to be based on numerous provisions. In the analysed files, the law enforcement agencies based their investigations routinely – apart from THB – on pimping, the smuggling of migrants, the promotion of prostitution, and other regulations. This parallelism in the course of investigations is also reflected in the provisions for which the suspects were charged and convicted. The following table shows that trafficking charges are dropped more frequently until the termination of judicial proceedings than other allegations.

Table 1: Charges against Suspects by Level of Proceedings and Types of Crime

<table>
<thead>
<tr>
<th>Provision</th>
<th>Investigations (149 Suspects)</th>
<th>Indictments (57 Suspects)</th>
<th>Convictions (42 Suspects)</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Simple” Trafficking (§ 180b a.F. StGB)</td>
<td>86</td>
<td>28</td>
<td>19</td>
</tr>
<tr>
<td>Serious Trafficking (§ 181 a.F. StGB)</td>
<td>104</td>
<td>33</td>
<td>14</td>
</tr>
<tr>
<td>Pimping (§ 181a StGB)</td>
<td>64</td>
<td>30</td>
<td>22</td>
</tr>
<tr>
<td>Promotion of Prostitution (§ 180a StGB)</td>
<td>41</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>Migrant Smuggling (§§ 92a, 92b AuslG)</td>
<td>53</td>
<td>22</td>
<td>19</td>
</tr>
<tr>
<td>Others(^{33})</td>
<td>42</td>
<td>39</td>
<td>26</td>
</tr>
<tr>
<td>Total of Charges</td>
<td>390</td>
<td>162</td>
<td>102</td>
</tr>
</tbody>
</table>

Relevance of Alternative Provisions

In the interviews, participants stress the relevance of provisions criminalising the smuggling of migrants in relation to the discontinuation of trafficking proceedings. In the questionnaire study, representatives of law enforcement agencies state that trafficking proceedings regularly bore relation to human smuggling.\(^{34}\) Roughly four fifths of the police officers and three quarters of the public prosecutors and the judges respectively affirm the hypothesis according to which inci-

\(^{33}\) “Others” (16%) included forgery of documents and drug trafficking (unascertainable: 7%). Multiple responses were possible.

\(^{34}\) Frequency of responses: police: 36% and 38% respectively; public prosecutors: 23% and 22% respectively.
dents of THB are often registered as people smuggling which in turn reduces the explanatory power of statistics on THB. Approximately three quarters of the police officers state that in cases in which THB and smuggling are both applicable they regularly put the focus of the investigation on the trafficking aspect. On the other hand, only 45% of the public prosecutors indicate to do the same. The answers of the prosecutors can reflect a diverging assessment of the investigative results compared to the police. This applies foremost to the question of whether a reasonable suspicion for charging a suspect for THB is given. However, other research findings indicate that the answers of the prosecutors also reflect the fact that smuggling is easier to prove than THB.

**Reasons for Dropping Trafficking Charges**

In the face-to-face interviews, representatives of the police and the judiciary state that – due to the necessity of economic decision making – the focus of investigations on THB often turn to migrant smuggling. According to the interview results in regard to THB the gathering of evidence is especially difficult due to the difficulties surrounding the encouragement of victims to come forward as witnesses. Forty-two per cent of the participants of the questionnaire study agree with the hypothesis according to which the difficulty of proving THB will always impede significant investigation numbers. Other potential problem areas as gaps in legal provisions or the complexity of the trafficking provisions are said to be only of minor relevance.

According to the participants, the need for efficiency is the reason for another characteristic of trafficking proceedings: Deals between the court and the defendant, which often lead to the dropping of charges for THB. The fact that in the analysed files the court proceedings averaged out at four days (median: 1,5) is another indicator for the frequency of deals.

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37 In the written interviews, 54% of the participants stated that charges for trafficking were often dropped due to difficulties of evidence, and that investigations turned to other provisions instead.
39 In the written interviews, 88% of the police officers, 96% of the public prosecutors, and all of the judges negated whether §§ 180b, 181 a.F. StGB contained legal gaps. The majority of participants stated that the complexity of §§ 180b, 181 a.F. StGB occasionally lead to the dropping of trafficking charges.
40 Only three of the analysed files contained references to deals during court proceedings.
Competencies
The study shows that the competency for trafficking cases is mostly within the hands of specialised police units. In the file analysis, 63% of the cases were dealt with by specialised police units. The frequency of charges for THB correlated with the handling of a case by a specialised police unit.

