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Report by the Federal Government on the impact of all measures and support services implemented in accordance with the Act Expanding Assistance for Pregnant Women and Regulating Confidential Birth

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Information

from the Federal Government
– Non-official translation –

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List of abbreviations

BAFzA	Federal Office of Family Affairs and Civil Society Functions
BGB	German Civil Code
BMFSFJ	Federal Ministry for Family Affairs, Senior Citizens, Women and Youth
BZgA	Federal Centre for Health Education
DJI	German Youth Institute
FamFG	Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction
MRRG	Framework Act on Registration
PStG	Civil Status Act
PStV	Regulations Implementing the Civil Status Act (Civil Status Regulations)
SchKG	Act on assistance to avoid and cope with conflicts in pregnancy (Act on Pregnancies in Conflict Situations)
SchwHiAusbauG	Act Expanding Assistance for Pregnant Women and Regulating Confidential Birth
StAG	Nationality Act
StGB	German Criminal Code

1 Summary

The Act Expanding Assistance for Pregnant Women and Regulating Confidential Birth (hereinafter: SchwHiAusbauG) entered into force on 1 May 2014. The purpose of the Act is to facilitate access to the standard support system for women who have compelling reasons for keeping their pregnancy secret, and to enable medical support for them and their child for birth.

Confidential birth offers pregnant women in need the option, which offers legal certainty but is effective for a limited time only, to conceal their identity from those around them and from their child. Fundamentally, the regulations on confidential birth provide that:

- the mother receives comprehensive counselling to help her reach a decision and on the support available;
- the mother receives medical assistance and is able to give birth under a pseudonym, and
- the identity of the mother is recorded in a certificate of parentage issued by a pregnancy counselling centre and filed with the Federal Office of Family Affairs and Civil Society Functions (BAFzA).

Counselling on confidential birth provides the woman with professional support to help her reach a decision, and explores ways of living with the child. This is designed to encourage the mother not to give up her child anonymously but instead to choose an avenue that takes better account of the interests and rights of the child that merit protection. The Act thus offers an option that takes equal account of the rights and needs of pregnant women in need and of those of their children. At the same time, confidential birth is intended to provide security for the women concerned and their support network in an area that has so far been largely unregulated.

To achieve this goal, the Federal Government has put in place measures to expand the support system for pregnant women who wish anonymity[1] and, at the same time, to improve their access to and contact with existing support services.

SchwHiAusbauG requires an evaluation to monitor the impact of the changes. Said evaluation was commissioned externally by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ). The following Federal Government report presents the main findings of the evaluation[2] for the period from 1 May 2014 to 30 September 2016 (end of data collection for the evaluation). The main findings of the evaluation can be summarised as follows:

1. The expansion of support for pregnant women in need, which is at the heart of SchwHiAusbauG, includes advertising available assistance through public relations work by the Federal Government, developing standards for counselling women who wish anonymity, setting up a helpline and website and a new option for women who wish anonymity, namely confidential birth.
2. The entry into force of the Act and its introduction of confidential birth provides an option for pregnant women in need that offers legal certainty. Unlike previously available ways in which children could be given up anonymously, confidential birth allows a balance to be struck between the interests of the mother and those of the child.
3. The various support system measures are designed in such a way that they effectively meet the objective of introducing pregnant women in need to suitable solutions. The main features of those measures include low-threshold support, universal accessibility, nationwide and permanent availability and reliability. Support services focus on personal counselling to allow women in difficult conflict situations to be given comprehensive advice in an atmosphere of trust.
4. The evaluation shows that the stakeholders involved are, as a whole, well-informed and give a positive assessment of the confidential birth option. There is also a broad awareness amongst the general population of central aspects of the support system, in particular of access to counselling through the pregnancy counselling centres.
5. The evaluation has examined the Act's success to date in introducing pregnant women in need to the support system. Extrapolated figures put the number of women personally advised by a pregnancy counselling centre between 1 May 2014 and 30 September 2016 at 1277. Two hundred and forty-nine of these cases (19 percent) resulted in a confidential birth. Many of the women advised were in situations of serious

[1] The term "women who wish anonymity" as used in this report is not to be understood in data protection terms. Confidential birth does not preserve anonymity in the data protection sense of the term as anonymity is limited to 16 years. The correct term would be "women who require, at least temporarily, to use a pseudonym". However, this correct term is not an established one and is therefore unsuitable for reporting purposes.

[2] Sommer, Jörn; Ornig, Nikola and Karato, Yukako (2017): "Evaluation zu den Auswirkungen aller Maßnahmen und Hilfsangebote, die auf Grund des Gesetzes zum Ausbau der Hilfen für Schwangere und zur Regelung der vertraulichen Geburt ergriffen wurden".

distress, and they included women who had experienced or were in fear of violence. In many cases, counselling led to women deciding to keep their child (26 percent of cases) or opting for standard release for adoption (15 percent) instead of confidential birth or giving up their child anonymously.

6. In certain cases, a risk to the welfare of the child could be avoided by the pregnancy counselling centres and their partners in the healthcare system providing the women with intensive support.
7. A trend analysis in the evaluation based on data from the Federal Statistical Office shows that over 40 percent of women use confidential birth as an alternative to an anonymous way of giving up their child (baby hatches; anonymous delivery; anonymous person-to-person handover). The possibility of confidential birth created by SchwHiAusbauG is also reducing the number of children delivered without medical assistance.
8. For certain aspects, the evaluation shows how supplementary services could further strengthen the support system. However, it does not identify a need for fundamental reform or development of SchwHiAusbauG.

The Federal Government does not comment in its report on the content or conclusions of the evaluation and cannot be assumed to have either approved or rejected the same. Any measures listed in the report or related future measures that would require financial resources can only be implemented within the scope of available funds.

2 Introduction

The Act Expanding Assistance for Pregnant Women and Regulating Confidential Birth entered into force on 1 May 2014. It strengthens support for women who feel compelled to conceal their pregnancy because of the difficult situation in which they find themselves. The aim of the Act is to introduce to the support system as many pregnant women in conflict situations as possible to avert health risks to the mother and child; risks which can, for example, result from a lack of medical support.

The possibility of confidential birth opens up a new option that meets the need for anonymity of pregnant mothers in difficulty without disregarding the rights of the child, in particular children's right to know their origins. Confidential birth offers a legally regulated alternative to anonymous ways of giving up children that are not in line with the law but nonetheless practised, and thus creates a sound legal framework in a field that to date has been largely unregulated.

Years of technical, ethical and political debate preceded the decision to adopt SchwHiAusbauG. The reason for that debate was the growing number of "baby hatches",[3] anonymous person-to-person handovers and anonymous deliveries from the turn of the millennium on.[4] Developments were similar to those in other countries.[5]

It is unclear why these services emerged at that particular time. Literature and research in the field makes reference to a papal instruction in 1999 that prohibited Catholic pregnancy counselling services from issuing certificates pursuant to section 219 StGB, which are required to avoid legal sanctions for termination of pregnancy. On the other hand, consistently positive media reports on established baby hatches were used to argue that said hatches helped prevent infanticide and child abandonment.[6]

The rising number of anonymous services was soon a subject of political debate. Before SchwHiAusbauG entered into force, there were several attempts to create a legal framework for the newly emerging services. As early as 2000, the CDU/CSU parliamentary group proposed legislation to legalise anonymous delivery in

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3 Terms such as "baby box" are also used by the relevant institutions; the term "baby hatch" is used here throughout.

4 The first baby hatch in Germany was launched in Hamburg in 2000. cf. Stürmann, Nicole: Europäischer Gerichtshof für Menschenrechte und anonyme Geburten in Frankreich. In: Kritische Justiz. Jg. 37, Heft 1; 2004; p. 64; hereinafter Stürmann 2004.
One year before that, networks in Berlin/Brandenburg and Bavaria began to enable anonymous person-to-person handover and later also anonymous delivery. cf. DER (German Ethics Council): Das Problem der anonymen Kindesabgabe. Stellungnahme; 2007; p. 14. URL: http://www.ethikrat.org/dateien/pdf/stellungnahme-das-problem-der-anonymen-kindesabgabe.pdf (as at: 06 February 2017); hereinafter DER 2007.

5 Similar trends could be seen for example in the USA, Hungary, Austria, the Czech Republic, Poland, Italy, Belgium and Switzerland. cf. DER 2007, p. 49ff and Bott, Regula: Wunsch und Wirklichkeit – zur bisherigen Praxis und Debatte. in: Terre des Hommes (Hg.): Babyklappen und anonyme Geburt – ohne Alternative?; 2007 p. 20-42 URL: http://www.tdh.de/fileadmin/user_upload/inhalte/04_Was_wir_tun/Themen/Weitere_Themen/Babyklappe.pdf (as at: 07 September 2015); hereinafter Bott 2007.

6 Riedel, Ulrike: Anonyme Kindesabgabe – ethische und rechtliche Grundlagen (erweiterte Fassung des Referats im Deutschen Ethikrat am 26.06.08, Stand November 2008); p. 6; hereinafter Riedel 2008.

Germany.[7] An even more comprehensive cross-party bill[8] and a legislative proposal in the Bundesrat by Baden-Württemberg followed two years later.[9] These early initiatives failed primarily because of the legal opinion that focuses on the child's knowledge of his or her origins, and places that above the possible need of the mother or parents to keep their identity secret in the long term. The 2005 coalition agreement between the CDU/CSU and the SPD, however, stated that experiences with anonymous delivery would be assessed to establish any need for statutory regulation.[10]

Two years later, the German Ethics Council addressed the issue. It saw "a need for both legal and ethical clarification regarding the practice of services for giving up children anonymously".[11] In its opinion, the Ethics Council explicitly highlighted the legal tensions in this field. As much help as possible was to be provided to pregnant women and mothers in need whilst ensuring due respect for the rights of the children.

The German Ethics Council found that anonymous deliveries and baby hatches provided a one-sided response to this issue to the detriment of the rights of the child. The Council also found that the common argument in favour of such anonymous options, namely preventing the death of newborns, was not supported by empirical evidence.[12] A weighing up of the life (or potential death) of a newborn child against his or her (later) knowledge of his or her origins could therefore not be used to justify anonymous options.[13] An added consideration in the case of baby hatches according to the Council was that medical care for the mother and child was not ensured and there was no way of establishing with certainty whether it was indeed the mother who had given up the child. In such cases, the possibility that fundamental rights of the mother had been violated had therefore to be considered.[14]

To support its position, the German Ethics Council cited a number of other reasons relating to the specific practice of giving up children anonymously. One aspect the Council found problematic was that there was no regulation governing the possibility of children's return to mothers or parents in the case of anonymous handover, despite the fact that it was known that some of those who give up their child in fact wish his or her return in the days or weeks that follow. In the Council's view, there was no guarantee of a sufficiently thorough assessment of possible risks to the welfare of the child in the case of unregulated return to the (supposed) mother without the involvement of the competent authorities.[15] The German Ethics Council also cast doubt on the assumption behind the provision of baby hatches and anonymous delivery that women who make use of such anonymous options could not be reached through standard channels of support.[16]

At the same time, the Council acknowledged that the tensions between the central fundamental rights of the mother and those of the child remained. It advocated considering experience from practice, which was that some women in crisis situations perceived the standard options to date such as "incognito adoptions" [*Inkognito-Adoptionen*] as off-putting or not sufficiently reliable, leading to a greater use of anonymous services.[17]

In its opinion, the Council recognised that the right of the child to know his or her origins would be taken into account if a framework was created in which the woman gave her name at a consultation despite her wish to remain anonymous. The state had therefore to ensure that counselling and support services reach women in crisis situations. Additional services could, in the Council's view, facilitate women's access to the support system.[18]

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7 cf. Deutscher Bundestag: Bundestagsdrucksache 14/4425 (neu), Entwurf eines Gesetzes zur Änderung des Personenstandsgesetzes, 2000. URL: http://dip21.bundestag.de/dip21/btd/14/044/1404425.pdf (as at 17 February 2017); hereinafter German Bundestag 2000.

