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**CITIZEN'S RIGHTS AND CONSTITUTIONAL AFFAIRS**

**NATIONAL LEGISLATION ON PROSTITUTION AND THE  
TRAFFICKING IN WOMEN AND CHILDREN**

**STUDY**

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## EXECUTIVE SUMMARY

This Final Report presents the results of the study "*National legislation on prostitution and the trafficking in women and children*", awarded by the European Parliament and carried out by TRANSCRIME, Joint Research Centre on Transnational Crime of the *Università degli Studi di Trento* and the *Università Cattolica del Sacro Cuore* (Italy).

The goal of the study presented in this Report was to highlight the impact that prostitution related policies have on the number of women and children trafficked and on the manners of their exploitation, i.e. to underline the correlations between the legislation typologies/models on prostitution in force in the European Union Member States and the differences found in the number of women and children who have been trafficked and in the ways of their exploitation.

Trafficking in women and children in the EU Member States and elsewhere is an overwhelming problem. As estimates suggest, a significant number of victims suffer deprivation of their basic human rights and their lives are often at risk. In the European Union, the national policies on prostitution differ greatly from one Member State to the next. It is likely that specific approaches to prostitution have a certain influence on: a) the quantitative dimension of the trafficking in women and children (i.e. the number of victims); b) the qualitative dimension of the trafficking in women and children (i.e. the way in which the trafficking and the exploitation processes are performed; for instance, the degree of violence prevalent in the overall market).

In order to accomplish this goal, the research set itself the following objectives: a) analysis of the policies on prostitution across the European Union Member States, underlining newly adopted legislation; b) analysis of the phenomena of trafficking in women and children across the European Union Member States from both quantitative (number of victims) and qualitative perspectives (i.e. the way in which the trafficking and the exploitation processes are performed; for instance, the degree of violence prevalent in the market); c) spatial and temporal comparison of legislation typologies/models on prostitution and the amount of trafficking in and across EU countries.

In order to reach these goals and objectives the research moved through the following phases:

Phase A. Mapping of the policies on prostitution in the 25 EU Member States. Identification of EU legislation typologies/models on prostitution and creation of similar groups of Member States;

Phase B. Review of the literature on trafficking in women and children and assessment of the existing quantitative data in the 25 EU Member States;

Phase C. Selection of the eleven Member States on which to carry out the analysis;

Phase D. Creation of the country profiles for the selected Member States using reliable estimates of victims per year. Determination of the ways in which trafficking for the purpose of prostitution is performed and level of violence present in the market of trafficked prostitution;

Phase E. Writing of the Interim Report;

Phase F. Revision of the Interim report and delivery of the Final Report.

The mapping of the policies on prostitution in the 25 EU Member States made it possible to determine that, though the policies on prostitution in the European Union are different, it is possible to group them into 4 models, depending on the approach of prostitution adopted by each State relating both to the *indoor* (apartments, brothels, hotels, night clubs, pubs, saunas, parlours and windows) and the *outdoor* (street) markets of prostitution. These 4 models of policies on prostitution in the 25 Member States are:

- *Abolitionism*. A country falls under this model if *outdoor* and *indoor* prostitution are not prohibited. The State decides to tolerate prostitution and not to intervene in it. Prostitution by adults is not subject to punishment, but profiting from another person's prostitution is, however, criminalised.
- *New abolitionism*. This model is a development on the “*abolitionism*” model. A country falls under this model if *outdoor* and *indoor* prostitution are not prohibited, but with reference to the latter the State intervenes to explicitly prohibit the existence of brothels.
- *Prohibitionism*. A country falls under this model if *outdoor* and *indoor* prostitution are prohibited. Parties involved in prostitution can be liable to penalties, including in some cases, the clients.
- *Regulationism*. A country falls under this model if *outdoor* and *indoor* prostitution are regulated by the State and are therefore not prohibited when exercised according to this regulation. Prostitutes are often registered by local authorities and are in some cases obliged to undergo medical controls.

Member States are distributed between the 4 legislation typologies/models on prostitution as illustrated in the following table. The most common model in the European Union is *new abolitionism* (32% of the Member States) followed by *regulationism* (28%), *abolitionism* (24%) and *prohibitionism* (16%).

LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION IN THE 25 EU MEMBER STATES

MODEL ON PROSTITUTION	OUTDOOR PROSTITUTION	INDOOR PROSTITUTION	MEMBER STATES	% ON THE MEMBER STATES
<i>Abolitionism</i>	Not prohibited	Not prohibited	Czech Rep., Poland, Portugal, Slovakia, Slovenia, Spain	24%
<i>New abolitionism</i>	Not prohibited	Not prohibited (prohibited in brothels)	Belgium, Cyprus, Denmark, Estonia, Finland, France, Italy, Luxembourg	32%
<i>Prohibitionism</i>	Prohibited	Prohibited	Ireland, Lithuania, Malta, Sweden	16%
<i>Regulationism</i>	Regulated and therefore not prohibited when exercised according to the regulation	Regulated and therefore not prohibited when exercised according to the regulation	Austria, Germany, Greece, Hungary, Latvia, The Netherlands, United Kingdom	28%

Source: Transcrime

The assessment of the existing quantitative data on trafficking in human beings in the 25 EU Member States concluded that data on offences, offenders and victims of trafficking are scarce and often unreliable in many European Union countries. Only 24% of the Member States have a high reliability of quantitative data on trafficking in human beings (Belgium, Germany, Italy, Spain, Sweden, The Netherlands), 24% a medium reliability (Austria, Czech Republic, France, Greece, Lithuania, Poland) and the majority of Member States, 52%, a low reliability (Cyprus, Denmark, Estonia, Finland, Hungary, Ireland, Latvia, Luxembourg, Malta, Portugal, Slovak Republic, Slovenia, United Kingdom).

On the basis of the mapping of policies on prostitution and the assessment of the existing quantitative data on trafficking in human beings in the 25 EU Member States, eleven Member States were selected for further analysis for each of the legislation typology/models on prostitution. For *abolitionism*: Czech Republic, Poland and Spain. For *new abolitionism*: Belgium, France and Italy. For *prohibitionism*: Lithuania and Sweden. For *regulationism*: Austria, Germany, The Netherlands. The selection of these Member States was made according to the following criteria: a) inclusion of The Netherlands and Sweden; b) inclusion of other EU Member States; c) inclusion of recent EU Member States; d) inclusion of the EU Member States that have recently changed their legislation on

prostitution; e) inclusion of the EU Member States with sufficient and reliable qualitative and quantitative information on the trafficking in women and children. One expert was identified in each selected Member State. The expert, due to his or her work activity, needed to be experienced in the qualitative and quantitative aspects of trafficking in women and children in his or her country and had to provide qualitative and quantitative information on the phenomenon in his/her country by replying to some questionnaires.

Originating from this information, the Selected Member States country profiles were built and are contained in the Report with detailed information on: 1) the policy on prostitution, the application of this policy in practice, if available, and the current debate on possible new approaches to the phenomenon; 2) the quantitative aspects of trafficking in human beings for sexual exploitation and estimate of the number of actual victims annually from 1996 to 2003 (when possible); 3) the qualitative aspects of sexual exploitation (in the *indoor* and *outdoor* markets), in particular the division of the market *outdoor/indoor*, the kind of violence perpetrated, etc. If in fact, legislation typologies/model on prostitution could influence the degree of violence employed, or the way in which the activity is performed; 4) the impact of the legislation typology/model on prostitution and, separate to this, the identification of other intervening factors that may influence the level of trafficking in the country, including a description of the level of effect these intervening factors have.

Based on the analysis in the country profiles, here are the main findings and recommendations from the study, though the reader should first be aware of its limits. These limits depend, most of all, on the scarcity of data on the number of victims and on the modalities of their exploitation. The consequences are: a) the pioneer nature of the estimates of victims and indexes of annual trafficked victims presented in the Report; b) the need for using the opinion of experts in order to assess the modalities of the exploitation; c) the impossibility of building statistical models capable of correlating the considered variables. The results of this analysis are the most one can achieve presently, given the current limitations and have to be read with due attention. Notwithstanding this, they represent a first step towards a deeper understanding of the problems subject to this study.

#### FINDINGS

##### *Impact of legislation typologies/models on prostitution on the place where victims of trafficking are exploited (outdoors and indoors)*

- Under a model of “*regulationism*”, trafficked prostitution is more frequently exercised *indoors*. This is the case in Austria, Germany, and The Netherlands.
- Under a model of “*abolitionism*”, trafficked prostitution is more frequently exercised *indoors*. This is the case in Czech Republic, Poland and Spain.
- Under a model of “*new abolitionism*”, trafficked prostitution is more frequently exercised *outdoors*. This is the case in both France and Italy.
- Under a model of “*prohibitionism*”, trafficked prostitution is more frequently exercised *indoors*. This is the case in Sweden.

##### *Impact of legislation typologies/models on prostitution on the level of violence in outdoor and indoor trafficked prostitution*

- Generally speaking, violence in the trafficked prostitution market does not seem to be strictly dependent on the model on prostitution.



- The type and level of violence used both in the *indoor* and *outdoor* markets against trafficked prostitutes seems to have changed particularly in the destination countries.
- Nevertheless, if one were to express a general rule (whose confirmation should be backed by the analysis of better data than currently exists), according to the collected data it seems that the models of “*abolitionism*” and “*new abolitionism*” are those which can develop a slightly higher level of violence than other models.
- The wide-spread view that the exploitation of victims of trafficking is always more violent *outdoors* than *indoors* does not seem to be confirmed. In the selected countries, the level of violence is quite homogenous between *outdoor* and *indoor* trafficked prostitution and furthermore, in some countries (such as Austria and Spain), the level of *indoor* violence is actually much greater than the level of *outdoor* violence.
- Even if it not always confirmed, if in a given country trafficked prostitution is exercised much more in one of the two sectors (*outdoor* or *indoor*), this could also be the sector which displays a higher level of violence.
- The level of violence, independently from its causes and from the sector of trafficked prostitution (*outdoor* and *indoor*), seems to be slightly higher in the new EU Member States.

*Impact of legislation typologies/models on prostitution on the number of trafficked women and children*

- Old EU Member States display higher numbers of victims of trafficking for sexual exploitation. This, *independently* from their model on prostitution, also seems to be the effect of two concurrent factors: a) these countries often possess more reliable quantitative data on victims; b) these countries are destination countries of the trafficking chain. Numbers seem therefore to be strongly influenced by the demand.
- In 2000, in the 11 Selected countries, an estimated number of women and children from a minimum of about 44,000 to a maximum of about 88,000 were trafficked for sexual exploitation. This estimate increased in 2002 to a minimum of about 50,000 and a maximum of 100,000. For 2003, the trend seems still to be on the rise.
- In countries that provide comprehensive schemes of protection and assistance to victims of trafficking (e.g. Belgium, Italy, and The Netherlands), the data on trafficked persons are more reliable and the figures are higher. This is due to the fact that victims are more eager to come forward and provide information if they are afforded a complete set of support services and measures that can help them to recover and gain trust into authorities.
- Several intervening factors seem to influence the number of women and children trafficked for sexual exploitation beyond the legislative model of prostitution. With reference to the indexes of annual trafficked victims, there are also substantial variations among countries belonging to the same legislative model. This makes it difficult to extrapolate a unique causal relationship explaining the number of trafficking victims.
- Nevertheless, taking this statement with due attention, the models that seem to “produce” more victims – especially if one considers old EU Member States – are “*new abolitionism*” and “*regulationism*” whilst the model that seems to “produce” less victims is “*prohibitionism*”.
- A final evaluation of the legislative models on prostitution in the European Union in terms of their impact on the number of victims should be based on more reliable and comparable empirical statistics (especially on victims) and on a wider set of data referred to other

factors/variables (also referring to, for instance, the level of anti-trafficking efforts, the level of law enforcement, the level of corruption, the level of organised crime, the level of openness/closeness of immigration policies of a given Member State, etc.).

*Factors other than legislation typologies/models on prostitution that may affect the nature and extent of trafficking*

The model on prostitution adopted by a given Member State is not the only factor that may have an effect on the number of victims of trafficking in human beings and on the modalities of their exploitation in the prostitution market. The study revealed that, beyond the legislation typologies/models on prostitution, the following factors may affect the nature and extent of trafficking in human beings at the EU level, going from the most to the least significant: 1) the feminisation of poverty and rate of unemployment; 2) the differential in level of welfare between the country of origin and the country of destination; 3) the strict migratory regulations of the destination country; 4) the geographical position of the destination country; 5) the level of anti-trafficking control measures of the country; 6) the entrance into the European Union of new Member States; 7) the cultural and linguistic similarities between the country of origin and the country of destination.

## RECOMMENDATIONS

GENERAL RECOMMENDATIONS FOR ACTIONS THAT WOULD YIELD A BETTER KNOWLEDGE OF THB FOR SEXUAL EXPLOITATION AND MAKING THE UNDERSTANDING OF THE LINK BETWEEN MODELS OF PROSTITUTION AND THE NATURE AND EXTENT OF THB FOR SEXUAL EXPLOITATION EASIER

1. Actions should be taken by the Member States to implement a comprehensive and shared anti-trafficking law based on the international and European legislative provisions, such as the UN Trafficking Protocol (2000), the EU Council Framework Decision on combating trafficking in human beings (2002), and the Council of Europe Convention on Action against Trafficking in Human Beings (2005).
2. Actions should be taken by the Member States to improve the identification procedures of trafficked persons especially by the law enforcement agencies, the judiciary, the immigration services, the labour inspectorates, and the service providers.
3. Actions should be taken by the Member States to improve data gathering and data collection procedures on the trafficking of women and children for sexual exploitation, with special focus on victims, and particularly, on child victims too often neglected in the statistics, when they should constitute a separate category.
4. Actions should be taken to collect in a comparable way, in different Member States, also data on other variables than can be studied as important causal factors of the extent and the modalities of trafficking other than the model on prostitution.
5. Actions should be taken by the Member States and the EU institutions to fund studies to develop empirical and comprehensive methodologies and tools to collect and collate information on prostitution and trafficking for sexual exploitation, taking into account the hidden nature of the phenomena and all the intervening and cross-cutting factors.
6. Actions should be taken by the Member States to establish a national collection mechanism, that could be e.g. a National independent Rapporteur or other similar body, as recommended by the Experts Group on Trafficking in Human Beings of the European Commission, that involves all main players (law enforcement agencies, the judiciary, the social services and NGOs, etc.) that collect data on the phenomenon herein considered.
7. Actions should be taken by the European institutions to set up a collection mechanism at the EU level so as to provide updated information on the development of the phenomena of prostitution and trafficking for the purpose of exploitation in the sex industry within the 25 Member States and, therefore, develop appropriate measures and policies to address the identified needs of the persons concerned.
8. Both National and European collection mechanisms should be managed by bureaus with an independent status and a clear mandate with no operational or political functions. Such bureaus should periodically report and propose recommendations, based on the analysis of the data collected, to their government, parliament, or in the case of the European mechanism, to the European Parliament.
9. Actions should be taken to improve the collaboration with service providers and NGOs that offer a wide set of services to prostitutes, trafficked persons and migrants. In fact NGOs and service providers are often the holders of useful and detailed hard data that could greatly contribute to the national and/or European collection mechanisms. It would be of utmost importance to co-design with such key-actors a common collection spreadsheet to gather the relative data.

SPECIFIC RECOMMENDATIONS ON THE LINK BETWEEN MODELS OF PROSTITUTION AND THE NATURE AND EXTENT OF THB FOR SEXUAL EXPLOITATION

10. Once the statistics have improved, actions should be taken to continue the study on the link between models of prostitution and the nature and extent of trafficking for sexual exploitation;
11. Actions should be taken to improve knowledge on the role of the demand for prostitution;
12. Should the Member States take actions to implement a model on prostitution of “abolitionism”, “regulationism”, “or “prohibitionism”, they should consider, *inter alia*, that trafficked prostitution will probably move *indoors*, becoming less visible; yet should the Member States take actions to implement a model of “new abolitionism”, they should consider, *inter alia*, that trafficked prostitution will probably move *outdoors*;
13. Should the Member States take actions to implement a model of “new abolitionism” or “regulationism”, they should consider that these models seem to “produce” more victims of trafficking for sexual exploitation;
14. Should the Member States take actions to implement a model of “prohibitionism” they should consider that this model seems to “produce” less victims of trafficking for sexual exploitation even though this is not sufficiently proven by the collected data and, most of all, it can arise from misleading evidence resulting from the fact that, under a regime of “prohibitionism”, victims are less visible and therefore can be less easily registered or recorded by statistics;
15. Whichever model on prostitution Member States decide to implement, violence will be higher in the sector (*outdoor/indoor*) of trafficked prostitution in which traffickers/exploiters are more active. The level of violence, independent from its causes and from the sector of trafficked prostitution (*outdoor and indoor*), will probably be higher in the new EU Member States.





# 1.

## INTRODUCTION

This Final Report presents the results of the study "*National legislation on prostitution and the trafficking in women and children*", awarded by the European Parliament and carried out by TRANSCRIME, Joint Research Centre on Transnational Crime of the *Università degli Studi di Trento* and the *Università Cattolica del Sacro Cuore* (Italy).

The goal of the study presented in this Report was to highlight the impact that prostitution related policies have on the number of women and children trafficked and on the manners of their exploitation, i.e. to underline the correlations between the legislation typologies/models on prostitution in force in the European Union Member States and the differences found in the number of women and children who have been trafficked and in the ways of their exploitation.

Trafficking in women and children in the EU Member States and elsewhere is an overwhelming problem. As estimates suggest, a significant number of victims suffer deprivation of their basic human rights and their lives are often at risk. In the European Union, the national policies on prostitution differ greatly from one Member State to the next. It is likely that certain approaches to prostitution have a certain influence on: a) the quantitative dimension of the trafficking in women and children (i.e. the number of victims); b) the qualitative dimension of the trafficking in women and children (i.e. the way in which the trafficking and the exploitation processes are performed; for instance, the degree of violence prevalent in the overall market).

It would be of the utmost importance, therefore, to understand if a correlation exists between the legislation typologies/models on prostitution and the number of trafficked victims present in a given country.

This means that the study presented in this Report does not examine the “common” root causes of trafficking (that are certainly fundamental and should be continuously monitored and addressed) in order to investigate the causal contribution to THB that can be given by legislation typologies/models on prostitution. Root causes of trafficking in fact are “varied and complex. They range from globalisation, employment, trade and migration policies, humanitarian and environmental disasters and poverty to gender and ethnic discrimination, violence against women, lack of opportunities in countries of origin and the increasing demand for cheap, unskilled and easy to exploit labour and services in countries of destination”<sup>(2)</sup>. But together with these traditional causal factors, one should not forget that opportunities for criminal activities may also be inadvertently generated by legislation. This process is what criminologists call crime proofing of legislation<sup>(3)</sup>. Certain types of legislation may facilitate criminal activities, making a given (legal or illegal) market more vulnerable to organised crime, for instance. For researchers and policy-makers remains the task to identify those legislative elements that contribute to crime waves and to close these gaps through targeted interventions.

Identifying and evaluating policies on prostitution in Member States in terms of number of trafficked victims and level of violence within the prostitution market and, on the basis of this analysis, suggesting some recommendations to the European Parliament and other EU institutions was not an easy task, for at least three reasons, namely:

<sup>2</sup> European Commission, Directorate-General Justice, Freedom and Security, *Report of the Experts Group on Trafficking in Human Beings*, European Commission, Brussels, 22 December 2004, p. 12.

<sup>3</sup> Savona, E.U., “Developing a Methodology for the Crime Proofing of New or Amended Legislation”, deliverable b) for wp 1 of Project *MARC – Developing Mechanisms for Assessing the Risk of Crime due to Legislation and Products in order to Proof them against Crime at an EU Level*, financed by the European Commission – DG Research under the Sixth Framework Programme, Milan, January 2005, pp. 2–3.

1. Policies on prostitution in the 25 Member States vary greatly. It is very difficult to typify clear-cut models of prostitution in the European Union. Notwithstanding this, for the sake of research, it was necessary to define legislation typologies/models on prostitution and cluster Member States under these categories;
2. It is not always possible to establish clear causal relationships between a given model on prostitution and the number of trafficked persons or modalities through which the sexual exploitation takes place. Often, too many variables intervene in this relationship, making it spurious. Therefore, every comment on the connections between legislation typologies/models on prostitution and quantitative and qualitative aspects of trafficking for exploitation has to be very balanced and based more on an inductive and logical process, rather than on a statistical one;
3. Quantitative and qualitative information on THB for sexual exploitation are lacking, fragmented, and not comparable across-countries, especially with reference to victims. This, of course, is primarily due to the fact that we are dealing with a hidden population. Several studies at the European Union level and beyond have emphasised this problem. "It is almost axiomatic for papers reviewing trafficking to lament the huge lack of statistics and to call for research to fill the many lacunae. Often the statistics that are produced by countries experiencing trafficking are held by numerous services and organisations there, collected in different ways at different times, use diverse terminologies and so are not comparable within the country let alone from one country to another. Not surprisingly, a common cry is for an international, centralised database for the exchange of information"<sup>(4)</sup>. This pitfall was also recently stressed by the Expert Group on Trafficking in Human Beings of the European Commission<sup>(5)</sup>. Obviously this impairs the development of a study like the present one which should be heavily based on reliable and comparable qualitative and quantitative information on the criminal phenomenon and on the victims involved.

To overcome these difficulties, especially the third one, during the study eleven significant Member States were selected that represented the models on prostitution. The selection of these Member States was made not only for their paradigmatic features with reference to legislation, but also for, compared to other Member States, they had sufficient and reliable qualitative and quantitative information on the trafficking in women and children. In each of the selected Member States a national expert was then identified who, due to his or her work activity, needed to be experienced in the qualitative and quantitative aspects of trafficking in women and children in his or her own country. Much of the information reported in this study is therefore based on expert's opinions - one of the few open research possibilities, given the poor standard of data.

The results of this analysis are summarised in this Report, which is organised as follows:

- Acknowledgement;
- Executive summary;
- Introduction (section 1);
- Policies on prostitution and trafficking in women and children in the European agenda (section 2);
- Research, its goal and methodology (section 3);

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<sup>4</sup> IOM, *Migrant Trafficking in Europe: A Review of the Evidence with Case Studies from Hungary, Poland and Ukraine*, International Organisation for Migration, Geneva, 2000.

<sup>5</sup> European Commission, Directorate-General Justice, Freedom and Security, op. cit., p. 11.



- Mapping of the policies on prostitution in the 25 EU Member States with the identification of EU legislation typologies/models on prostitution and creation of similar groups of Member States (section 4);
- Review of the literature on trafficking in women and children to assess the existing quantitative data in the 25 EU Member States (section 5);
- Country profiles for the selected Member States with reliable estimates of victims per year and determination of the ways in which the trafficking for the purpose of exploitation in the prostitution market is performed and level of violence present in the market of trafficked prostitution (section 6);
- Analysis on the correlations between legislation typologies/models on prostitution and the quantitative and qualitative aspects of trafficking (section 7);
- Recommendations to the European Parliament other EU Institutions and Member States (section 8).

#### *Definitions of terms and abbreviations*

For the purposes of this Report the term trafficking in human beings is abbreviated in THB, while the term Central and Eastern European Countries is abbreviated in CEEC.