In the questionnaire study, 95% of the police officers and 82% of the public prosecutors indicate that within their department trafficking cases were dealt with by specialised units. Equally, special investigation groups operate. However, in the questionnaire study the majority of representatives of the police indicate that within one police department several specialised police units are in charge of trafficking cases. In addition to this parallelism of competencies, within the individual units THB is usually only one area of crime among others. As THB is especially difficult and time consuming to investigate, other crimes are regularly given priority. Against this background, most participants are strongly in favour of concentrating the competencies for THB in one single specialised police unit. The crime of THB necessitates a high grade of specialisation in the face of complex legal provisions, organised crime structures, the need for insights into the red light district and the difficult handling of victim-witnesses.

Directives and Recommendations
In the questionnaire study, about half of the police officials and one fifth of the public prosecutors indicate that their departments made use of special directives or recommendations regarding trafficking cases. The majority of participants assess these directives as very important. The comparison of the different Federal States shows that directives of this kind are more prevalent in those states which

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41 76% of the police officers pointed out ad hoc special investigation groups, 10% referred to permanent special investigation groups. In all of the provinces evaluated in the project, ad hoc special investigation groups operate that not only encompass criminal investigators of the police but also members of the Federal Border Guard (20%) and – except for Berlin and Hamburg – the aliens department (17%). Permanent cooperation with the Federal Border Guard are limited to Baden-Wurttemberg, Brandenburg, and Hamburg.

42 Frequency of responses: 56%; unascertainable: 22%. As far as the competency of several specialised police units within one department was affirmed, it concerned mostly 2 to 3 units (47% respectively 30%).

43 In the questionnaire study, 64% of the police and 70% of the public prosecutors were in favour of the organised crime units to be solely in charge for trafficking cases. The installation of a trafficking unit of its own was considered necessary by 60% of the police but only by 22% of the public prosecutors.

44 The directives and recommendations regularly cover challenges surrounding initial trafficking suspicions, the course of investigations, indicators of trafficking, victim protection, as well as the interrogation of victim witnesses.
account for high trafficking rates. Furthermore, directives are more often found in police departments of cities with more than 100,000 inhabitants.

Transborder Cooperation

According to the file analysis, cases that made use of the Interpol information system or that requested legal assistance (21% and 6% respectively) more often lead to a conviction for THB. In the questionnaire study, about as many participants indicate positive as negative experiences with mutual legal assistance in trafficking cases. Difficulties concern mostly the late response to letters rogatory and the lack of cooperation of the requested states. Also, insecurities are admitted to be caused by lack of trust in how far the requested departments adhered to the rule of law. Finally, the lack of specially assigned contact persons is pointed out. These difficulties are primarily expressed in relation to the countries of origin of trafficking victims, thus concerning mainly middle and eastern European countries. However, criticism – especially concerning the length of mutual assistance and the lack of cooperation – was also expressed in regard to other western European countries.

2. Characteristics of Victims

The victims were assessed with respect to general characteristics, the process of victimisation, and their role in criminal proceedings.45

General Characteristics

The results of the file analysis correspond to previous insights into the social profile of trafficking victims: A large majority (79%) stemmed from middle and eastern European countries46, primarily from Lithuania, the Ukraine, Poland, Romania, and Russia. 99% of the victims were women, mostly unmarried and on the average 23 years of age. Almost one third indicated that they had been unemployed at the time of recruitment.47 38% described their economic situation at the time of recruitment as “poor”.48

Recruitment

The majority of the victims registered in the file analysis came to Germany and into prostitution on the initiative of suspects. Most of the victims indicated that

45 Altogether 348 victims were registered.
46 Middle and eastern European countries included here Bulgaria, Estonia, Republic of Yugoslavia, Latvia, Lithuania, Republic Moldova, Poland, Rumania, Russia, Slovakia, Slovenia, Czech Republic, Ukraine, Hungary, and the Republic of Belarus (see Situation Report 2003, 5).
47 Unascertainable: 50%
48 Unascertainable: 57%
before the actual recruitment there had been some kind of loose contact to the recruiters, or that ties existed as acquaintances, relatives, or family (38%)\textsuperscript{49} According to the interview results, victims and offenders are often of the same nationality or ethnic group; here also contacts between offenders and victims before the time of recruitment were pointed out. Participants of the face-to-face interviews indicated that the victims are often recruited by female acquaintances as the victims are believed to trust women more easily. The following figure shows the results of the written interviews.