8 cf. Deutscher Bundestag: Bundestagsdrucksache 14/8856. Entwurf eines Gesetzes zur Regelung anonymer Geburten, 2002. URL: http://dip21.bundestag.de/dip21/btd/14/088/1408856.pdf (as at 17 February 2017); hereinafter German Bundestag 2002.

9 cf. Bundesrat: BR-Drucksache 506/02. Gesetzantrag des Landes Baden-Württemberg. Entwurf eines Gesetzes zur Regelung der anonymen Geburt, 2002. URL: http://dipbt.bundestag.de/doc/brd/2002/0506-02.pdf (as at 07 February 2017); hereinafter Bundesrat 2002.

10 Koalitionsvertrag: Gemeinsam für Deutschland – mit Mut und Menschlichkeit. Koalitionsvertrag zwischen CDU, CSU und SPD, 2005, p. 103.

11 DER 2007, p. 7

12 The Council pointed, for example, to historical evidence suggesting that where anonymous delivery or anonymous handover options are available, they are used without this affecting the number of children killed or abandoned.

13 ibid., p. 83ff

14 DER 2007, p. 67

15 ibid., p. 21ff

16 ibid., p. 15

17 ibid., p. 68

18 ibid., p. 86ff

Other key findings for the legislative process emerged from an empirical study on baby hatches and anonymous delivery commissioned by the BMFSFJ and conducted by the German Youth Institute (DJI).[19] The study showed that the assurance of anonymity is essential for access to women in crisis situations, but that the mother's wish for anonymity generally does not relate to her child but to her current family or social environment. In fact, the study found that the women concerned had "a stronger sense of their own responsibility or obligation" towards their child. The study also drew attention to the fact that anonymity alone did not do justice to the complex situations of the women in question. It concluded that professional counselling and access to further support services were essential to help pregnant women in need. As practice shows, personal contact also offers an opportunity to address the women's situation through help and information in such a way that they are prepared to give up their anonymity.[20]

Overall, the DJI study recommended the provision of a low-threshold service that would create a clear legal framework for all those involved and "take account of the selective need for anonymity [of the women concerned] vis-à-vis certain groups of persons and institutions (...), but support contact with others, for example with the child".[21]

The opinion of the German Ethics Council and the DJI study thus formed an important basis for the Act Expanding Assistance for Pregnant Women and Regulating Confidential Birth, which was passed by the German Bundestag on 7 June 2013; the Bundesrat gave its consent on 5 July 2013.

3 Evaluation: task and data

Article 8 of SchwHiAusbauG stipulates that the Federal Government shall submit a report on the impact of all measures and support services implemented under the Act three years after the Act's entry into force.

INTERVAL GmbH, in partnership with Prof. Dr. Ulrike Busch, Professor of Family Planning at Merseburg University of Applied Sciences, was commissioned with conducting the external evaluation of the Act for the period from 2014 to 2017. The evaluation remit was based on the guidelines for retrospective impact assessments used for legislation that has already entered into force. Retrospective impact assessments are carried out to evaluate the success of newly introduced standards and to identify areas for improvement in existing regulations. In certain circumstances, an impact assessment can also lead to an amendment or even the repeal of a piece of legislation.[22] The key purpose of the evaluation was therefore to examine whether

- SchwHiAusbauG has achieved its intended objectives;
- the Act is practicable and is accepted by those at whom it is aimed, and
- changes to the legislation are necessary.

Many different groups of people and institutions are affected by the provisions of SchwHiAusbauG. In addition to pregnant women, these include in particular pregnancy counselling centres, obstetrics services, youth welfare offices, adoption agencies, registry offices and family courts, and last but not least the Federal Office of Family Affairs and Civil Society Functions and the authorities responsible for implementing the Act on Pregnancies in Conflict Situations (SchKG) in the Länder. The general public is also concerned, as its knowledge and acceptance of the support available to pregnant women is also important to implementation of the new support services.

The Act does not address the various parties at whom it is aimed separately. Instead, SchwHiAusbauG contains a series of provisions designed to promote interaction between the above stakeholders. Those provisions thus affect previous structures in the support system for pregnant women and require the further development of existing networks.

In keeping with the complexity of the subject matter of the regulations, a wide range of different studies were conducted as part of the evaluation. Said studies differ in some cases in terms of the target groups and in other cases in terms of the methods or questions used. They can be categorised as follows:

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19 Coutinho, Joelle and Krell, Claudia: Anonyme Geburt und Babyklappe in Deutschland. Fallzahlen, Angebote, Kontexte; 2011, p. 15. URL: http://www.dji.de/fileadmin/user_upload/Projekt_Babyklappen/Berichte/Abschlussbericht_Anonyme_Geburt_und_Babyklappen.pdf (as at 06 February 2017); hereinafter Coutinho/Krell 2011.

20 Coutinho/Krell 2011, p. 14ff

21 ibid., p. 21ff

22 BMI: Arbeitshilfe zur Gesetzesfolgenabschätzung, 2009. URL: http://www.bmi.bund.de/cae/servlet/contentblob/565864/publicationFile/31426/ah_gfa.pdf (as at 07 February 2017); hereinafter BMI 2009.

1. An investigation of structural developments on the ground to prepare for possible cases of confidential birth. This included the framework in the Länder with regard to the implementation of the Act and the formation and management of networks and partnerships at a regional and local level (e.g. between counselling centres and clinics).
2. An analysis of experience of confidential birth and the preceding or integrated consultations.
3. An investigation of the awareness and understanding of confidential birth and release for adoption amongst the general population and amongst women of childbearing age in particular – on the one hand as a fundamental condition for success and on the other as the result of ongoing public relations work.
4. An assessment of the development of anonymous delivery and child handover options and an examination of whether the Act has created an effective alternative to anonymous ways of giving up children that were previously practised.

A broad range of data was available for the study. In addition to their own primary data collection (see below), the authors of the evaluation were also able to draw on Federal Government and Länder datasets. One important source of information for the study was the extensive BAFzA documentation system. Said system provides

- statistics for confidential births. These provide information on the number of confidential births, the type of birth (home births are shown separately) and the children concerned (multiple births are taken into account). The statistics also include cases in which the mother has waived her anonymity after a confidential birth;
- statistics on the costs borne by the Federal Government for confidential births, broken down by type of birth/beneficiary (clinic, midwife, patient transport, outpatient birth) and expenditure on prenatal and postnatal care;
- annual records from pregnancy counselling centres on the confidential births they have supported;
- statistics on use and reporting for the "Pregnant women in need" helpline.

For secondary data analyses, the evaluation also used a special analysis of child and youth welfare statistics from the Federal Statistical Office on the adoption of children of unknown parentage.

The impact assessment was also able to draw on findings from extensive primary data collected from the stakeholders affected by the statutory regulations.

Nationwide quantitative questionnaire surveys were conducted (i.e. with standardised questions supplemented by open-ended questions): pregnancy counselling centres, maternity clinics, birthing centres, self-employed midwives and youth welfare offices were asked in writing in 2015 and 2016 about the information they held about, their attitudes towards and their experience of confidential birth and anonymous forms of child handover. Pregnancy counselling centres that had overseen confidential births were also questioned in writing about each case, and counselling and confidential birth procedures, problematic circumstances for the women concerned, challenges and required improvements were recorded in detail from the perspective of the counsellors. Across Germany, institutions offering anonymous options were also surveyed in writing and, for example, background information on the institution, numbers of cases, partnerships and attitudes towards confidential birth was collected.

At the same time, qualitative surveys were also conducted throughout the course of the evaluation: selected cases of confidential, anonymous or standard birth were analysed in depth on the basis of interviews with local stakeholders (pregnancy counselling centres, adoption agencies, clinics, youth welfare offices, registry offices and family courts). This produced data on the level of knowledge, attitudes, networks, experiences with pregnant women wishing anonymity, experience of confidential birth and obstacles to implementation. Interviews on state regulations and measures relating to qualification, information and networks were also conducted with senior policy advisors at a Länder level.

The primary target group of the Act, women wishing anonymity, could not be the target group for the surveys. Their particular interest in (temporary) anonymity prevented their being questioned. Experiences of the target group can therefore only be concluded indirectly from reports and interviews with the relevant stakeholders, in particular the counselling centres.

The report presented here also includes data relating to the public information campaign on SchwHiAusbauG. Said data include publications and information material, mailshots, media placements and the websites "www.geburt-vertraulich.de" and "www.schwanger-und-viele-fragen.de".

4 The Act Expanding Assistance for Pregnant Women and Regulating Confidential Birth

The Act Expanding Assistance for Pregnant Women and Regulating Confidential Birth was passed by the German Bundestag on 7 June 2013 and entered into force on 1 May 2014. The Act is intended to strike a balance between the interests of women with compelling reasons to keep their pregnancy secret and the interests of the child.

- Various measures have been taken to ensure that those women who wish anonymity find their way to the standard support system. A helpline and website were set up and advertised through public relations work and an information campaign aimed at various different target groups.
- The central element of the Act is that women wishing anonymity receive comprehensive help with their decision and in-depth advice on possible options that would allow them to waive their anonymity. To this end, a counselling concept was developed.
- For women unable to give up their anonymity, confidential birth was introduced as a legally regulated option and alternative to unregulated, anonymous child handover. Confidential birth offers pregnant women an option for maintaining anonymity vis-à-vis those around them and their child; an option on which they can rely, but which is effective for a limited period only. A woman can deliver her child with medical assistance but under a pseudonym.
- Confidential birth provides security for the women concerned and their support network in an area that has so far been largely unregulated. In order to respect the child's right to know his or her origins, the woman's identity is recorded by a pregnancy counselling centre and securely filed with the BAFzA in a certificate of parentage.

Introduction to the support system through counselling

Great emphasis is placed on counselling. To introduce pregnant women wishing anonymity to the support system as effectively as possible, SchwHiAusbauG provides for counselling from the pregnancy counselling centre in two stages.

The first stage is an anonymous consultation covering all questions relating directly or indirectly to pregnancy. This stage follows on from standard counselling on conflicts in pregnancy. The consultation explores the psychosocial conflicts behind the woman's desire for anonymity, and points out options that would allow her "to relinquish anonymity or spend her life with her child" (section 2 par. 4 SchKG).

The second stage begins if the woman cannot be persuaded to waive her anonymity. Only then is the woman informed about confidential birth pursuant to sections 25 ff SchKG.[23] This consultation is conducted by personnel with special training for confidential birth. If stage 1 counselling is provided by staff without such specialist training, the services of an external counsellor must be called upon for stage 2 counselling. Consultations must be in person.

The same counselling principles apply if the counselling centre can only be involved after the birth and the clinic or birthing centre establishes the contact with a counsellor.

The confidential birth procedure

The certificate of parentage pursuant to section 26 par. 2 SchKG is a key element of the procedure for confidential birth. It contains the surname and first name, address and date of birth of the woman. Only the given pregnancy counselling centre and no other public agency knows the identity-related information. The information is sent to the BAFzA in a sealed envelope by the counselling centre, and can normally be viewed by the child when he or she turns 16. In other words, the child's right to know his or her origins is respected by granting the woman anonymity on a selective basis (not vis-à-vis the counselling centre) and temporarily only.

SchwHiAusbauG sets out two possible procedures for confidential birth. The preferred route and the one that is to be promoted is the first one, in which the woman makes direct contact before the birth with a pregnancy counselling centre recognised in accordance with SchKG. After counselling, should the woman have chosen confidential birth, the pregnancy counselling centre prepares the certificate of parentage, recording the identity of the mother on the basis of suitable proof of identity. It also coordinates subsequent steps, registering the

[23] As well as information about the steps involved in the procedure, counselling also covers information on the rights of the child and of the father, on the adoption procedure, on the possibility of taking the child back and on the possibility of the woman's objection, citing important interests, to the child accessing the certificate of parentage.

planned confidential birth with the clinic or a midwife and informing the youth welfare office in advance so that it can prepare to take charge of the child after the birth.