## 2.

### POLICIES ON PROSTITUTION AND TRAFFICKING IN WOMEN AND CHILDREN IN THE EUROPEAN AGENDA

The prevention and suppression of trafficking in persons is a priority for the European Union as it concerns the protection of human rights, immigration policies, the security of its citizens, and the enlargement of the Union to the candidate Member States. Several actions have been taken by the Union in the field of crime control policies against THB and prevention and assistance to victims.

This is not the place to speculate on the many important initiatives undertaken by the European Union in the field of THB, the final objective of which is “to strengthen legal protection for the victims of such offences and to take steps to ensure that they are reintegrated into society. To introduce effective measures for addressing the whole trafficking chain of recruiters, transporters, exploiters and clients”<sup>(6)</sup>. The European Union does not specifically deal with the issue of prostitution *per se* but is primarily concerned with the exploitation of prostitution linked with the phenomenon of THB or public health-related matters. Prostitution is a very sensitive issue on which a general agreement is difficult to find. The 25 Member States have different approaches to it, resulting in distinct legislation and policies that prohibit, abolish or regulate prostitution within their national borders. Debates on how to address prostitution are often raised at political level and by public opinion. Over the last few years, such debates have increased as a consequence of the great attention paid, at different levels, to the phenomenon of human trafficking for the purpose of sexual exploitation in the sex industry. One recurring debate, for instance, concerns profiling the demand of prostitution (i.e. clients), with a view to combating trafficking by controlling the demand itself<sup>(7)</sup>.

But would it be effective to control the demand in terms of less trafficked victims or less violence in the exploitation? Or could other methods better achieve this goal?

The European Union, through EU financial programmes, is supporting the research on THB and prostitution to also understand this. Some European research has shown that the way in which the market of prostitution is regulated can create opportunities for crime and/or shape the market<sup>(8)</sup>. A clear example of this can be taken from the Italian situation. In Italy a new bill was presented in the Parliament whose aim is to criminalise street prostitution and legalise *indoor* prostitution. While this bill is pending, experts agree on the fact that a relevant amount of prostitution, also trafficked prostitution, is moving in advance into houses, clubs, and that organised criminals are buying houses for the purpose of exploiting the women. This is happening even though nobody yet knows if the bill will be approved. This is an example of the impact of regulation on criminal activities<sup>(9)</sup>.

In general, if the European Union is willing to understand that if a certain approach to prostitution is more or less effective than others to cope with THB, there is a question of evaluating policies. And in

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<sup>6</sup> European Union, *Combating Trafficking in Human Beings, the Sexual Exploitation of Children and Child Pornography*, available at <http://www.europa.eu.int/scadplus/leg/en/lvb/l33089b.htm> (visited on 5<sup>th</sup> May 2005).

<sup>7</sup> See, for instance, the *Brussels Declaration on Preventing and Combating Trafficking in Human Beings* of the European Conference on Preventing and Combating Trafficking in Human Beings – Global Challenge for the 21st Century, 18–20 September 2002, pp. 6 and 8; European Commission, Directorate-General Justice, Freedom and Security, op. cit., pp. 25–26 and 88–90. For research concerning the demand for prostitution, see Anderson, B., O’Connell Davidson, J., *Is Trafficking in Human Beings Demand Driven? A Multi-Country Pilot Study*, IOM, Geneva, 2003.

<sup>8</sup> van de Bunt, H.G., van der Schoot, C.R.A., *Prevention of Organised Crime. A Situational Approach*, Willan Publishing, Cullompton, Devon, 2003. See also Savona, E.U., Belli, R., Curtol, F., Decarli, S., Di Nicola, A., *Trafficking in Persons and Smuggling of Migrants in Italy*, Transcrime Reports n. 8, Transcrime, Trento, 2004, p. 179.

<sup>9</sup> Donadel, C., Martini, E.R. (eds.), *Hidden Prostitution*, WEST Project, Regione Emilia-Romagna, Ravenna, 2004, available at [http://www.regione.emilia-romagna.it/west/inglese/ricerche/prostituzione\\_invisibile/pdf/report\\_finale.pdf](http://www.regione.emilia-romagna.it/west/inglese/ricerche/prostituzione_invisibile/pdf/report_finale.pdf) (visited on 17<sup>th</sup> April 2005).

order to evaluate policies, reliable data are indispensable. However the European Union and its Member States are still lacking a uniform approach to the gathering and storing of quantitative information on offence, offenders and victims of THB. Project MON-EU-TRAF II, financed by the European Commission under Stop II 2002 Programme, stressed the following problems related to the organisation of existing databases which may hamper effective data collection and the exchange of information on trafficking at the old Member States level:

- too many diverse authorities collect data;
- data stored in databases are not immediately comparable across countries because the relevant criminal offences are sometimes different;
- statistics are not always clear and useful;
- criteria for the storing of data differ from country to country;
- types of data collected may differ;
- different variables are used to collect information on offences, perpetrators and victims;
- insufficient attention is paid to gathering information on victims;
- some countries only maintain confidential databases and occasionally these are the only ones available for information on THB;
- information from NGOs is under-utilised<sup>(10)</sup>.

In order to overcome these problems, the Expert Group on Trafficking in Human Beings suggests that:

- Member States “establish a central place where information from different sources and actors is systematically gathered and analysed. This could be a National Rapporteur or a comparable mechanism”;
- “Once national data collection mechanisms are established, the EU should establish a similar mechanism at the European level, the task of which is to bring together at a European level the information collected at national level”;
- “Common guidelines for the collection of data should be developed, both with regard to the type of data and to the methods used”<sup>(11)</sup>.

Only by following this path, can researchers and policy-makers work jointly to improve the effectiveness of repression, prevention and assistance to victims and to assess the unintended criminal implications of given legislation typologies/models on prostitution. This should be one of the main concerns of the European Union at 25 Member States when dealing with THB.

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<sup>10</sup> Transcrime, *MON-EU-TRAF II – A Study for Monitoring Trafficking in Human Beings in the European Union*, Transcrime Report no. 10, Transcrime, Trento 2004.

<sup>11</sup> European Commission, Directorate-General Justice, Freedom and Security, op. cit., p. 78.



### 3.

#### THE RESEARCH, ITS GOAL AND METHODOLOGY

The goal of the study presented in this Report was to highlight the impact that prostitution related policies have on the number of women and children trafficked and on the manner of their exploitation: i.e. to identify any correlation between the types of legislation/models on prostitution in European Union Member States and the differences found in the number of women and children who have been trafficked and in the ways of their exploitation.

In order to accomplish this goal, the research set itself the following objectives:

- a) analysis of the policies on prostitution across the European Union Member States underlining newly adopted legislation;
- b) analysis of the phenomena of trafficking in women and children across the European Union Member States from both quantitative (number of victims) and qualitative perspectives (i.e. the way in which the trafficking and the exploitation process are performed; for instance, the degree of violence prevalent in the market);
- c) spatial and temporal comparison of legislation typologies/models on prostitution and the amount of trafficking in and across EU countries.

In order to reach the above mentioned goal and objectives, the research has undergone the following phases and steps.

*Phase A. Mapping of the policies on prostitution in the 25 EU Member States. Identification of EU legislation typologies/models on prostitution and creation of similar groups of Member States.*

Step 1. Collection of the policies on prostitution of the 25 EU Member States and review of the literature on this issue, taking into consideration recent studies carried out in the field.

Step 2. When it was not possible to define the approach to prostitution, or very little or no literature/information was available for a given Member State, identification of one expert in the Member State who was asked to complete a short, straightforward questionnaire designed to identify the type of regulation of prostitution present in the country.

Step 3. Definition of EU legislation typologies/models on prostitution into which the different legislations can be grouped and the creation of a cluster of Member States. Each Member State was inserted into one of the different typologies/models on prostitution. Short mapping of the THB legislations in the 25 EU Member States.

*Phase B. Review of the literature on trafficking in women and children and assessment of the existing quantitative data in the 25 EU Member States.*

Step 4. Analysis of the previous studies on the quantification of trafficking and the data already collected, particularly by the European Commission, other international organisations, national governments and research centres. This step was carried out with a view of identifying those Member States with the most reliable qualitative and quantitative information on the trafficking in women and children. This phase was essential to the selection of the countries considered in the next part of the research (phase C).

*Phase C. Selection of the eleven Member States on which to carry out the analysis.*

Step 5. Selection of one or more relevant Member States within each legislation typology/model on prostitution (see Step 3). The selection of these Member States (from now on selected Member States) was accomplished according to the following criteria:

- a) inclusion of The Netherlands and Sweden;
- b) inclusion of other former EU Member States;
- c) inclusion of recent EU Member States;
- d) inclusion of the EU Member States that have recently changed their legislation on prostitution;
- e) inclusion of the EU Member States with sufficient and reliable qualitative and quantitative information on the trafficking in women and children (see Step 4).

Following these criteria eleven Member States were selected for further analysis, namely (in alphabetical order): Austria, Belgium, Czech Republic, France, Germany, Italy, Lithuania, Poland, Spain, Sweden and The Netherlands.

*Phase D. Creation of the country profiles for the selected Member States using reliable estimates of victims per year. Determination of the ways in which the trafficking for the purpose of prostitution is performed and level of violence present in the market of trafficked prostitution.*

Step 6. Identification of one expert in each selected Member State. The national expert, due to his or her work activity, needed to be experienced in the qualitative and quantitative aspects of trafficking in women and children in his or her country.

Step 7. Drafting and administering by e-mail of a short questionnaire (see *Annex A*) for the national expert. The questionnaire asked the expert for information on:

- a) national legislative pattern on prostitution. Experts were requested to comment on their national policy on prostitution and on the foreseen changes in the short-term;
- b) quantitative aspects of THB for sexual exploitation. Among the information requested, the number of women and children victims of trafficking who came in contact with NGOs or with the police/judicial authorities in the country annually from 1996 to 2003 (if applicable, the period had to include the years before and after any new law on prostitution has entered into force);
- c) qualitative aspects of sexual exploitation of trafficked women and children (in the street, clubs, and houses). For example, the level at which these activities are carried out using violence and level of

violence in the market, etc. In fact, legislation could influence the level of violence or the way in which the activity is performed;

d) identification of other intervening factors that may influence the level of trafficking in the country other than legislation typology/model on prostitution (e.g. pre-existing level of organised crime, geographical position, level of corruption, etc.).

Step 8. Estimating the number of trafficking victims in selected Member States from the data collected through the questionnaire and the production of comparable national indexes on trafficked victims. A common method was needed in order to have national numbers that were comparable across countries. This method was already used by Transcrime in previous studies and had proven to be feasible and quite reliable in comparison to other possible “guess-estimates”<sup>(12)</sup>. Official information on the number of trafficking victims who came into contact with NGOs or with the police/judicial authorities (victims in judicial proceedings) provides an important source of reliable estimates.

Using these numbers, it was necessary to calculate the ratio between victims who contact the police/judicial authorities or NGOs and those who do not (i.e. the hidden number of victims). If a reasonable definition is given to this ratio, reliable estimates can be made. This ratio could be defined using the results of victimisation surveys or with the help of the national experts on trafficking. A starting point for calculating the ratio between the number of victims recorded by this monitoring study on trafficking and the real number of its victims was a victimisation survey conducted on the victims of sexual offences in the UK<sup>(13)</sup>. For this type of crime only two in every ten victims contact the authorities. The ratio between the number of victims reported in official statistics and those who go unreported is thus 1/5. Taking account of a) the lack of trust in the authorities shown by the victims of trafficking, b) their illegal status in the destination country and their isolation; c) their subjugation to the traffickers, d) the covert nature of the trafficking, it is possible to argue that this ratio is much lower. It accordingly seemed likely that the ratio between the victims recorded and the real number of victims could oscillate between 1/10 and 1/20.

This method, as the reader will understand better in this Report, was used when possible, to reach the national number of trafficked women and children. The estimates produced were checked against national estimates, if they exist.

As said, in this study the ratio for victims who contact the police/judicial authorities or NGOs and those who do not was set between 1/10 and 1/20. The formula reads as follows:

Annual national estimate of victims (min. and max.) = Number of victims who contact the police or judicial authorities or NGOs per year \* 10 (min.) or 20 (max.)

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<sup>12</sup> Only very few of the studies conducted to estimate the victims of human trafficking have explained the methodology used to produce their data: IOM – Migration Information Programme (MIP), *Trafficking in Women to Austria for Sexual Exploitation*, IOM, June 1996; Bruinsma, G.J.N., Meershoek, G., “Organised Crime and Trafficking in Women from Eastern Europe in The Netherlands”, in Williams, P. (ed.), *Illegal Immigration and Commercial Sex: The New Slave Trade*, Frank Cass, London, 1999; Kelly, L., Regan, L., *Stopping Traffic: Exploring the Extent of, and Responses to, Trafficking in Women for Sexual Exploitation in the UK*, Police Research Series, Paper 125, Home Office, London, 2000; Carchedi, F., Picciolini, A., Mottura, G., Campani, G. (eds.), *I colori della notte. Migrazioni, sfruttamento sessuale, esperienze di intervento sociale* [The Colours of the Night. Migration, Sexual Exploitation and Experiences of Social Intervention], Franco Angeli, Milan, 2000; Carchedi, F. (ed.), *Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia* [Child Trafficking: Young Slaves without Borders], Ediesse, Roma, 2004; Brunovskis, A., Tyldum, G., *Crossing Borders. An Empirical Study of Transnational Prostitution and Trafficking in Human Beings*, Fafo report 426, Oslo, 2004.

<sup>13</sup> Myhill, A., Hallen, J., *Rape and Sexual Assault of Women: the Extent and Nature of the Problem. Findings from the British Crime Survey*, Home Office Research Study no. 237, Home Office, London, March 2002.



In order to make these estimates comparable across countries, an annual national index of victims was constructed. This index is the rate of the estimated number of victims per 100.000 males aged over 15 residing in the country. Therefore this index is the ratio between the annual national estimate of the number of victims and the number of males residing in the country aged over 15 in the year under consideration (i.e. the number of potential clients for these victims) times 100.000. The formula reads as follows:

$$\text{Annual national index of victims} = \frac{\text{Annual national estimate of victims}}{\text{number of males resident in the country aged over 15 in the year considered}} * 100.000$$

From the annual national index of victims a general index of victims was calculated. This index is the average of the annual national indexes of victims for 2000, 2001 and 2002.

In the few cases in which this formula could not be applied because of the lack of data, national estimates were used or alternative methods that are exposed in the related country profiles.

#### *Phase E. Writing of the Interim Report*

Step 9. Based on the results of the previous phases, an Interim Report was drafted. The Interim Report was as complete as possible and was presented to the European Parliament.

#### *Phase F. Revision of the Interim Report and delivery of the Final Report*

Step 10. Based on feedback from the European Parliament, a revision of the Interim Report was undertaken. The Interim Report highlighted the possibility of other intervening factors, besides from policies on prostitution, bearing an influence over THB. The European Parliament was particularly interested in this issue and asked for a refinement and a systematisation of these factors to be included in the final version of the study. To this purpose, an additional questionnaire was drafted (see *Annex C*) and administered by e-mail to the national experts. The country profiles were revised accordingly, including the new information on intervening factors drawn from responses to the additional questionnaire.

Step 11. Writing and delivery of this Final Report. This Final Report presents, among other things, a detailed analysis of policies on prostitution in the selected Member States, the number of victims present in each of these countries, and the main qualitative features of the trafficking operation. This Final Report also compares the results and underlines any correlations between the legislation typologies/models on prostitution with the amount of trafficking present/modalities of the exploitation. It also quantifies the effect that other intervening factors, besides from policies on prostitution, may have on THB at the EU level (section 7 of this Report)

In order to compare the results and underline any correlations between the type of legislation/model on prostitution with the amount of trafficking present/modalities of the exploitation, a final synoptical table (see table 57, section 7 of this Report) was built which enables the reader to visualise the main results of the study (section 7). The indexes used in this table were calculated from the replies given by the national experts in response to the questionnaire. In order to quantify the level of effect the intervening factors (other than legislation/models on prostitution) have on THB at the EU level (eleven selected Member States), an *EU Level of Effect Index* was calculated for each factor. This index was computed using replies given by the national experts drawn from the additional questionnaire (see Graph 1, section 7). A complete explanation of the methodology used for calculating all the indexes is included in section 7, *Annex B* and *Annex D*.

Finally, based upon the main findings of the research, some recommendations for the European Parliament, the EU Institutions and the Member States were devised (section 8 of this Report).

All the information on legislation and quantitative/qualitative aspects of THB contained in this Report is updated to July 2005.

This Final Report was delivered within 6 months from the contract being awarded. This was a short period of time considering the scope of the research, the challenging task and the lack of hard data. This accomplishment was only possible thanks to the invaluable help of our network of experts. Any inaccuracies are of course the sole responsibility of the authors.



## 4.

### POLICIES ON PROSTITUTION IN THE 25 EU MEMBER STATES

This section deals with the policies that the 25 EU Member States adopt concerning prostitution.

In order to understand the legislation typologies/models on prostitution of each country, this paper is organised as follows:

- focus on the model on prostitution adopted in the country;
- brief review of the offences relating to prostitution and THB.

The policies on prostitution are different, but it is possible to group them into 4 models<sup>14</sup>. This division is based on the model of prostitution adopted by each State relating to the *indoor* and the *outdoor* markets of prostitution.

*Outdoor prostitution* refers to the sex market that takes place in the streets.

*Indoor prostitution* refers to the sex market that takes place in apartments, brothels, hotels, night clubs, pubs, saunas, parlours and windows.

The 4 models of policies on prostitution in the 25 Member States are:

*Abolitionism*. A country falls under this model if *outdoor* and *indoor* prostitution are not prohibited. The State decides to tolerate prostitution and not to intervene on it. Prostitution by adults is not subject to punishment, but profiting from another person's prostitution is, however, criminalised.

*New Abolitionism*. This model is a development on the "*abolitionism*". A country falls under this model if *outdoor* and *indoor* prostitution are not prohibited, but with reference to the latter the State intervenes to explicitly prohibit the existence of brothels.

*Prohibitionism*. A country falls under this model if *outdoor* and *indoor* prostitution are prohibited. Parties involved in prostitution can be liable to penalties, including, in some cases, the clients.

*Regulationism*. A country falls under this model if *outdoor* and *indoor* prostitution are regulated by the State and therefore not prohibited when exercised according to this regulation. Prostitutes are often registered by local authorities and are in some cases obliged to undergo medical controls.

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<sup>14</sup> This division has been developed from the information contained in the following publications: Brussa, L., "Le politiche prostituzionali in Europa" [*Prostitution Policies in Europe*], in Da Pra Pocchiesi, M., Grosso, L. (eds.), *Prostitutes, prostitute, clienti. Che fare?* [Prostitutes, Prostituted, Clients. What to do?], EGA, Torino, 2001; Outshoorn, J. (ed.), *The Politics of Prostitution. Women's Movements, Democratic States and the Globalisation of Sex Commerce*, Cambridge University Press, Cambridge, 2004; Working Group on the Legal Regulation of the Purchase of Sexual Service, *Purchasing Sexual Service in Sweden and The Netherlands. Legal Regulation and Experiences*, Ministry of Justice and Police Affairs, Oslo, October 2004; Danna, D., *Cattivi costumi - Le politiche sulla prostituzione nell'Unione Europea negli anni Novanta* [Bad Habits - Policies on Prostitution in the European Union in the 1990s], Quaderni del Dipartimento di Sociologia e Ricerca Sociale, n. 25, Trento, Dipartimento di Sociologia e Ricerca Sociale, Università di Trento, Trento, 2001; Danna, D., "Trafficking and Prostitution of Foreigners in the Context of the E.U. Countries' Policy about Prostitution", paper presented at the *NEWR Workshop on Trafficking*, Amsterdam, The Netherlands, 25-26<sup>th</sup> April 2003; Pajumets, M. (ed.), *Prostitution - a Social Problem? - The Views on Prostitution's Nature, Causes and Effects in the Baltic States and North-western Russia*, Estonian Women's Studies and Resource Centre - Equality Department of Estonian Ministry of Social Affairs - Nordic Council of Ministers, Tallin, 2004, pp. 17-18.

TABLE 1: LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION.

MODEL ON PROSTITUTION	OUTDOOR PROSTITUTION	INDOOR PROSTITUTION
<i>Abolitionism</i>	Not prohibited	Not prohibited
<i>New abolitionism</i>	Not prohibited	Not prohibited (prohibited in brothels)
<i>Prohibitionism</i>	Prohibited	Prohibited
<i>Regulationism</i>	Regulated and therefore not prohibited when exercised according to the regulation	Regulated and therefore not prohibited when exercised according to the regulation

Source: Transcrime

#### 4.1 REVIEW

##### AUSTRIA<sup>(15)</sup>

##### *Policy on prostitution*

The Austrian policy on prostitution falls under the *regulationism* model, at least concerning the national level. *Outdoor* and *indoor* prostitution are regulated and women who are in prostitution are required to register.

“National legislation rules over matters concerning the Penal Code, HIV/AIDS laws, tax and social insurance laws. Article 118.3 of the federal constitutional law of 1962 states that prostitution is to be regulated by provincial or municipal law”<sup>(16)</sup>. Laws and policies in the nine Austrian provinces do not comply with general guidelines and differ from province to province and even from one city to another. Street prostitution is prohibited by police laws in seven provinces. Six provinces allow brothels, where the owners are required to apply for a permit from the city authorities. Regardless, most of the municipalities still prohibit brothels and consider prostitutes like criminals, trying to make them invisible using restrictive zoning regulations.

Notwithstanding the national laws, selling sex is to date, in a lot of municipalities, deemed immoral, and prostitution is not considered a legal form of work.

##### *Prostitution related crimes and the offence of THB*

The Criminal Code prohibits prostitution-related activity, including procuring (Article 213), promoting prostitution (Article 215), pandering (Article 216), publishing advertisements leading to illicit sexual practices (Article 219), public and illicit sexual practices (Article 218).

THB is punished under Article 217 of the Criminal Code, that has recently been changed to comply with the Palermo Protocol and named as Article 104a (May 2004). Article 217 was then renamed “Transborder Crossing Trafficking in Prostitution” and covers only cross-border trafficking for prostitution. Under the Immigration Law, trafficked persons willing to testify in court can apply for a residence permit for humanitarian reasons and be provided with accommodation, psychological, health and legal support. The victims who do not want to or cannot cooperate with the authorities are generally deported.

<sup>15</sup> The sources used to write this country profile are: Sullivan, B., “Taxes, Rights, and Regimentation: Discourses on Prostitution in Austria”, in Outshoorn, J. (ed.), op. cit., pp. 41–61; Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>16</sup> Sullivan, B., in Outshoorn, J. (ed.), op. cit., p. 41.

BELGIUM<sup>(17)</sup>

*Policy on prostitution*

The Belgian policy on prostitution falls under the *new abolitionist* model because prostitution is generally not prohibited, except when exercised in brothels.

*Prostitution related crimes and the offence of THB*

Prostitution in brothels is illegal, but the Criminal Code also prohibits other certain prostitution-related activities. These prohibited activities include: 1. engaging, enticing, coercing or holding a person who is not of legal age for the purposes of prostitution or debauchery; 2. keeping a house of prostitution or debauchery; 3. selling, renting, or making available rooms or any other premises for the purpose of prostitution with the aim of earning an abnormal profit; 4. exploiting the prostitution or debauchery of others (Article 380 §1). “These offences are punishable with a sentence of 1 to 5 years of imprisonment and a fine of € 2,750 to € 137,500. In case the victim is a minor, the offences are punishable with a sentence from 10 to 15 years of imprisonment and a fine from € 5,500 to € 550,000”<sup>(18)</sup>.

