

## **Exit Counselling, Confidentiality, the Right to Refuse to Testify – and Germany’s Poor Sense of Inter-Agency Trust**

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**Exit interventions require a completely confidential, socio-therapeutically based work relationship. These services can only be provided by external mentors, ideally non-government practitioner, since the latter are not mandated to follow directives and adhere to official reporting guidelines. It is absolutely necessary that individuals providing these services are ensured the right to refuse to testify, for each and every court testimony on exit work clients undermines the credibility of the entire national exit program.**

**Above all, preventing violent extremism needs comprehensive societal trust among all key agents and also the public. This is challenging, since the current level of mutual trust is poor, particularly between state authorities and civil society prevent actors at large. Germany’s *Verfassungsschutz* – the domestic intelligence service – has been auditing the federal funding program *Demokratie leben!*, at one point the state of Hesse considered implementing background checks on prevent workers without due cause, and the state of Baden-Württemberg has started replacing civil society exit support by state employees to provide the same services by staff who is subject to state directives. Apparently, much more open talk and a much better mutual understanding among stakeholders is urgently needed between state and non-state actors in PVE.**

An encouraging recent development is that people are increasingly realizing that exit support, deradicalization, and the support of prosocial lifestyles can only successfully be conducted within the confines of a trusting, respectful, and mutual working relationship. This is encouraging because it signals a paradigm change from the way these same topics were approached fifteen or twenty years ago. Frustrated state employees were most famously quoted as having said, “You can’t work with these monsters!” (extremists). Not dissimilarly, many colleagues working in civic education (dt. *politische Bildung*) and social engagement simply would find it hard to imagine to work respectfully, openly and in a trusting personal working relationship with a hateful repeat offender with a neo-Nazi background and connections. Today, however, it appears to have become self-evident that a violent, extremist, or dependency-based lifestyle cannot be abandoned without a trust-building, socio-therapeutic working relationship.

**Exit Support Providers Need to be Independent/ Non-Staff – and Internal Reporting Requests**

## **be Waived**

It is not easily apparent what prerequisites and conditions need to be met in order for a trusting, respectful and socio-therapeutic relationship to emerge. Work within closed institutions such as the prison system, probation work, or youth welfare, etc., is difficult to assess. Exit support, deradicalization, and distancing interventions must be provided by external institutions, ideally by non-government actors. This point is key, since non-government affiliated organizations and individuals are not required to take direction by state superiors or adhere to official reporting guidelines, thereby facilitating a process of trust-building and ensuring trustworthiness as well as one of independent quality assurance via mediation and criteria-based, organizationally supported intervention.

And yet only the most experienced and progressive exit counsellors in Germany could make the following claim: “There are no reports ad personam, but rather solely anonymized case reports. My direct supervisors and reference offices do not know any of my clients’ names, and they only receive the statistical information I provide them. They trust that I do my work as well as possible and provide external case supervision to support me.” (Quote provided by Stefan Sass, right-wing extremism exit support professional.)

Anything else would be simply absurd, since those individuals who embark on an exit journey of their own volition surely have the right to an anonymized process in which no data is collected or reports produced about them. This voluntary aspect, along with the clients’ willingness to work with an exit professional, is as indispensable as a confidentiality guarantee. For this reason, binding judicial referrals to exit work are unfavourable – and such referrals need to be made on the basis of a non-binding recommendation.

## **Confidentiality / Obligation to secrecy**

At the very latest, it should now be clear that trust means confidentiality. Without a guarantee for both, holistic and sincere exit processes are not possible. The reasons for this should be clear. Exit processes are intimately tied to deeply personal topics: Ideology, world view, religion, one’s own life story; instances of weakness, shame, pain, hate, and violence; and crimes or other infringements of the law. This is not much different from average people when they decide to make a personal change. Anyone who feels the need for such change and who consequently chooses to see a therapist or a life coach certainly will not hire somebody affiliated with their own employer. It is important for individuals in these situations to be able to experience complete openness and reliable confidentiality.

## **Exit Support Professionals Must be Ensured the Right to Refuse to Testify**

A disheartening precedent in northern Germany further demonstrates that trust and confidentiality should also guarantee a right to refuse to testify in court. Exit counselling is a matter of trust, just like every (other) form of psychotherapeutic or socio-therapeutic counselling. It can only be provided in a truly safe space. For this reason, exit support professionals must be guaranteed the right to refuse to testify in court. It would be, at best, hypocritical for an exit support professional to work with a client and insist on total confidentiality only to be forced to disclose the client's deeply personal information shared in the exit consultation when called to testify in court. The explosive nature of this circumstance would be immeasurable, particularly since most court proceedings are publicly available. It is therefore arguable that every exit support professional summoned to testify about one of their clients in court risks irrevocably damaging or destroying both the credibility and functionality of the entire national exit program.