Figure 3: Statements of Participants on Victim-Offender-Relationships – Frequencies (Mean Values)

Motivation of Victims

The study shows that at the time of recruitment the vast majority of the recruited victims sought employment in Germany.\textsuperscript{50} According to the results of the file analysis and the questionnaire study, about as many want to work outside of the prostitution scene as inside. Within the latter group in turn one has to distinguish between those who acted purposefully and

\textsuperscript{49} Unascertainable: 50% \textsuperscript{50} File analysis: 34% (unascertainable: 52%).
those who suspected the recruiters of wanting to lure them into prostitution. Some of the victims registered in the files had already been apprehended before by the German police for illegal prostitution; others already worked as prostitutes at the time of recruitment.

In the face-to-face interviews, almost all participants speak of their experience according to which “open” recruitment or at least a certain foreboding of the victims was the rule. However, in cases in which at the time of recruitment the victim appears ready to engage in prostitution, he/she is often mislead about the working conditions. As a rule, the victims’ problems ultimately start after their arrival in Germany once they are confronted with difficult working conditions and deprivation of personal liberties.

The following figure shows the results of the written interviews regarding the frequency of recruitment methods concerning foreign trafficking victims.

*Figure 4: Responses of Participants to Different Recruitment Methods of Foreign Victims – Frequencies (Mean Values)*

51 File analysis: 67 of the victims stated that they had been seeking work outside of the prostitution milieu; 49 were ready to engage in prostitution at the time of recruitment. More than 70 indicated that at the time of recruitment they had been aware or at least suspicious of the aims of the recruiters – that is to bring them into prostitution.

52 46 and 38 victims respectively.

53 The term “open recruitment” is to be understood as the situation in which the perpetrator recruits the victim explicitly for prostitution purposes.
In the face-to-face interviews, participants point out how the perpetrators take advantage of the fact that the women were desperate to earn money in Germany to escape poverty and the lack of perspectives in their home countries. As a consequence, the recruiters often meet women prepared to migrate who initially welcome the recruiters as facilitators of their migration, their search for work and accommodation, and their start of employment. Typically, the victims realise their victimisation not before they start working as prostitutes. But even then the women can often be kept in check for a long time with little remuneration as the sums paid still largely exceed the wages in their home countries. This explains why many victims – irrespective of whether they are lured into prostitution with false promises or deceived about working conditions – come to terms with exploitive working conditions, at least temporarily.

**Use of Deception, Coercion, Force**

According to the experience of the interview participants, deception, coercion, or force can occur in every phase of THB. However, deception is mostly observed at the time of recruitment whereas coercion and force are more frequent at the time the victim is brought into prostitution. In the latter context, participants stress the prevalence of psychological pressure exerted on the women. The perpetrators did not have to take recourse to physical violence. Instead, they take advantage of the already stated fact that many victims are desperate to earn money. Furthermore, they benefit from a “structural” dependency of the women due to their illegal residence status, their fear of deportation, as well as their foreigner specific vulnerability (ignorance of the German language, lack of orientation, and lack of social bonds). The perpetrators reinforce this structural dependency by debt bondage, the threat of reprisals, and misinformation regarding the autonomy of the German police and judiciary. Typically, many victims experience their situation in the prostitution scene as hopeless.