Aggravating circumstances include the participation in the principal or accessory activity of an association. These circumstances enhance the penalty (Article 381 bis).

Also, the Code of Criminal Procedures prohibits the “corruption of youth” (Chapter VI – Corruption of Youth and Prostitution). The code asserts that “any person who, to satisfy the passions of another, violates public morals by inciting, furthering, or facilitating the corruption or debauchery of a minor, of either sex, shall be punished by imprisonment and a fine.” (Article 379).

The Anti-trafficking Law of 13 April 1995 amended the Belgian Criminal Code by explicitly criminalising THB with a view to their sexual exploitation. Human trafficking is defined in Article 380 of the Belgian Criminal Code as “the recruitment, transportation, transfer and harbouring of adult persons, even with their consent, with a view to their sexual exploitation, more specifically the commission of vice or prostitution in order to satisfy the lusts of another”. This means that the Belgian Criminal Code only applies in those cases wherein the trafficker intends to sexually exploit the victim. The fact that the victim provided consent is of no importance for the possible punishment of the trafficker.

According to the Belgian Criminal Code, THB with a view to their sexual exploitation is punishable with a sentence from 1 to 5 years of imprisonment and a fine from € 2,750 to € 137,500 (Article 380, §1, 1° CC). Attempted human trafficking is also punishable with a sentence from 6 months to 3 years of imprisonment and a fine from € 550 to € 2,750 (Article 380, §2 CC)<sup>(19)</sup>.

Article 380, Section 3 provides for a series of aggravating circumstances.

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<sup>17</sup> The sources used to write this country profile are: Transcrime, *MON-EU-TRAF II...*, op. cit.; Protection Project, *Belgium – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/belgium.htm](http://www.protectionproject.org/human_rights/countryreport/belgium.htm) (visited on 18<sup>th</sup> April 2005); Cockayne, A., *Prostitution and Sexual Exploitation in The European Union*, Department of Policies, University of Exeter, 2002, available at [http://www.ex.ac.uk/policies/pol\\_data/undergrad/aac/word\\_format.doc](http://www.ex.ac.uk/policies/pol_data/undergrad/aac/word_format.doc) (visited on 18<sup>th</sup> April 2005).

<sup>18</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>19</sup> Ibid.

CYPRUS<sup>(20)</sup>*Policy on prostitution*

The Cyprian policy on prostitution falls under the *new abolitionist* model because *outdoor* prostitution is not prohibited, whilst *indoor* prostitution in brothels is.

*Prostitution related crimes and the offence of THB*

Although prostitution is not prohibited in Cyprus, some prostitution related activities are, such as: a) keeping, managing or assisting in the management of a brothel, the use or letting premises to be used as a brothel (sect. 156 (1) of the Criminal Code); b) procuring a woman to be a prostitute or to work in a brothel (Section 157 of the Criminal Code); c) detaining a woman against her will in a brothel (Sect. 162 (b) of the Criminal Code); d) living on the earnings of prostitution (Section 164 of the Criminal Code); e) a woman aiding for gain the prostitution of another woman (sect. 165 of the Criminal Code)<sup>(21)</sup>.

Law No. 3(1) of 2000 “*Combating of Trafficking in Persons and Sexual Exploitation of Children*” prohibits the sexual exploitation of adults for profit if the exploitation is accomplished through the use of force, violence, threat, or fraud, or through abuse of power or other kind of pressure to such an extent so that the person would have no substantial or reasonable choice but to submit to the pressure or ill-treatment (Article 3 (1)(a)). According to Article 2 “Sexual exploitation of a child”, means “the incitement or compelling of a child to participate in any sexual activity, the exploitation of a child for his prostitution or participation in other sexual practices, the exploitation of a child with his participation in pornographic shows and material, including the production, sale and distribution of other kinds of trading in similar material”.

The Law of 2000 explicitly prohibits sexual trafficking, which means any act that facilitates the entry into, transit through, residence in, or exit from the Republic for purposes of sexual exploitation.

Trafficking of persons for the purposes of sexual exploitation, or instigating, assisting, allowing, participating, or contributing to such trafficking in persons, is punishable by a fine or imprisonment for 10 years or both (Article 5.1) If the victim of trafficking is a child, the imprisonment increases to 15 years (Article 5.2).

Trafficking in persons is recognised by the law irrespective of the consent of the victim to the offence, the receipt of any financial consideration or other reward for the act, knowledge of the actual age of the victim, or the fact that the act has taken place in whole or in part in a country where the act does not constitute an offence (Article 6).

<sup>20</sup> The sources used to write this country profile are: U.S. Department of State, *Trafficking in Persons Report – June 2004*, U.S. Department of State, Publication 11150, Office of the Under Secretary for Global Affairs, Washington D.C., June 2004, available at <http://www.state.gov/g/tip/rls/tiprpt/2004>, p. 120 (visited on 22<sup>nd</sup> April 2005); Protection Project, *Cyprus – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/cyprus.htm](http://www.protectionproject.org/human_rights/countryreport/cyprus.htm) (visited on 2<sup>nd</sup> May 2005).

<sup>21</sup> UN Economic and Social Council, *Contemporary Forms of Slavery Related to and Generated by Discrimination, in particular Gender Discrimination – Review of Developments in the Field of Contemporary Forms of Slavery and Measures to Prevent and Repress all contemporary Forms of Slavery, including the Consideration of Corruption and International Debt as Promoting Factors of Contemporary Forms of Slavery*, 22 May 2003 (E/CN.4/Sub.2/AC.2/2003/4).

CZECH REPUBLIC<sup>(22)</sup>

*Policy on prostitution*

The Czech policy on prostitution falls under the *abolitionist* model, in fact *outdoor* and *indoor* prostitution is not prohibited, but it is not regulated and not considered as work.

*Prostitution related crimes and the offence of THB*

“Prostitution is legal, but the Criminal Code prohibits prostitution-related activities. Explicitly it prohibits pandering, which is defined as an act of forcing or enticing another to prostitute or of profiting from another’s prostitution (Article 204.1)”<sup>(23)</sup>. The offence is punishable by imprisonment for up to 3 years. There are some aggravating circumstances in cases involving violence, threat of violence or other serious harm, or misuse of a position of dependence. The sentence increases for up to 5 years. It is further enhanced to up to 8 years if the offence is committed against a person less than 18 years of age.

Prostitution can be considered as a public order offence (Article 47, Act no. 200/1990) if the offender (i.e. prostitute) causes public annoyance<sup>(24)</sup>. Engaging in prostitution at a public venue may also be punished under the offence of “rioting” (Article 202, Criminal Code), as the offender is committing “a rude indecency” in a place open to the public<sup>(25)</sup>.

Article 232 of the Criminal Code prohibits THB. Its disposition (that abrogated former Article 246) absorbs the norm of the first protocol of the Palermo Convention of 2000. This means the Czech legislation conforms to the international pattern on THB.

DENMARK<sup>(26)</sup>

*Policy on prostitution*

The Danish policy on prostitution falls under the *new abolitionist* model because *outdoor* prostitution is not prohibited, whilst *indoor* prostitution in brothels is; however, it is legal to work as a prostitute in an apartment.

Article 228 of the Criminal Code prohibits keeping a brothel and the punishment for these offences is imprisonment for up to 4 years. Article 229.2 also criminalises “any person who lets a room in a hotel or an inn for the carrying on of prostitution as a profession” and he/she shall be liable to detention or

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<sup>22</sup> The sources used to write this country profile are: Protection Project, *Czech Republic – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/czech.htm](http://www.protectionproject.org/human_rights/countryreport/czech.htm) (visited on 17<sup>th</sup> April 2005); La Strada, *Trafficking in Human Beings in Central Europe*, La Strada – Czech Republic, Prague, 2005.

<sup>23</sup> Protection Project, *Czech Republic...*, op. cit.

<sup>24</sup> Institute of Criminology and Social Prevention, *Trafficking in Women: the Czech Republic Perspective*, Institute of Criminology and Social Prevention, Prague, 2004, p. 63.

<sup>25</sup> Ibid., p. 64.

<sup>26</sup> The sources used to write this country profile are: Transcrime, *MON-EU-TRAF II...*, op. cit.; Femmigration, *Denmark*, available at <http://www.femmigration.net/countries/denmark.html> (visited on 2<sup>nd</sup> May 2005); Protection Project, *Denmark – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/denmark.htm](http://www.protectionproject.org/human_rights/countryreport/denmark.htm) (visited on 2<sup>nd</sup> May 2005).



imprisonment for a term not exceeding 1 year or, in mitigating circumstances, to a fine. The Danish legislative pattern is similar to *regulationism* model because prostitutes have to register for tax purposes with the local tax and customs authorities, but they are not obliged to undergo health checks.

#### *Prostitution related crimes and the offence of THB*

In March 1999, Denmark's Parliament legalised prostitution. The new law, which has been in force since 1 July 1999, makes it illegal to purchase sex from anyone under the age of 18, with a maximum sentence of ten years' imprisonment (§ 223.1).

The Danish Criminal Code punishes pimping, procuring or making profits from the prostitution of others. "The penalty for pimping (§228) is imprisonment for up to 4 years and the penalty for being an intermediary (§229) is imprisonment for up to 3 years. For persons with prior sentences pursuant to §228 and §229 the penalty may be increased by up to half of the current sentences"<sup>(27)</sup>.

Article 229.3 punishes anyone who allows himself to be maintained, in whole or in part, by a woman who makes her living from prostitution. He shall be liable to imprisonment for a term not exceeding 4 years.

It is interesting to point out that a provision in the Criminal Code, §75 Section 1, allows for the confiscation of profits from, amongst others, THB and pimping. An additional fine can be levied when the perpetrator is presumed to be able to pay the fine.

"In 2002, Act 380 introduced the offence of trafficking in human beings into the Penal Code in order to ensure that Denmark fulfilled the obligations of the UN Convention on Transnational Crime and the Palermo Protocol as well as the EU Framework Agreement on Trafficking in Human Beings"<sup>(28)</sup>. The act of THB can be punished with a sentence of imprisonment of up to 8 years, but the Danish Criminal Code does not provide the specific offence of THB for the purpose of sexual exploitation. "However, §228 Section 2 of the Penal Code addresses "white slavery". A person who assists in the transportation of a person out of the country in order to have this person work in sexual indecency (prostitution) or participate in such indecency (prostitution) can be imprisoned for up to 4 years. If the person transported is under the age of 21 or is unaware of the objective"<sup>(29)</sup>.

ESTONIA<sup>(30)</sup>

#### *Policy on prostitution*

The Estonian policy on prostitution falls under the *new abolitionist* model. *Outdoor* and *indoor* prostitution are not prohibited, but running a brothel is. This has led a "[large] number of owners [to] just change the "sign" and reopen new brothels under new one – saunas, massage saloons, etc."<sup>(31)</sup>.

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<sup>27</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> The sources used to write this country profile are: Kalikov, J., *Prostitution in Estonia, Latvia and Lithuania*, Central European University – Center for Policy Studies/Open Society Institute, Budapest, 2003/2004, available at <http://pdc.ceu.hu/archive/00002057/01/kalikov.pdf> (visited on 2nd May 2005); Protection Project, *Estonia – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/estonia.htm](http://www.protectionproject.org/human_rights/countryreport/estonia.htm) (visited on 2nd May 2005); Pajumets, M., op. cit., pp. 19–20.

<sup>31</sup> Kalikov, J., op. cit., pp. 22–50.

*Prostitution related crimes and the offence of THB*

Article 201 of the Criminal Code “Allowing illegal activities in a persons dwelling”, led to the closure of many brothels, especially those run by females or former prostitutes.

The Criminal Code punishes exploiting a minor for the purposes of prostitution with imprisonment of between 2 and 5 years (Article 202). “Pandering or pimping is punishable by up to 1 year imprisonment. Pandering or pimping a person between 18 and 21 years of age is punishable by 1 to 3 years imprisonment. If it is committed using violence or other enforcement measures or against a minor, or against 2 or more persons, or by a person who has previous criminal record for the same act, it is punishable by 3 to 7 years imprisonment” (Article 202).

Several other articles regarding prostitution involving minors came into force on 1 September 2002. Article 175 punishes those who by inducement, threat or any other act influences a person of less than 18 years of age in order to cause him or her to commence or continue prostitution. Article 176 criminalises aiding prostitution involving a person of less than 18 years of age by mediation, provision of premises or in any other manner and is punishable by a fine or up to 3 years imprisonment.

FINLAND<sup>(32)</sup>*Policy on prostitution*

The Finnish policy on prostitution falls under the *new abolitionist* model because prostitution is generally not prohibited, except when exercised in brothels. There has been no national law on prostitution since 1986, when the Vagrant Act was abrogated.

“Prostitution as a source of livelihood [...] is not legally equivalent to other legal occupations, regardless of the fact that it is formally accepted. It is true that the income earned through prostitution is taxable income, and the claims that are based on prostitution are legally protected in the same way as other private claims. However, the status of prostitutes in regard to pension or labour law is not similar to the status of persons employed in other legal occupations”<sup>(33)</sup>.

It is explicitly not possible to get a work permit or residence permit for prostitution purposes, according to the Finnish Aliens Act (301/2004), Section 148 of which states that “an alien may be refused entry into the country if: [...] 6. there are reasonable grounds to suspect that he or she may sell sexual services”<sup>(34)</sup>.

Prostitution is not forbidden, but local municipalities can prohibit street prostitution with local laws. In fact some cities adopted local laws to plug the gap left by the lack of national legislation on prostitution. “Helsinki was one of the first municipalities to suffer from open street prostitution at the beginning of the 1990s. Soon, there were vehement demands by inhabitants that the state and the city put a stop to street prostitution by a law or a municipal ordinance. [...] A new municipal ordinance submitted in autumn 1999 included a prohibition of public prostitution (Helsinki City Council 1999b:Appendix 40)”<sup>(35)</sup>.

*Prostitution related crimes and the offence of THB*

Although prostitution is permitted, profiting from someone else’s prostitution is criminalised in Finland as procuring (Article 20:9 PC). “The criteria for punishable procuring are met if someone, in order to make profit for him/herself or for someone else has 1) provided a room or other space where sexual intercourse or other comparable sexual acts for payment can be performed; 2) has otherwise exploited the fact that someone has engaged in such an act; or 3) has enticed or used pressure on someone to engage in such an act”<sup>(36)</sup>. The punishment is a fine or imprisonment for up to 3 years. “All kind of economic profits from the prostitution of another person, even if it is based on a voluntary agreement between parties, is subject to punishment. [...] The law does not distinguish between procuring that is based on mutual equality and voluntary agreement between the parties and activity where the prostitute is subordinated to the procurer. According to the preparatory work, the

<sup>32</sup> The sources used to write this country profile are: Femmigration, *Finland*, available at [http://www.femmigration.net/work/work\\_finland.html](http://www.femmigration.net/work/work_finland.html) (visited on 16<sup>th</sup> May 2005); Holli, A.M., “Towards a new Prohibitionism? State Feminism, Women’s Movements and Prostitution Politics in Finland”, in Outshoorn, J. (ed.), op. cit., pp. 103–123; Lehti, M., Arooma, K., *Trafficking in Human Beings, Illegal Immigration and Finland*, European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), Helsinki, 2000.

<sup>33</sup> Lehti, M., Arooma, K., op. cit., pp. 11–12.

<sup>34</sup> The text of the Aliens Act is available at <http://www.finlex.fi/en/laki/kaannokset/2004/en20040301> (visited on 16<sup>th</sup> May 2005).

<sup>35</sup> Holli, A.M., in Outshoorn, J. (ed.), op. cit., p. 116.

<sup>36</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

prostitute's status has, however, to be taken into of in the assessment of the blameworthiness of the act and thus also when deciding on the punishment<sup>37</sup>.

Paragraphs 20:6–7 criminalise sexual intercourse or other sexual activity with a person below the age of 16 years as sexual exploitation of a child. In simple cases, the punishment is a maximum of 4 years imprisonment; in aggravated cases (where the offence is of a character that is apt to cause particular harm, or has been committed in a manner that is particularly humiliating) imprisonment is for at least 1 year, up to a maximum 10.

Another specific provision concerning prostitution is found in § 20:8 PC. In 1998 buying sexual services from a person younger than 18 years was criminalised: "If someone, by promising or giving a remuneration makes a person younger than 18 years old engage in sexual intercourse or some other sexual act, he/she shall be sentenced to a fine or to imprisonment for a maximum of six months".

"Sexual exploitation in general is regulated in paragraph 20:5 of the Penal Code. Point 4. of part 1 of this paragraph is applicable to trafficking in women. This regulation criminalises acts where someone, by making use of his/her position, makes another person engage in sexual intercourse or some other such sexual act that essentially violates the right to sexual self-determination, or to make someone become subjected to such an act, who is particularly dependent on him/her, by abusing the dependency relationship in an aggravated manner. According to point 2 of paragraph 20:5 of the Penal Code, it is also punishable to exploit the helpless state of someone in a similar manner, where the helpless state prevents the victim from being able to defend him/herself. The punishment for such crimes is a fine or a maximum of four years of imprisonment. The attempt of such crimes is punishable. The crime is a complainant offence<sup>38</sup>.

FRANCE<sup>39</sup>

#### *Policy on prostitution*

The French policy on prostitution falls under the *new abolitionist* model. *Outdoor* prostitution is not prohibited, but *indoor* prostitution is prohibited when exercised in brothels as explicitly noted by the Criminal Code in Article 225.10.

In January 2003, a Domestic Security Bill was passed which criminalised soliciting clients.

#### *Prostitution related crimes and the offence of THB*

The Criminal Code<sup>40</sup> in Article 225.5 prohibits procuring (i.e., aiding, assisting, or protecting the prostitution of others; profiting from the prostitution of others; and engaging, enticing, inducing, or coercing a person into prostitution). Punishment for procuring is a fine and imprisonment for 5 years.

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<sup>37</sup> Lehti, M., Arooma, K., op. cit., pp. 12–13.

<sup>38</sup> Ibid., p. 10.

<sup>39</sup> The sources used to write this country profile are: Protection Project, *France – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/france.htm](http://www.protectionproject.org/human_rights/countryreport/france.htm) (visited on 17<sup>th</sup> April 2005); Allwood, G., "Prostitution Policy in France", paper presented at the *PSA Conference*, Lincoln, 6–8 April 2004, available at <http://www.psa.ac.uk/2004/pps/Allwood.pdf> (visited on 16<sup>th</sup> April 2005); Transcrime, *MON-EU-TRAF II...*, op. cit.; Mazur, A.G., "Prostitute Movements Face Elite Apathy and Gender-Biased Universalism in France", in Outshoorn, J. (ed.), op. cit., pp. 123–144.

<sup>40</sup> Protection Project, *France...*, op. cit.

The code also prohibits actions related to procuring, including serving as an intermediary between a person in prostitution and a person who exploits or compensates the prostitution of the other; assisting a procurer in proof of false financial resources; and impeding the prevention efforts, control assistance, or reduction efforts of qualified agencies on behalf of persons in danger of becoming prostitutes or of engaging in prostitution (Article 225.6).

The punishment is enhanced in cases of aggravated circumstances such as when the act of procuring is committed against a minor or a person who “because of age, sickness, infirmity, mental or physical deficiency, or pregnancy is particularly vulnerable and whose vulnerability is apparent to the procurer.” (Article 225.7). Punishment for procuring in these cases is imprisonment for 10 years and a fine. When procuring is committed by an organised criminal group, the punishment is imprisonment for 20 years (Article 225.8) The punishment is life imprisonment if procuring is committed by means of torture or acts of barbarism.

The code in Article 225.10 also prohibits maintaining a house of prostitution or regularly accepting or permitting one or more persons to engage in prostitution in any establishment open to the public or used by the public.

Two parts of the Domestic Security Bill, tabled in October 2002 and brought into force in March 2003, were concerned specifically with prostitution. “Article 18 criminalises soliciting and makes it an offence for clients to pay for sex with a particularly vulnerable person and Article 28 permits the removal of a visitor’s permit from foreigners caught soliciting”<sup>(41)</sup>. The law’s provision about “particularly vulnerable prostitutes” includes those who are pregnant or have a mental or physical illness or disability which is clear to the client.

“The offence of trafficking in human beings was introduced into the French Penal Code, with Law n° 2003-239 on March 18th, 2003. This law defines trafficking of human beings as: the recruitment, transportation, or lodging of a person in order to make her available to a third person for the purpose of committing the offences of procuring, sexual aggression, exploitation by forcing this person to beg, providing work or living conditions that violate her dignity, or forcing this person to commit a crime or an offence, in exchange for remuneration (Article 225-4-1). According to the law passed on March 18th, 2003, the offence of trafficking in human beings for the purpose of sexual exploitation is included in the general offence of trafficking in human beings”<sup>(42)</sup>.

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<sup>41</sup> Allwood, G., op. cit., pp. 6–7.

<sup>42</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

GERMANY<sup>(43)</sup>

*Policy on prostitution*

The German policy on prostitution falls under the *regulationism* model. This is because both *outdoor* and *indoor* prostitution have been regulated on a national level from 2002, and are not prohibited if exercised according to the regulations. Under this legal framework prostitutes are considered as normal workers and can access social security benefits, including health, unemployment and pension insurances. Prostitutes are able to work on a payroll or self employed. In praxis, the regulation of prostitution is under the competences of the *Länder*. Some of them (Baden-Württemberg, Bremen, Bayern, Thüringen, Sachsen) do not recognise prostitution as a trade. As a result, there is no access to social security benefits for prostitutes in these *Länder*. Some municipalities, including Leipzig and Mannheim, fine the purchase of sexual services in certain districts.

*Prostitution related crimes and the offence of THB*

The Criminal Code prohibits, in Article 180a (1), pandering with the penalty of a fine or imprisonment for up to 3 years for any person who maintains or manages a commercial operation in which individuals engage in prostitution and in which: 1. these individuals are held in personal or economic dependency, or 2. the practice of prostitution is promoted through measures that exceed merely providing a dwelling, accommodation, or residence and the ancillary services commonly associated therewith.

The second part of Article 180a also prohibits pandering, with the object of protecting women in prostitution from further exploitation by others. “Child prostitution is prohibited, as is patronising a child in prostitution, encouraging a child to be in prostitution, or deriving economic support from a child in prostitution”<sup>(44)</sup>.

The State deals with issues of procurement, banning the exploitation, recruiting, and coordination of people into prostitution, as well as those who act as impediments to individuals looking to leave it behind, with penalties of 6 months to 5 years in prison for violators (Article 181a). A penalty of imprisonment of up to 3 years or a fine shall be applied to any person who promotes the practice of prostitution by another individual by arranging for sexual intercourse for profit, and to the end maintains a relationship with the other individual that goes beyond the individual instance (Article 181a(2)).

There is an aggravating circumstance if the perpetrator acts as a member of a ring that is formed for the ongoing perpetration of such acts.

Article 184a punishes with imprisonment of up to 6 months or a fine of up “180 daily rates” any person who persists in violating a prohibition issued by regulation against engaging in prostitution.

The German Criminal Code also inserts an Article, 184b, that punishes whomever engages in prostitution in the vicinity of a school (or other locations frequented by children) and in a house in which reside persons under the age of eighteen.

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<sup>43</sup> The sources used to write this country profile are: Protection Project, *Germany – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/germany.htm](http://www.protectionproject.org/human_rights/countryreport/germany.htm) (visited on 18<sup>th</sup> April 2005); Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>44</sup> Protection Project, *Germany...*, op. cit.