Nevertheless, exit support professionals from the religious extremist scene were summoned to testify in court at the beginning of 2018, an unprecedented incident in light of the last 30 years of exit work from right-wing extremism in which no such procedure had ever been enforced. It was argued that everything had been carefully considered, that the client(s) had given their consent, and that the testimony was well intended and in the defendant's best interests. However, as the saying goes, the road to Hell is paved with good intentions. If exit support professionals and processes can be instrumentalised by clients, lawyers, or courts to leave a good impression in the court proceedings, then the whole situation is just as compromised as if an exit counsellor were forced to tell all or incriminate their client in court. It is for this reason that exit support processes must be ensured to the right to refuse to testify, much the same way therapists, lawyers, (public) auditors, and tax advisors are. Anything else is untenable.

### **Societal Resilience – and the Current Sense of National Trust**

This all goes hand in hand with a third, more comprehensive focus regarding trust, confidentiality, and exit processes: Exit work — and the prevention of extremism in general — can only succeed in areas of mutual societal trust. This wholesale societal trust, particularly with regard to the places where the authorities and society meet, is an essential prerequisite for the social resilience against extremism so often referenced in current social dialogue.

Political commitments, especially at the international level, have been around for years. Neither Germans nor Europeans want to feel ashamed of domestic issues at home when entering a dialogue with the EU, the UN, or the accomplished, exemplary Scandinavian countries. This is why government representatives at the prevention summit of the German G-20 presidency in 2017 so poignantly summarized: "We should ensure mutual trust for all involved parties in the area of prevention work. Governments and civil society organizations should agree on common goals." Moreover, they should collaborate in a trusting and yet clearly defined manner, i.e. with

as little overlap as possible, since the prevention of extremism requires a high degree of national inter-agency trust. Legally ensuring exit counsellors the right to refuse to testify therefore appears not only necessary to ensure objectivity, but also as a means of sending a signal that the government has a high degree of wholesale societal trust in society. This guarantee will, in turn, strengthen societal resilience in the long-term.

### **The Current State of National Inter-Agency Trust**

The current national sense of trust among inter-agency stakeholders of prevent work is not particularly good. In 2018, it became public knowledge that 50 funding recipients conducting projects funded by the German federal government program *Demokratie leben!* had been subjected to a “situationally relevant background check,” likely due to a feeling of uncertainty on the funder’s side as to whether or not there were new potential recipients not yet on the program’s radar. This sort of procedure on the part of governmental actors should be consistently denounced for ethical reasons. Moreover, the most effective way to guarantee trustworthiness, quality and security of any approach is by means of a well-thought-out process of expert supervision and cooperative, organizationally supported intervision. A pioneering innovation that would additionally increase quality assurance is the triangular exit counselling method in tandem teams. This method is expected to be tested in an Austrian pilot project.

Moreover, in early 2018, the state of Hesse began working to conduct, without due cause, background checks into the individuals and organizations currently active in working toward the prevention of extremism. Thankfully, this process did not receive much coverage by the press, and it was ultimately averted by way of a mutual agreement. It appears, however, that the current state of national confidence and the lack of inter-agency societal trust has come to a head in the state of Baden-Württemberg. The State Ministry of the Interior has decided in 2017 to cut all funding to civil society exit support providers in order to hire around two dozen new civil servants to conduct this sensitive work. These new state employees are naturally both subject to state directives and required to prepare and present detailed reports on their work. The inalienable confidentiality of these exit processes will suffer dramatically, for the secret service’s desire to recruit individuals from extremist scenes as it has routinely done — for further deployment in these extremist scenes to conduct e.g. reconnaissance — would be nearly impossible to avoid.

The programs in Lower Saxony and North Rhine-Westphalia should also be viewed critically, since in these states exit and prevention projects are partially bound to domestic secret service agencies (*Verfassungsschutzämter*). Austria currently serves as a good counter-example, since during its first pilot project on the matter in 2017/18 the government had decided to leave the build-up of its national exit program entirely to civil society organizations. In view of such activities at the state level, it is now more than ever necessary that exit support providers be

granted the right to refuse to testify, both for reasons of professionalism and social responsibility. Otherwise, the current state of national inter-agency trust in Germany will continue to deteriorate.

### **Recommendations for the Immediate Future**

Since the likelihood of a quick realization of the right to refuse to testify is not high, largely in part due to the poor state of national trust, alternatives should be sought out in the meantime. Prof. Dr. Klaus Riekenbrauk, University of Applied Sciences Düsseldorf, recommends that exit counsellors invariably refuse to comply with a summons to witness or testify about a client by referring instead to SGB VIII (German Code of Social Law — the 8<sup>th</sup> volume deals with *Kinder- und Jugendhilfe* or children and youth welfare). According to §§ 64-65, services provided within the framework of youth welfare may “not be called into question”, which would be exactly the case in the event of an exit counsellor’s testimony.

It may appear advisable to seize the opportunity to act upon this state of affairs, and a suitable organization may decide to provide appropriate legal assistance and resources for exit support professionals who find themselves in this difficult situation. While this happens, however, it seems more important than ever that measures be undertaken to enhance inter-agency trust with German society. If wholesale societal trust is not strengthened, particularly with regard to the collaboration between the governmental security authorities and non-governmental civil society actors, even the most comprehensive national prevention program will fall far short of its possibilities. To be sure, much more open talk and a much better mutual understanding among stakeholders is urgently needed.