**Relevance of Victim-Witnesses**

The project results comply with previous results according to which the victims’ testimony is of high relevance for proving THB in practice. The need for comprehensive testimonies as well as the presence of the victims during proceedings becomes apparent. In the analysed files, public prosecutors regularly stopped

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54 In the analysed files, 235 of the victims had been exposed to some form of psychological or physical coercion for the purpose of intimidation. This includes threats of reprisal against the women themselves or against family members, debt bondage, the taking away of passports, physical violence, deprivation of liberties, sexual violence, and intimidation with firearms.
trafficking proceedings on the grounds that the victim was not ready to testify, the testimony was not credible, the victim’s testimony was insufficient evidence, or that the victim was no longer at the judiciary’s disposal. In the questionnaire study, participants unanimously confirmed the hypothesis, according to which the victims are of central importance for successful prosecution.55

**Limited Possibility to Testify**

As stated before, in trafficking cases provisions criminalising the smuggling of migrants (§§ 92a, 92b AuslG) often also apply. Articles 92a, 92b AuslG require that the smuggled person him- or herself violates § 92 AuslG by illegal entering or illegal residing in Germany.56 As far as victims from non EU-members are concerned, they regularly violate the Aliens Law when taking up prostitution.57

In the analysed files, 88% of the victims violated the Aliens Law.58 Deportation measures were commenced against 55% of the victims.59 13% of the victims were given temporary residence permits; 5% appeared as witnesses in court proceedings. In the file analysis, a correlation was found between the availability of at least one victim-witness in the proceedings and the frequency of charges for THB. In the questionnaire study, participants concede that trafficking investigations were “occasionally” or “often” impaired by early deportation of potential victims (35% and 18% respectively).60 In the interviews, the following reasons for early deportations were listed: Regularly, the women refused to make a statement when apprehended by the police. This in turn made their identification as a victim of THB very difficult and regularly caused the immediate deportation of foreign victims. On the other hand, the findings of the questionnaire study reveal that the issuing of residence permits presupposes the victim’s readiness to give testimony and that the law enforcement authorities value such a testimony as a mandatory piece of evidence.

The law enforcement authorities are faced with a dilemma, if (potential) victims of THB are not prepared to give evidence: On the one hand – as the interviews indicate – the suspension of immediate deportation has a positive effect on the women’s willingness to testify. On the other hand, the responsibly authorities

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56 Meanwhile § 92 AuslG has been replaced by § 95 AufenthG.
57 Victims of trafficking often enter Germany with a tourist visa that does not entitle them to take up work.
58 Unascertainable: 7%.
59 Unascertainable 34%.
60 Frequency of responses: “never”: 10%; “seldom” 31%; “almost always” 7%. This aspect was predominantly pointed out by judges and least frequently by public prosecutors.
are not in the position to grant residence permits as long as the person’s stay is not of significant interest to the German public. This in turn requires the person’s willingness to serve as witness or at least an indication of his/her victimisation. In this context the General Administrative Regulation to the Aliens Law (AuslG-VwV) – at the time of research still in force – is of relevance. This regulation foresees potential victims to be granted a four week period of time in cases with a concrete suspicion of THB. 61 The primary purpose of the time period is to give the persons involved the possibility to prepare for their voluntary return to their home countries. However, the period can also be used to encourage the (potential) victims to come forward as witnesses. In the face-to-face interviews, members of relief organisations and lawyers for joint plaintiffs illustrate how in practice this administrative regulation is mostly applied only in those cases in which the person concerned is willing to testify, thus disregarding situations in which the trafficking suspicion is caused by other investigation findings. The administrative regulation, however, does not require a victim’s statement but only demands a concrete suspicion of trafficking regardless of the source.

**Limited Willingness to Testify**

As already stated, the files indicated how most of the persons registered as victims were put under pressure by the traffickers. The victims’ preparedness to serve as witnesses can considerably be reduced by deception, coercion, or force. The role of foreign victims as accused is also relevant. In the analysed files, against 67% of the victims investigations were commenced due to violations of the Aliens Law. According to the interviews, the victims often refuse to make a statement as they are afraid to be deported for illegal prostitution. Naturally, the reasons that reduce the victims’ readiness to testify may also keep them from reporting their case to the police.

**Limited Credibility of Testimony**

In the file analysis, no correlation could be identified between unsteady and inconsistent testimonies of victim-witnesses and the dropping of charges for THB. However, in the interviews, participants emphasise that the victims’ statements are often accredited only limited credibility, which in turn – due to the central role of the victims in the criminal proceedings – leads to the dropping of charges for THB.