In February 2005 the Criminal Code on THB changed.

The following provisions were introduced<sup>(45)</sup>:

Criminal Acts against personal freedom

§ 232 Trafficking in human beings for the purpose of sexual exploitation

§ 233 Trafficking in human beings for the purpose of labour exploitation

§ 233b Advancement of trafficking in human beings

§ 234 Kidnapping

The crime of THB has been broadened to all forms of exploitations. The provisions (§ 180b and §181, defining THB solely for the purpose of sexual exploitation) were deleted.

GREECE<sup>(46)</sup>

#### *Policy on prostitution*

The Greek policy on prostitution falls under an “imperfect” *regulationism* model, near to *prohibitionism* and to *new abolitionism*. *Outdoor* prostitution is considered as a crime. Similarly, *indoor* prostitution - selling sex in a brothel/club/window, is also prohibited and considered a crime. The only legal place to work as a prostitute is in an apartment<sup>(47)</sup>.

To work legally as prostitutes the women need a "Certificate of Profession" according to Article 5 of Law 2734/1999. Only women who are not married (including widows and divorcees) and in possession of a valid residence permit are able to receive this certificate. In addition to the "Certificate of Profession" she also needs an administrative permit to reside in specified quarters, the "Permit of Residence in Specified Quarters in order to Exercise Prostitution".

The apartments used for prostitution must not be located in buildings near schools, churches, kindergartens, nursery schools, sport centres, libraries or similar places. Only a maximum of three women are allowed to work in one apartment; in this case it is legal to rent an apartment to a prostitute.

“Prostitutes must register for health reasons; they must register with the health department of the regional (prefecture) authorities, with the municipal authorities and with the police. They have to undergo regular health checks. They cannot be forced to undergo these health checks but they will be deemed to have violated the criminal legislation on prostitution if they refuse”<sup>(48)</sup>.

Self-employed sex workers have to pay taxes as self-employed persons.

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<sup>45</sup> *Bundesgesetzblatt Jahrgang 2005 Teil I Nr. 10, ausgegeben zu Bonn am 18.02.2005.*

<sup>46</sup> The sources used to write this country profile are: Transcrime, *MON-EU-TRAF II...*, op. cit.; Femmigration, *Greece*, available at [http://www.femmigration.net/work/work\\_greece.html](http://www.femmigration.net/work/work_greece.html) (visited on 3<sup>rd</sup> May); Protection Project, *Greece – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/greece.htm](http://www.protectionproject.org/human_rights/countryreport/greece.htm) (visited on 3<sup>rd</sup> May 2005).

<sup>47</sup> Femmigration, *Greece*, op. cit.

<sup>48</sup> *Ibid.*

*Prostitution related crimes and the offence of THB*

Article 348 of the Criminal Code prohibits facilitating another's debauchery which can be punished by 1 year of imprisonment. Pandering and pimping are also prohibited. Article 349 punishes anyone who induces, urges, procures or facilitates the prostitution or lewd acts of minors, with the intent to facilitate another's debauchery with imprisonment of not less than 9 months nor more than 3 years. The code forbids influencing a female minor into debauchery or detaining any female without her consent in a brothel or for prostitution (Article 351). These offences are punishable by a fine and imprisonment from 1 to 3 years. According to Article 349.2(c) the prison term may be increased up to 5 years when a parent or a guardian perpetrates the crime.

Article 350 punishes by imprisonment of between 6 months and 3 years anyone who derives his livelihood wholly or partially from the exploitation of the income of a female prostitute.

Law 3064 of 2002, Articles 7 and 8 deal with the offence of THB for the purpose of sexual exploitation, improving a number of Articles in the Criminal Code. "In particular, Article 323A improves Article 323 of Penal Code on the slave trade by incorporating trafficking of human beings. Article 351 of Penal Code on white slave trade has included trafficking for the purpose of sexual exploitation regardless of sex with aggravated penalties in case of under-age victims"<sup>(49)</sup>.

HUNGARY<sup>(50)</sup>

*Policy on prostitution*

Since 2000 the Hungarian policy on prostitution has fallen under the *regulationism* model. "According to the new regulation on prostitution, there are certain (*outdoor* and *indoor*) areas where prostitution is strictly forbidden (protected zones). Local governments however, should, or are obliged to, assign locations (zones of tolerance), where prostitution is tolerated and health control is carried out. The aim of the law is to limit the scope of prostitution and to liberate these women from the pressure and exploitation of the criminal underworld by legalising this activity. At the same time, prostitution is gradually becoming more concentrated and visible and therefore can be monitored. This monitoring contributes to the prevention of violence and the exploitation of and trafficking in women while taking into account the fact that prostitutes are especially vulnerable to becoming victims of violence"<sup>(51)</sup>.

In 2000, the national police determined that until local authorities designated permissive zones, all districts were considered protected from prostitution. "As a result, they instituted "very strict police control" forcing prostitutes to move to new territories"<sup>(52)</sup>. "As of September 2002, regional and local

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<sup>49</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>50</sup> The sources used to write this country profile are: Bureau of Democracy, Human Rights, and Labour, *Hungary – Country Reports on Human Rights Practices for 2004*, U.S. Department of State, Washington, February 2005, available at <http://www.state.gov/g/drl/rls/hrrpt/2004/41685.htm> (visited on 3<sup>rd</sup> May 2005); BIM (Boltzmann Institut für Menschenrechte), *Combat of Trafficking in Women for the Purpose of Forced Prostitution: Hungary. Country Report*, Ludwig Boltzmann Institute of Human Rights, Vienna, 2000, available at [www.univie.ac.at/bim/download/hungary.pdf](http://www.univie.ac.at/bim/download/hungary.pdf) (visited on 3<sup>rd</sup> May 2005); Research Directorate, Immigration and Refugee Board, *Hungary*, Research Directorate, Immigration and Refugee Board, Ottawa, available at <http://www.irb-cisr.gc.ca/en/research/ndp/ref/?action=view&doc=hun40870e> (visited on 3<sup>rd</sup> May 2005).

<sup>51</sup> BIM, op. cit., p. 9.

<sup>52</sup> Ibid., p. 10.



authorities had still not designated zones of tolerance, and prostitutes reportedly faced police harassment, fines or imprisonment”<sup>(53)</sup>.

“Health control of prostitutes is regulated by an order of the Minister of Health Affairs. According to this, a prostitute can offer sexual services only if she possesses the prescribed medical certificate, which is valid together with her identity card. The medical examination should be initiated by the prostitute herself. It is not free of charge and should be repeated every month or once in three months, depending on the kind of examination”<sup>(54)</sup>. Prostitutes, as well as clients, are prohibited from offering or accepting sexual services in the protected zones. According to a new regulation the violation of restrictions or prohibitions related to sexual services, prescribed by special Acts or local government orders (based on authorisation by the Act), is punished by being placed in custody or a fine of up to HUF 150.000,- (Section 143.1).

#### *Prostitution related crimes and the offence of THB*

In 1993, the Hungarian Criminal Code was amended and a provision prohibiting prostitution (Section 204) ceased to exist. Since then, prostitution itself has not constituted a crime. The exploitation of the prostitution of others is a criminal offence and severely penalised in the Criminal Code: promotion of prostitution (Section 205), living on the earnings of a prostitute (Section 206) and pandering (Section 207).

Pimping and letting out rooms to prostitutes is illegal. A person who makes available a building or another place for prostitution to another person and who persuades another person to engage in prostitution, shall be punishable with imprisonment of up to 3 years. Article 206 punishes a person who lives wholly or in part on the earnings of a person engaging in prostitution who is punishable with imprisonment of up to 3 years. Expulsion may also take place as a supplementary punishment. Pandering shall be punishable with imprisonment of up to 3 years and article 207 lists some aggravating circumstances.

In 1999, an amendment was introduced into the Hungarian Criminal Code, penalising THB as a new form of crime against personal freedom and human dignity. Relevant provisions within this new chapter are: Section 175 (Violation of personal freedom), Section 175/A (Kidnapping) 78 and Section 175/B (Trafficking in human beings). The prohibition of trafficking contains all forms of trafficking activity: for the purposes of forced labour as well as for sexual exploitation.

#### IRELAND<sup>(55)</sup>

#### *Policy on prostitution*

The Irish policy on prostitution falls under the *prohibitionist* model. *Outdoor* and *indoor* prostitution are prohibited. Running a brothel is a criminal offence under Irish law, namely under Section 11 of the Criminal Justice (Sexual Offences) Act 1993. Voluntary prostitution that takes place in apartments seems to be tolerated, but if more than one woman works in the apartment it would be considered a

<sup>53</sup> Research Directorate, Immigration and Refugee Board, op. cit.

<sup>54</sup> BIM, op. cit, p. 26.

<sup>55</sup> The sources used to write this country profile are: Femmigration, *Ireland*, available at [http://www.femmigration.net/work/work\\_ireland.html](http://www.femmigration.net/work/work_ireland.html) (visited on 3<sup>rd</sup> May 2005); Protection Project, *Ireland – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/ireland.htm](http://www.protectionproject.org/human_rights/countryreport/ireland.htm) (visited on 3<sup>rd</sup> May 2005); Transcrime, *MON-EU-TRAF II...*, op. cit.

brothel and the tenant/lessee/occupier or person in charge of the premises could be liable to prosecution pursuant to Section 11. Prostitutes are not registered in Ireland, consequently they are not obliged to undergo regular health checks, but the Women's Health Project provides checks and other care in the Dublin area.

"There are no regulations for paying taxes on earnings from prostitution, because prostitution is effectively illegal"<sup>(56)</sup>.

#### *Prostitution related crimes and the offence of THB*

Under the current law, the Criminal Law (Sexual Offences) Act 1993, prostitution is effectively illegal. The law prohibits soliciting or importuning for the purpose of prostitution. The act, in the Section 7, penalises any person who, in a street or public place, solicits or importunes another person for the purpose of prostitution.

The Criminal Justice Act, Section 23, provides that "a person who publishes or causes to be published or distributes or causes to be distributed an advertisement which advertises a brothel or the services of a prostitute in the State or any premises or service in the State, in terms, circumstances or manner which gives rise to the reasonable inference that the premises constitute a brothel or that the service is one of prostitution shall be guilty of an offence".

Section 9 of Criminal Justice Act provides that a person who for gain: controls or directs the activities of a prostitute in respect to prostitution, organises prostitution by controlling or directing the activities of more than one prostitute for that purpose, or compels or coerces a person to be a prostitute, shall be guilty of an offence and shall be liable to punishment.

Living on the earnings of prostitutions (Section 10 Criminal Justice Act) is also a criminal offence.

There is no specific offence of THB in Ireland.

"The Child Trafficking and Pornography Act of 1998 prohibits child trafficking for sexual exploitation including prostitution. The act penalises any person who organises or facilitates the entry into, transit through, or exit from the State of a child for the purpose of his or her sexual exploitation. Punishment for the crime is life imprisonment"<sup>(57)</sup>.

#### ITALY<sup>(58)</sup>

##### *Policy on prostitution*

The Italian policy on prostitution falls under the *new abolitionist* model. *Outdoor* and *indoor* prostitution are not prohibited, but neither are they regulated by the State. The existence of brothels, however, is explicitly prohibited by law.

In 1958, the Merlin law (L. 75/1958) abolished the previous system of regulation that had been established in 1861 which permitted and regulated the brothels; any other kind of prostitution was illegal. Law 75/58 criminalised running brothels, prohibited health registers and the compulsory medical controls. The aim of this law was to fight the pandering in order to preserve public order and to squash the exploitation and the segregation of women who worked in the brothels.

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<sup>56</sup> Femmigration, *Ireland*, op. cit.

<sup>57</sup> Protection Project, *Ireland...*, op. cit.

<sup>58</sup> The sources used to write this country profile are: Transcrime, *MON-EU-TRAF II...*, op. cit.; Danna, D., "Italy: the Never-ending Debate", in Outshoorn, J. (ed.), op. cit., pp. 165-185.

The Merlin law allows street prostitution and prostitution by women in her own house or apartment without considering it as a work and without regulating prostitution markets.

*Prostitution related crimes and the offence of THB*

Article 4 of the Merlin law modified the Articles 531 and 536 of the Criminal Code. A person is punishable if he/she: operates brothels; rents out a building for purpose of prostitution; regularly tolerates the exercise of prostitution; recruits and facilitates prostitution; persuades somebody to prostitute herself/himself; induces somebody to move herself/himself to exercise prostitution; works in a national or international association committed to the recruitment of persons in order to exploit them for prostitution; favours or exploits another's prostitution. This Article provides for a lot of different offences (or, at least, different situations) the same punishment; the imprisonment from 2 to 6 years and a fine. The penalty can be doubled if there are specific aggravating circumstances (Article 5 L.75/58).

The criminalisation of those who favour another's prostitution caused a lot of discussions by academics and practitioners. Favouring another's prostitution acts means facilitating the exercise of prostitution. Under this Article, for example, it is possible to punish a client who drives a prostitute to her place of work and who permits her to change the clothes inside his car. It is possible, also, to punish a prostitute who lives and shares costs with other prostitutes. The conviction of these cases of favouring depends on the interpretation made by the judges.

Soliciting in a public place was considered a crime, but from 1999 it is punishable only as an administrative offence.

Law n. 269 of 1998 modifies the Criminal Code prohibiting juvenile prostitution as well as tourist operations intended to exploit the minors. Prohibited activities include organising or publicising travel to procure persons for the purposes of prostitution that harms juveniles in any way. Punishment for such offences ranges from 6 to 12 years of imprisonment and a fine.

The Italian Parliament passed its first law to specifically punish THB in 2003. Law no. 228/2003 "Measures against trafficking in persons" defines and covers all forms of (internal and cross border) trafficking for different types of exploitation, slavery and servitude. It also specifies the elements of the crime (violence, abuse of authority, profiting from a situation in which the other person is in a situation of physical or psychological inferiority, etc.). Offenders may be punished by imprisonment for a period from eight to twenty years and the compulsory confiscation of profits derived from their illicit trafficking activities which will be used to establish a "Fund for anti-trafficking measures". The regulatory act of this new law is still under discussion.

On this regard "Law n. 228 of 2003 modified the Criminal Code and introduced the offence of "Reducing to or Keeping in Slavery or Servitude" (Article 600), "Trafficking in Persons" (Article 601) and renewed the provision related to "Trading in Slaves" (Article 602)<sup>(59)</sup>.

LATVIA<sup>(60)</sup>

*Policy on prostitution*

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<sup>59</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>60</sup> The source used to write this country profile are: Kalikov, J., op. cit., pp. 51–73; Pajumets, M., op. cit., pp. 20–21.

The Latvian policy on prostitution falls under the *regulationism* model. *Outdoor* and *indoor* prostitution are controlled by the State especially with regards health matters. In April 2000 the Cabinet of ministers adopted new regulations on limiting prostitution. Prostitutes are forbidden from offering sexual services or accepting commissions for sexual services outside of the locations that are specified by local governments, or in an apartment or home which do not belong to the prostitute or in respect to which the prostitute has not concluded a rental agreement. Each prostitute must undergo a health examination on a monthly basis. Where a prostitute has been determined to be suffering from an illness or disorder that is included on a list that has been approved by the minister of welfare, the said prostitute shall be forbidden from engaging in prostitution while treatment is being given and/or while medical or serological observations are being made. The said ban shall remain in effect until such time as the certified dermatovenerologist has determined that the prostitute is completely well.

Engaging in prostitution is forbidden for minors and all persons who do not have a health card. This card must be shown to the client on request. Where an individual fails to observe the terms of these regulations, the said person shall be held liable in accordance with the procedure referred to in the law.

#### *Prostitution related crimes and the offence of THB*

Since 1999 the new Criminal Code increased the punishment for the pimping to 8 years of imprisonment.

“Before 2000 Latvian legislation did not specify trafficking as the separate kind of crime. In May 2000 there the first anti-trafficking laws were adopted article (№ 165(1) which criminalised the sending of human beings to a foreign country for the purpose of sexual exploitation. Such activities, depending on whether it was committed for the purpose of commercial sexual exploitation against the person are punishable by imprisonment up to 5 years (against minors - up to 15 years)”<sup>(61)</sup>.

#### LITHUANIA<sup>(62)</sup>

##### *Policy on prostitution*

The Lithuanian policy on prostitution falls under the *prohibitionist* model because *outdoor* and *indoor* prostitution are prohibited. Nevertheless, *outdoor* prostitution seems to be tolerated and “considered rather “free” and the prostitutes cannot choose another region/street since their work places are under control of criminal elements”<sup>(63)</sup>.

Currently, prostitution acts are not criminal, but are an administrative offence. The administrative law in fact prohibits “engagement in prostitution”. The offence is punished by a fine in Article 182 of the Code of Violations of Administrative Law. It is illegal to maintain a house for the purpose of sexual immorality and the punishment is imprisonment of 3 to 5 years or a fine (Article 239 of Lithuanian Criminal Code).

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<sup>61</sup> Kalikov, J., op. cit., p. 70.

<sup>62</sup> The sources used to write this country profile are: Bureau of Democracy, Human Rights, and Labour, *Lithuania – Country Reports on Human Rights Practices for 2004*, U.S. Department of State, Washington, February 2005, available at <http://www.state.gov/g/drl/rls/hrrpt/2004/41693.htm>; Protection Project, *Lithuania – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/lithuania.htm](http://www.protectionproject.org/human_rights/countryreport/lithuania.htm) (visited on 18<sup>th</sup> April 2005); Kalikov, J., op. cit., pp. 7–21; Pajumets, M., op. cit., p. 21.

<sup>63</sup> Bureau of Democracy, Human Rights, and Labour, *Lithuania...*, op. cit.

*Prostitution related crimes and the offence of THB*

Currently prostitution act is an administrative offence punished by a fine. The liability for prostitution is foreseen in Article 182 of the Code of Violations of Administrative Law and the penalty for prostitution is a fine, approximately, from € 85 to € 140. If the person prostitutes repeatedly and was earlier fined for the same actions his/her offence is punished with an increased fine or he/she may receive an administrative arrest of up to 30 days.

Pimping is criminalised and punishable by a deprivation of liberty from 3 to 7 years or fine (Article 239. 3 of the Lithuanian Criminal Code). “Forcing to engage into prostitution of juveniles, materially dependant persons and persons dependant due to held posts as well as involvement into prostitution by way of blackmail/deceit/use of psychological or physical pressure is punishable by a deprivation of liberty ranging from 3 to 7 years”<sup>(64)</sup>.

“Prostitution as an administrative offence could be considered in case a prostitute is older than 16 years and of sound mind. In fact, a lot of underage girls are engaged into sex trade, however, till they are younger as 16, no means of legal persecution are applied”<sup>(65)</sup>.

THB is penalised under the Criminal Code. Until 1998 trafficking was punished (from 6 to 12 years of imprisonment) as an unlawful deprivation of freedom; in 1998 the law was amended to cover the offence of trafficking for the purpose of sexual exploitation (Article 131, part 3). The new Criminal Code entered into force in 2001 and includes an article that now also covers trafficking for other purposes and provides a punishment of between 3 months and 8 years of imprisonment. If trafficking is committed against an underage person, the offender is subject to a more severe penalty<sup>(66)</sup>.

LUXEMBOURG<sup>(67)</sup>

*Policy on prostitution*

The Luxembourgian policy on prostitution falls under the *new abolitionist* model. *Outdoor* prostitution is not prohibited. *Indoor* prostitution is not prohibited unless it is exercised in brothels. Owning, directly or through a third party, managing, directing or running a brothel or similar establishment are crimes punishable with imprisonment from 6 months to 3 years and a fine of € 251 to € 50,000. The same punishment is provided for anyone who knowingly allows all or part of a hotel, guest house, night club or any other premises of which he is the owner or landlord to be used for the prostitution of others (Article 379 bis n. 3 and n. 4 of the Criminal Code).

*Prostitution related crimes and the offence of THB*

Article 379 bis of the Luxembourg Criminal Code punishes enticing or corrupting another for the purpose of prostitution or debauchery with imprisonment from 6 months to 3 years. The crime exists regardless of the consent of the victims and even if the act is committed aboard. If the victim is

<sup>64</sup> Kalikov, J., op. cit., p. 7.

<sup>65</sup> Bureau of Democracy, Human Rights, and Labour, *Lithuania...*, op. cit.

<sup>66</sup> Kalikov, J., op. cit., p. 10.

<sup>67</sup> The sources used to write this country profile are: Protection Project, *Luxembourg – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/luxembourg.htm](http://www.protectionproject.org/human_rights/countryreport/luxembourg.htm) (visited on 4<sup>th</sup> May 2005); Transcrime, *MON-EU-TRAF II...*, op. cit.

employed, incited or abducted by fraud or violence, threats, abuse of authority or any other form of constraint the imprisonment is increased to 1 to 5 years.

Procuring, under Article 379 bis n. 5, is also an offence that includes aiding, assisting or protecting the prostitution of others; sharing in the proceeds from the prostitution of others; acting as an intermediary for people in prostitution or hindering the prevention, monitoring or assistance efforts undertaken by the proper agencies on behalf of people in prostitution. The penalty is imprisonment from 6 months to 3 years.

Article 379 n. 1 applies the punishment of 1 to 5 years in cases of inciting, enabling or encouraging the debauchery, corruption or prostitution of a minor under the age of 18 years.

The Criminal Code was amended by the Law 31 May 1999 in order to reinforce measures against THB and the sexual exploitation of children. “It was to be included in a chapter regarding “Prostitution, exploitation of and trafficking in human beings”. The relevant provisions, Articles 379 and 379bis of the Criminal Code, distinguish between trafficking in children and trafficking in human beings, both for sexual exploitation”<sup>(68)</sup>.

#### MALTA<sup>(69)</sup>

##### *Policy on prostitution*

The Maltese policy on prostitution falls under the *prohibitionist* model because *outdoor* and *indoor* prostitution are prohibited. Prostitution is a serious offence.

##### *Prostitution related crimes and the offence of THB*

The Articles 5, 7, 8 and 10 of the White Slave Traffic (Suppression) Ordinance of 1930 (amended by the acts of 1933, 1955, 1965, 1974, 1976, 1981, 1983, 1989, and 1994) prohibits the detention of a person against his or her will in a brothel, living on the money earned from prostitution, keeping or managing a brothel, or using premises for the purpose of prostitution.

The law explicitly prohibits international trafficking, namely, “inducing a person to leave Malta for the purposes of prostitution.” If a person has attained the age of 21 years, the law criminalises forced inducement, i.e. using means of violence, threats, or deceit to coerce prostitution. Punishment for the offence is imprisonment for up to 2 years. The punishment may be increased to 4 years if the offence is committed by means of abuse of authority, abuse of trust, or abuse by a relative.

Coercion is not required for the criminalisation of the offence if the induced person is under the age of 21. However, it may constitute an aggravated circumstance, which increases the punishment.

“The criminal code prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

The White Slave Traffic Ordinance and the Criminal Code prohibit procurement for prostitution, pornography, sexual offences, defilement of minors, illegal detainment, unlawful carnal knowledge,

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<sup>68</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>69</sup> The sources used to write this country profile are: Bureau of Democracy, Human Rights, and Labour, *Malta – Country Reports on Human Rights Practices for 2004*, U.S. Department of State, Washington, February 2005, available at <http://www.state.gov/g/drl/rls/hrrpt/2004/41696.htm> (visited on 4<sup>th</sup> May 2005).

and indecent assault. Traffickers may be prosecuted under the criminal code or under the Immigration Act for unlawful entry or unregulated status<sup>70</sup>.