The second procedure applies if the woman only comes to the clinic at the point of birth seeking a confidential birth there. In this case, it is the responsibility of the clinic to consult a professional counsellor from a pregnancy counselling centre directly to arrange for the necessary counselling and prepare the certificate of parentage.

Irrespective of when the counsellor is called in, only he or she is authorised to establish the woman's identity. The counsellor enters the identity information in the certificate of parentage, and places the certificate in a sealed envelope. It is initially the pseudonym of the woman that is written on the envelope. This pseudonym must also be known to the clinic or midwife, as the clinic or midwife informs the registry office of the confidential birth (place/date) together with the mother's pseudonym and the chosen first name for the child. The registry office in turn notifies the BAFzA of the certified name of the child together with the mother's pseudonym so that the child can be clearly identified as having been delivered in a confidential birth and access to the mother's details is possible in the future.

In the first route, where the counsellor has contact with the pregnant woman before the birth, the clinic or midwife must inform the counselling centre of the place and date of the birth once the confidential birth has taken place. The counsellor then also writes this information on the envelope containing the certificate of parentage, adds the addresses of the clinic/midwife and counselling centre and forwards the envelope to the BAFzA. Finally, the BAFzA adds the child's name as received from the registry office to the certificate of parentage and files the certificate. All information is therefore ultimately held by the BAFzA.

The medical costs related to the birth and prenatal and postnatal care are covered by the Federal Government. Costs are reimbursed in line with benefits under statutory health insurance for pregnancy and maternity.

Regulatory object

In order to ensure the expansion of the support system was reliable and sustainable, amendments were made to six acts and the Civil Status Regulations. Most of the amendments were to the Act on Pregnancies in Conflict Situations (SchKG). SchKG now provides for a helpline, public relations work to raise public awareness of that helpline, and additional support for pregnant women and mothers (section 1); defines central elements of support services such as non-directive counselling for pregnant women in conflict situations wishing to remain anonymous (section 2), and regulates the procedure for confidential birth (sections 25 to 34). The Act also regulates the reimbursement of costs by the Federal Government, BAFzA responsibility for handling the costs, and notification of the BAFzA by the registry office in the event that a mother waives her anonymity and her details are entered in the register of births (section 34).

The following acts and regulations were also amended:

- The Nationality Act (StAG), so that a child whose birth was confidential is considered German until the contrary is proven.
- The Framework Act on Registration (MRRG), so that women who have a confidential birth do not have to reveal their identity in the clinic.
- The Civil Status Act (PStG), so that persons or institutions with information obligations who provide obstetric services or were present at the birth can send the registry office the pseudonym of the mother and her proposed first name for the child instead of the mother's registered name. The Civil Status Act also regulates the definition of the child's name by the competent authorities.
- The Civil Status Regulations (PStV), so that, in the event of a confidential birth, information on the child and the pseudonym of the mother can be sent to the family court and the BAFzA by the competent registry office. The BAFzA is also to be notified by the competent registry office in the event of a change of the child's name (usually an alteration to the name [*Namensangleichung*] upon completion of the adoption process).
- The Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction (FamFG), so that the competent registry office will notify the family court of the confidential birth of a child.
- The Civil Code (BGB), so that the mother's parental custody right to the child she has borne in a confidential birth is suspended immediately after birth and her consent to adoption is not required – as her abode is considered unknown until such time as she may provide the family court with the information required for an entry in the register of births.

Evaluation aspects and objectives of SchwHiAusbauG

SchwHiAusbauG is aimed at reconciling the interests of mothers who wish to remain anonymous with the right of their children to know their origins. The provisions on confidential birth must do justice to both mothers and children, and this can only be achieved by striking a balance between the different needs and rights.

Evaluating the Act is therefore not about considering whether the mother's choice of a confidential birth and rejection of other available possibilities is the best option from the perspective of the child or whether, for example, a standard birth would have been more beneficial for the child. Instead, the objective is to assess whether the mother might have chosen to give up her child anonymously – or in the worst case even to abandon it – had confidential birth not been possible. Equally, the deciding criterion for evaluation cannot be whether, from the perspective of the mothers alone, giving up their children anonymously might have been even more in their interest.[24]

Such a balance of interests is to be struck by expanding the support system and improving access to it. Introducing pregnant women in conflict situations to the support system is designed to make them aware of alternatives to giving up their child anonymously; alternatives that are tailored to their situation of need. One aim of SchwHiAusbauG is to reduce the number of children given up anonymously and the number of births without medical assistance. In the best case, introducing women to the support system is to protect the health of both mother and child and lead to the woman abandoning her desire for anonymity and choosing to keep her child.

Accordingly, it is not the number of confidential births but the number of cases of counselling and the decline in the number of children given up anonymously that are central to an evaluation of the Act.

The Federal Government has expanded the support system so that the target group of pregnant women wishing anonymity learns about the possibility of confidential birth. Promoting personal contact between counselling professionals and the women concerned is a central feature of the system. The aim is to create scope for individual solutions beyond the sphere of state institutions and through expert, non-directive counselling. This counselling must be low-threshold, easily accessible, available across the country, reliable for the target group and those around them, and permanent.

The support system was expanded by opening up the option of confidential birth that was not previously provided for by law; by driving forward the professionalisation of pregnancy conflict counsellors, and by setting up a helpline with accompanying website.

For the support system to work as intended, a number of implementation goals had also to be achieved. Specifically, the Federal Government had set itself the following targets:

- to make the target group and network of support system stakeholders aware of the Act;
- to ensure that confidential birth could be implemented in the network of stakeholders involved; and
- to promote acceptance amongst the population for women who decide to use options such as confidential or standard birth with subsequent adoption. Such work is designed to reduce women's fear of stigmatisation.

To this end, the Federal Government has engaged in extensive public relations work ranging from the development and publication of target group-specific material to extensive information campaigns and nationwide multimedia advertisements.

5 Impact of the Act

5.1 Expansion of the support system

The Federal Government has taken comprehensive measures to expand and improve access to the support system for pregnant women in need. In addition to the introduction of confidential birth, these include implementing standards for counselling women who wish anonymity, and setting up a helpline with accompanying website. The Federal Government has also engaged in public relations work and run an information campaign for various target groups.

Under the new regulations, the Federal Government bears the medical costs of confidential births and the costs of prenatal and post-natal care. This is necessary, as funding through the health insurers is not compatible with the women's desire for anonymity. Since the Act entered into force, the Federal Government has borne total

[24] Assessing such a balancing of interests is difficult, as it is never possible to determine with absolute certainty what would have been the alternative to the chosen course of action in any given case (cf. also DER 2007, p. 81).

costs of around 778,000 euros (as at 31 December 2016). Clinic costs accounted for over 90 percent of total expenditure.

Implementation of standards for counselling women wishing anonymity

The pregnancy counselling centres play a key role in introducing women who wish anonymity to the support system. To enable the centres to provide professional support for these women, the BMFSFJ launched a consultation process to develop and test standards for counselling on confidential birth before SchwHiAusbauG entered into force. At pilot events, 100 counsellors from all over Germany trained for the implementation of confidential birth. The *"Handreichung zur Qualifizierung von Beratungsfachkräften der Schwangerschafts(konflikt)beratung zur Umsetzung der vertraulichen Geburt"* ["Training guide for counsellors on pregnancy in conflict situations: Implementing confidential birth"] published by the BMFSFJ was produced as part of this process.[25] The curriculum for the training courses and the counselling standards were developed on the basis of comprehensive professional assessments by a dedicated project advisory board. As well as the BMFSFJ and the Federal Centre for Health Education (BZgA), the advisory board also included ministerial representatives from the Länder, the German Youth Institute, Merseburg University of Applied Sciences and the supporting organisations of pregnancy counselling services.

The BMFSFJ provides updated information to all stakeholders in the form of Q&A on the Act to reduce interpretation problems in the implementation of confidential birth.[26] The document sets out information on how specific aspects of the Act are to be interpreted in the view of the BMFSFJ.

The standards developed have been reinforced by additional information and support measures on the part of the Federal Government. In 2014, for example, the BZgA financed the conference *"Die vertrauliche Geburt – ein neues Hilfsangebot für Schwangere in Konfliktsituationen – Umsetzung in Kliniken"* ["Confidential birth: a new support option for pregnant women in conflict situations. Implementation in clinics"] organised by the association of hospitals that are run by the German protestant church, Deutsche Evangelische Krankenhausgesellschaft e. V.

Establishment of a helpline with accompanying website

When it adopted SchwHiAusbauG, Parliament provided for the establishment of a "Pregnant women in need" helpline (hereinafter referred to as "the helpline"). The helpline was introduced as a new permanent service when the Act entered into force on 1 May 2014. It offers practical help for pregnant women (and in some cases mothers) in need on the nationwide telephone number 0800 40 40 020. The helpline is operated by the BAFzA.

Its core target group are women who find it impossible to disclose their pregnancy to those around them and who therefore need anonymous advice on the various support options available. Others in the core target group are people in the women's immediate environment such as personal contacts or professionals to whom the women have turned for support.

The helpline is also available to an extended target group. That group includes pregnant women in conflict situations who need psychosocial counselling but do not (explicitly) desire anonymity. They too are to be introduced to the support system through information about available assistance options and, if necessary, referral to pregnancy counselling centres. People providing support for pregnant women can also contact the helpline.

The initial telephone advice from qualified female specialists is intended to introduce women in need to the support system by informing them (or people in the women's environment) about various help options and, if necessary, referring them to a pregnancy counselling centre. Where calls are from the women concerned, every effort is made to build up the caller's trust in the support system – in particular in the pregnancy counselling centres – so that the women make use of further counselling services.

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[25] BMFSFJ: Handreichung zur Qualifizierung von Beratungsfachkräften der Schwangerschafts(konflikt)beratung zur Umsetzung der vertraulichen Geburt, 2015. URL: https://www.bmfsfj.de/blob/93994/39f31ed5b6babd2b2d0135f515dd175f/handreichung-zur-qualifizierung-von-beratungsfachkraeften-der-schwangerschaftskonfliktberatung-zur-umsetzung-der-vertraulichen-geburt-data.pdf (as at 13 January 2017); hereinafter BMFSFJ 2015a.

[26] BMFSFJ: Fragen und Antworten zum Gesetz zum Ausbau der Hilfen für Schwangere und zur Regelung der vertraulichen Geburt, 2015. URL: http://www.bmfsfj.de/RedaktionBMFSFJ/Abteilung4/Pdf-Anlagen/faq-vertrauliche-geburt,property=pdf,bereich=bmfsfj,sprache=de,rwb=true.pdf (as at 05 January 2017); hereinafter BMFSFJ 2015b.

In acute crisis situations (e.g. the pregnant woman has serious health problems; labour has already begun; the child has already been born secretly; suicide risk), the helpline specialists can also intervene by, for example, referring the caller to other suitable support services such as medical emergency services.

This support is the legislator's response to the findings of the study commissioned by the BMFSFJ and conducted by the German Youth Institute. Said study had shown that low-threshold and anonymous access to information and counselling services is particularly important for reaching women in crisis situations.[27]

The helpline is manned by trained professionals around the clock. Calls are free and the number does not appear on itemised phone bills. Consultation can be anonymous on request; the telephone number of the caller is not visible to the counsellor. (Sign language) interpreters ensure a multilingual service that is accessible to all.[28] Sixteen languages were available from the launch of the helpline. This range was extended even further with effect from 1 January 2017 and the service is now available in 18 languages.[29] An interpreting service was set up in order to provide helpline services around the clock. Specially trained interpreters are available day and night to provide translation within a minute. A sign language interpreting service is available daily from 8 a.m. to 11 p.m. via the website www.geburt-vertraulich.de.

The service thus supplies two needs not covered by the previous support system: firstly, the helpline with its wide range of languages can introduce women from different cultural backgrounds to the support system. Secondly, unlike other information services and counselling centres, it is available 24 hours a day.

In October 2014, a website was launched to accompany the helpline. The website "www.geburt-vertraulich.de" provides information about help available to pregnant women and the option of a confidential birth, and points users to the helpline to make contact in person. Women can also enter their postcode for information on counselling centres in their area. To ensure that search results for the regional counselling centres are up-to-date, the search accesses the address database of the BZgA, which is continuously updated. This website is also being integrated into the existing and established "www.familienplanung.de" website.