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61 AuslG-VwV, 42.3.2. As stated above, the Aliens Law (AuslG) was replaced by the Residence Law (AufenthG) as of 1 January 2005. Equally, the General Administrative Regulation to the Aliens Law has been abrogated. So far no succession regulation has been decided upon.
According to the questionnaire study, the victims’ credibility is usually reduced due to the inconsistency of their statements. The same applies to cases in which the victim worked as a prostitute before being recruited, or if the victim continues to work as a prostitute during criminal proceedings. Moreover, the participants accord importance to situations in which victim and offender colluded at least temporarily due to common interests. As indicated above, victims often deliberately choose to work as prostitutes in Germany and are willing to work together with the traffickers as at least at the outset. According to the interviews, these situations often require evidence that the victims were kept in prostitution against their will.

In the face-to-face interviews, members of the police, the judiciary, and lawyers for joint plaintiffs point out the difficulty of proving coercion inflicted upon the victims to keep them in prostitution. Some participants criticise the police and the judiciary for premature dropping of trafficking charges in cases in which the victim worked as prostitute before being recruited or continued to work as prostitute during criminal proceedings. Irrespective of problems of evidence, women who deliberately engage in prostitution (at least to a certain degree), are often not assessed as THB victims – mainly due to a stereotypical image of THB that is still prevalent among the police and the judiciary. As a consequence, prostitutes are often assigned comparably lower credibility. Furthermore, in the face-to-face interviews participants point out the difficulty of proving psychological coercion in evidence.

As indicated above, offenders predominantly apply psychological pressure to bring the victims into prostitution or to keep them from giving up prostitution. Lawyers for joint plaintiffs criticise how in court proceedings psychological pressure is only evaluated as coercion in cases in which the victim made a recognisable effort to resist the offender. Representatives of the police also criticise how the judiciary often discontinue charges for THB in cases in which physical force could not be substantiated. On the other hand, representatives of the judiciary point out how in comparison to physical violence psychological forms of coercion are much more difficult to prove in evidence as was necessary for a conviction.

According to the members of the judiciary, the illustrated problems of credibility and evidence can only be solved by the victims themselves. Inconsistencies in statements can be corrected if the victims convincingly manage to explain them. A comprehensive account of the victim’s motivations and expectations regarding their entry to Germany and their work as prostitutes is of decisive importance. A victim’s account as a prostitute or as a deliberate prostitution migrant
proves problematic only if revealed as late as in court proceedings. However, in practice this is often the case and provides a legitimate target for the defence. Against this background, the police are urged to intensify their efforts when interviewing the victims, in particular to ask more detailed questions while at the same time keeping the legal requirements of the trafficking provisions in mind.

**Care for Victims and Victim-Witnesses**

Only 13% of the victims registered in the file analysis were taken care of by specialised relief organisations as well as represented by a lawyer. In these cases, the frequency of convictions for the charges of THB proved to be higher. According to findings of the interviews, relief organisations and lawyers help to stabilise the victims emotionally, encourage them to stand up as a witness, and prepare them for their role in the judicial proceedings.

In the questionnaire study, 67% of the policemen state that their department has institutionalised their cooperation with specialised relief organisations through internal directives, enactments, contracts, or personal contacts. Not all of these participants, however, actually contact the organisations in every case of suspicion of THB.  

In the face-to-face interviews, members of relief organisations and lawyers for joint plaintiffs criticise how their involvement in the process depends on the individual commitment of the police officer in charge. They demand early involvement in trafficking cases in order to be in a position to adequately represent the victims’ interests. At the moment, the capacities of relief organisations are often inadequate due to limited resources.

In cases in which the police believed the victim to be in danger of retaliation (16%), the police initiated protective measures. Of the persons concerned, 5% were taken into a victim protection programme. The others received care beneath the threshold of a victim protection programme that was provided by the police and/or relief organisations. Participants of the questionnaire study explain how victim protection can fail due to the victim’s refusal to accept the proposed measures of care and protection. Lack of capacities or disputes over financial responsibilities of the responsible authorities are of secondary importance.

**Difficulties of the Victim-Witnesses’ Situation**

Among the respondents, different views prevail whether THB victims testifying as witnesses are to be granted permanent residence permits for the time of crimes.
nal proceedings or even after the determination of the case. On the one hand, some participants perceive this as a way to protect victims better against being objectified to the interests of law enforcement agencies. On the other hand, others – especially members of the police and the judiciary – point out the risk of false testimonies and uncontrolled illegal immigration. Here, a collision of law enforcement interests to win the victims as witnesses on the one hand and the fear of abuse of victim privileges as well as uncontrolled illegal immigration on the other hand becomes evident.