POLAND<sup>(71)</sup>

*Policy on prostitution*

The Polish policy on prostitution falls under the *abolitionist* model because *outdoor* and *indoor* prostitution are neither prohibited nor regulated by the State. It is not punished to be a prostitute, but it is illegal to take profits from prostitution by a third party.

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<sup>70</sup> Bureau of Democracy, Human Rights, and Labour, *Malta...*, op. cit.

<sup>71</sup> The source used to write this country profile is the Protection Project, *Poland – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/poland.htm](http://www.protectionproject.org/human_rights/countryreport/poland.htm) (visited on 17<sup>th</sup> April 2005).

*Prostitution related crimes and the offence of THB*

The Criminal Code prohibits causing another to engage in prostitution by means of force or illegal threat or by taking advantage of the dependence of a person. The penalty for this offence is, according to Article 203, imprisonment from 1 to 10 years.

The code also prohibits encouraging prostitution for pecuniary gains. Punishment for this offence is imprisonment for 3 years (Article 204). The same penalty applies to cases involving entrapping or kidnapping another person to cause that person to engage in prostitution abroad. The code also prohibits causing a minor less than 15 years of age to engage in sexual intercourse or to submit to a sexual act. The offence is punishable by imprisonment from 1 to 10 years (Article 200). The same penalty applies to a perpetrator who encourages the prostitution of a minor under the age of 15 and gains pecuniary benefit from that prostitution.

In Poland there is no definition of THB but such an offence is criminalised under other articles of the Criminal Code. The aforementioned Article 204 punishes the enticement or the abduction of a person into prostitution abroad by a maximum of ten years imprisonment; while Article 253 §1 punishes “whoever traffics in persons, even with their consent,” by at least three years imprisonment, that increases up to five years if an “adoption of children contrary to the provisions of the Act” is organised. Furthermore, other provisions, connected with the deprivation of liberty (Article 189), coercion through violence or threat of force (Article 191), aggravated rape (Article 197), sexual harassment or rape in conditions of dependency in power relationships (Article 199), violence against family members or other persons closely related to the victim (Article 156), harming a person’s health (Article 157), beating or physically violating a person (Article 217), facilitation of illegal migration (Article 264) and involvement in organised crime activities (Article 258) are also used to prosecute traffickers and exploiters<sup>(72)</sup>.

PORTUGAL<sup>(73)</sup>

*Policy on prostitution*

The Portuguese policy on prostitution falls under the *abolitionist* model. *Outdoor* and *indoor* prostitution are neither prohibited nor regulated by the State. “Working as a prostitute is tolerated in the sense that it is not considered illegal or prohibited, nevertheless it is not regulated”<sup>(74)</sup>.

However, in Portugal, there are restrictions as to where prostitutes may work in the streets and as to whether or when prostitutes may work in a brothel/club/window prostitution. These restrictions are not written or legal ones. They arise from social customs. This means that, because prostitution is not regulated by law, prostitutes could in theory work anywhere. However in certain areas the police would force them to leave the area. Working as a prostitute in an apartment is not considered legal and it is a crime to rent an apartment to a prostitute<sup>(75)</sup>.

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<sup>72</sup> Pearson, E., *Human Traffic, Human Rights: Redefining Victim Protection*, Anti-Slavery International, London, 2002, p. 211.

<sup>73</sup> The sources used to write this country profile are: Femmigration, *Portugal*, available at <http://www.femmigration.org/countries/portugal.html> (visited on 11<sup>th</sup> May 2005); Legislationline, *Trafficking in Human Beings: Portugal*, available at <http://www.legislationline.org/index.php?country=32&org=0&eu=0&topic=14> (visited on 11<sup>th</sup> May 2005); Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>74</sup> Femmigration, *Portugal*, op. cit.

<sup>75</sup> Ibid.



*Prostitution related crimes and the offence of THB*

Article 170 of the Criminal Code punishes pimping by imprisonment of 6 months to 5 years. If the victims are subjected to prostitution activities by being hoaxed, threatened or with the use of violence, the person who facilitates or promotes these kinds of activities can be sentenced from 1 to 8 years.

Article 176 also punishes pandering and the trafficking of children. If the victims of prostitution are between the ages of 14 and 16 years old, the person who facilitates or promotes this kind of activity can be sentenced from 6 months to 5 years. If the prostitution activities occur with children under 16 years of age and if the victims are either from a foreign country or are nationals taken to a foreign country, the exploiter can be sentenced from 1 to 8 years. If the victims are under 14 years of age and are submitted to professional or lucrative activities by being hoaxed, threatened or by the use of violence, the person who facilitates or promotes these kinds of activities can be sentenced from 2 to 10 years<sup>(76)</sup>.

Article 177 of the Portuguese Criminal Code increases the penalties for the Article previously mentioned, when the victim is related to the aggressor by family bonds, and/or is economically or hierarchically dependent on the offender.

“Article 169 of the Portuguese Criminal Code, amended by the Act 99/2001 of 25 August 2001, has criminalised trafficking in human beings for sexual exploitation. Whoever by means of violence, serious threat, deception, fraud, or by the abuse of a position of particular vulnerability, recruits, transports, transfers, harbours, receives a person or creates the conditions for the practice, by a certain person, in a foreign country, of prostitution, shall be sentenced to a term of two to eight years imprisonment. The 2001 amendments have broadened the scope of Article 169 by including other forms of sexual exploitation. Sexual exploitation of children is addressed separately in Article 176 of the Criminal Code (also revised by Act 99/2001)”<sup>(77)</sup>.

SLOVAK REPUBLIC<sup>(78)</sup>

*Policy on prostitution*

The Slovak policy on prostitution falls under the *abolitionist* model. *Outdoor* and *indoor* prostitution are neither prohibited nor regulated by the State.

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<sup>76</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>77</sup> Legislationonline, op. cit.

<sup>78</sup> The sources used to write this country profile are: Protection Project, *Slovakia – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/slovakia.htm](http://www.protectionproject.org/human_rights/countryreport/slovakia.htm) (visited on 16<sup>th</sup> May 2005); U.S. Department of State, *Trafficking in Persons Report – June 2004*, U.S. Department of State Publication, Office of the Under Secretary for Global Affairs, Washington, 2004, pp. 173–174, available at: <http://www.state.gov/documents/organization/34158.pdf> (visited on 16<sup>th</sup> May 2005).

*Prostitution related crimes and the offence of THB*

As a result of amendments to the Criminal Code that took effect in 1994, prostitution is legal. However, the code prohibits activities related to prostitution, such as renting apartments for conducting prostitution, spreading sexually transmitted diseases, or trafficking in women for the purpose of prostitution.

Article 204 of the Criminal Code prohibits pimping activities, including coercing or taking advantage of the prostitution of others, or earning from the prostitution of others. Penalties range from 1 to 12 years imprisonment, depending on circumstances such as the age of the victim, whether violence was used, and whether the perpetrator was a member of an organised group. The Code imposes a severe penalty of 12 years imprisonment for pimping activities involving a person younger than 15 years of age.

The Code (Article 246) prohibits trafficking in women, i.e., enticing a woman to go abroad for the purpose of having sexual relations with others. The offence is punishable by imprisonment for up to 8 years. The same article also imposes a penalty of up to 8 years imprisonment for trafficking in women, if the woman trafficked is younger than 18 years of age.

The Code also prohibits the trafficking of children for the purpose of adoption, child labour, or any other illegal purpose. Punishment for the offence is imprisonment of up to 3 years. The punishment is increased to imprisonment from 2 to 8 years if the perpetrator is acting as a member of an organised group or for financial gain (Article 216a).

SLOVENIA<sup>(79)</sup>

*Policy on prostitution*

The Slovene policy on prostitution falls under the *abolitionist* model. Since May 2003, *outdoor* and *indoor* prostitution have not been prohibited, changing the Slovene approach that previously was *prohibitionist*. During the application of the previous model “there was a general impression that the police did not have much interest in such crimes. The places of organised prostitution were publicly known and the police generally did not interfere”<sup>(80)</sup>.

The new law that changed the Public Order Act and decriminalised prostitution was proposed by a group of MPs from the ruling Liberal Democrats (LDS) in order to eliminate imprisonment and punishment of prostitutes. Prostitutes are therefore no longer punished by up to two months imprisonment. The proponents aimed to increase the level of punishment for pimps and exploiters of the prostitution ring.

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<sup>79</sup> The sources used to write this country profile are: U.S. Department of State, *Trafficking in persons report – June 2004*, op. cit., p. 175, available at <http://www.state.gov/documents/organization/34158.pdf> (visited on 16<sup>th</sup> May 2005); Protection Project, *Slovenia – Human Rights Report on Trafficking of Women and Children: Country-by-Country Report on a Contemporary Form of Slavery*, Johns Hopkins University, Washington D.C., 2002, available at [http://www.protectionproject.org/human\\_rights/countryreport/slovenia.htm](http://www.protectionproject.org/human_rights/countryreport/slovenia.htm) (visited on 4<sup>th</sup> May 2005); International Helsinki Federation for Human Rights, *Women 2000 – An Investigation into the Status of Women's Rights in Central and South-Eastern Europe and the Newly Independent States*, International Helsinki Federation for Human Rights, Vienna, 2000, pp. 411–426, available at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=1474](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=1474) (visited on 16<sup>th</sup> May 2005); Slovenia News, *Prostitution Decriminalised*, available at <http://slonews.sta.si/index.php?id=976&s=41> (visited on 16<sup>th</sup> May 2005).

<sup>80</sup> International Helsinki Federation for Human Rights, op. cit., p. 423.

*Prostitution related crimes and the offence of THB*

Persons can be prosecuted, according to the Criminal Code, “for rape, pimping, procurement of sexual acts, inducement into prostitution, sexual assault, and other related offences. The penalty ranges from 3 months to 5 years imprisonment or, in cases involving minors or forced prostitution, 1 to 10 years’ imprisonment”<sup>(81)</sup>.

“In March 2004, Slovenia adopted amendments to the Penal Code that specifically criminalise trafficking. The government investigates and prosecutes traffickers under related statutes addressing pimping, sexual assault, and slavery. [...] The Slovenian Interdepartmental Working Group on Combating Trafficking in Persons has been tasked with developing a comprehensive action plan to combat trafficking in persons for government consideration. A local NGO that receives government funds established a 24-hour hotline that trafficking victims can call for support information, and continued an education program in schools that includes a short documentary on a Slovene trafficking victims”<sup>(82)</sup>.

SPAIN<sup>(83)</sup>

*Policy on prostitution*

The Spanish policy on prostitution falls under the *abolitionist* model, in fact *outdoor* and *indoor* prostitution are neither prohibited nor regulated by the State. With the introduction of the new Criminal Code in 1995 there was a decriminalisation of a lot of behaviour linked to prostitution. The legislative attention focused more on the problem of THB, rather than the internal market of prostitution<sup>(84)</sup>.

*Prostitution related crimes and the offence of THB*

The Criminal Code prohibits the inducement of someone to enter into or continue to engage in prostitution if the inducement is by coercion, exploitation of a situation of hardship, or abuse of a position of superiority. Punishment is a fine (between 12 and 24 months) and imprisonment between 2 to 4 years (Article 188.1).

Article 187.1 also penalises anyone who induces, promotes, fosters, or facilitates the prostitution of a minor. Punishment is imprisonment of 1 to 4 years and a fine.

“Criminal responses to the phenomena of trafficking in human beings for the purpose of sexual exploitation have changed in recent years. In 2000, the Penal Code included a general offence of trafficking in human beings (Article 318bis) and a specific offence of trafficking of human beings for the purpose of sexual exploitation (Article 188.2). A recent reform enacted on 29th September 2003 integrates the two offences in the same article (318bis)”<sup>(85)</sup>.

In 2003 (LO 11/2003 *sobre medidas concretas en materia de seguridad ciudadana, violencia doméstica e integración social de los extranjeros*) a new paragraph was included. Article 318 bis 3

<sup>81</sup> U.S. Department of State, op. cit.

<sup>82</sup> Ibid.

<sup>83</sup> The sources used to write this country profile are: Valiente, C., “State Feminism and Central State Debates on Prostitution in Post-authoritarian Spain”, in Outshoorn, J. (ed.), op. cit., pp. 205–225; Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>84</sup> Valiente, C., op. cit., pp. 220–225.

<sup>85</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

states that “penalties in their upper half shall be imposed on those whose behaviour falls into any of the paragraphs above with *animus lucrandi* or by means of violence, intimidation, deception or abuse of a situation of superiority or special vulnerability of the victim, jeopardy of their health or personal integrity”. This introduction incorporated the disappeared category of procuring, eliminated from the Criminal Code in 1995.

SWEDEN<sup>(86)</sup>

#### *Policy on prostitution*

The Swedish policy on prostitution falls under the *prohibitionist* model. *Outdoor* and *indoor* prostitution are prohibited, though only clients are criminalised and not prostitutes since the latter are considered as victims of violence. On 1<sup>st</sup> January 1999 Sweden “introduce[d] an unilateral regulation of the purchase of sexual services”<sup>(87)</sup>. For the Law 1998:408 the person who, for payment, obtains a casual sexual relationship is penalised, unless the action entails punishment in accordance with the Criminal Code, for the purchase of sexual services with a fine or imprisonment for a maximum of 6 months. The *ratio* behind this law is that prostitution is regarded as an aspect of male violence against women and children. It is officially acknowledged as a form of exploitation of women and children and constitutes a significant social problem, which is harmful to not only the individual prostituted woman or child, but also to society. The Swedish Government has long given priority to combating prostitution and human trafficking for sexual purposes. This objective is central to Sweden’s goal of achieving equality between women and men, at the national level as well as internationally. However, gender equality will remain unattainable so long as men buy, sell and exploit women and children by prostituting them<sup>(88)</sup>.

#### *Prostitution related crimes and the offence of THB*

The Criminal Code in Section 8, Chapter 6, punishes any person who promotes or improperly exploits “casual sexual relations for payment”. Punishment for the procuring offence is imprisonment for up to 4 years. The code also criminalises the use of any premises for casual sexual relations, for payment. Punishment for the promoting offence is imprisonment for up to 4 years.

In cases of “gross” or “aggravated” procuring (Section 9), the punishment is imprisonment for 2 to 6 years. A prostitution-related offence is considered gross or aggravated when the perpetrator promoted casual sexual relations for payment on a large-scale or ruthlessly exploited another person.

By the Criminal Code, it is illegal for any person to “purchase the sexual service” of someone who is younger than 18 years old. The customer, in such a case, is punished by a fine or imprisonment for up to 6 months (Section 10).

“Combating human trafficking was also a priority issue for the Swedish government during the Swedish presidency of the EU Council of Ministers in the first half of 2001. EU Member States agreed on a definition of the crime of human trafficking for sexual exploitation and forced labour as well as established new guarantees for trafficking victims. On 1 July 2002, new legislation on human

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<sup>86</sup> The sources used to write this country profile are: Working Group on the Legal Regulation of the Purchase of Sexual Service, op. cit.; Transcrime, *MON-EU-TRAF II...*, op. cit.; Regeringskansliet, *Prostitution and Trafficking in Women*, Ministry of Industry, Employment and Communications, Stockholm, July 2004; Svanström, Y., “Criminalising the John – a Swedish Gender Model?”, in Outshoorn, J. (ed.), op. cit., pp. 225–245.

<sup>87</sup> Working Group on the Legal Regulation of the Purchase of Sexual Service, op. cit.

<sup>88</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

trafficking came into force that broadened the scope for criminal prosecution and introduced a new offence: trafficking in human beings for sexual purposes (Chapter 4:1a of the Penal Code.)”<sup>(89)</sup>.

#### THE NETHERLANDS<sup>(90)</sup>

##### *Legislation typology/model on prostitution*

In The Netherlands, policies on the sex industry fall under the *regulationism* model. Since 2000, in The Netherlands, *outdoor* and *indoor* prostitution are regulated by the State and are not prohibited as long as they are exercised according to the rules. “Prostitution is permitted in approved brothels, in some tolerance zones, behind display windows and in other places that causes no disturbance to law and order”<sup>(91)</sup>. Before 2000, the national law was similar to the abolitionism model, but many municipalities adopted a regulatory prostitution policy.

The 2000 approach to prostitution in The Netherlands sees the sex market as a part of the society that has to be accepted. The regulation allows prostitution within certain limits. These limits include, for instance, local authority approval of brothels that have to be inspected in terms of health and safety to obtain the municipal licence. Prostitution is thus officially considered a legitimate profession and, therefore, prostitutes are entitled to the same rights and duties as other workers. However, prostitutes are obliged to carry an identification document and to show it upon request; if they fail to observe this rule, they commit an offence. There is no registration of prostitutes, nor are there mandatory health checks for prostitutes, on the basis that this would violate their individual privacy.

Nationals who reside outside the so-called European Economic Area are not allowed to work as prostitutes unless they hold a valid residence permit to stay in The Netherlands, while citizens of countries with which the European Union signed an association agreement (e.g. Bulgaria and Romania) may work only as self-employed prostitutes, provided that they satisfy all the necessary requirements. It must also be noted that nationals from 8 out of the 10 new Member States (i.e. Lithuania, Latvia, Estonia, Czech Republic, Slovakia, Slovenia, Poland and Hungary) can work only as self-employed prostitutes until at least 1 May 2006<sup>(92)</sup>, while European citizens from Cyprus and Malta are already entitled to be employed<sup>(93)</sup>.

*Outdoor* prostitution is regulated in some municipalities where the local government has designated a zone where street prostitution is allowed and controlled (*Tippelzonen*). Street prostitution outside these areas is prohibited.

Although it is now legal to run sex establishments or to solicit clients under limitations set by the State, it is forbidden to force another person to prostitute him/herself; to bring a minor into prostitution; to economically profit from prostitution activities involving a minor or an adult person forcibly prostituting him/herself; to recruit, seize, or move a person to engage in prostitution into another country; to confiscate another person’s profits deriving from his/her work as prostitute<sup>(94)</sup>. Although differing in terms of gravity, all offences are punished with imprisonment of up to six years, which can be extended up to ten years in case of aggravating circumstances.

<sup>89</sup> Ibid.

<sup>90</sup> The sources used to write this country profile are: Working Group on the Legal Regulation of the Purchase of Sexual Service, op. cit.; Transcrime, *MON-EU-TRAF II...*, op. cit.; Outshoorn, J., “Voluntary and Forced Prostitution: the “Realistic Approach” of The Netherlands”, in Outshoorn, J. (ed.), op. cit., pp. 185–205.

<sup>91</sup> Working Group on the Legal Regulation of the Purchase of Sexual Service, op. cit.

<sup>92</sup> The Netherlands Ministry of Foreign Affairs, *Dutch policy on prostitution – Questions and answers 2004*, available at <http://pvnewyork.org/contents/pages/743/prost.pdf> (visited on 22<sup>nd</sup> April 2005).

<sup>93</sup> Tampep 6, *Final Report. June 2002–June 2004*, Tampep 6, Amsterdam, 2004, p. 138.

<sup>94</sup> The Netherlands Ministry of Foreign Affairs, op. cit., p. 7.

*Prostitution related crimes and the offence of THB*

Since the 1<sup>st</sup> of January 2005, The Netherlands have a new anti-trafficking law that covers all forms of (internal and cross border) trafficking aimed at different types of exploitation. Indeed, before Article 247a entered into force, the Criminal Code provided Article 250a that specifically punished only THB for sexual exploitation in commercial sex services. The new legislation adopted the content of both the UN Trafficking Protocol (2000) and the EU Council Framework Decision on combating THB (2002). Through the new article, the legislators increased the maximum penalties and sentences to up to 12 years in case of serious bodily harm or danger to life, and up to 15 years in case of death.

Other provisions of the Criminal Code are used in relation to the offence of THB. These concern having sex with a person aged between 12 and 16 years old offering sex services as a prostitute (Article 245), or with a person aged between 16 and 18 years old who is engaged in prostitution (Article 248b); engaging in child pornography (Article 240b); being involved in the slave trade (Articles 273-277); performing an abduction (Article 278); being involved in human smuggling (Article 197a); and employing aliens who are illegally staying in the country (Article 197b)<sup>95</sup>. Finally, it is important to underline that the implementation of the law that lifted the general ban on brothels was intended to also decrease the trafficking in the commercial sex sector.

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<sup>95</sup> Korvinus A.G., van Dijk, E.M.H., Koster, D.A.C., Smit, M., *Trafficking in Human Beings. Third Report of the Dutch National Rapporteur*, Bureau NRM, The Hague, 2005, p. 20.

UNITED KINGDOM<sup>(96)</sup>*Policy on prostitution*

The British policy on prostitution falls under an “imperfect” *regulationism* model, close to *new abolitionism*. *Outdoor* and *indoor* prostitution are not prohibited if they are exercised according to the State’s rules, but running a brothel is forbidden. However, in UK, prostitutes are not registered. They are not obliged to undergo regular health checks. A woman may legally withhold her consent and cannot be forced to undergo health checks even if there is a suspicion that she may have caught a disease.

There are specific working conditions and time restrictions for the *outdoor* market. In general, soliciting or seeking clients in the streets is illegal. But in practice, where there are informal tolerance zones (not established, nor supported by legislation), prostitutes may work on the streets without fear of prosecution within certain limits. Most cities and towns have one or more street scenes. “Working outside the tolerance zones may be deemed as loitering or soliciting in public places, which is a crime. This is a reason to withdraw visas and residence permits and the woman may be expelled. Also, women may be fined between £ 50 - £ 500 (average fine of £ 150) and police can seek bail conditions that ban the woman from designated areas of a city, anti-social behaviour orders can be sought banning the woman from certain areas for 5 years”<sup>(97)</sup>.

With regards the *indoor* market of prostitution, there are no defined areas of toleration. Running a brothel is a crime, but the punishment is imposed on the owner and manager of the establishment and not on the women working within. Working as a prostitute in an apartment is, instead, legal. However, a woman may only work on her own; if more than one woman are working as prostitutes in an apartment it becomes a brothel and is, as such, completely illegal.

*Prostitution related crimes and the offence of THB*

The Sexual Offences Act 2003 amended the Sexual Offences Act 1956. The main changes are:

- as far as street prostitution is concerned, the law is now gender neutral so that for example, men will come under the existing soliciting laws and women the kerb-crawling laws;
- some penalties have been increased: e.g. for owning or running a brothel, controlling and gaining from someone else’s prostitution;
- some new offences have been introduced: e.g. it is now illegal to pay a 16 or 17 year old for otherwise legal sex: or to “groom” people under 18 for sex;
- trafficking for sexual exploitation is now illegal.

It is clear that the main aim of the authorities is not to prosecute prostitutes at all costs, as can be seen from the (published) advice of the Crown Prosecution Service to its prosecutors: at all times, [prosecutors] should bear in mind the following general objectives of the legislation involving prostitution, namely: to keep prostitutes off the street to prevent annoyance to members of the public;

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<sup>96</sup> The sources used to write this country profile are: Femmigration, *United Kingdom*, available at [http://www.femmigration.net/work/united\\_kingdom.html](http://www.femmigration.net/work/united_kingdom.html) (visited on 16<sup>th</sup> May 2005); Kantola, J., Squires, J., “Prostitution Policies in Britain, 1982–2002”, in Outshoorn, J. (ed.), op. cit., pp. 62–83; Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>97</sup> Femmigration, *United Kingdom*, op. cit.

to prevent people leading or forcing others into prostitution; to penalise those who organise prostitutes and make a living from their earnings; generally the more serious the incident the more likely that a prosecution will be required; the age of the prostitute and the position of those living off the earnings will clearly be relevant; when considering a child accused of prostitution [...] the child should generally be treated as a victim of abuse. The focus should be on those who exploit and coerce children. Only where there is a persistent and voluntary return to prostitution and where there is a genuine choice should a prosecution be considered<sup>(98)</sup>.