Confidential online consultation is possible through the website. Online counselling is possible by e-mail or in a person-to-person chat in German. An anonymous password-protected user mailbox is created for this purpose. This is designed to enable low-threshold contact for women who are not willing or able to engage in telephone or face-to-face contact.

Public relations and information campaign

If women in need are to be introduced to the support system, it is essential that both the women themselves and support system stakeholders are familiar with SchwHiAusbauG. The Federal Government has therefore from the outset run a targeted information campaign in parallel to implementation of the Act. Aspects of the information campaign:

- **Development of material on confidential birth and pregnancy counselling for women potentially affected:** Two sets of material were developed for the campaign in order adequately to address pregnant women in need. The images and target group approaches in each case respond to the different situations and needs of the women addressed. The first series of material focused on women with an express desire for anonymity, and was entitled "*Schwanger und keiner darf es erfahren?*" ["Pregnant and no one must know?"]. A second series of material was developed with the title *"Schwanger und die Welt steht Kopf?"* ["Pregnant and the world turns upside down?"]. This material draws attention to the general range of support services available to pregnant women and in particular to the help provided by the pregnancy counselling centres. Development of the material went hand in hand with the expansion of the campaign's target group. From 2015 on, the campaign increasingly targeted pregnant women in need of psychosocial counselling (including those with no express desire for anonymity) in an effort to introduce them to counselling services.
- **Provision of information and material to stakeholders in the professional network:** SchwHiAusbauG is aimed at a large number of stakeholders in the existing support network for pregnant women. Such stakeholders include regional ministries, associations at a Land and federal level, pregnancy counselling

[27] Coutinho/Krell 2011

[28] cf. http://www.bafza.de/aufgaben/hilfetelefon-schwangere-in-not.html, last accessed on 23 January 2017.

[29] Languages offered include Albanian, Arabic, Bulgarian, Chinese/Mandarin, English, French, German, Italian, Kurdish, Persian, Polish, Portuguese, Romanian, Russian, Serbian/Croatian/Bosnian, Spanish, Turkish and Vietnamese. Albanian and Kurdish were added on 1 January 2017.

centres, obstetric facilities, youth welfare offices, adoption agencies, family courts and midwives. One challenge was to inform these stakeholders of the changes in the law and to provide them with the information and material they needed in their work. In addition to basic information about confidential birth, each of the stakeholders also received a package of material put together specifically for them with content tailored to their role in the support system. [30] The needs of the various stakeholders had previously been identified in workshops.

As well as stakeholders in the professional network, other stakeholders such as *Bürgeramt* municipal offices, *Eltern-Kind-Zentrum* family centres, *Lokale Bündnisse für Familien* organisations, equal opportunities officers and facilities in the *Frühe Hilfen* early assistance network were also targeted. They received general information about the Act and material such as stickers and posters for reaching out to potentially affected women.

Working with a communications agency, the BMFSFJ sent out more than 38,000 mailshots in several batches between 2014 and 2016. Material was largely supplied by post. The combination of information and material helped the campaign to achieve a broad and rapid impact.

- **Development of an additional Internet landing page:** To help broaden the campaign's reach to include women with psychosocial counselling needs, a website geared to the extended target group was set up, providing direct access to support services for confidential birth ("landing page"). "www.schwanger-und-viele-fragen.de" has been accessible via its own Internet address since 1 May 2015.[31] It provides women with rapid and easy access to personal counselling services on the "Pregnant women in need" helpline and provides key initial information on pregnancy counselling in conflict situations. The landing page is an additional, low-threshold initial point of contact to guide women towards personal counselling.
- **Media placements:** A large number of media placements established the campaign in the public arena on a national basis. Selected media included posters, commercials, stickers and flyers. Online banners are also displayed on the websites of pregnancy counselling centres, and Google AdWords has been used for search engine optimisation. A decisive factor in establishing the campaign was providing the women with the information they needed in spaces that were safe and confidential. Private, enclosed spaces such as ladies' toilets and the waiting rooms of gynaecology practices were therefore chosen as locations for the campaign, as were environments with high fluctuation and mobility, including intercity and local public transport and railway and service stations. Material was distributed intensively in these locations during the summer holiday season.

The information campaign started as soon as SchwHiAusbauG came into force in May 2014 and is still ongoing. The campaign is accompanied by publications and projects by the Federal Government aimed at the public and covering a broad range of topics. From April 2015 to March 2017, for example, the BZgA supported a project by the *Ärztliche Gesellschaft zur Gesundheitsförderung der Frau* (ÄGGF) *"Ungeplant schwanger – wie geht es weiter"* ["Unplanned pregnancy: what next?"], which ran around 1000 school events to provide information for young people facing unwanted pregnancies.

Publications include the magazine "Blickwechsel Adoption", published in 2016 by the BMFSFJ and distributed nationally to youth welfare offices, adoption agencies, welfare associations and other stakeholders. It is designed to promote understanding and greater openness towards parents who release their children for adoption after birth.[32] In interviews and short profiles, the magazine gives readers a very personal insight into the life stories of women who in the past have opted for adoption. There are also contributions from adopted children and adoptive parents. The stories show release for adoption as a responsible decision on the part of mothers and fathers, and raise awareness of the opportunities that can arise from such a decision for both parents and children.

5.2 Legal certainty

Unlike in France, for example, anonymous ways of giving up children are not regulated by law in Germany. This is the context in which the Federal Government first decided to drive forward the development of

[30] cf. https://www.bmfsfj.de/bmfsfj/themen/familie/schwangerschaft-und-kinderwunsch/anonyme-und-vertrauliche-geburt/vertrauliche-geburt--informationen-und-materialien-fuer-multiplikatoren/80952?view=DEFAULT, last accessed on 25 January 2017.

[31] cf. http://www.schwanger-und-viele-fragen.de/de/, last accessed on 28 January 2017.

[32] BMFSFJ: Blickwechsel Adoption, 2016. URL: https://www.bmfsfj.de/blob/111624/b7d9a12a23cf26baa4af2a633cf4a14e/blickwechsel-adoption-magazin-data.pdf (as at 27 February 2017); hereinafter BMFSFJ 2016.

recommendations on minimum standards for baby hatches. In cooperation with the German Association for Public and Private Welfare [*Deutscher Verein für private und öffentliche Fürsorge*], the BMFSFJ addressed the issue of minimum requirements in an expert workshop in January 2012. This led to the *"Empfehlungen des Deutschen Vereins zu den Mindeststandards von Babyklappen"* recommendations from the Association on minimum standards for baby hatches. Alongside requirements for a standard baby hatch design, these also include recommendations on how the risks of baby hatches could be reduced further.[33]

The anonymous handover of children is a legal grey area and involves considerable legal uncertainties for pregnant women and mothers and their personal support network. Overall, the situation before SchwHiAusbauG entered into force was perceived by experts and practitioners as unsatisfactory. There was an urgent need for statutory regulations that took account of the mother's need for anonymity, ensured medical care for mother and child at birth and minimised the impact on the rights of the child and father.

SchwHiAusbauG creates legal certainty as it establishes, through confidential birth, a legal option in the otherwise legally uncertain area of anonymous child handover. It strengthens the rights of and entitlement to support for pregnant women in need and addresses the uncertainties that have hitherto existed among professionals by creating a sound legal framework.

The findings of the evaluation show that confidential birth is also perceived as offering legal certainty by the vast majority of stakeholders in the support network. The pregnancy counselling centres, clinics, midwives and youth welfare offices surveyed emphasise the positive effect of legal certainty that the SchwHiAusbauG has had on counselling on and the implementation of confidential birth.[34]

Apart from the general increase in legal certainty, maternity clinics see the main improvements as coming from the assumption of costs when women choose confidential birth rather than anonymous delivery. In addition to the costs of delivery in the stricter sense of the term, these include the costs of prenatal and post-natal examinations of the pregnant woman or mother and of (medical) care for the child until he or she is taken into care. According to the maternity clinics surveyed, the only potential risk regarding the assumption of costs is when the birth is unexpectedly ultimately anonymous instead of confidential.

From the point of view of the counsellors, legal certainty also helps to introduce women to the support system. Thanks to the newly created legal option, women who wish anonymity are more likely to have the courage to contact the pregnancy counselling centre and disclose their underlying problems.

Confidential birth is also considered as the preferred option by some bodies that provide anonymous options. The possibility of a confidential birth is usually rated as much better, and at least as equally good, as anonymous alternatives, especially with regard to legal certainty. Around three quarters of the respondents see an improvement in legal certainty for themselves and for the other stakeholders involved. The risk – that exists with a baby hatch – of third parties handing over a baby can be ruled out in the case of a confidential birth.

Overall, it can be noted that three years after entry into force of SchwHiAusbauG, confidential birth is accepted by specialists and practitioners and has proved effective in practice as a legally regulated alternative to anonymous forms of child handover.

In the course of the implementation of SchwHiAusbauG, individual questions have arisen regarding specific detailed aspects of implementation for confidential birth. These relate for example to how the woman can prove to a clinic that a certificate of parentage has already been issued for her or to what extent individuals in the woman's immediate environment are allowed to learn about the pregnancy. Suitable solutions have been found in practice to most of these questions, not least thanks to effective networks. The qualitative findings of the evaluation have shown that case-specific approaches in the networks are largely a good response to a women's individual problems and counselling situations, and that such approaches are frequently preferable to possible additional, general specifications by the Federal Government or the legislator.

SchwHiAusbauG did not reformulate the statutory rights of fathers. Fathers' rights may be more restricted in the case of a confidential birth than in the case of a standard release for adoption. As the mother's abode is considered permanently unknown pursuant to the second sentence of section 1747 par. 4 BGB, she is not involved in any adoption proceedings after a confidential birth. In practice, the court has very little chance of

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[33] Deutscher Verein für private und öffentliche Fürsorge e.V.: Empfehlungen des Deutschen Vereins zu den Mindeststandards von Babyklappen, 2013. URL: https://www.deutscher-verein.de/de/uploads/empfehlungen-stellungnahmen/2013/dv-04-13-mindeststandards-von-babyklappen.pdf (as at 13 January 2017); hereinafter German Association 2013.

[34] This is particularly true where stakeholders have already had practical experience of confidential births or anonymous ways of giving up children.

identifying the father of the child. The mother must therefore also be informed of the father's rights in accordance with section 25 par. 2 (3) of the Act on Pregnancies in Conflict Situations so that she realises the implications of her decision. One of the tasks of pregnancy counselling centres is to inform women of the rights of the fathers and to highlight alternatives to confidential birth.

The findings of the evaluation nonetheless indicate that there is still a need for clarification on individual aspects. These include, for example, the question of how confidential births are regulated when the fathers have already been informed. Local stakeholders are, furthermore, not always aware of what procedures apply when a woman decides to disclose her identity after a confidential birth. It is not necessary to amend the legislation to resolve these issues. Measures such as the inclusion of details on these points in the Q&A on the Act[35] issued by the BMFSFJ or the provision of additional material would be sufficient.

5.3 Central features of the support system

5.3.1 Low-threshold access

The women at whom SchwHiAusbauG is aimed are facing particular problems and are often reluctant to open up to third parties and to seek advice or help. Such a reluctance can be due to the problem itself (e.g. a threat from the woman's immediate social environment) or to psychosocial issues that the women is experiencing. Reservations can also be a result of previous negative experiences with people, institutions or authorities from the support network for pregnant women.

To allow for the specific situations of women in crisis situations, special attention was paid in the development of SchwHiAusbauG to ensuring that women's access to support was free from (formal) hurdles and potential inhibitions.

Low-threshold access is reflected on the one hand in the form of SchwHiAusbauG itself. The support for pregnant women and the possibility of confidential birth enshrined in the Act

- can be accessed anonymously;
- are not accessed through the state, as counselling is provided and support coordinated by counsellors from pregnancy counselling centres; and
- are not subject to formal requirements, i.e. access does not depend on the submission of documents to allow agencies to assess the facts. The only exception is the one-off disclosure of the woman's identity to the counsellor at the pregnancy counselling centre if the woman opts for confidential birth. State agencies are specifically not involved in this process.