Members of relief organisations and lawyers for joint plaintiff describe the situation of victim-witnesses as extremely difficult due to the following reasons: Low financial support as asylum seekers, restricted access to the labour market, inadequate care of police and relief organisations, separation from their family, fear of retribution of offenders, repeated traumatisation due to numerous interrogations, and fear of deportation after closing of proceedings. Against this background, victims have to be thoroughly informed to put them in the position of calculating the pros and cons before they actually consent to give evidence. Experience shows that in practice those victims that are better informed prove to be more stable and provide more reliable testimonies in the proceedings.

3. Characteristics of Offenders and Crime Structures

The offenders were assessed in respect to general characteristics, their role in the prostitution scene, as well as their role in criminal proceedings. Furthermore, crime structures especially in relation to organised crime were evaluated.

**General Characteristics**

According to the file analysis, the suspects were mostly Non-German. Among the variety of nationalities, however, Germans dominated (38%), followed by Turks (12%), and suspects from MOE-countries (29%). The average age was 23 years and 85% of the offenders were males.

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63 In the written interviews, 50% of the judges, 60% of the public prosecutors, and 65% of the police officers agreed with the thesis according to which a liberal regulation of the victims’ residence status implied the danger of abuse in so far as migrants could acquire permanent residence status’ by false statements.

64 In the file analysis, 149 offenders were recorded altogether.

65 Of these, 20% were not born in Germany but mostly in MOE-countries.
Crime Structures

In regard to the widespread assumption according to which THB is a form of organised crime, the project produced the following results. In the analysed files, only one police report contained a corresponding remark. In the questionnaire study, the large majority of participants express their view according to which THB is a core area of organised crime. This assessment, however, does not necessarily reveal further information on the frequency of organised crime structures. Only in some of the analysed files single criteria could be assessed that are characteristic of organised crime.

Group Structures

According to the results of the file analysis and the questionnaire study, criminal groups engaged in THB are predominantly composed of two to five members, followed by groups of six to ten persons. Only rarely, THB is carried out by single offenders or larger groups. In the face-to-face interviews, a public prosecutor explains how the core of the groups tended to encompass three to five persons that are supported by accessories. In this context, it needs to be pointed out that the German law enforcement agencies have only limited knowledge of the recruitment and infiltration of the victims, as long as those take place outside of Germany. Accordingly, the actual size of the criminal groups might exceed the aforementioned figures. This was confirmed by a police officer in the face-to-face interviews who states that investigations often concentrate on the prostitution venue. For the German police, foreign offenders that were only temporarily in Germany without permanent residence are especially difficult to track down. This in turn also explains the predominance of German offenders in the Situation Reports by the Federal Criminal Police Office.

Furthermore, the findings indicate that criminal groups with a stable structure dominate THB rather than coincidental or alternating forms of criminal cooperation. As far as group structures were assessed, these are characterised by a differ-

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67 Frequency of responses: police: 69%; public prosecutors: 91%; judges: 79%.

68 The project adapted its categories to the „General Indicators for the Identification of Organised Crime Related Cases“ (Guidelines for Proceedings on Indictable and Summary Offences (RiStBV) A 15, E (imprinted in Lutz MEYER-GOßNER, Strafprozessordnung (Muenchen 2004), Appendix)).
ing intensity of bonds. Gangs or networks prevailed over other forms of cooperation. In the analysed files, about two thirds of the criminal groups were characterised by a hierarchical structure with a leader at the top and a distribution of responsibilities. However, none of the files contained evidence of a stable, mafia-like criminal organisation (strong bonds between group members, system of dependencies and authorities, internal sanctions). The findings show further that the offenders were mostly family members, shared the same ethnic group or nationality, or were acquaintances. In the face-to-face interviews, participants pointed out the dominance of criminal groups composed of foreign nationals. In comparison to offenders of German origin these are marked by a stronger networking and a higher propensity to violence. According to a public prosecutor, hierarchical group structures are most characteristic for criminal groups specialised at the smuggling of migrants. Furthermore, it is pointed out that even in cases in which the structure of foreign criminal groups did not necessarily differ from that of German criminal groups, the former could more easily hide from the public. This in turn complicates the infiltration of investigators.