Separate offences were also introduced in 2003 to combat the exploitation of children through prostitution, with severe penalties for causing, inciting, controlling, arranging, or facilitating the prostitution of a child. For the purposes of the Act, the offence can take place anywhere in the world. The Act also criminalises the buyer, with the new offence of paying for sexual services of a child.

The Sexual Offences Act of 1956 also criminalised living on the earnings of prostitution (Section 30), exercising control over a prostitute (Section 31), keeping a brothel (Section 33), leasing premises for use as a brothel (Section 34), permitting such premises to be used as a brothel (Section 35) or for the purposes of “habitual prostitution” (Section 36), or detaining a woman against her will in a brothel (Section 27).

The UK signed the EU framework decision on trafficking for labour and sexual exploitation, which committed it to introducing criminal sanctions covering these activities by the summer of 2004. The UK has acted to meet these commitments, by introducing measures to tackle trafficking for prostitution and sexual exploitation. First, the Nationality Immigration and Asylum Act 2002 was introduced as a stopgap measure. More comprehensive offences covering trafficking into and out of and within the UK for all forms of sexual exploitation were then included in the Sexual Offences Act, 2003<sup>(99)</sup>.

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<sup>98</sup> Extract from the Code for Crown prosecutors 2003 (Transcrime, *MON-EU-TRAF II...*, op. cit.).

<sup>99</sup> Ibid.



## 4.2 CONCLUSION

Arising from the above review, table 2 gives a synthetic overview of the distribution of Member States between the 4 legislation typologies/models on prostitution. The most common model is *new abolitionism* (32% of the Member States) followed by *regulationism* (28%), *abolitionism* (24%) and *prohibitionism* (16%).

TABLE 2: LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION IN THE 25 EU MEMBER STATES.

MODEL ON PROSTITUTION	<i>OUTDOOR</i> PROSTITUTION	<i>INDOOR</i> PROSTITUTION	MEMBER STATES	% ON THE MEMBER STATES
<i>Abolitionism</i>	Not prohibited	Not prohibited	Czech Rep., Poland, Portugal, Slovakia, Slovenia, Spain	24%
<i>New abolitionism</i>	Not prohibited	Not prohibited (prohibited in brothels)	Belgium, Cyprus, Denmark, Estonia, Finland, France, Italy, Luxembourg	32%
<i>Prohibitionism</i>	Prohibited	Prohibited	Ireland, Lithuania, Malta, Sweden	16%
<i>Regulationism</i>	Regulated and therefore not prohibited when exercised according to the regulation	Regulated and therefore not prohibited when exercised according to the regulation	Austria, Germany, Greece, Hungary, Latvia, Netherlands, United Kingdom	28%

Source: Transcrime

## 5.

### ASSESSMENT OF THE EXISTING QUANTITATIVE DATA IN THE 25 EU MEMBER STATES

Data on prostitution and THB for sexual exploitation are scarce and often unreliable in many European Union countries. The main explanation for this is the hidden nature of the population we are dealing with. However, this is also in part due to the lack of specific anti-trafficking legislation, a lack of organisation in the data collection systems and, in some new Member States, the lack of adequate funds for data collection<sup>(100)</sup>. These factors influence the reliability and the ease of gathering of statistics on the phenomenon<sup>(101)</sup>.

In addition some new Member States are origin and/or transit countries for the victims of THB, for this reason it is very important to improve the existing data collection systems or implement new ones in order to have a clearer picture that will favour the enforcement of more effective counterstrategies and improve prevention and assistance to the victims.

This review aims to provide a first look at the situation of data collection in the 25 EU Member States. It focuses mainly on previous studies on the quantification of trafficking and the data already collected particularly by the European Commission, other international organisations, national governments and research centres. Finally this introductory section aims to help researchers to identify those Member States with the most reliable quantitative information on the trafficking in women and children.

Each national review is divided into two parts: “sources of data” and “reliability of data”. The former contains indicators regarding the bodies and databases that collect information on offences, offenders and victims of THB and (where possible) the variables collected. The latter evaluates the completeness and reliability of the data collected, with particular attention to information on victims.

#### 5.1 REVIEW

##### AUSTRIA

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<sup>100</sup> U.S. Department of State, op. cit.

<sup>101</sup> On this aspect see also: Migration Information Programme, *Trafficking and Prostitution: the Growing Exploitation of Migrant Women from Central and Eastern Europe*, International Migration Programme, Geneva, 1995, p. 32 and ff.; Laczko, F., von Koppenfels, A.K., Barthel, J., “Trafficking in Women from Central and Eastern Europe: A Review of Statistical Data”, paper presented at the European Conference on *Preventing and Combating Trafficking in Human Beings: Global Challenge for the 21st Century*, Brussels, 18<sup>th</sup>–20<sup>th</sup> September 2002, p. 4; International Organisation for Migration, *Victims of Trafficking in the Balkans*, International Organisation for Migration, Geneva, 2001, p. 56 and ff.; Migration Information Programme, *Trafficking in Women to Italy for Sexual Exploitation*, International Organisation for Migration, Geneva, 1996, p. 24 and ff.; Kelly, L., Regan, L., *Stopping Traffic: Exploring the Extent of, and Responses to, Trafficking in Women for Sexual Exploitation in the UK*, Police Research Series, Paper 125, Home Office, London, 2000, p. 36 and ff.; Commission of the European Communities, *Trafficking in Women – The misery behind the Fantasy: from Poverty to Sex Slavery – A Comprehensive European Strategy*, available at [http://europa.eu.int/comm/justice\\_home/news/8mars\\_en.htm](http://europa.eu.int/comm/justice_home/news/8mars_en.htm) (visited on 7<sup>th</sup> May 2004); Kangaspunta, K., “Mapping the Inhuman Trade: Preliminary Findings of the Database on Trafficking in Human Beings”, in *Forum on Crime and Society*, vol. 3, Nos. 1 and 2, December 2003, pp. 81–103; International Organisation for Migration, *Data and Research on Human Trafficking: a Global Survey*, International Organisation for Migration, Geneva, 2005.

#### *Sources of data*

Since the collapse of Soviet Union, Austria has become a transit and destination country for THB, especially with regards Eastern European women<sup>(102)</sup>. In the last ten years there has also been a development in the databases collecting data on offences, offenders and victims of THB; at the moment “the main source of structured data is the Crime Statistics Database of the Federal Ministry of Interior, Criminal Police Force (Bundeskriminalamt). Every police officer in the field is obliged to enter data on such offences into this computerised programme. Data held in this database are, by law, non-personal data.

Another important source is the “red-light database” which can only be accessed by the police. This database contains personal information for the purposes of a specific investigation and/or analysis. Data held in this database must be deleted when the purpose for its collection/storage has been completed (i.e. after the operation is finished).

There is also a database on convictions, which is maintained by the police upon request of the Ministry of Justice. It contains the personal data of convicted persons and the length of their sentences”<sup>(103)</sup>.

Another important source of information in Austria is LEFÖ (*Lateinamerikanische Exilierte Frauen Österreich*). This is an NGO provides services to migrant sex workers and offers specific aid programmes for trafficked women<sup>(104)</sup>.

#### *Reliability of data*

The Ministry of Interior and the Police collect information on offenders, offences and convictions, in addition these data are not easy to access and they do not provide statistics on the number of victims of THB for sexual exploitation. This problem, however, could be partially solved thanks to the NGO LEFÖ which collects useful figures on the number of victims that could represent a starting point for further analyses and estimates.

The geographical position, the socio-economic situation (that make Austria a destination State) and the reliable collection of data would make this country a good subject for further study.

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<sup>102</sup> U.S. Department of State, op. cit.

<sup>103</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>104</sup> Ibid.

## BELGIUM

### *Sources of data*<sup>(105)</sup>

Belgium is a destination country for THB. In 1995 specific anti-trafficking legislation was introduced and as a result there are now 5 sources of data:

- *The national general police database.* The police services have a national criminal database. It contains police data which are delivered by the police services, for which the Minister of the Interior is responsible. This national general police database came into being only recently and has been structured on a modular basis, following the same classifications and legal qualifications as the Belgian Criminal Code. It contains information on all possible offences, including that related to THB. To facilitate the collection of data a standardised set of “indicators” has been developed and included in an annex of a circular issued by the Minister of Justice on April 20 2004 (Col. 10/04) concerning the investigation and prosecution policy concerning THB. The database is official, confidential and electronic;
- *The annual statistics of the public prosecutor’s offices.* At the Public Prosecutor’s Offices, the files containing prosecution data are classified with the help of special codes and sub codes, and follow the types of offences defined by Belgian criminal law, so that it is possible to identify the various THB offences in the electronic and confidential data systems of each Public Prosecutor’s Office. In addition, the aforementioned circular issued by the Minister of Justice on April 20 2004 (Col. 10/04) also introduced, the future possibility of labelling files dealing with non-specific THB offences as relating to a THB “context”;
- *The annual statistics on conviction data.* Conviction data relating to offences (including trafficking offences) are drawn up and held electronically by the Service of Criminal Policy of the Ministry of Justice, and are based on data retrieved from the central criminal record, using the same codes as the Public Prosecutor’s Offices’ data systems. Conviction data, broken down into larger categories of offences (not sufficiently detailed to allow for identification of conviction data for trafficking offences) are available to the public. Detailed data can be produced on request. In the annual statistics on conviction data, convictions divided into type of offence or category of offences. In the annual statistics on conviction data, there are no variables on offenders;
- Quite recently, the *Centre for Equal Opportunities and Combating Racism* which is charged with the incitement, co-ordination and follow-up of the Belgian policy regarding THB, established an electronic user-friendly web-interface database on victims of THB. For this purpose, the Centre cooperates with three specialised centres for the reception and assistance of victims of human trafficking in Belgium, who furnish the data: Payoke (in Antwerp), Pag-Asa (in Brussels) or Surya (in Liege). This database contains information regarding the victims the three specialised centres have assisted during recent years. The database is official and confidential, and until now only accessible by the above mentioned Centre and (with lower access rights) the three reception and assistance centres;
- *The Centre for Information and Analysis on Smuggling of and Trafficking in Human Beings.* This computerised information network was established by Ministerial Decree of May 16th, 2004, with the aim of producing a permanent, integrated anonymous strategic statistical analysis on smuggling of and THB. As yet, given the recent establishment of the Centre, no data

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<sup>105</sup> The information used in this section was provided by Gert Vermeulen, Director of the Institute for International Research on Criminal Policy (IRCP), University of Ghent, Ghent.

collection template for the envisaged strategic analyses has been designed or made available to the public.

*Reliability of data*

The Belgian collection of data seems to be very detailed: police and judicial bodies provide statistics on offences and offenders, while the Centre for Equal Opportunities and Combating Racism collects detailed information on the victims of THB for sexual exploitation from the NGOs that assist women formerly exploited by traffickers.

The socio-economic situation (that make Belgium a destination State) and the reliable collection of data would make this country a good subject for further study.

CYPRUS

*Sources of data*

In the review of the existing literature<sup>(106)</sup> concerning THB for sexual exploitation and prostitution, no information was found concerning the situation in Cyprus. This does not mean that reliable data on the phenomenon do not exist in this country, though it could be an indicator of this problem.

*Reliability of data*

The non accessibility of data on THB for sexual exploitation makes it impossible to evaluate the collection of information in this country and hampers the implementation of further analysis.

CZECH REPUBLIC

*Sources of data*

The available sources of data in Czech Republic are “a special division of the Organised Crime Investigation Unit of the State Police [that] is specifically trained and dedicated to trafficking crimes”<sup>(107)</sup>, this unit collects information on offences. The Ministry of Justice delivers data on offenders. In addition several NGOs financed by Government and the UN collect data on victims of THB for sexual exploitation<sup>(108)</sup>.

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<sup>106</sup> In English and French.

<sup>107</sup> U.S. Department of State, op. cit., p. 133.

<sup>108</sup> Ibid., p. 134.

*Reliability of data*

In recent years the UN and several NGOs implemented a number of projects in the country to assist victims of THB. The results of these projects and the data collected by NGOs operating in the field appear to provide reliable statistics that could be useful for a further analysis<sup>(109)</sup>.

The geographical position (which makes the Czech Republic a transit and destination country), the socio-economic situation (which also makes it an origin State) and the reliable collection of data would make this country a good subject for further study because it would be a good indicator THB trends, especially in Eastern Europe.

DENMARK

*Sources of data*

The only available source of data in Denmark on THB are the annual tests carried out by PRO-Centret, and the Danish Research Centre on Social Vulnerability, Unit for Prostitution, “on the tabloid paper Ekstra Bladet, which for many years has been the main source of prostitution advertisements”<sup>(110)</sup>.

*Reliability of data*

Apart the work by the PRO-Centret, and the Danish Research Centre on Social Vulnerability, the literature examined does not provide any reliable data (neither for regarding offences and offenders nor regarding victims). In addition the data available do not seem to be very reliable because they are only based on advertisements in newspapers, that represent “visible prostitution”. Trafficked women are normally part of “hidden prostitution” because of their illegal status<sup>(111)</sup>.

ESTONIA

*Sources of data*

In the review of the existing literature<sup>(112)</sup> concerning THB for sexual exploitation and prostitution, little information was found regarding the situation in Estonia<sup>(113)</sup>. This does not mean that reliable data on the phenomenon do not exist in this country, though it could be an indicator of this problem.

*Reliability of data*

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<sup>109</sup> Ibid., p. 135.

<sup>110</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>111</sup> For a definition of hidden prostitution see Donadel, C., Martini, E.R., op. cit., pp. 19–20.

<sup>112</sup> In English and French.

<sup>113</sup> “It is very hard to estimate the number of trafficked woman in our country, because it is no official statistics and no special research provided on this issue” (Kalikov, J., op. cit., p. 40).

The non accessibility of data on THB for sexual exploitation makes it impossible to evaluate the collection of information in this country and hampers the implementation of further analysis.

#### FINLAND

##### *Sources of data*

Information on trafficking in women in Finland is collected by one full-time investigator at the National Bureau of Investigation in Helsinki. No database on the phenomenon, its victims or perpetrators exists. This is because no offences that would fulfil the criteria for trafficking in women (as understood by the Finnish police authorities) have come to the attention of the police during recent years<sup>(114)</sup>.

##### *Reliability of data*

In Finland the absence of a specific anti-trafficking legislation hinders the effective collection of data on the phenomenon especially regarding the number of victims of THB for sexual exploitation.

The impossibility of accessing data on THB for sexual exploitation makes it impossible to evaluate the collection of information in the country and hampers the implementation of further analysis.

#### FRANCE

##### *Sources of data*

In France there exists a central service for the fight against THB: OCRTEH (*Office central pour la repression de la traite des êtres humaines*). This institution collects data and estimates that there are 15,000 the prostitutes in France. These figures, however, are not accepted by some NGOs because they could undervalue the real extent of the phenomenon<sup>(115)</sup>. More reliable data on victims are collected by *Ac.Sé*, a national scheme for assisting and protecting victims of THB which is funded by the French Ministry of Social Affairs and the Municipality of Paris. It was set up in 2002 by the Association ALC, which acts as the coordinator. The network is composed of structures and shelters that provide specialised support and services to prostitutes and trafficked persons.

##### *Reliability of data*

There are few available figures on the victims of THB for sexual exploitation, but the recent introduction of specific anti-trafficking legislation seems to have positively affected the collection of data.

The socio-economic situation (that makes France a destination State) and the reliable collection of data would make this country a good subject for further study.

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<sup>114</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>115</sup> Ibid.

## GERMANY

### *Sources of data*<sup>(116)</sup>

In Germany there are 4 standardised databases containing data on THB:

- police Crime Statistics (*Polizeiliche Kriminalstatistik*) that convey investigative data collected by police;
- federal situation report on THB (*Lagebild Menschenhandel*), produced by the German federal bureau of investigation (*Bundeskriminalamt*) that “is based on “intake statistics”. The annual reports are calculated using the number of recorded preliminary investigations conducted by police departments in each State for crimes pursuant to Sections 180b, 181 StGB”;
- statistics on criminal proceedings;
- the central criminal registry containing judicial data.

### *Reliability of data*

The four bodies presented above collect data using different criteria. However, in conclusion information in Germany seems to be very reliable and well organised.

The geographical position and the socio-economic situation (which make mainly Germany a destination State, but also a transit country) and the reliable collection of data would make this country a good subject for further study.

## GREECE

### *Sources of data*

The only available data in Greece are provided by the police who collect information on completed and attempted offences and number of investigations started<sup>(117)</sup>.

In April 2001 a task force was set up by the Ministry of Public Order to combat human trafficking. To date the main goals have been to create a framework legislation to tackle THB, to implement measures against this phenomenon and to collect data<sup>(118)</sup>.

### *Reliability of data*

The collection of data in Greece has improved over the last few years due to the introduction of the task force to combat THB and the implementation of recent legislation against THB (law 3064/2002). However data at the present time seem to be scarce and need improvement, especially concerning the specific offence of THB introduced in 2002.

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<sup>116</sup> The information used in this section is mainly drawn by Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>117</sup> Ibid.

<sup>118</sup> This information is published by the Greek Ministry of Public Order and is available at <http://www.mopo.gr> (visited on May 3<sup>rd</sup> 2005).



## HUNGARY

### *Sources of data*

Hungary is mainly a transit and origin country for THB, but there is only a small amount of data available that have been collected by the Prosecutor's office and the Ministry of Interior<sup>(119)</sup>.

### *Reliability of data*

The non accessibility of data on THB for sexual exploitation makes it impossible to evaluate the collection of information in this country and hampers the implementation of further analysis.

## IRELAND

### *Sources of data*

In Ireland the absence of specific legislation on THB affects the collection of data that is limited to some statistics elaborated by the *Garda Siochana* (police).

### *Reliability of data*

In Ireland immigration and illegal immigration are recent phenomena and for this reason there is neither specific legislation nor particular interventions against THB for sexual exploitation. The few available data suggest that the extent of the phenomenon is limited, due to both the recent migratory fluxes and the geographical position of Ireland, which receives "indirect" migration from other EU countries<sup>(120)</sup>.

## ITALY

### *Sources of data*

In Italy there are currently three important sources of data: CED, ISTAT and the survey carried out for the Ministry of Equal Opportunities. The first two sources are public databases maintained by the Ministry of the Interior and National Institute for Statistics, while the latter is a study implemented by the Anti-Mafia National Division and Transcrime. The survey collects data directly from Prosecutor's Offices in Italy, providing a precise picture of the phenomenon<sup>(121)</sup>.

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<sup>119</sup> "The Hungarian Prosecutor's Office prosecuted 22 individuals under the trafficking in persons law; 18 of the 22 were convicted. Of the 18 convicted, authorities sentenced 12 to prison; the others were given suspended sentences. Additionally, the Interior Ministry in 2003 investigated 22 new trafficking cases." U.S. Department of State, op. cit., p. 147.

<sup>120</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>121</sup> Ibid.

Another important source of data is the database maintained by the Ministry for the Equal Opportunities that collects information on the victims of THB for sexual exploitation who obtain a temporary stay permit for social/judiciary reasons<sup>(122)</sup>.

#### *Reliability of data*

In Italy the Ministry of Interior and National Institute for statistics collect detailed data on offences and offenders, while the Ministry for Equal Opportunities provides reliable information on the victims. In addition the recent introduction of law 228/2003 (that explicitly punishes THB) is expected to positively affect the collection of further information.

The geographical position and the socio-economic situation (that make Italy both a transit and a destination country) and the reliable collection of data would make this country a good subject for further study.

#### LATVIA

#### *Sources of data*

Latvia is an origin country for THB and there are only few data on the phenomenon, which are collected by Police: “according to the Vice Squad, some 100 women and men depart Latvia each month to go to various European countries to work as prostitutes. The police tend to have only fragmentary information about what these people are actually doing abroad. It is usually only data about and from prostitutes who have been deported back to Latvia”<sup>(123)</sup>.

#### *Reliability of data*

The non accessibility of data on THB for sexual exploitation makes it impossible to evaluate the collection of information in this country and hampers the implementation of further analysis.

#### LITHUANIA

#### *Sources of data*<sup>(124)</sup>

Lithuania is an origin, transit and destination country for THB. Little data on persons trafficked abroad exist.

Data on offences and offenders on THB for sexual exploitation are collected by the Criminal Search Division of the Police Department within the Ministry of Interior.

For what concerns domestic prostitution some Lithuanian NGOs present in the country have monitored the trends which have revealed that some foreign women operate as prostitutes in the country.

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<sup>122</sup> This information is available at [http://www.pariopportunita.gov.it/I-SERVIZI/ATTIVITA-/Programmi-1/Azioni-Contro-Tratta.doc\\_cvt.htm](http://www.pariopportunita.gov.it/I-SERVIZI/ATTIVITA-/Programmi-1/Azioni-Contro-Tratta.doc_cvt.htm) (visited on 16<sup>th</sup> May 2005).

<sup>123</sup> Kalikov, J., op. cit., p. 60.

<sup>124</sup> The information used in this section is mainly drawn by Kalikov, J., op. cit., pp. 9–21.

*Reliability of data*

Over the last few years some international programmes have been implemented by local NGOs in order to inform and grant protection to trafficked persons. As a result these programmes have collected some data. Even though the statistics are far from being perfect the Lithuanian situation is better if compared with that of other new Member States and suggests that a further analysis is possible.

The geographical position and the socio-economic situation (which make Lithuania mainly an origin, transit and destination State) and the reliable collection of data would make this country a good subject for further study.

LUXEMBOURG

*Sources of data*

In Luxembourg information on criminal offences is centralised at the *Direction de l'Information*, a special unit within the grand-ducal police force that collects data on various types of crime. There is, however, no specific database for THB. It should also be noted that the legislation on data protection is quite restrictive.

The only official sources that exist regarding related criminal offences are police data related to prostitution, procurement/pimping, immoral activities, abduction or trafficking aliens. The data collected simply qualifies the criminal offence and contains basic information, to the extent available, about the suspects and the victims.

The data is primarily statistical in nature and does not provide significant insights into the problem of human trafficking itself.

Currently the absence of data collection translates into a certain uneasiness when trying to deal with THB. Because THB is a recent and modern criminal offence, it still seems difficult to ascertain whether a given case is about procuring or THB. A lot of genuine THB cases will be eventually qualified as cases of procurement<sup>(125)</sup>.

*Reliability of data*

In Luxembourg the restrictive policies on privacy prevent access to data on THB for sexual exploitation and make it impossible to evaluate the collection of information in the country. This hampers the implementation of further analysis.

MALTA

*Sources of data*

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<sup>125</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

In the review of the existing literature<sup>(126)</sup> concerning THB for sexual exploitation and prostitution, no information was found concerning the situation in Malta. This does not mean that reliable data on the phenomenon do not exist in this country, though it could be an indicator of this problem.

#### *Reliability of data*

The non accessibility of data on THB for sexual exploitation makes it impossible to evaluate the collection of information in this country and hampers the implementation of further analysis.

#### POLAND

#### *Sources of data*

Poland is a origin, transit and destination country for THB. The country is making great efforts to combat the phenomenon; in this regard Police and Judicial authorities (in particular National Prosecutor Office in Warsaw) collect some data on offences and offenders<sup>(127)</sup>.