On the other hand, low-threshold access is promoted through the range of routes to counselling on confidential birth. The woman can access assistance either directly through the pregnancy counselling centre or by referral from an obstetrics facility (e.g. clinic, birthing centre or midwife). Clearly regulated procedures and responsibilities and comprehensive information for all stakeholders in the professional network ensure that women can obtain professional advice regardless of their chosen initial point of contact.

The helpline and the website also facilitate low-threshold access to the support system. The website "www.geburt-vertraulich.de" provides information and offers a secure online counselling service with anonymous access for women who do not (yet) want telephone contact. The "emergency exit" button integrated into the website allows a woman to leave the site rapidly upon the arrival of someone whom she does not want to know about her research. Clicking on the button takes the visitor to the neutral page "www.google.de". Addresses of local counselling centres can also be found on the website. The website guides pregnant women in crisis situations to the existing, comprehensive support system and in particular to the pregnancy counselling centres.

An additional website, "www.schwanger-und-viele-fragen.de", has been in operation since 2015 to improve this approach. This new website explicitly addresses the extended target group of women in conflict situations and points them in the direction of the helpline and online advice with direct links. Around one third of visitors now access "www.geburt-vertraulich.de" from "www.schwanger-und-viele-fragen.de". Only search engines, through which around 40 percent of women access the website, are an even more important route to the "www.geburt-vertraulich.de" website. Links on the websites of institutions from the professional network represent another important point of access to the helpline and websites. For example, around 10 percent of visitors

[35] BMFSFJ 2015b

access “www.geburt-vertraulich.de” from the pro familia e.V. website, which includes a banner advertising the site.[36]

Since the launch of the website on 1 May 2014, there have been over 250,000 visits to the “www.geburt-vertraulich.de” site (figures as at September 2016). The most frequently visited page on the website is the “Confidential birth” page, which contains information on confidential birth in the form of a flowchart and FAQs (Q&A on the Act); this is followed by access to online consultation and the search screen integrated into the homepage, which allows you to search for local pregnancy counselling centres.

The helpline has proved key as the first point of personal contact. The line is manned 24 hours a day (including at weekends and on public holidays) and calls are free. It is essential to low-threshold contact that calls are free, as any form of charge would cast doubt on the confidentiality of the service. Free access is thus central to the success of helpline, even if this does lead to nuisance calls. Helpline counsellors must therefore be able to differentiate nuisance from genuine calls. Findings to date show that this is working in practice and that women in need can be helped despite nuisance calls.

Both the website and the helpline are barrier-free to take account of the special needs of women with disabilities.

The findings of the evaluation also confirm the huge importance of the helpline and website in providing women with information and in access to counselling: most women using the option of confidential birth had already researched that possibility before contacting the counselling centre for the first time. The helpline and the website “www.geburt-vertraulich.de” were the women’s most important sources of information, with almost one third of the women learning about the possibility of confidential birth from those two sources.

5.3.2 Accessibility

As the evaluation shows, women who wish anonymity access the pregnancy counselling centres in various ways: some of the women were referred by stakeholders in the professional network, and some accessed counselling on their own initiative. For example, women contacted pregnancy counselling centres after recommendations from clinics, midwives, registered gynaecologists and other counselling centres (advising on other problems). In other cases, contact with the local counselling centre was established through an advisor on the “Pregnant women in need” helpline or through the online consultation service provided on the accompanying website “www.geburt-vertraulich.de”. Around one fifth of the women came to a counselling centre without other institutions or partners of the centre having been involved in establishing contact. In these cases, Internet searches, freely available material and media placements as part of the information campaign on SchwHiAusbauG facilitated women’s access to the counselling centre.

The findings of the evaluation show that the helpline and associated website are reaching a large and growing number of people seeking counselling.[37] Counselling services are reaching both the core target group of pregnant women wishing anonymity and those supporting them, and the extended target group of pregnant women who need counselling but do not wish to remain anonymous. An analysis of the usage statistics shows that a total of over 65,000 calls and contacts online were recorded between 1 May 2014 and 30 September 2016. Almost 12,000 of these contacts resulted in counselling.[38] Around every eighth call/online contact was by persons from the helpline’s core target group. Pregnant women account for about half of the callers in the core target group. The number of consultations has increased continuously since the helpline was launched. On average, there was an increase of about 6 percent per month in the number of contacts. That increase is due in particular to an increase in contact from the extended target group. Contacts were particularly numerous in the months when media placements were run as part of the publicity campaign. This shows that people are noticing the campaign and that it immediately resonates.

The helpline thus does not only benefit the core target group, but also provides support during pregnancy for the extended target group or introduces that group to the support system. It therefore makes an important contribution to achieving the objective of the Act, to raise overall awareness of and improve access to available assistance for pregnant women in conflict situations so that such women are given professional counselling at an early stage.

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36 The figures are for the period from February 2016 to January 2017.

37 The analyses presented here cover data from when the helpline was launched on 1 May 2014 until 30 September 2016.

38 The remaining contacts were nuisance calls such as prank calls or silent calls, which did not lead to a consultation.

5.3.3 Nationwide availability

A central element in the provision of the assistance enshrined in SchwHiAusbauG is the comprehensive network of pregnancy counselling centres. With around 1600 counselling centres[39] across Germany, this network provides local, individual counselling for women in conflict situations and expert advice on confidential birth.

Comprehensive counselling, support and care for the women is supported by local partners in the professional network. These include in particular the regional health facilities, adoption agencies, registry and youth welfare offices and family courts. As the evaluation shows, existing networks (e.g. the *Frühe Hilfen* early assistance network) and counsellors' personal contacts with public authorities and agencies can often be drawn upon in counselling and preparing for confidential births. At the same time, SchwHiAusbauG has led to the establishment of new structures and the expansion of existing ones. This ensures that the counselling service enshrined in the law and the possibility of confidential birth are available across the country.

5.3.4 Permanence

SchwHiAusbauG defines confidential birth in law as a legal option. Confidential birth thus represents a permanent alternative to completely anonymous ways of giving up one's child (anonymous delivery, baby hatches and anonymous handover), and one that offers legal certainty.

SchwHiAusbauG provides additional assistance for pregnant women as a permanent service that is part of the permanent support system. Unlike other measures, this assistance is available and accessible irrespective of programme or funding periods. This applies to the helpline "Pregnant women in need" and the accompanying website, and to the Federal Government's covering the costs of confidential birth.

In the Länder and local authority areas, the new assistance has been integrated by the institutions into the professional support network for pregnant women, and in particular into pregnancy counselling centre services.

5.3.5 Reliability

As detailed, the assistance for pregnant women in need laid down in SchwHiAusbauG has been permanently integrated into the support system. This is ensuring the reliability of support services over time. A number of quality assurance features also contribute to the reliability of SchwHiAusbauG.

Quality of counselling: A central aspect of reliability is the quality of counselling on confidential birth. The focus here is on personal advice on confidential birth from the specialists at the pregnancy counselling centres. The professional counsellors are trained in accordance with uniform standards developed in partnership with stakeholders from politics, research and practice. The *"Handreichung zur Qualifizierung von Beratungsfachkräften der Schwangerschafts(konflikt)beratung zur Umsetzung der vertraulichen Geburt"* ("Training guide for counsellors on pregnancy in conflict situations: Implementing confidential birth"), published by the BMFSFJ, summarises the results of that consultation process. The manual contains an overview of the central topics to be considered, a curriculum for counsellor training and material for running training and professional development courses.[40] The components of the training curriculum set out in the "Handreichung" thus offer a standard national framework within which the Länder and associations can create their own professional development courses on confidential birth.

Documentation and reporting obligations: In addition to counselling and support for pregnant women on confidential birth, SchwHiAusbauG also established documentation and reporting obligations. Pursuant to section 33 SchKG, counselling professionals have a duty to keep a record of each consultation on confidential birth under the pseudonym of the pregnant woman, documenting the individual steps such as the creation and dispatch of the certificate of parentag, without jeopardising confidentiality. These records are the basis for an annual written report that is submitted to the BAFzA by the competent regional authority. A subsequent quality appraisal of counselling cases relating to confidential birth is therefore possible on an anonymised basis.

Quality-assured access to the support system: The helpline "Pregnant women in need" and the accompanying website are also governed by quality-assured procedures and standards. Whilst actual counselling on confidential birth is not provided on the telephone or over the Internet, the quality of these services is crucial to ensuring that pregnant women in need have access to the support system. Key aspects are as follows:

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[39] cf. the *"Beratungsstelle in Ihrer Nähe"* ["Counselling centres near you"] function on the "www.familienplanung.de" website of the Federal Centre for Health Education, last accessed on 18 January 2017.

[40] BMFSFJ 2015a

- **Staff expertise:** All helpline advisors are qualified female staff who have undergone additional training for their specific role. Specialist training includes topics such as legal regulations on confidential birth and the general framework for assistance for pregnant women (e.g. how pregnancy counselling centres operate), as well as aspects of target group-specific counselling such as counselling in crisis situations, counselling in simple language and intercultural skills in counselling. To guarantee the skills and competence of the counselling professionals in the long term, two departmental manager posts were also created at the BAFzA, and regular training and professional development courses implemented alongside an exchange of expertise through supervision and casework discussions.
- **Dedicated knowledge management:** The helpline has an internal database that serves as a knowledge and information platform for counselling professionals. It comprises the address database (which includes contact details for pregnancy counselling centres and clinics) for the referrals and useful information on assistance for pregnant women and confidential birth. New content is added to the database on a continuous basis. The position of knowledge manager was created for the establishment, maintenance and further development of knowledge management.
- **Documentation system:** Standardised call/case documentation is available for the helpline as part of the knowledge management system. This allows statistical data such as number of calls, times and duration of counselling contacts, and also problematic situations, the content of consultations and services for referral to be recorded. Documentation enables regular evaluations of helpline use and thus contributes to quality assurance and the further development of the service. No personal data are collected or stored.
- **Ensuring accessibility at a technical level:** Comprehensive accessibility is also secured through special technical measures. Emergency management ensures that the service remains available even in the event of unforeseen disruptions (e.g. power failure; Internet connection problems).

Clearly defined procedures to protect confidentiality: Reliability also comes from the procedures for implementing confidential birth. These ensure the protection of the woman's confidentiality whilst respecting the right of the child to be able, at a later date, to discover his or her origins. The pregnant woman is guaranteed anonymity for at least 16 years. She need only disclose her identity to the counsellor, who is bound to secrecy. The certificate of parentage is placed in a sealed enveloped as soon as it has been issued and is then securely stored at the BAFzA. Secure storage includes both technical data security (storage in a waterproof and fireproof safe) and the limitation of access rights to a restricted group of persons. The certificate of parentage may only be viewed after 16 years and only by the child.

Knowledge base and networking of implementing stakeholders: The evaluation found that implementing stakeholders are familiar with confidential birth procedures and the contact persons in the network, and feel able to implement confidential birth smoothly.

Those cases of confidential birth to date that were investigated confirm the assessment that suitable networks have overall been established on the ground. In many cases, networking meetings were organised by the pregnancy counselling centres, and detailed flow charts and lists of specific contact people in the participating institutions were drawn up on the basis of the material and schematic diagrams provided by the BMFSFJ.

5.3.6 Personal contact for individual solutions

Women who are advised on confidential birth are often facing multiple problems. There are generally no specific, single reasons for the rejection or concealment of pregnancy. Instead, there are a whole number of motives and problems. These include

- complicated relationship dynamics, sometimes with violence or fear of violence;
- a subjective feeling of pressure from family or the social environment, often combined with fear of stigmatisation in the event of standard release for adoption; and
- situations of serious mental and physical strain arising from the problems themselves or from addiction or other illnesses or restraints.