Prostitution Venues

Despite the still predominant role of brothels and brothel-like venues, offenders increasingly withdraw to more anonymous forms of prostitution as a reaction to police control measures. Thus, in the interviews, participants point out the increasing relevance of apartment prostitution and private clubs and describe the shift from city centres and urban areas to city outskirts and rural areas. Here, the police have greater difficulties to gain insight knowledge of the prostitution scene and of criminal structures involved in THB. Also, the possibilities to discover potential victims are reduced. Finally, in rural areas the competent law enforcement agencies are less capable of efficiently investigating the typically complex trafficking cases due to less resources and a lower level of specialisation.

69 In the file analysis, the victims were discovered in the following prostitution establishments (multiple nominations were allowed): brothel/brothel-like venue (49%); bar/restaurant/hotel (29%); apartment (24%); street prostitution (15%).

70 In the questionnaire study, 72% of the police, 42% of the public prosecutor, and 50% of the judges answered in the affirmative, whether foreign women engaged in illegal prostitution were increasingly detained in apartment and hotel prostitution instead of brothels.
Involvement of Brothel Owners

In the analysed files, the suspects were mostly pimps, owners/managers/leaseholders of brothels or third persons, watching over the victims (37%, 18%, and 15% respectively). Their involvement in the trafficking process concentrated primarily on placing the victims in prostitution facilities. According to interview participants, brothel owners usually engage in THB by "commissioning" the recruitment and/or placing the victims in prostitution.

In how far brothel owners actively control the victims in prostitution, depends on whether the recruiter "sells" the victim to the brothel owner or whether the recruiter him-/herself stays as watchdog and pimp in Germany and "rents" the victims to brothel owners. Most of the time, brothel owners do not actively coerce the victims but resort to taking their earnings. Other forms of involvement of brothel owners consist in organising the rotation of victims and their procuration against payment. Their direct involvement in recruiting or smuggling of victims is much less frequent. The rotation aspect reveals the close interconnection of brothel owners. A number of participants were of the opinion that brothel owners are often actually aware of victims being subjected to coercion or at least suspected it. However, they prefer to ignore this for financial reasons and in doing so they benefit from the exploitation of the victims by their countrymen.

Other Characteristics

The criminal groups recorded in the files tended to traffic one to five victims. However, in a number of cases 11 to 20 and 21 to 50 victims were registered (average 9; median 4). Roughly one fourths of the registered victims in the files were subject to rotation in terms of being placed in different places of prostitution. In regard to 50% of the victims, rotation could neither be proven nor excluded. In the questionnaire study, 82% of participants state how victims are regularly subjected to rotation. For the law enforcement agencies, the rotation of victims increases the complexity of investigations: A change of the place of prostitution can lead to a change of competency of the police or the Public Prosecution Service. Furthermore, the localisation and identification of victims and perpetrators is hampered.

The research results confirm previous insights into the extreme profit orientation of the offenders. This is shown on the one hand by the fact that the victims are regularly taken away more than half of their earnings. On the other hand, in

71 Of the victims registered in the files, 72% were taken their earnings; in the other cases this could not be definitely excluded. In 205 cases the suspects took more than 50% of the victims’ earnings.
31 of the analysed cases, at least one victim was “sold”, with “prices” ranging from between 250 and 25,000 Euro if identifiable (average 4,700 Euro; median 3,000 Euro). Finally, many of the victims were kept in debt bondage. According to the face-to-face interviews, the victims are reduced to a commodity.

Only to a certain extent could the project confirm assumptions according to which police officers particularly are susceptible to corruption in cases of THB. Incidents of corruption were found in six of the analysed files. In the questionnaire study, most of the participants state to only “seldom” or “occasionally” have made the experience of suspects being tipped of in advance of police measures. On the other hand, the answers allow the conclusion that the majority of participants have experienced such a warning at least once. Most of the participants negate special strategies to prevent the involvement of police officers or public prosecutors in the prostitution milieu.\(^{72}\) As far as such strategies are affirmed, they consist mostly in the rotation of persons in charge.