For what concerns the collection of data on the victims of THB for sexual exploitation some NGOs are active in the field and can provide data<sup>(128)</sup>.

#### *Reliability of data*

Data in Poland seem to be reliable which is also due to the recent introduction of specific anti-trafficking legislation (2003) that represents an important step for the improvement of the knowledge of the phenomenon. The results of the legislative interventions and the data collected by NGOs operating in the field make statistics consistent and useful for a further analysis.

The geographical position (which makes Poland a transit and destination country), the socio-economic situation (which makes it an origin country) and the reliable collection of data would make this country a good subject for further study.

#### PORTUGAL

#### *Sources of data*

The Portuguese Criminal Investigation Police (CIP) has an Integrated System of Criminal Investigation (SIIC) as its source for collecting data. It is an official and confidential electronic database.

The Criminal Investigation Police work under the Public Prosecutor's Office. During the investigation phase, there is a close relationship between the work done by the criminal investigators

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<sup>126</sup> In English and French.

<sup>127</sup> U.S. Department of State, p. 163.

<sup>128</sup> See for example: La Strada Poland, *Interim Report of La Strada Poland – July – December 2003*, La Strada Poland, Warsaw, 2003, available at [http://www.fo-stvkennisnet.nl/kr\\_fo/default.asp?datoom=3705](http://www.fo-stvkennisnet.nl/kr_fo/default.asp?datoom=3705), (visited on 6<sup>th</sup> May 2005).

and the public prosecutor's activities. Because of this, the data collected in the Integrated System of Criminal Investigation is both police and prosecution data<sup>(129)</sup>.

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<sup>129</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

*Reliability of data*

The police in Portugal collects detailed information on offences and offenders for THB for sexual exploitation, however it is difficult to access and there are no public statistics. No data on victims are available.

SLOVAK REPUBLIC

*Sources of data*

Slovakia is a transit and origin country for THB and there are few data on the phenomenon, mainly due to financial and organisational problems<sup>(130)</sup>.

*Reliability of data*

The non accessibility of data on THB for sexual exploitation makes it impossible to evaluate the collection of information in this country and hampers the implementation of further analysis.

SLOVENIA

*Sources of data*

Slovenia is mainly a transit country for THB from Eastern Europe to EU countries. There are few available data which are collected by Prosecutor's offices<sup>(131)</sup>.

*Reliability of data*

The non accessibility of data on THB for sexual exploitation makes it impossible to evaluate the collection of information in this country and hampers the implementation of further analysis.

SPAIN

*Sources of data*<sup>(132)</sup>

In Spain there are three main sources of data:

- the *Ministerio del Interior* stores investigative information relating to each chapter of the Criminal Code. The information contained in this database originates from the data collection

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<sup>130</sup> U.S. Department of State, op. cit., p. 173.

<sup>131</sup> Ibid., p. 175.

<sup>132</sup> The information used in this section was provided by Andrea Gimenez-Salinas Framis, *Centro de Investigación en Criminología*, University of Castilla-La Mancha, Albacete.

forms compiled by the police forces (the *Cuerpo Nacional de Policía* and the *Guardia Civil*) when they become aware of a case of human trafficking, either because a report has been made or through their own actions. The data concern cases known to the police and the persons arrested prior to their committal to trial;

- *Cuerpo Nacional de Policía* - Foreigners and Documentation Division. The Foreigners and Documentation Division of the National Police is responsible for the investigation of THB. The Division is organised into various investigative units, each specialised in a particular category of victim, i.e. women from Eastern Europe, Africa, Asia or South America. The Division uses the data collected during its investigations to compile a brief annual report on criminal offences such as coercion into prostitution (Article 188 of the Criminal Code), offences against worker rights (which include Article 313-1 of the Criminal Code), offences against the rights of foreign citizens (under Article 318 bis of the Criminal Code), false documentation, and the falsification of residence permits. These data are gathered when investigations have been completed, and they are divided between (a) the number of rings identified and (b) the number of arrests made;
- *Guardia Civil – EMUME Central*. The *EMUME Central* in the *Guardia Civil* is responsible, albeit not exclusively, for the investigation of human trafficking offences. Complete quantitative or qualitative analysis of the *Guardia Civil* data come from research studies and solved cases. Moreover, since 1999 annual reports have been produced, on request by EUROPOL, which contain data on sex, age and nationality of offenders and their victims, as well as qualitative data on rings, their modus operandi and contacts in Spain. These data refer to completed investigations. Since the introduction of the Directorate General of the Police Service Guidelines 3/2000 on action against rings engaged in the trafficking of women and the prostitution of minors, systematic inspections are carried out in clubs without accusations being necessary or suspicion that a criminal offence has been committed. Complete quantitative and/or qualitative analysis of the data available from the *Guardia Civil*, come from studies and solved cases.

#### *Reliability of data*

In Spain the Ministry of Interior collects detailed and reliable information on offences, offenders and victims of THB for sexual exploitation. In addition after the recent legislative modification of 2003, THB was better defined, favouring the gathering/organisation of information.

The geographical position and the socio-economic situation (which make Spain a transit and destination State) and the reliable collection of data would make this country a good subject for further study.

#### SWEDEN

#### *Sources of data*

“The National Criminal Investigation Division is largely responsible for information on trafficking in human beings”<sup>(133)</sup>.

Furthermore NGOs dealing with THB are financed by the State and furnish further data.

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<sup>133</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

*Reliability of data*

The situation in Sweden is peculiar because of the prohibitionist legislation. Official data suggest a significant decrease in the phenomenon, however there are no definite results, above all because prostitution may have transferred to invisible places (such as private apartments) and for this reason it is less (or no longer) investigated.

The geographical position and the socio-economic situation (which make Sweden a destination State) and the reliable collection of would make this country a good subject for further study.

THE NETHERLANDS

*Sources of data*

“An important source of information is a national database from the Public Prosecution Service (PPS). The data are gathered from the 19 District Public Prosecution Services”<sup>(134)</sup>.

Other two organisations collect information: the NGO *Stichting tegen vrouwenhandel*/Foundation against trafficking in women (STV)<sup>(135)</sup> that provides assistance to the victims of THB and the Immigration and Naturalisation Services. Both these institutions collect reserved data.

*Reliability of data*

The collection of data in The Netherlands appears well organised and accurate. Furthermore the presence of the Dutch National Rapporteur on Trafficking in Human Beings (NRM) provides further statistics for deeper analysis.

The data collected by the NGO STV appear particularly reliable because the organisation has a public mandate to provide assistance to the victims of THB<sup>(136)</sup>.

The socio-economic situation (which makes The Netherlands mainly a destination State) and the reliable collection would make this country a good subject for further study.

UNITED KINGDOM

*Sources of data*

In the UK there are only general statistics on crime and no specific collection of information for THB<sup>(137)</sup>.

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<sup>134</sup> Ibid.

<sup>135</sup> STV operates and collects data under a governmental mandate.

<sup>136</sup> According to Dutch legislation, when a victim enters into contact with the Police she is immediately reported to this NGO for assistance.

<sup>137</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.



*Reliability of data*

The introduction in 2002 of the “Nationality, Immigration and Asylum Act was an important step towards the definition of THB, however it has not been followed by a development in the system of data collection. For this reason only a small amount of unreliable information is available at the moment.

**5.2 RELIABILITY OF THE QUANTITATIVE INFORMATION ON THB IN THE 25 EU MEMBER STATES**

Starting from the above review, the following table provides a summary of the reliability of the existing quantitative data on trafficking in women and children for sexual exploitation in the 25 EU Member States.

When a given country has available information on THB for sexual exploitation, this may be gathered in official or NGO databases and the variables collected could refer to offences, offenders and victims. For the purposes of this study:

- when the review has shown that there is no quantitative information in the country, reliability is considered as low;
- when the review has shown that there are NGOs collecting data on victims and/or official databases with data only on offences/offenders, reliability is considered medium;
- when the review has shown that there are only official databases on victims, the reliability is considered medium;
- when the review has shown that there are official databases on victims, offenders and offences, reliability is considered high.

Table 3 summarises the results of the review carried out in this section according to these criteria.

TABLE 3: TYPES OF DATA COLLECTED AND RELIABILITY OF THE QUANTITATIVE INFORMATION ON THB IN THE 25 EU MEMBER STATES.

Kind of databases and reliability Countries/types of data collected	Official databases	NGOs databases	No available information	Reliability
<b>Austria</b>				medium
<i>offences</i>	✓			
<i>offenders</i>	✓			
<i>victims</i>		✓		high
<b>Belgium</b>				
<i>offences</i>	✓			
<i>offenders</i>	✓			low
<i>victims</i>	✓	✓ <sup>(138)</sup>		
Kind of databases and reliability Countries/types of data collected	Official databases	NGOs databases	No available information	Reliability
<b>Cyprus</b>				low
<i>offences</i>			✓	

<sup>138</sup> Data on victims are collected by three NGOs working in the field and coordinated by the Centre for the Equal Opportunities and the Fight against Racism (see above § 5.1).

	<i>offenders</i>			✓	
	<i>victims</i>			✓	
<b>Czech Republic</b>					
	<i>offences</i>	✓			
	<i>offenders</i>	✓			medium
	<i>victims</i>		✓		
<b>Denmark</b>					
	<i>offences</i>			✓	
	<i>offenders</i>			✓	low
	<i>victims</i>			✓ <sup>(139)</sup>	
<b>Estonia</b>					
	<i>offences</i>			✓	
	<i>offenders</i>			✓	low
	<i>victims</i>			✓	
<b>Finland</b>					
	<i>offences</i>			✓	
	<i>offenders</i>			✓	low
	<i>victims</i>			✓	
<b>France</b>					
	<i>offences</i>			✓	
	<i>offenders</i>			✓	medium
	<i>victims</i>	✓			
<b>Germany</b>					
	<i>offences</i>	✓			
	<i>offenders</i>	✓			high
	<i>victims</i>	✓			
<b>Greece</b>					
	<i>offences</i>	✓			
	<i>offenders</i>	✓			medium <sup>(140)</sup>
	<i>victims</i>	✓			
<b>Hungary</b>					
	<i>offences</i>			✓	
	<i>offenders</i>			✓	low
	<i>victims</i>			✓	
<b>Ireland</b>					
	<i>offences</i>	✓			
	<i>offenders</i>	✓			low
	<i>victims</i>			✓	

Countries/types of data collected	Kind of databases and reliability			Reliability
	Official databases	NGOs databases	No available information	
<b>Italy</b>				
	<i>offences</i>	✓		
	<i>offenders</i>	✓		high
	<i>victims</i>	✓		
<b>Latvia</b>				
	<i>offences</i>		✓	
	<i>offenders</i>		✓	low
	<i>victims</i>		✓	
<b>Lithuania</b>				
	<i>offences</i>		✓	
	<i>offenders</i>		✓	medium
	<i>victims</i>	✓		
<b>Luxembourg</b>				
	<i>offences</i>		✓	
	<i>offenders</i>		✓	low
	<i>victims</i>		✓	
<b>Malta</b>				low

<sup>139</sup> In reality some estimates on victims are elaborated by the PRO-Centret, and the Danish Research Centre on Social Vulnerability, however they are based on newspaper ads reporting the “visible prostitution” that can hardly be inserted into THB for sexual exploitation (see above § 5.1).

<sup>140</sup> Notwithstanding the fact that Greece formally falls under the “high reliability” case, the researcher chose to consider its reliability as “medium”, because there are to date few data: this is partly due to the fact that only in 2002 a specific anti-trafficking legislation was introduced (see above § 4.1).

	<i>offences</i>			✓	
	<i>offenders</i>			✓	
	<i>victims</i>			✓	
<b>Poland</b>					
	<i>offences</i>	✓			medium
	<i>offenders</i>	✓			
	<i>victims</i>		✓		
<b>Portugal</b>					
	<i>offences</i>	✓			low
	<i>offenders</i>	✓			
	<i>victims</i>			✓	
<b>Slovak Republic</b>					
	<i>offences</i>			✓	low
	<i>offenders</i>			✓	
	<i>victims</i>			✓	
<b>Slovenia</b>					
	<i>offences</i>			✓	low
	<i>offenders</i>			✓	
	<i>victims</i>			✓	
<b>Spain</b>					
	<i>offences</i>	✓			high
	<i>offenders</i>	✓			
	<i>victims</i>	✓			
<b>Sweden</b>					
	<i>offences</i>	✓			high
	<i>offenders</i>	✓			
	<i>victims</i>	✓	✓ <sup>(141)</sup>		

Kind of databases and reliability Countries/types of data collected					Reliability
	Official databases	NGOs databases	No available information		
<b>The Netherlands</b>					
	<i>offences</i>	✓			high
	<i>offenders</i>	✓			
	<i>victims</i>	✓	✓ <sup>(142)</sup>		
<b>United Kingdom</b>					
	<i>offences</i>			✓	low
	<i>offenders</i>			✓	
	<i>victims</i>			✓	

Source: Transcrime

As the above table shows, only 24% of the Member States have a high reliability of quantitative data on trafficking in human beings (Belgium, Germany, Italy, Spain, Sweden, The Netherlands), 24% a medium reliability (Austria, Czech Republic, France, Greece, Lithuania, Poland) and the majority of Member States, 52%, a low reliability (Cyprus, Denmark, Estonia, Finland, Hungary, Ireland, Latvia, Luxembourg, Malta, Portugal, Slovak Republic, Slovenia, United Kingdom).

<sup>141</sup> In Sweden there are public financings to NGOs operating in the assistance to victims of THB (see above § 5.1).

<sup>142</sup> In The Netherlands data on victims are collected by the NGO STV operating in the field on a public mandate (see above § 5.1).

## 6.

### COUNTRY PROFILES FOR SELECTED MEMBER STATES

On the basis of the work carried out in sections 4-5 the following Member States have been selected for further analysis for each of the legislation typology/models on prostitution.

For *abolitionism*: Czech Republic, Poland and Spain. For *new abolitionism*: Belgium, France and Italy. For *prohibitionism*: Lithuania and Sweden. For *regulationism*: Austria, Germany, Netherlands.

The selection of these Member States was made according the following criteria: a) inclusion of The Netherlands and Sweden; b) inclusion of other EU Member States; c) inclusion of recent EU Member States; d) inclusion of the EU Member States that have recently changed their legislation on prostitution; e) inclusion of the EU Member States with sufficient and reliable qualitative and quantitative information on the trafficking in women and children.

In order to ensure the comparability of the results, each country profile follows the same structure and covers the following topics:

- (part 1) the policy on prostitution, the practices in the application of this policy, if available, and the current debate on possible new approaches to the phenomenon. This part has to be read together with the information on the country situation contained in chapter 4, and is to be considered a close examination of the legislation/model on prostitution;
- (part 2) the quantitative aspects of THB for sexual exploitation and estimate of the number of actual victims annually from 1996 to 2003 (when possible);
- (part 3) the qualitative aspects of sexual exploitation (in the *indoor* and *outdoor* markets), in particular the division of the market *outdoor/indoor* and the kind of violence perpetrated etc. In fact, legislation typologies/model on prostitution could influence the degree of violence employed, or the way in which the activity is performed;
- (part 4) the impact of the legislation typology/model on prostitution and, separate to this, the identification of other intervening factors that may influence the level of trafficking in the country, including a description of the level of effect these intervening factors have.



## 6.1 ABOLITIONISM

### 6.1.1 Czech Republic<sup>(143)</sup>

#### *National legislative pattern and current discussion on prostitution*

The Czech policy on prostitution falls under the *abolitionist* model. *Outdoor* and *indoor* prostitution are not prohibited, but they are neither regulated nor considered a profession; however, the Criminal Code prohibits pandering (Article 204.1)<sup>(144)</sup>.

Over the last three years, issues related to the regulation of prostitution and the measures that should be implemented to fight THB have been at the centre of the political agenda and public debate.

In May 2004, the Czech Ministry of the Interior prepared a bill to regulate the prostitution market in order to control street prostitution, combat all prostitution-related crimes and increase the fight against trafficking for the purpose of sexual exploitation. The bill proposal, approved by the Cabinet on 21 July, aimed to implement a regulatory system that would require prostitutes to register, comply with health regulations and pay taxes. The draft has now to be approved by the Parliament. In this regard it must be stressed that the government shall need support from the opposition, therefore making the final approval less certain<sup>(145)</sup>. According to the opponents of this bill proposal, prostitutes would be discriminated against and highly criminalised. If this law is passed, street prostitutes would pay high penalties (1.800 euros) while clients would be treated differently. Moreover, according to some organisations that provide support and services to prostitutes, the latter are not yet prepared for the changes the bill would bring about, especially due to their weak social and economic position.

#### *Quantitative aspects of THB for sexual exploitation and estimate of the number of actual victims*

Two different “sources” provided the data presented in this paragraph: the Police - Ministry of the Interior supplied data on offences of THB for sexual exploitation, while the Ministry of Justice delivered data on offenders. As a result, the data do not match and do not cover the entire time span under investigation.

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<sup>143</sup> Part of the information used to write this country profile was conveyed by Hana Snajdrova, Czech Ministry of the Interior, Prague and Hana Malinova, *Rozksa bez rizika*, Prague.

<sup>144</sup> For further information see above § 4.1.

<sup>145</sup> Cameron, R., “Cabinet Approves Bill to Legalise Prostitution”, in *Radio Praha*, 21 July 2005, available at <http://www.radio.cz/en/article/68764> (visited on August 3<sup>rd</sup> 2005).

TABLE 4: NUMBER OF OFFENCES AND OFFENDERS FOR THB FOR SEXUAL EXPLOITATION IN THE CZECH REPUBLIC. 1996-2003.

Year	Offences	Offenders
1996	15	-
1997	13	9
1998	34	5
1999	23	25
2000	13	16
2001	27	15
2002	15	20
2003	-	5

Source: Ministry of Interior and Ministry of Justice

Like in most countries, the Czech Republic also has no official database on victims of trafficking. The data hereafter are based on estimates provided by *Rozkos bez rizika*, a Prague based NGO that supplies a wide range of health, social and legal information and services to sex workers. According to this organisation, the estimated victims of trafficking, mainly of foreign origin, are as follows:

TABLE 5: ANNUAL ESTIMATE OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN CZECH REPUBLIC. 1996-2003.

Year	No. victims
1996	200
1997	315
1998	360
1999	350
2000	350
2001	360
2002	370
2003	340

Source: *Rozkos bez rizika*

The annual index of victims in table 6 is elaborated on the estimate of victims by *Rozkos bez rizika* a Prague based NGO. For Czech Republic, in fact, it was not possible to calculate the annual national estimate of victims according to the methodology proposed in section 3 of this Report.

TABLE 6: ANNUAL INDEX OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN CZECH REPUBLIC. 1996-2003.

Year	Victims estimated by rozkos bez rizika	Male pop. Over 15 years	Annual index of victims (victims per 100.000 males over 15 years)
1996	200	4.046.635	5
1997	315	4.067.986	8
1998	360	4.088.669	9
1999	350	4.107.591	9
2000	350	4.125.848	8
2001	360	4.142.864	9
2002	370	4.136.030	9
2003	340	4.151.167	8

Source: Transcrime on data *Rozkos bez rizika* and Eurostat

#### *Qualitative aspects of exploitation*

- *Country description.* The Czech Republic is a country of origin, transit and destination of victims of trafficking exploited in the sex industry, both *indoors* and *outdoors*. Migrant prostitutes represent a significant percentage of the overall sex worker population.
- *Origin of the victims.* Women and children mainly come from Eastern Europe (Ukraine, Moldova, Bulgaria, Slovakia, Romania, Lithuania) and Asia (Vietnam, China).
- *Recruitment.* Traffickers often deceive their victims promising them remunerative jobs abroad as waitresses, nannies, cleaners, etc., by acquaintances and supposed job agencies. They end up working on Czech streets and highways and in night clubs. Czech women are usually trafficked to be exploited as prostitutes in countries like Austria, Germany, The Netherlands, Italy and the United States. Both foreign and national prostitutes are trafficked within the Czech Republic.
- *Division of the market.* The Czech sex industry has experienced significant growth over the last few years, especially the *indoor* sector. In fact, according to the national expert, the market of the exploited prostitution takes place mainly *indoors* (80%). This sector is composed of night clubs (60%), hotels (15%), apartments (10%), pubs (5%), windows (5%) and other premises (5%). The remaining 20% of the girls and women are exploited in the *outdoor* market.
- *Kind of violence perpetrated.* In both markets, forms of physical, sexual and psychological violence are exercised.
- *Rate of violence.* Concerning violence used during the exploitation process, the *indoor* market is less violent than the *outdoor* one. In the *indoor* market violence is “seldom” employed, while in the *outdoor* one violence is used “often”. In some cases it also involves cases of murder.
- *Methods and frequency of the control.* Trafficked prostitutes who work *indoors* and *outdoors* are visually controlled by their traffickers/exploiters, by other prostitutes and through mobile phone checks. The practice of checking the number of condoms used is employed in *indoor* prostitution, while it seems not to have been adopted *outdoors*. Trafficked prostitutes exploited in both the *indoor* and *outdoor* markets are subject to freedom restrictions. They are also indirectly controlled by threatening the family in the country of origin. The frequency of control



varies according to the type of prostitution market. Those exploited in *indoor* venues are “often” controlled, while those exploited on the streets are “always” controlled.

- *Earnings kept by victims.* Prostitutes exploited *indoors* generally keep between 30 to 50% of their earnings, while *outdoor* prostitutes keep significantly less: between 0 to 30% of the total amount of their income. Bulgarians and Romanians are those who are more exploited and thus keep a very small percentage of their earnings.
- *Duration of exploitation.* The average duration of exploitation tends to last longer (6 months to 1 year) in the *indoor* market than *outdoors* (3-6 months). It must be noted that many migrant sex workers go to the Czech Republic with legal documents (3 month tourist visa). When the visa expires they leave the country, renew the visa and return.

*The impact of legislation on prostitution and of other factors on the quantitative and qualitative aspects of THB*

For what concerns the intervening factors other than legislation/models on prostitution, the national expert pointed out the following factors as having a “strong” effect on THB in the country:

- the geographical position of the Czech Republic as a destination country, due to the easiness in getting tourist visas in neighbouring countries;
- the differential in level of welfare between origin and destination country;
- the feminisation of poverty and rate of unemployment;
- available health services free of charge in the destination country.

The strict migratory regulation of the destination country has a “medium” effect, while the effect of the factor “Level of anti trafficking measures” on the qualitative and quantitative dimension of THB is “low”.

Finally, the cultural and linguistic similarities between origin and destination country and the entrance into the European Union of new Member States, according to the national expert, produces only a “very low” effect on THB.

According to a recently published Czech study, the main factors that facilitate the growth for sexual exploitation and, thus, of trafficking of persons to be exploited in the sex industry are: the “belated legislative reaction to the growth of social problems (particularly prostitution), excessive reliance on the principle of market economy, social insecurity and inability to attain self-fulfilment, a general tendency to pay lesser wages to women, high unemployment rates in some districts, lack of public awareness, distorted system of values and scarce legal culture, low self-esteem and under estimation of health risk, women’s desire to break away from a poor lifestyle with no perspective and the social control of their original environment”<sup>(146)</sup>.

TABLE 7: FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE NATURE AND EXTENT OF TRAFFICKING IN CZECH REPUBLIC. LEVEL OF EFFECT ON THB FOR SEXUAL EXPLOITATION.