One initial challenge when advising women in these conflict situations is therefore to build up a relationship of trust with the woman, to persuade her to use support services and to show her potential alternatives to anonymity.

Personal contact between counselling professional and pregnant woman is of central importance here. The counselling professional has an opportunity to reach an understanding of the woman's crisis situation in personal conversation, to introduce the available support and to work with the woman to develop sustainable solutions.

The findings of the evaluation show that it is often possible to introduce women to the support system during consultations. Pregnancy counselling centres stated that in almost two thirds of cases, it was possible to resolve specific problems in the course of the counselling process and to get the women help. A significant proportion of women advised on confidential birth opted for a standard birth and life with the child or standard release for adoption. In over 40 percent of counselling cases, the woman is known to have chosen a standard birth. In other cases, the outcome of which was unknown to the counselling professional, it is also possible that a standard birth followed.[41]

Counselling in person at the pregnancy counselling centres guarantees a high degree of continuity in personal contact with the woman: in three quarters of confidential birth cases, the women were supported throughout by the same counselling professional. Personal contact also often continues even after a confidential birth. In more than half of the cases of confidential birth – and also in cases where women decided to disclose their identity before giving birth – the woman had further contact with the counselling centre after the birth of her child. In many cases, this made it possible to reflect again on the decision for or against confidential birth and to suggest or organise other services in the support system. Women are also counselled if they wish to take back their child after a confidential birth. The majority of those women regained custody after they had disclosed their identity and had provided the information required for an entry in the register of births (section 21 PStG).

The personal relationship between the counselling professional and woman also proves useful later, for providing the child with information about his or her mother. In more than half of the cases of confidential birth, information about the woman was able to be passed on to the adoption agency through the pregnancy counselling service. In almost one third of cases, the women left a message for their child or gave the counselling professional an object such as a lucky charm or cuddly toy for the child.

The SchwHiAusbauG stipulation that consultations on confidential birth are to be carried out by pregnancy counselling centres and in person is to be assessed positively in the light of these findings.

5.4 Successful implementation

The findings presented above have shown that the expansion of the support system set out in SchwHiAusbauG includes comprehensive measures to reach women in need. Support services such as the helpline and accompanying website are providing low-threshold access. Counselling for women wishing anonymity is being provided by qualified counselling professionals and is available across the country. Counselling is succeeding in showing women what support is available, referring them to the relevant services and assisting them in resolving problems. In more than 40 percent of cases, a standard birth with or without release for adoption is the result of such a counselling process.[42]

At the same time, the option of confidential birth has been successfully implemented as an alternative to anonymous forms of giving up children, and an alternative that offers legal certainty. Procedures in the professional networks on the ground are functioning effectively and reliably. Several different factors have been key to successful implementation.

Good level of stakeholder knowledge across the board: One major factor was the rapid provision of information to all relevant stakeholders in the professional network. Stakeholders were already well-informed shortly after the Act came into force. The vast majority of those involved (pregnancy counselling centres, youth welfare offices, adoption agencies and obstetrics facilities) were aware of the Act even before it came into force; the others had generally learned about it before they had to deal with their first case. In the start-up phase, gaps in knowledge related mostly to specific implementation issues, for example how costs were reimbursed for confidential births.

Two years after the introduction of the Act, the level of knowledge of stakeholders had further improved. Where uncertainties remained, this was in some cases due to the fact that stakeholders had yet to encounter cases of confidential birth. Close cooperation with pregnancy counselling centres compensated for minor gaps in information, for example at clinics, and such gaps therefore did not pose a risk to the provision of confidential births.

The evaluation found that the main sources of information for the above-mentioned stakeholders were material and information provided by the BMFSFJ that had been made available by the local pregnancy counselling centres. Said stakeholders judged the material to be very helpful both for their own information and for local work in the network.

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41 cf. Figure 1.

42 Finding of the evaluation on the basis of two surveys of the 1625 pregnancy counselling centres.

Stakeholder networking and cooperation: A second factor in success is effective networking and cooperation between the relevant stakeholders in the professional networks locally. This is managed by the pregnancy counselling centres, which not only consult with the stakeholders involved in the specific event of a confidential birth, but also often act as coordinators for cooperation within the network.

As a rule, the counselling centres were able to draw on existing local or regional networks to reach and consult with stakeholders. *Frühe Hilfen* early assistance and prenatal diagnostics networks are worth a particular mention here. In some places, there are also networks relating to anonymous services, in particular anonymous delivery, and these continued to be developed after the introduction of SchwHiAusbauG.

When the Act was implemented, these networks were often expanded to include additional stakeholders relevant for confidential birth. Existing links, including bilateral contacts, were intensified. This applies in particular to pregnancy counselling centres and adoption agencies, which were fairly poorly networked before the Act came into force. The cooperation with adoption agencies on counselling and support as provided for in SchwHiAusbauG in section 25 par. 4 SchKG led to the establishment of new or relaunch of partnerships.

In addition to clinics, midwives, youth welfare offices and adoption agencies, pregnancy counselling centres also worked with other stakeholders such as registry offices, registered gynaecologists, other counselling facilities and patient transport companies. So far, family courts have often not been included in the regional working groups on confidential birth. In many places, however, work at the family courts in practice draws on existing contacts established through other official proceedings such as standard adoption procedures or custody cases.

In the first year of implementation of the Act in particular, pregnancy counselling centres in some cases spent considerable time on the establishment and development of networks. The evaluation found that the workload for the counselling centres was significantly lower in the second year of implementation. This indicates that the initially high use of resources required by the pregnancy counselling centres paid off and contributed to the successful establishment and expansion of the network.

Functioning processes in stable networks: The evaluation shows that confidential birth processes work despite high demands thanks to established networks and agreed procedures, and that all professional stakeholders are able to fulfil their roles. In practical terms, this means that contact people are known, staff are trained and aware of the issues, and procedures have been clearly defined.

Cooperation between pregnancy counselling centres and adoption agencies is also being successfully implemented in practice. Such collaboration often allows a good balance to be struck between the interests of the mother and those of the child. In some cases, it was possible on this basis to establish a relationship of trust between the woman receiving counselling and the adoption agency, which in certain isolated cases also led to contact between the woman and the adoptive or foster parents (in one case they met in person).

Uncertainties or interface problems emerged in individual cases, generally with stakeholders such as patient transport personnel who are only involved in confidential births occasionally or in a minor role. In clinics where implementation of confidential birth is particularly challenging due to the potentially high number of people involved (for example because of shift work), those involved exercise great pragmatism, and simply consult the competent pregnancy counselling centre with any unanswered questions.

The entry into force of the Act has greatly intensified work in networks. Furthermore, most counselling centres have also taken measures to ensure that their partners do not forget the relevant information and practical preparations even if there are no cases of confidential birth locally for several years. Such measures include regular network meetings and professional development courses for new staff members.

Overall, it appears that whilst the implementation of confidential birth is challenging, effective cooperation between stakeholders and pragmatic solutions have so far led to it working smoothly for the most part.

High level of acceptance of the Act amongst professional stakeholders: Successful implementation of SchwHiAusbauG is also reflected in the high level of acceptance of the Act amongst practitioners in pregnancy counselling, in obstetrics and in public institutions such as youth welfare offices and adoption agencies. This was identified by the evaluation at an early stage after the Act came into force. Two years after the Act became effective, stakeholders gave an almost entirely positive assessment of the regulations that made confidential births possible as a legal alternative to anonymous options.

Positive assessments relate both to the objectives of the Act and to the form of the rules on confidential birth. The stakeholders surveyed believe that confidential birth helps women in need and can reconcile the interests of a mother wishing to remain anonymous with those of the child and his or her right to know his or her origins. Confidential birth is thus seen as an improvement on previously available options for giving up one's child

anonymously. Another factor in the positive assessment is that confidential birth gives women better access to the (medical) support system.

Underlying this overall assessment are very similar considerations by the various stakeholders. The following aspects are consistently described as positive:

- the opportunities that can be offered to women who wish anonymity by introducing them to the support system;
- the opportunity for children delivered in a confidential birth to learn the identity of their biological mother at a later date; and
- the legal certainty that the Act gives the stakeholders themselves when they are involved in cases.

The few critical remarks related in particular to individual aspects of the confidential birth process, some of which are very complex for the implementing stakeholders. That complexity is, however, due to the Act's objective of both protecting the anonymity of the woman and respecting the child's right to know his or her origins. In practice, most of the stakeholders involved have been able to ensure the smooth implementation of confidential births.

Awareness and acceptance amongst the population: The evaluation found that there is broad awareness of the support system amongst the population group potentially affected.[43] Forty-one percent of women surveyed between the ages of 15 and 45 are familiar with the specific Act and 36 percent are aware of the helpline. Although not all respondents had heard of confidential birth, they were nevertheless aware that counselling centres exist to help with pregnancy issues and conflicts in pregnancy (81 percent). Many of these women also know where or how to find a counselling centre. Were they to require and contact a pregnancy counselling centre, they would immediately be told about the legal options as counselling centres are prepared for this.

The most important source of information about the Act was the press; other sources included the Internet and posters in public spaces. This clearly shows that potentially affected women are in a position to seek appropriate help so that they can, for example, access counselling on confidential birth. Even if many women are not familiar with the Act itself, they would be able to visit a pregnancy counselling centre, which would then inform them of the various support options.

The option of confidential birth and in particular the way in which the Act reconciles the interests of mother and child is also viewed positively by the general population: on the one hand, that women wishing anonymity have access to medical assistance for birth and, on the other hand, that the children can find out the identity of their biological mother after a period of 16 years.

5.5 Introduction to the support system

The measures enshrined in SchwHiAusbauG are aimed at introducing pregnant women in need and in particular those wishing to remain anonymous to the support system as early as possible and making them aware of possible solutions to their situation. In the best-case scenario, this leads to the woman abandoning her desire for anonymity and deciding to keep her child. Scope for individual solutions is provided by pregnancy counselling centres, which provide the women with face-to-face, non-directive advice on possible assistance. The centres act as a bridge to the support system and support the women throughout the entire decision-making process, before and after the birth of the child.

According to data from the evaluation, more than 1200 women were advised on confidential birth between 1 May 2014 and 30 September 2016.[44] Approximately every fifth woman opted for confidential birth following the counselling. The women come from all sections of the population and are of various ages. They usually have multiple problems, and what they believe are reasons for not keeping their child are sometimes different from their reasons for wishing anonymity. Regularly recurring problems can nonetheless be identified. These include a fear of being unable to cope with the child, and the expectation that those within the woman's social

[43] Results of a telephone survey of 1509 people, including 1000 women of childbearing age.

[44] Finding of the evaluation on the basis of two surveys of the originally 1625 pregnancy counselling centres. Results for counselling cases from the almost 50 percent of counselling centres that responded were extrapolated for the total number of 1625 counselling centres. The results were broken down by survey date, 2015 or 2016, and by whether there had been a confidential birth supported and coordinated by the counselling centre. Almost all of the counselling centres that supported one of the 249 confidential births that had taken place by the time of the survey participated in the survey. Their data did not have to be extrapolated in 2015 and only slightly in 2016 (multiplied by a factor of 1.18). Counselling centres that had not been involved in any confidential births were less likely to participate in the survey. Here, the extrapolation factors were 2.29 in 2015 and 2.23 in 2016.

environment will not accept release for adoption. Many of the women find the topic too difficult to able to explore the support options.[45] Other reasons include the fear of violence or the child posing a risk to the marriage or relationship. With a few exceptions, the particular difficulties of the women are clearly evident. This includes cases in which the woman's difficulties are above all a subjective result of her experience of conflict.

The complex problems cannot always immediately be clearly identified by the counselling professionals. Sometimes, they find it hard to predict what decision a woman will ultimately reach. A desire for anonymity is not always evident from the outset from women who end up opting for confidential birth. At the same time, there are cases in practice in which a woman unexpectedly considers a life with the child after having clearly expressed a desire for anonymity and having received counselling on confidential birth. The fact that the woman is able to decide at any time during the counselling process – even after birth – whether to waive her anonymity and opt for standard birth and release for adoption or to keep her child is a key element of counselling on confidential birth and a particular strength of the counselling approach.

