

STRENGTHENING LAWYERS LEGAL KNOWLEDGE AND COOPERATION WITH PROSECUTORS AND JUDGES TO PROTECT VICTIMS OF HUMAN TRAFFICKING RIGHTS IN THE JUDICIAL PROCEEDINGS



Financed by the Justice Programme of the European Union

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Part I / Strategies to fight trafficking in human beings

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TRAINING MAY 2017, BUCHAREST, ROMANIA

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Anti-Trafficking-Strategies in Germany

- 16 Federal states e.g. **NRW** (17.8 million inhabitants)
 - state Police (LKA), Local Police (NRW: 47)
 - Prosecution offices
 - 3 District Prosecutor (GStA)
 - 19 local Prosecutor's office (StA)
- Courts
 - 3 High Courts (OLG)
 - 19 District courts
 - 129 local courts



„Dortmunder Modell“



- installed in November 1995
- in 1998 488 potential victims were arrested
 - Mitternachtsmission
 - criminal investigations in trafficking in human beings
 - trials
 - convictions

„Dortmunder Modell“ means

Co-operation of the following institutions:

- Police, prosecutor, NGOs
- Public order office, building regulation office
- Immigration authorities, Tax Office
- Social welfare office, Pension agency
- Operators of brothels
- Self-employed prostitutes

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Part II: Protection of victims of trafficking in human beings

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WHAT DO VICTIMS NEED?

- at first encounter ➔ First Aid
- during the proceedings
 - legal support
 - During the criminal proceedings
 - Concerning social welfare
 - Immigration laws
 - Civil compensation
 - State compensation
 - financial support
 - social support
 - psychological support



What can go wrong?



- fail to establish trust
 - by giving no explanations
 - by leaving the victim alone
 - by using the victim as a source of information only and turning the person into a legal object
- refuse legal, social or psychological
- being impatient

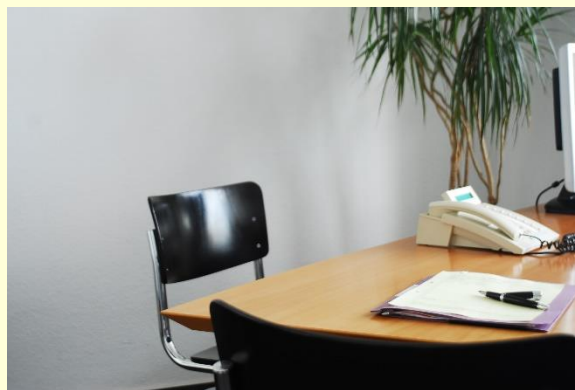
Our world



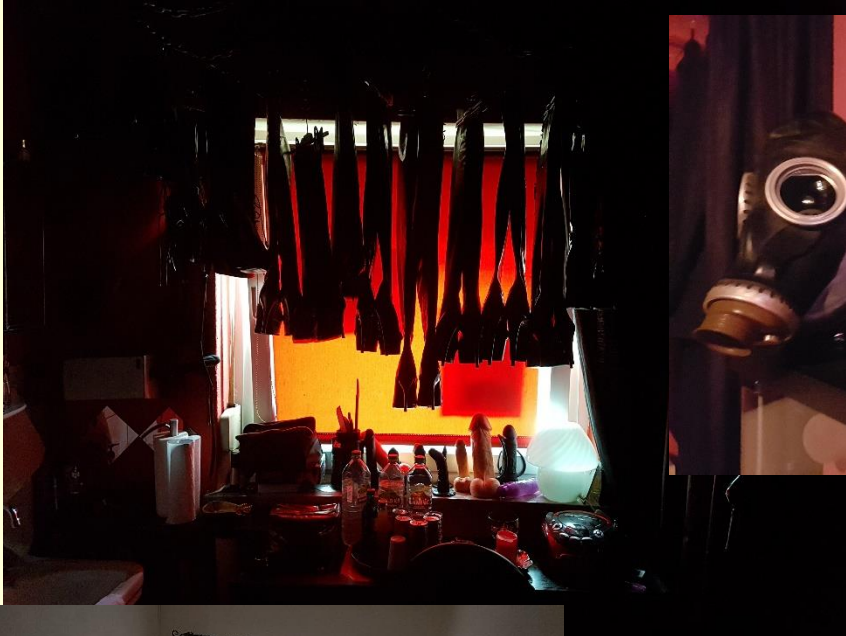
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A victim's world



© Ruhrnachrichten



Imagine....

you are a victim...

Protection of victims



Why a lawyer?

Because the lawyer

- in Germany has the monopoly of legal counselling
 - no other person than the judges, a court appointed expert, the prosecutor or a lawyer have access to the files
- guarantees the principal of equality in arms
 - by enjoying the same legal education: principle of fully qualified lawyer
 - by being free of the directive and only being amenable to the law
 - by being monitored by it's own jurisdiction (Bar Chamber and Court of Professional Conduct)
- is obliged to discretion ad confidentially
- acts solely for the client and is not allowed to represent conflicting interests sent

How to guarantee legal support for the most vulnerable in our society

- obliging the lawyer to accept
 - every client
 - special low fees for economical disadvantaged people
- to grant Legal aid at public expense
 - for lawsuits → PHK/VKH (1879)
 - out-of-court-procedures → Beratungshilfe (1980)

Necessities




Problems


- low threshold access to any kind of counselling
 - network between lawyers and other assisting groups and law enforcement
 - streetwork
 - improvement of education for legal professionals and the police
- change in society y immigration
 - from the young EU-member states
 - from former CIS-States
 - by refugees
 - Globalisation
 - mistrust of the victims
 - corruption

What the State can do

Maintain victim protection through

- informing the victim about her/his rights
- witness protection programs
 - guaranteeing confidentiality regarding their identity, address etc.
 - audio-visual interrogation 
- granting the right
 - to consult a lawyer at any state and any time during the whole proceedings
 - for social support and for psychological-social companionship during the proceedings

What the lawyer can do

- ensure witness protection
 - confidentiality regarding their identity, address etc.
 - audio-visual interrogation 
- Inform and represent the victim about her/his rights
 - as a witness i (§ 68b StPO)
 - as the damaged party (§ 406 ff StPO)
 - as a private accessory prosecution (§ 395 ff StPO)
 - as the adhesive plaintiff of a civil claim (§ 403 ff StPO)
 - to obtain psychological-social companionship
 - to have an interpreter

Why can't police detectives, prosecutors or a judges do the same?

Because they have

- to preserve their neutrality
- respect the defendant's rights

What we all can do ...

is

- keeping connected
- build up trust in each other's work
- work together
- respect the competence of the other expert's fields
- participate in training courses

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Part III: Financial compensation for victims of trafficking of Human beings in Germany

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Civil Liability

- compensation for non-material harm
- compensation for damages
- injunctive claim
- entitlement
 - of private accident insurance
 - family law
 - labour law
 - inheritance law
 - right regarding one own's image

Civil Law means

- the regulation of claims of civilians among each other
- that a criminal conviction does not imply automatically an enforceability of a civilly claim
- the burden of proof is the responsibility of the claimant
 - one word against the other e.g. in a case of rape

Financial compensation can be achieved through

- litigation against the perpetrator under civil law only
- requesting civil action within criminal proceedings (Adhesion) against the culprit
- Claiming for state compensation to victims (OEG)
- special funds

Благодарим Ви за вниманието!
Vă mulțumesc pentru atenție!
Vielen Dank für Ihre Aufmerksamkeit!

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