The majority of participants of the questionnaire study affirm the thesis according to which brothels housing victims of THB are often run by front men (87%).

**Sanctioning**

According to the results of the file analysis, THB is commonly not at the outset of criminal careers. 37% of the accused had been previously convicted. However, of these only six had been convicted for THB or related crimes such as pimping. In cases of a conviction, the sanctions for THB were comparatively high. Thus, the majority of the convicted were sent to prison with an average prison term of 28 months (THB: 33 months; other crimes: 21 months). As far as the suspension of sentences was possible, probation was generally granted.

**B. Conclusions and Recommendations**

The project results allow for the following conclusions and recommendations:

- The recorded number of trafficking cases reveals little of the actual extent of THB. Due to the interdependency of proactive policing, resources and the number of investigations, the statistics reflect primarily the activities of the law enforcement authorities. Fluctuations in investigation numbers as well as differences in the regional distribution can be explained against this background.

\(^{72}\) Frequency of responses: police: 76%; public prosecutors: 94%.
• The adequate handling of trafficking proceedings depends largely on one single specialised police unit being in charge. However, at the moment often a multitude of competent specialised units can be observed, none of which exclusively focuses on THB.

• The handling of trafficking proceedings should be further professionalized by introducing national directives and guidelines. In practice, victims of THB should be consistently given time to prepare for their voluntary return. This facilitates the encouragement of victims to come forward as witnesses, especially in cases in which a trafficking suspicion is not caused by a victim’s statement but by other investigation results. The research findings show that the victims’ willingness to testify requires time consuming measures to win their trust. Accordingly, the four weeks time period that could formerly be granted according to the meanwhile abrogated General Administrative Regulation to the Aliens Law should be reintroduced and even extended, if necessary. For those victims that agree to testify in criminal proceedings, a residence permit has to be considered until the closing of court proceedings.

• A timely cooperation of police and relief organisations helps to stabilise the victims and to foster their willingness to serve as witnesses. The same applies to an early involvement of lawyers. At the same time, an adequate financial support of relief organisations should be guaranteed. At the moment, only a small percentage of victims of THB profits from such measures of care.

• The research findings reveal the central importance of the victims’ testimony for producing evidence in trafficking cases. Increased attention has to be paid to a detailed questioning of victim-witnesses that is oriented at the legal requirements of the trafficking provisions. Prejudices against the credibility of victim-witnesses that solely stem from the victims’ (former) involvement in prostitution should be avoided.

• In cases of transnational cooperation the need for more professionalism became evident, primarily concerning the length of requests for mutual legal assistance, the lack of cooperation of requested authorities, insecurities caused by lack of trust, as well as the lack of contact persons.

• The 37. StrAendG of 11 February 2005 defines trafficking committed by gangs as another qualified form of trafficking. This confirms research findings according to which gang trafficking is not only a typical crime structure but also one of high risk potential. The same can be said about the explicit

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73 See the newly introduced § 232 par. 3 No. 3. StGB.
criminalisation of acts that promote trafficking.\textsuperscript{74} From now on certain criminal acts are covered, which were not included in the general regulations on abetment.

- The 37. StrAendG changed § 154c of the Code of Criminal Procedure (StPO) to the extent that from now on the public prosecutor can refrain from investigations in cases in which a victim reports acts of coercion or blackmail, thereby revealing acts of delinquency of his/her own. This reform is to be welcomed as it can help to improve victims’ willingness to give evidence. However, the new regulation is not far reaching enough as it requires that the victim officially files a report first. As the file analysis shows, the discontinuation of proceedings against victims of THB for violating regulations on aliens is already common practice. To make the prosecution of THB more effective, public prosecutors should be given the possibility to grant potential victims of THB exemption from punishment for violations of the aliens law independently from a victim’s prior statement.

- In the interviews, the importance of telecommunication monitoring was emphasised. Against this background, the widening of the scope of telecommunication monitoring by the 37. StrAendG may enhance the effectiveness of investigations. From now on telecommunication monitoring is applicable in all cases of serious trafficking for sexual exploitation as well as exploitation of labour as far as they amount to indictable offences.\textsuperscript{75}

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\textsuperscript{74} See the newly introduced § 232 a StGB.  
\textsuperscript{75} See Art. 2 No. 2 StrAendG.