In practice, counselling professionals at the pregnancy counselling centres allow for this by tailoring each counselling process to the individual in question and reacting flexibly to changing situations and problems experienced by the woman in question.[46] Women are introduced to the support system in three different ways, which are sometimes combined or interlinked in counselling practice:

1. Counselling on alternatives to confidential birth
2. Provision of complementary assistance
3. Allowing time for resolution of conflicts

(ad 1.) Counselling on alternatives to confidential birth.

Counselling sessions introduce pregnant women wishing anonymity to alternatives to confidential birth of which they were previously unaware, and which they can choose in the course of the counselling process. The evaluation indicates that the women became aware of differences between standard release for adoption, confidential birth and anonymous delivery or child handover in the course of stage 1 counselling. In many cases, the initial aim was to inform the woman about standard adoption options. In some cases, the women were completely unaware of the possibility of adoption; in other cases, they were only unaware of the procedure of "incognito adoption" [*Inkognito-Adoption*].[47] In other counselling cases, the aim was to improve trust in the adoption agencies. The counselling professionals choose different approaches to confidential birth counselling on a case-by-case basis. For example, standard adoption became a feasible option in some cases once the counsellor had explained the possibility of "incognito adoption". In other cases, counselling professionals visited the future adoptive parents together with the woman or initiated discussions with the competent adoption agency to introduce the woman to the possibility of standard adoption.

Overall, the findings of the evaluation show that a large proportion of women who are advised on confidential birth opt for standard birth with or without release for adoption during the course of the counselling process. Figure 1 summarises the outcome of the 1277 consultations on confidential birth as extrapolated[48] in the evaluation. It shows that only just under one fifth of these cases led to a confidential birth. The proportion of cases involving standard birth in which the woman opted either to keep the child or for a standard release for adoption is about twice as high at over 40 percent.

However, there is also a small proportion of women, around 4 per cent, for whom, despite counselling, confidential birth was not a practicable alternative appropriate for their problems. They decided to leave their child in a baby hatch or opted for anonymous delivery.

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45 In several cases, there is a very strong indication that this difficulty is because there has been a rape, but such clear connections are fairly rare.

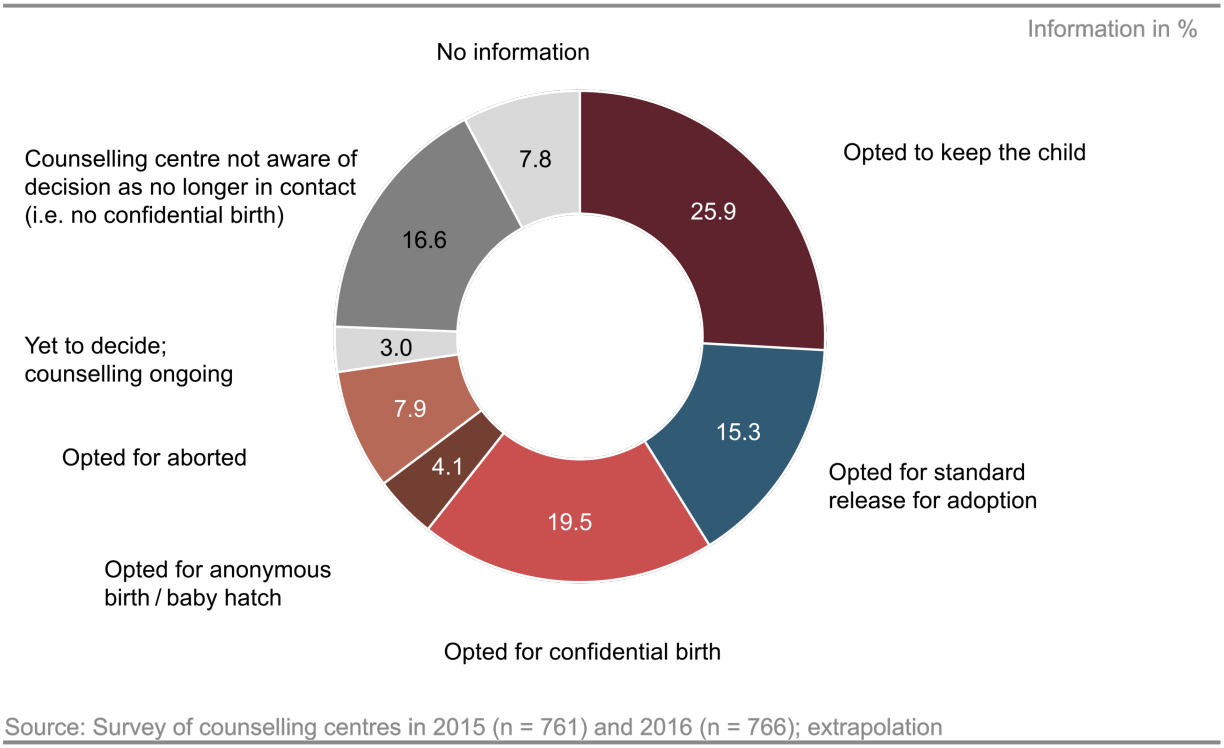
46 In practice, stage 1 and stage 2 of counselling are therefore separated in line with the objective of the Act, but not necessarily in processes that can be clearly delimited or separated in time.

47 In "incognito adoption", the biological and adoptive or foster parents do not get to know each other. The adoption agencies also have varying, more extensive procedures to protect the identity of the biological parents or biological mother.

48 For the data on which the extrapolation is based, see footnote 44.

Figure 1

Outcome of the extrapolated 1277 counselling cases for the period until September 2016



Source: Survey of counselling centres in 2015 (n = 761) and 2016 (n = 766); extrapolation

Women aborted in about 8 percent of the cases. However, the evaluation also observed cases (extrapolated figure: 30) in which, according to the pregnancy counselling centre, the possibility of a confidential birth was one reason alongside possible other and complex factors why women decided against terminating their pregnancy.[49]

In around every sixth case, the counselling centre was unaware of the decision of the woman counselled on confidential birth as contact ceased. It is not possible to estimate what proportion of those women may have opted for standard adoption or to keep their child.

Overall, the findings confirm the intervention logic of SchwHiAusbauG. This is that women who wish anonymity are to be advised in detail about the possibility of confidential birth, but are first and foremost to be introduced to the support system and shown alternatives to confidential birth. The ideal case intended by the Act that women become open to the possibility of standard birth over the course of counselling would appear to occur relatively frequently.

In the view of the counselling professionals, the outcome of counselling depends not only on the given problems in a specific case, but also on individual and sometimes very different perceptions of problems and very different fears on the part of the women concerned, of which the underlying causes cannot always be explained or are not always known.

[49] In about one third of the counselling cases recorded, counselling on confidential birth was provided in counselling sessions in accordance with section 219 StGB.

(ad 2.) Provision of complementary assistance

Alongside information on alternative options not involving anonymity, counselling on confidential birth covers a broad range of issues that extend far beyond the question of the form of the birth. Some of the counsellors also offer marriage, couple and family counselling (they hold several part-time positions). In many cases, counselling on confidential birth has therefore helped to deal with family situations and to mobilise family support. The evaluation found a wide range of different situations in this area. In some cases, counselling was aimed at resolving the reasons for the concealment of the pregnancy from family/partners. In other cases, the pregnancy was only to be concealed from other people or institutions, while the families were able to support the woman's wishes in the case of a standard birth. As appropriate for the specific context, women were encouraged in the course of counselling to talk to the fathers or current partners or to parents or other family members. According to the counselling professionals, resolving specific family problems paved the way for standard birth in several cases.

A whole range of other complementary assistance was also provided in the course of the confidential birth counselling. This included

- support in contact with the authorities, in particular to deal with a fear of the youth welfare office;
- assistance from the youth welfare office and the involvement of family midwives. This included arranging short-term care and help with accommodation for existing children;
- support in financial difficulties; for example, debt counselling, the organisation of financial aid through charitable foundations, and
- help with addiction and psychological problems, including the organisation of medical help and advice.

The provision of complementary assistance is important in two ways. Firstly, resolving problems opens up options for the women that can make standard birth possible.

Secondly, assistance can help to avert risks to the welfare of the child. It is true that there is no indication that the number of cases of infanticide is decreasing as a result of confidential birth.[50] A statistically significant decline was indeed not to be expected in the light of the significant year-on-year fluctuation, the brief period for which confidential birth has been available, and the current state of research into the characteristics of those who commit infanticide (in particular their typical mental states). Nevertheless, the evaluation shows that, in certain individual cases, the possibility of confidential birth has made it possible to reach out to women with serious psychosocial problems; that it has been possible to prevent problems escalating by introducing those women to the support system at an early stage, and thus to counteract risks to the welfare of the child which might well have led to death.

[50] Figures on neonaticides are not recorded in crime statistics, but Terre des hommes has been estimating the figures for many years on the basis of a media analysis. According to its findings, the number of newborns found dead in 2013 (21 cases) was almost as high as the average for the years since 2005 (23 cases). In 2014, the number of cases fell to 16. As fluctuation from year to year is considerable, however, it is not possible to trace any trend on the basis of these data that could possibly be due to SchwHiAusbauG, and the figure for 2015 is again close to the previous average at 22 cases.

(ad 3.) Allowing time for resolution of conflicts

Not all serious difficulties that women are facing can be resolved in confidential birth counselling in such a way that the women then waive their anonymity before or immediately after birth. The process of confidential birth gives both mothers and those supporting them up to 16 years to solve their problems before the child can access the certificate of parentage and the woman's identity is revealed. This time is a major factor in achieving a balance between the interests of the child and those of the mother. Of course, it is not yet possible to establish how often women who choose confidential birth are able to resolve their problems in such a way that they are ready to disclose their identity to their child 16 years later. Nor is it yet possible to predict how many women will, after 15 years, apply to block the child's access to the certificate of parentage on the grounds of justified interests, or how the competent family courts will rule in such cases.

However, the evaluation has shown that one specific aspect of the process of viewing the certificate of parentage is insufficiently regulated. Research on standard adoptions has established that the search for one's identity can be a very stressful process for adopted children, and that support from the adoption agencies is advisable. Clarification is still needed on just how children delivered in confidential birth can systematically be offered such support from adoption agencies if they later contact the BAFzA directly.

Although the child does not have the right to learn the identity of the mother until 16 years have passed, the mother can reveal her identity at any time. SchwHiAusbauG offers a legally regulated option of ending anonymity at a later point if, for example, it has by then been possible to resolve problems.[51] The mother can decide after a confidential birth that she wishes to keep the child, and get the child back until a court rules on adoption, provided there is no indication of a risk to the welfare of the child and the mother provides the necessary identity information for an entry in the register of births. In practice, the ruling is generally preceded by an adoption care period of one year. As at 30 September 2016, eleven women who had chosen confidential birth had already revealed their identity. In some cases, they chose life with the child; in other cases, they chose standard adoption. In family court practice, there is as yet no defined standard procedure for cases where the mother wishes to take back her child.

5.6 Decrease in anonymous child handover due to the possibility of confidential birth

The statutory option of confidential birth regulated by law in SchwHiAusbauG is being applied in practice. Since SchwHiAusbauG came into force on 1 May 2014, the BAFzA has received a total of 249 certificates of parentage (as at 30 September 2016). In eleven of the 249 cases, the mother waived her anonymity after the birth. In these cases, the certificate of parentage was returned. As at 30 September 2016, the BAFzA thus held certificates of parentage for 238 confidential births. The distribution of the 249 confidential births over time is relatively even, with an average of about 9 cases per month. Neither a rising nor a falling trend can be observed.[52]

One aim of SchwHiAusbauG is to create, with confidential birth, an alternative to anonymous ways of giving up a child. The evaluation has found that women using the option of confidential birth would largely have opted for anonymous handover had confidential birth not been possible. This finding is based both on qualitative studies of women's desire for anonymity and the options discussed with the pregnancy counselling centres, and on a quantitative analysis of the trend in giving up children anonymously.

