

The differing EU Member States' regulations on prostitution and their cross-border implications on women's rights ¹

This Study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the FEMM Committee – after assessing the state-of-the-art of prostitution regulations in EU MSs and the current situation of sex trafficking and related data in the EU – identifies and evaluates cross-border problems/risks related to differing national EU MSs' regulations and suggests future EU legislation to reduce them, thus preventing women from being trafficked while also protecting fundamental rights and gender equality.

Background

Prostitution policies can bring about a variety of costs. Among these costs are those related to criminal activities carried out by (transnational) organised crime groups dealing with trafficking in human beings (THB), often women and girls, for sexual exploitation. These costs include violations of human rights (HR) of victims and EU citizens, that are exposed to the threats by transnational organised crime (TOC), and can depend on legislative asymmetries in a common market like that of the EU.

Aim

The objectives of this Study are to: 1) assess the state-of-the-art of prostitution regulations in EU MSs; 2) assess the current situation of sex trafficking and the related existing data in the EU (also by providing actual estimates); 3) identify/evaluate cross-border problems/risks related to the differing national regulations of the EU MSs, with special attention to the trafficking of women/girls and to cross-border organised crime rings; 4) suggest how the EU should legislate in the area – protecting its fundamental rights and gender equality – in order to prevent women/girls from being trafficked for prostitution. The methodology includes desk research, meta-analysis of existing research and additional quantitative research by the author.

Results: national regulations on prostitution in the EU

Regulations in the EU can be clustered in two macro groups, that can be further divided in sub-groups: **Model 1. Legalisation** (21 MSs = 77,8% of EU-27): **Model 1a. Regulated:** prostitution is legal and regulated (Austria, Germany, Greece, Hungary, Latvia, Netherlands; 22,2% of EU-27); **Model 1b. Unregulated:** prostitution is legal

¹ Full study in English: [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/695394/IPOL_STU\(2021\)695394_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/695394/IPOL_STU(2021)695394_EN.pdf)



but unregulated (or only partially regulated, e.g. prohibiting explicitly brothels) (Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, Italy, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain; 55,6% of EU-27); **Model 2. Prohibition** (6 MSs = 22,2% of EU-27): **Model 2a. Punishing the prostitute** (Croatia, Romania; 7,4% of EU-27); **Model 2b. Punishing the client** (France, Ireland, Sweden; 11,1% of EU-27); **Model 3b. Punishing both the prostitute and the client** (Lithuania; 3,7% of EU-27).

Results: THB and related data in the EU

THB for sexual exploitation in the EU is a TOC activity, vastly carried out by criminal rings. As far as **traffickers** are concerned: offenders are predominantly male; many criminal groups of sex traffickers originate from EU countries; the most active non-EU crime groups are Chinese and Nigerian; crime groups are characterised by mobility and the ability to move from one MS to another according to opportunities; sex trafficking groups in the EU are often poly-criminal; they extensively use ICT to facilitate their activities. As far as **victims** are concerned: THB for sexual exploitation in the EU is a gender-specific phenomenon (the very great majority of victims are women; the majority of sex trafficking flows involve EU citizens, with girls mainly coming from Eastern EU MSs; Nigeria, Albania and China are the three main non-EU sending countries; more and more victims act under supposedly voluntary business agreements. As far as **clients** are concerned: clients are "normal" people; clients who often buy sexual services from foreign prostitutes (they are the great majority) very likely buy them from trafficked victims; some factors clearly drive the demand for foreign (and often trafficked) women; clients have an (at least partial) awareness of exploitation. As far as **data on THB** are concerned, the mechanism by the European Commission for the collection of data from the MSs is now in its third round. It has very useful indicators; it is improving with each round; there are still data gaps and data are not always provided disaggregated; there is a certain inhomogeneity regarding the subjects who collect the data and their roles/activities in different MSs; a key problem is still the very high hidden figure of THB. It would therefore be necessary, alongside these official data sources, to also provide estimates based on alternative/non-official and advanced cross-country data-gathering methodologies.

Backing on EU official data on reported victims, this Study estimates (with an ad hoc methodology) the **2018 EU flow of sex trafficking victims** in a range **from 45.000 to 90.000**; the **2018 EU presence of trafficking victims exploited in prostitution** in a range **from 90.000 to 180.000**; and the **2018 EU turnover from trafficked prostitution** in a range **from Euro 5.387.580.000 to Euro 10.775.160.000**.

Results: cross-border problems/risks of different national regulations on prostitution

With reference to THB for sexual exploitation and TOC activities, the Study identifies the main risks/problems related to different national regulations on prostitution. The greater the asymmetry between national prostitution regulations within the EU (with countries where prostitution is legal and countries where is illegal and where the demand for prostitution is criminalised): 1) the more victims of THB for sexual exploitation (especially women) in some MS and in the EU are there, and, as a consequence, more human rights' (HR) violations (**more victims of THB and more HR' violations**); 2) the more and/or stronger are the TOC groups in sex trafficking in those MSs which attract more sex flows and in the EU (**more/stronger TOC groups in THB, with greater mobility**); 3) the wider the presence of TOC rings in sex trafficking in the EU, and the more likely other serious organised crime activities (such as drug trafficking) and this, in turn, equates to more TOC threats and more violations of EU citizens' HR (**more TOC activities, TOC groups' escalation and HR' violations**); 4) the more widespread sex tourism in EU MSs is (**more sex tourism: displacement of the sex demand**); 5) the greater the differences in the size of prostitution markets in the EU countries and in opportunities to work in a given national sex market. This, coupled with differentials in national levels of poverty, unemployment and welfare means internal EU flows of women for prostitution purposes (**more internal movements of women: displacement of the sex offer**).

Suggestions for future EU legislation

First suggestion: to amend the 2011 Directive on Human Trafficking by adding specific offences criminalising buyers of prostitution and envisaging a two-option prostitution model regime: a)

criminalisation of clients of prostitution who buy unregulated prostitution services, for MSs that opt for a regulation model (with capillary control of the legal market so as to prevent victims of trafficking from entering the legal market); b) criminalisation of clients of prostitution *tout court* for MSs that opt for a prohibition model punishing the client. The Directive could also request EU MSs to introduce a specific offence of "conscious" buying sexual services from victims of sex trafficking. **Second suggestion:** if one recognises that prostitution is a form of violence, a violation of human dignity and a form of exploitation of gender inequalities, **to enact a new Directive asking MSs to adopt a prohibitionist model of prostitution criminalising the purchase of sexual services tout court.** Such an approach (alternative to suggestion 1) like suggestion 1 would reduce market asymmetries, sex trafficking flows and the connected TOC activities, but would also safeguard the HR of the victims within the EU, at the same time promoting gender equality. **Third suggestion: to address the root causes (social, economic, cultural) of prostitution by supporting Member States in the fight against female poverty, social exclusion and discrimination.** A possible intervention could include: a special Fund for European Aid for Deprived Women; forms of social support, including increased social security benefits and minimum wage for poor women in the MSs. Interventions could also take the form of orienting and strengthening existing instruments, such as the European Social Fund. **Forth suggestion: to conduct, at MS level national, a periodic standardised self-report survey on prostitution clients.** The European Commission could consider the idea of commissioning a periodic special Eurobarometer survey on prostitution clients and attitude towards prostitution of EU citizens.

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