The trend analysis in the evaluation is based on data from the Federal Statistical Office on the adoption of German children of unknown parents. As a result of the time that passes between the birth of a child, his or her adoption and adoption being recorded in national statistics, the trend could only be evaluated up to the 2014 birth cohort, at which point SchwHiAusbauG had only been in force for eight months. Nevertheless, the analysis showed that the number of children given up anonymously had decreased significantly in 2014 compared to 2013. In other words, the number of children left in baby hatches, of anonymous deliveries, of anonymous handovers and of cases of abandonment fell in 2014, although it had previously risen almost continuously and more than tripled between 2000 and 2013. According to the trend analysis, over 40 percent of women use confidential birth as an alternative to anonymous options.[53]

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[51] The DJI study has, however, shown that providers of anonymous forms of child handover can have very different procedures in response to a mother's wish to take back her child (Coutinho/Krell 2011, p. 183ff).

[52] In May 2014 only, the number of cases was significantly lower, which is doubtless due to the fact that counselling takes time.

[53] For methodological details of the statistically complex trend analysis, please refer to the evaluation report (Sommer et al. 2017, pp. 86-93). The evaluators specify that a number of assumptions had to be made for the calculations, which means that the values obtained

The inclusion of the mother's identity in the certificate of parentage gives the child – unlike with anonymous alternatives – the opportunity to learn about his or her origins 16 years later.[54] The state of the art emphasises the particular importance of this information to identity development for adopted children. The statutory regulation thus better respects the interests and rights of children who are given up.

Anonymous handover or handover in baby hatches appear to be particularly problematic anonymous options as there is no medical support for birth in such cases. According to surveys conducted for the evaluation, the overall decrease in anonymous child handover has meant a decrease in births without medical assistance and corresponding risks to the health or life of the woman and the child.[55] This indicates that offering confidential birth also better respects the interests of women wishing anonymity in receiving medical care. Confidential birth allows them to receive medical assistance for birth and preserve their anonymity for at least 16 years, and is an option that offers legal certainty.

6 Conclusion

Approximately three years after its entry into force, SchwHiAusbauG is being successfully implemented and is demonstrating the desired impact. The Act is widely accepted both by the general population and by professional stakeholders. The expansion of the support system, in particular through greater opportunities for counselling for women wishing anonymity, is helping pregnant women in need to find suitable solutions for themselves and their children. The primary objective of the Act, namely that women will choose a life with their child or release for adoption instead of anonymous delivery or confidential birth, is in many cases being achieved. The complex processes involved in implementing this new alternative are also proving practicable where women opt for confidential birth.

Overall, there is no reason to call into question the content of SchwHiAusbauG. There is still a need for clarification on certain individual aspects for the stakeholders involved. However, these aspects can be dealt with through measures such as the distribution of additional information material to potential stakeholders; there is no need for amendments to the legislation. The following summary of implementation of the Act and its impact confirms this positive assessment.

Expansion of the support system

At the centre of SchwHiAusbauG is the aim of balancing the interests of women in difficulties who feel they must keep their pregnancy secret against the interests of the child. The support system was expanded for this purpose. Specific standards were developed for counselling women who wish anonymity, a helpline and website set up and extensive public relations work conducted to reach various different target groups. Initial experiences were used to develop these measures further. For example, in addition to an Internet portal for pregnant women wishing anonymity (www.geburt-vertraulich.de), another site for pregnant women with psychosocial counselling needs with no explicit wish for anonymity (www.schwanger-und-viele-fragen.de) was set up in order to reach the target group even if they had different search strategies. No significant gaps have been identified to date in the information provided that would require a completely different media focus. Confidential birth has, moreover, allowed women to give birth under a pseudonym but with medical assistance.

Legal certainty

Before the introduction of SchwHiAusbauG, there was no legally regulated possibility for women in need to give birth without stating their identity. The existing ways of giving up children anonymously (baby hatches, anonymous delivery or anonymous person-to-person handover) ran counter to statutory regulations, for example because parents have a duty under the Civil Status Act to report the birth of their child to the registry office within the space of one week. Previous options also took insufficient account of the children's right to know their origins. A lack of legal regulation meant that women who gave up their children anonymously or persons who offered such a service were operating in a legal grey area.

The entry into force of SchwHiAusbauG and the possibility of confidential birth that it introduces have created an option for women in need that offers legal certainty. Confidential birth allows women to deliver their child

do not represent an exact measurement. They are merely the best possible quantitative estimate possible on the basis of the available data of the impact of SchwHiAusbauG on anonymous ways of giving up children.

[54] Although mothers may subsequently declare interests that run counter to the child's right to view the certificate of parentage, and that right is therefore subject to future, as yet unknown decisions of the family courts on such submissions.

[55] As the data do not suggest that the proportion of child handovers in baby hatches and anonymous person-to-person handovers has changed to the detriment of anonymous delivery (with medical assistance).

without publicly disclosing their identity. Securely recording the mother's identity in a certificate of parentage gives the child the chance to find out its origins after a period of 16 years. This achieves a balance between the interests of the mother and those of the child. The interests of the fathers are not the object of SchwHiAusbauG regulation. The difficult situations in which the women concerned find themselves and child protection considerations justify, exceptionally, giving lower priority to the rights of the fathers for the purpose of enabling confidential birth.

SchwHiAusbauG clearly regulates all main aspects of confidential birth. Only in the case of certain, less frequent procedures, for example the transport of a child after a confidential home birth, is there still a need for clarification in the field on the details of the regulations. In practice, however, appropriate solutions have also been found for such procedures.

Central features of the support system

The various support system measures are designed in such a way that they effectively reflect the objective of introducing women in need to suitable solutions.

- Firstly, access to assistance is low-threshold. The helpline and accompanying website have created an initial point of access for women in need who are not yet familiar with the services of pregnancy counselling centres or who do not yet wish or are currently unable to visit those centres in person. Personal counselling services for pregnant women in conflict situations can be used anonymously. Access to services is also made easier by the fact that counselling is not provided by public agencies. Counselling on confidential childbirth is also not subject to formal requirements (for example an examination of the women's needs/situation).
- Secondly, the helpline ensures that women in need can access initial advice 24 hours a day. Helpline staff can offer advice in 17 other languages apart from German thanks to interpreters.
- Thirdly, counselling is available throughout the country. In many places, pregnancy counselling centres, obstetrics facilities, adoption agencies, youth welfare offices, registry offices and family courts have already been working together for some time in networks such as the *Frühe Hilfen* early assistance network to help pregnant women. Development of these networks has progressed further with the entry into force of SchwHiAusbauG.
- Fourthly, the Act has introduced permanent support services that do not depend on programme or funding periods. In the Länder and local authority areas, the new assistance has been integrated by the institutions into the professional support network for pregnant women, and in particular into pregnancy counselling centre services.
- Fifthly, the support services created are reliable. The quality of counselling, documentation and reporting obligations for the counselling centres, quality-assured access, clearly defined procedures for protecting confidentiality, and the knowledge base of and networking between stakeholders are all ensuring professional support for pregnant women in need.
- Last but not least, it is possible with only some exceptions to provide counselling in person, enabling the provision of in-depth advice in an atmosphere of trust for women in difficult conflict situations. Various different support options need to be discussed with the women in detail if feasible solutions are to be found in partnership with those women.

Successful implementation

The complexity of the processes relating to confidential birth requires competent action and acceptance on the part of professional stakeholders. In this area, the evaluation also gives a positive picture. Considering that only a limited number of confidential births is to be expected and stakeholders therefore only have to deal with the relevant regulations and procedures relatively rarely, the stakeholders concerned are usually well-informed and networked, and this is enabling the predominantly smooth implementation of confidential birth. The stakeholders know their contact people in the network and their roles in cases of confidential birth. They give an almost entirely positive assessment of the possibility of confidential birth. The key factors in acceptance in the field are the balance between the interests of the mothers and those of the child, medical care for birth and the legal certainty created by the Act. There is also a broad awareness amongst the general population of central aspects of the support system, in particular of access to counselling through the pregnancy counselling centres. These findings vindicate the approach to date with the public relations work and information campaign run by the

Federal Government. The Federal Government is seeking to continue providing information about the Act and the support system to ensure that it can continue to reach pregnant women in need.

Introduction to the support system

The evaluation examined the Act's success to date in introducing pregnant women in need into the support system. Extrapolated figures put the number of women personally advised by a pregnancy counselling centre between 1 May 2014 and 30 September 2016 at 1277. Two hundred and forty-nine of those cases resulted in a confidential birth. Many of the women advised were in situations of serious distress, and they included women who had experienced or were in fear of violence. In many cases, counselling led to women deciding to keep their child (26 percent of cases) or opting for standard release for adoption (15 percent) instead of confidential birth or giving up their child anonymously. The decisive factor in such decisions was often the relationship of trust between the woman and the counselling professional; a relationship that was built up through personal consultations. In certain cases, a risk to the welfare of the child could be avoided by the pregnancy counselling centres and their partners in the healthcare system providing the women with intensive support.

The often close cooperation between pregnancy counselling centres and adoption agencies is helping to ensure that the child's interests are taken into account in the counselling process. In several cases, information was even exchanged between the woman and the adoptive or foster parents with the help of the adoption agencies.

Women who have been unable, in the course of counselling sessions, to find a suitable solution that would allow them to choose a life with the child or standard release for adoption now have additional time under the Act to resolve their conflicts. The child can only learn the identity of the mother and potentially make contact after 16 years. To what extent children delivered in a confidential birth will actually view their certificates of parentage and seek to make contact with their biological mother will not become apparent until 2030 at the earliest, when those born in 2014 reach the age of 16. Nevertheless, there would already appear to be a need for clarification regarding how professional support can be provided for those children when they wish to view their certificates of parentage or search for their biological mother. It should therefore be established well in advance how adoption agencies are to be involved in this procedure so that they can bring their professional expertise and experience to bear.

Decrease in anonymous child handover

A trend analysis in the evaluation based on data from the Federal Statistical Office shows that over 40 percent of women use confidential birth as an alternative to an anonymous way of giving up their child (baby hatches; anonymous delivery; anonymous person-to-person handover). This is also reducing the number of births without medical assistance. Nearly all institutions that continue to offer anonymous options now integrate confidential birth counselling into their processes, so that women wishing anonymity are advised by a pregnancy counselling centre on confidential birth before making a final decision. This ensures that women wishing anonymity are advised on different support options available, and generally only choose an anonymous option if they nonetheless feel compelled to maintain complete anonymity.

The evaluation shows that SchwHiAusbauG has created an effective alternative to anonymous options previously used. The Act helps pregnant women in need to find appropriate solutions to their conflicts without neglecting the rights of the child.

The Federal Government aims to make available professional stakeholders' experiences with confidential birth and examples of good practice in support for confidential birth, and thus promote exchange and discussion in the field. Good practice includes the exchange of information between the mothers and the adoptive or foster parents in order to facilitate the children's identity formation. Measures are also to be developed to help more mothers in need opt for standard release for adoption instead of confidential birth or an anonymous alternative. In this context, an examination of data protection is required for cases of standard release for adoption, so that the biological mothers can be sure that release for adoption will not be disclosed to their wider social environment (with the exception of the legal father, who must retain his right of consent). The Federal Government will in future also continue to pursue its goal of promoting understanding amongst the population for parents who release their child for adoption. The objective is for women to be able to decide to release their child for adoption without having to fear social stigmatisation.

Need for further reports

Pursuant to Article 8 SchwHiAusbauG, the evaluation examined whether further reports on the impact of the Act were required.

The Federal Government will continue to monitor use of the support system within the framework of the Act and report back to the public.

To what extent women who have delivered their child in a confidential birth succeed in resolving the problems behind their desire for anonymity within 16 years remains unclear. What obstacles they face and what additional support they need is a relevant question here. However, the first empirical studies on this question cannot be conducted until about 15 years' time at the earliest. Before that point, there could and should be an investigation of what support children delivered in confidential births will require if they learn or at least want to learn the identity of their biological mother. A report on this point would appear necessary in due course.

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