Factor	Level of effect					
	No effect	Very low effect	Low effect	Medium effect	Strong effect	Very strong effect

<sup>146</sup> Institute of Criminology and Social Prevention, op. cit., p. 8.

Geographical position of the destination country					✓	
Cultural and linguistic similarities between the country of origin and the country of destination		✓				
Strict migratory regulations of the destination country				✓		
Entrance into the European Union of new Member States		✓				
Differential in level of welfare between the country of origin and the country of destination					✓	
Feminisation of poverty and rate of unemployment					✓	
Level of anti-trafficking measures		✓				
Available health services free of charge					✓	

Source: Transcrime on data provided by the Czech national expert

### 6.1.2 Poland<sup>(147)</sup>

#### *National legislative pattern and current discussion on prostitution*

The Polish policy on prostitution falls under the *abolitionist* model because *outdoor* and *indoor* prostitution are neither prohibited nor regulated by the State. Therefore the sex market lies in a “grey area” as it is not explicitly forbidden but, on the other hand, it is not regulated and considered as work. In fact, according to Article 203 of the Criminal Code it is a crime to force a person to prostitute herself or himself and under Article 204 it is illegal for a third party to make profit from prostitution (pimping, procuring, etc.)<sup>(148)</sup>.

In Poland, the discussion on prostitution policy is mainly focused on moving or not towards a regulation of the sex market. The debate is spurred by the current situation: in practice hundreds of *de jure* massage parlours, clubs for men, “agencies for men”, etc. are *de facto* brothels<sup>(149)</sup> where prostitution takes place and several tracts of national highways are populated by prostitutes. According to some commentators, due to its strong Catholic driven values, Poland will never legalise prostitution so “even though the sex business is developing it remains a taboo and the related problems continue to be marginalised by public opinion”<sup>(150)</sup>. Others argue that the prostitution policy will not be changed as a result of the unsympathetic political attitude towards the subject and the dominant public discourse, that does not take into consideration the women’s human rights perspective when discussing prostitution related issues<sup>(151)</sup>.

Much discussion focuses on the fact that Article 204 is not in accord with the human rights standards for the treatment of victims of trafficking since “the prerequisite to be fulfilled in order for the offence to fall under the scope of the provision is the financial gain stemming from the illegal activity. This definition contradicts *inter alia* the Human Rights Standards for the Treatment of Trafficked Persons,

<sup>147</sup> Part of the information used to write this country profile was conveyed by Krzysztof Karsznicki, National Prosecutor’s Office, Warsaw and Stana Buchowska, La Strada Poland, Warsaw.

<sup>148</sup> For further information see above § 4.1.

<sup>149</sup> According to one of the experts currently the State is collecting taxes that come from structures (agencies, clubs, etc.) that are hiding the real source of money: exploitation of prostitution.

<sup>150</sup> Tampep 6, op. cit., p. 154.

<sup>151</sup> Council of the Baltic Sea States, *Women – Sexual Commodities or Human Beings? Trafficking in Human Beings Survey*, CBSS, Stockholm, November 2003, p. 204.

which state that the offence of trafficking is at hand despite of the fact that the economical element is not present”<sup>(152)</sup>.

*Quantitative aspects of THB for sexual exploitation and estimate of the number of actual victims*

In Poland the most important source of data on THB for sexual exploitation is the National Prosecutor’s Office in Warsaw. Statistics on THB and prostitution, provided by such office, deal with both data on the offences against victims of THB and the number of persons arrested, as one can see in table 8 below.

TABLE 8: NUMBER OF OFFENCES AND OFFENDERS FOR THB FOR SEXUAL EXPLOITATION IN POLAND. 1996-2003.

Year	Offences	Offenders
1996	26	59
1997	31	58
1998	25	64
1999	14	24
2000	38	119
2001	35	71
2002	11	40
2003	30	134

Source: National Prosecutor Office – Warsaw

The National Prosecutor’s Office in Warsaw also provides information regarding the number of victims of THB in Poland. The official figures are shown in table 9 below. The general trend indicates a decrease in the number of the victims of THB during the period 1997-1999, while since 2000 there has been an increase with a drop in 2001.

<sup>152</sup> Borg, D., *Trafficking in Women: the Case of Poland*, Department of East European Studies, University of Uppsala (Norway), October 2001, available at [http://www.eeacr.org/05\\_01\\_BorgSC20050109.htm](http://www.eeacr.org/05_01_BorgSC20050109.htm) (visited on 7<sup>th</sup> July 2005).

TABLE 9: NUMBER OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN POLAND. 1996-2003.

Year	No. of victims
1996	232
1997	163
1998	109
1999	109
2000	172
2001	93
2002	167
2003	261

Source: National Prosecutor Office – Warsaw

Using the data provided by the National Prosecutor's Office in Warsaw, it is possible to calculate the annual estimate of victims according to the methodology proposed in section 3. The results are summarised in the table 10 below.

TABLE 10: ANNUAL ESTIMATE OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN POLAND. 1996-2003.

Year	Min.	Max.
1996	2.320	4.640
1997	1.630	3.260
1998	1.090	2.180
1999	1.090	2.180
2000	1.720	3.440
2001	930	1.860
2002	1.670	3.340
2003	2.610	5.220

Source: Transcrime on data by National Prosecutor Office – Warsaw

In order to obtain comparable data through the EU Countries table 11 below provides the annual index of victims of THB for sexual exploitation.

TABLE 11: ANNUAL INDEX OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN POLAND. 1996-2003.

Year	Annual estimate of victims		Male pop. over 15 years	Annual index of victims (victims per 100.000 males over 15 years)	
	Min.	Max.		Min.	Max.
1996	2.320	4.640	14.344.382	16	32
1997	1.630	3.260	14.472.030	11	23
1998	1.090	2.180	14.616.816	7	15
1999	1.090	2.180	14.769.255	7	15
2000	1.720	3.440	14.908.948	12	23
2001	930	1.860	14.802.587	6	13
2002	1.670	3.340	14.920.707	11	22
2003	2.610	5.220	15.022.477	17	35

Source: Transcrime on data by National Prosecutor Office – Warsaw and Eurostat

#### *Qualitative aspects of exploitation*

- *Country description.* Poland is a major country of origin, transit and destination of trafficking for sexual exploitation, which started to become a significant and worrying phenomenon after the fall of the Berlin wall and the collapse of the Soviet Union. Sexual exploitation in the sex sector was clearly present even before that watershed event but much less visible since prostitution was practised in *indoor* premises.
- *Origin of the victims.* Migrant women exploited in the sex industry mainly come from Ukraine, Moldova, Belarus, Latvia, Bulgaria and Romania, while Polish women are both trafficked internally, from poorer areas of the country to the richer ones and to Western countries, such as Germany, The Netherlands, Italy, Spain, Greece, Spain, Portugal, Denmark, Sweden and Austria.
- *Recruitment.* Traffickers usually offer their victims jobs as barmaids, waitresses, au-pairs or dancers or otherwise offer them marriages, providing them with fake information about their living and working conditions, something they discover only once they arrive in Poland or in the destination country. Advertisements in local papers are commonly used to falsely promote lucrative jobs in other EU countries. The internet is also becoming a popular means of recruitment, especially for younger individuals, who are sometimes underage<sup>(153)</sup>.
- *Division of the market.* In Poland exploited prostitution takes place in hotels, bars, restaurants, apartments, massage parlours, spas, street and highways. The market of exploited prostitution takes place mainly *indoors* (80%), even if it is not possible to clearly determine how it is divided (hotels, clubs, etc.). However, there is evidence of many hidden brothels and the mushrooming of escort services. The remaining 20% of the exploited market occurs *outdoors*. Some highways are particularly well-known for being “serviced” by a large number of prostitutes, in particular, in the Zielona Province. Indeed, the 20-km road that crosses this territory adjacent to the German border is frequented mostly by Germans and has been renamed “Road to Happiness”<sup>(154)</sup> with prostitutes commonly referred to as “lorry girls”<sup>(155)</sup> or “Tirówki”<sup>(156)</sup>, after the word “TIR” that can be found on trucks. Increasingly Polish prostitutes commute to German towns just for one day or for a week-end.
- *Kind of violence perpetrated.* Both in *indoor* and *outdoor* markets, physical, sexual and psychological violence is used.
- *Rate of violence.* Women often enter the Polish borders legally but their documents are in most cases seized by the traffickers, who often also make use of threats and coercive methods to control them. The level of violence used during the exploitation process varies case by case and no particular differences have been detected between the *indoor* and *outdoor* prostitution markets.
- *Methods and frequency of the control.* During the day the victims are “often” monitored, in both *indoor* and *outdoor* markets, using visual control by the exploiters and other prostitutes. Victims are also controlled by means of reclusion and a restriction of freedom. Additionally, in street prostitution there is also a check of the number of condoms used. The data collected does not allow the duration of the exploitation process to be determined.
- *Earnings kept by victims.* No information is available on the percentage of earnings kept by the victims, because they differ greatly from case to case.

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<sup>153</sup> Tampep 6, op. cit., p. 155.

<sup>154</sup> United Nations Office on Drugs and Crime, *The case of Poland*, available at [http://www.unodc.org/unodc/trafficking\\_projects\\_poland.html](http://www.unodc.org/unodc/trafficking_projects_poland.html) (visited on 7<sup>th</sup> July 2005).

<sup>155</sup> Tampep 6, op. cit., p. 155.

<sup>156</sup> Borg, D., op. cit.

- *Duration of exploitation.* It is not possible, based on available data, to estimate an average duration of exploitation, because every case differs greatly from each other.

*The impact of legislation on prostitution and of other factors on the quantitative and qualitative aspects of THB*

Poland adopts an *abolitionist* model, but the current ambiguity of the prostitution policy facilitates criminal activities and therefore it is relatively easy to exploit persons (in clubs, massage parlours, etc.), especially as many are illegal immigrants. To focus on the offences connected to illegal migration without taking into consideration the linked trafficking signs and the related crimes decreases the efforts to combat traffickers and exploiters and the support for trafficked persons. Such an approach also fails to apprehend the perpetrators who often have legal status.

Apart from the types of legislation/models on prostitution, other intervening factors, often correlated, may influence the number of women and children trafficked and the manner of their exploitation.

According to the national expert the most significant intervening factors on THB for sexual exploitation are:

- the strict migratory regulations of destination countries that may increase the demand for illegal migration and the profits for traffickers;
- the absence of a specific anti-traffic (primary and secondary) legislation hinders effective interventions by law enforcement agencies. The lack of a clear definition of trafficking is also problematic because the key-state actors (such as Poland) appointed to prevent and fight trafficking and protect the victims are not sufficiently well-informed and trained to identify the offence and act accordingly. As a consequence, for instance, potential victims of trafficking are deported because their status is not correctly identified;
- the feminisation of poverty and rate of unemployment.

Other factors that have a “strong” effect on THB are:

- the geographical position of Poland that makes the country a huge transit and destination State for THB from the former Soviet Union;
- the cultural and linguistic similarities between origin and destination country.

Finally a “medium” effect seems to be provided by:

- the entrance into the European Union of new Member States. In the case of Poland the role of origin country will gradually diminish because of more legal opportunities in the “old” EU countries and more information on legal jobs will be available. At the same time the role of Poland as a destination country will grow because the Polish job market is becoming more attractive for irregular migrants from former Soviet Union and other non EU countries;
- the differential in level of welfare between origin and destination country.

TABLE 12: FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE NATURE AND EXTENT OF TRAFFICKING IN POLAND. LEVEL OF EFFECT ON THB FOR SEXUAL EXPLOITATION.

Factor	Level of effect					
	No effect	Very low effect	Low effect	Medium effect	Strong effect	Very strong effect

Geographical position of the destination country					✓	
Cultural and linguistic similarities between the country of origin and the country of destination					✓	
Strict migratory regulations of the destination country						✓
Entrance into the European Union of new Member States				✓		
Differential in level of welfare between the country of origin and the country of destination				✓		
Feminisation of poverty and rate of unemployment						✓
Level of anti-trafficking measures						✓
Lack of secondary legislation						✓
Organised crime groups profits						✓

Source: Transcrime on data provided by the Polish national expert

### 6.1.3 Spain<sup>(157)</sup>

#### *National legislative pattern and current discussion on prostitution*

The Spanish policy on prostitution falls under the *abolitionist* model because *outdoor* and *indoor* prostitution are neither prohibited nor regulated by the State. With the introduction of the new Criminal Code in 1995 there was a decriminalisation of a lot of acts linked to prostitution, however it still prohibits some prostitution-related offences, such as the inducement of someone to enter into or continue to engage in prostitution (Article 188.1 Criminal Code) and the exploitation of the prostitution of minors (Article 187.1 Criminal Code)<sup>(158)</sup>.

In practice, *indoor* prostitution is tolerated much more than *outdoor* one. Police operations against street prostitution are more common, due to it “disturbing the order”<sup>(159)</sup>.

Spain participates in the international debate on the expansion and internationalisation of the phenomenon of THB and the creation of ways to solve it. In the Spanish Parliament, a Mixed Commission on Women’s Rights (1998-2002) was created to study the phenomenon of trafficking in women and children to promote action and solutions to prevent and fight against new forms of exploitation that use the sex market. In 2003 the commission published a document with the conclusions: “*Informe de la Ponencia para el estudio y seguimiento del tráfico internacional de mujeres, niños y niñas*”. One of the main recommendations of the Commission was to develop a National Plan against Trafficking in women and children.

Following the recommendation, the Ministry of Interior and NGOs sponsored two meetings which took place in December 2004 and May 2005 to discuss the conclusions and recommendations.

Concerning the praxis in Spain, some owners of large clubs have created a professional association (National Association of Clubs: *Asociación Nacional de Clubes de Alterne*) that is arguing for the

<sup>157</sup> The information used to write this country profile were conveyed by Andrea Gimenez-Salinas Framis, *Centro de Investigación en Criminología*, University of Castilla-La Mancha, Albacete.

<sup>158</sup> For further information see above § 4.1.

<sup>159</sup> Danna, D., “Trafficking and prostitution of foreigners...”, op. cit., pp. 7–9.

regulation of prostitution. They want to present a clean image and distinguish themselves from the club owners who do not respect the rules and the employees' rights.

*Quantitative aspects of THB for sexual exploitation and estimate of the number of actual victims*

In Spain there are 3 main sources of data. The most important is the Ministry of Interior which coordinates the information from the *Cuerpo Nacional de Policía* and the *Guardia Civil*.

Statistics on THB and prostitution are published by the Ministry of Interior, unfortunately there are no data on the offences against victims of THB, but there is a good information regarding the number of persons arrested, as can be seen in table 13 below.

TABLE 13: NUMBER OF OFFENCES AND OFFENDERS FOR COERCION INTO PROSTITUTION IN SPAIN. 1997-2002.

Year	Offenders
1997	163
1998	118
1999	317
2000	332
2001	497
2002	671

Source: *Ministerio del Interior*

The Ministry of the Interior also provides reliable information regarding the number of victims of THB in Spain. The official figures are shown in table 14 below. The general trend indicates a constant increase in the number of the victims of THB, this could also be partly explained by the implementation of more efficient legal instruments and increased attention by the Police forces to the problem over the last few years<sup>(160)</sup>.

TABLE 14: NUMBER OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN SPAIN. 1997-2002.

Year	No. of victims
1997	216
1998	204
1999	520
2000	460
2001	601
2002	750

Source: *Ministerio del Interior*

Using the data provided by the Ministry of the Interior it is possible to calculate the annual estimate of victims according to the methodology proposed in section 3. The results are summarised in table 15 below.

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<sup>160</sup> This increased attention to the phenomenon is also underlined by the current debate among Parliament, club owners and citizens on the possible modification to the legislation on prostitution.



TABLE 15: ANNUAL ESTIMATE OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN SPAIN. 1997-2002.

Year	Min.	Max.
1997	2.160	4.320
1998	2.040	4.080
1999	5.200	10.400
2000	4.600	9.200
2001	6.010	12.020
2002	7.500	15.000

Source: Transcrime on data *Ministerio del Interior*

In order to obtain comparable data throughout the EU countries table 16 below provides the annual index of victims of THB for sexual exploitation.

TABLE 16: ANNUAL INDEX OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN SPAIN. 1997-2002.

Year	Annual estimate of victims		Male pop. over 15 years	Annual index of victims (victims per 100.000 males over 15 years)	
	Min.	Max.		Min.	Max.
1997	2.160	4.320	16.099.699	13	27
1998	2.040	4.080	16.220.476	13	25
1999	5.200	10.400	16.351.576	32	64
2000	4.600	9.200	16.502.666	28	56
2001	6.010	12.020	16.735.027	36	72
2002	7.500	15.000	16.972.207	44	88

Source: Transcrime on data *Ministerio del Interior* and Eurostat

#### *Qualitative aspects of exploitation*

- *Country description.* Spain is mainly a destination country of THB for sexual exploitation. This aspect has been emerging above all in the last few years, due to significant migratory fluxes (see below).
- *Origin of the victims.* Women and children mainly come from Sub-Saharan Africa, South America and less significantly from Eastern Europe<sup>(161)</sup>.
- *Recruitment.* Traffickers often deceive their victims, promising them a regular job in Spain as cleaners in hotels or childminders. However, many women know in advance what they will do in Spain, but they do not know the employment conditions. Finally a few victims are kidnapped and forced into prostitution<sup>(162)</sup>.
- *Division of the market.* The exploited prostitution market in Spain takes place almost exclusively indoors; 90% of the women work in hotels (55%), night clubs (30%) and apartments (5%). The remaining 10% are exploited in the outdoor market.
- *Kind of violence perpetrated.* This difference between the two areas of prostitution is confirmed by the presence of physical, sexual and psychological violence in the indoor market, while outdoor prostitution is more autonomous and there is very often an agreement between the woman and the pimp.

<sup>161</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>162</sup> Ibid.

- *Rate of violence.* Concerning violence used during the exploitation process, the *indoor* market is more violent than the *outdoor* one. In the *indoor* market violence is “often” employed, while in the *outdoor* one violence is “seldom” used.
- *Methods and frequency of the control.* The methods of control also follow this trend: those who work in apartments, hotels and night clubs “always” undergo visual control by traffickers, by other prostitutes and by team chiefs (*mamis*)<sup>(163)</sup>. In addition there are forms of freedom restriction, and exploitation lasts indefinitely<sup>(164)</sup>. The women who work in the clubs are doubly victimised: they have to pay a percentage of their earnings to both the traffickers and to the club owners. Therefore the money effectively kept by the victims could be reasonably estimated to be less than 40% of the total. Concerning the more autonomous *outdoor* market, the only method of control (seldom) used is visual monitoring by pimps.
- *Earnings kept by the victims.* No information is available on the percentage of earnings kept by the women.
- *Duration of exploitation.* In the case of the *outdoor* market, prostitution is more autonomous and there is always an agreement between the woman and the pimp. On the contrary, for the *indoor* market the duration of exploitation varies according to the nationality of victims. In the case of South American prostitutes they are free when they have fully paid the debt they contracted coming to Spain, which is usually after one year or one year and a half. Regarding African and Eastern European women, the duration of exploitation is unlimited even after the payment of the debt contracted to migrate.

*The impact of legislation on prostitution and of other factors on the quantitative and qualitative aspects of THB*

Spain adopts an *abolitionist* model, however the previous legislative pattern (where the exercise of prostitution and procuring were freer) contributed to increase the number of organisations using the prostitution market. Before 2003, it was very difficult to prove that an organisation and an owner of a club was threatening women and forcing them into prostitution. This situation developed into a large sex market with clubs and hotels all over the Spain, especially in big cities and along highways. This also increased levels of exploitation because all work occurred inside clubs where inspections and controls are more difficult.

Apart from the types of legislation/models on prostitution, other intervening factors, often correlated, may influence the number of women and children trafficked and the manner of their exploitation.

According to the national expert, the most significant factor is the differential in the level of welfare between the countries of origin and Spain. This pushes many people to migrate in order to improve their socio-economic conditions. The situation is even worse for women because of the feminisation of poverty and rate of unemployment typical of many developing countries.

Other factors that have a “strong” effect on THB are:

- the geographical position of Spain, that facilitates the entry into Europe mainly from South American countries and black Africa;

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<sup>163</sup> This method of control was noticed regarding Eastern European women’s group inside the clubs. They are not only in charge of monitoring the women but also in charge of monitoring the fulfilment of their agreement with the owners of the clubs.

<sup>164</sup> Black African and Eastern Europe girls and women have to repay (through a percentage on the earnings) their exploiters for travel and accommodation expenses. The process, anyway, goes on also after the discharge of the debt, while in the case of South American women they are free when they have fully paid the debt, which is usually after one year or one year and a half.

- the cultural and linguistic similarities between origin and destination countries, that facilitates the large immigration from Latin America;
- the migratory regulations of Spain, that were very open in the past and continue to be not very restrictive.

Finally a “very low” effect seems to be provided by the entrance into the European Union of new Member States.

According to the Spanish expert the effect of the factor “level of anti-trafficking measures” on the qualitative and quantitative dimension of THB is “medium”. This can suggest that, at least in Spain, the number of trafficked victims and the manner of their exploitation is not strongly dependent from the level of the law enforcement response.

TABLE 17: FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE NATURE AND EXTENT OF TRAFFICKING IN SPAIN. LEVEL OF EFFECT ON THB FOR SEXUAL EXPLOITATION.

Factor	Level of effect					
	No effect	Very low effect	Low effect	Medium effect	Strong effect	Very strong effect
Geographical position of the destination country					✓	
Cultural and linguistic similarities between the country of origin and the country of destination					✓	
Strict migratory regulations of the destination country					✓	
Entrance into the European Union of new Member States		✓				
Differential in level of welfare between the country of origin and the country of destination						✓
Feminisation of poverty and rate of unemployment					✓	
Level of anti-trafficking measures				✓		

Source: Transcrime on data provided by the Spanish national expert

## 6.2 NEW ABOLITIONISM

### 6.2.1 Belgium<sup>(165)</sup>

#### *National legislative pattern and current discussion on prostitution*

The Belgian policy on prostitution falls under the *new abolitionist* model. This means *indoor* and *outdoor* prostitution in Belgium are tolerated rather than prohibited. However, Belgium law punishes those who keep a house of prostitution or debauchery; sell, rent, or make available rooms or any other premises for the purpose of prostitution with the aim of earning an abnormal profit. Notwithstanding this, in practice, *indoor* and *outdoor* prostitution are not treated in the same way. In fact, *indoor* prostitution, due to its invisibility, is much less tolerated than *outdoor* prostitution. This is because:

- a) there is tolerance towards “organisers that do not gain excessively at the expense of the prostitute”<sup>(166)</sup>;
- b) police raids are much more frequent on the streets than *indoors*<sup>(167)</sup>.

In January 2005, the Belgian Council of Ministers introduced a bill in Parliament aimed at reinforcing the fight against both trafficking and smuggling of human beings. The bill should bring Belgian domestic legislation fully in line with both the EU Framework Decision of 19 July 2002 on THB and the Framework Decision and the Directive of 28 November 2002 on assistance for illegal entry, transit and stay, as well as with the Palermo Protocols of 15 December 2000 on trafficking and smuggling. As a result of the bill as it stands, the offences of trafficking and smuggling will be distinguished from one another in a much clearer way than today. As regards trafficking – regardless of its purpose (sexual or labour exploitation or organ smuggling) – acting by means of threat or the use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation, will not be a constituent element of the “trafficking” offence, but an aggravating circumstance to the basic trafficking offence, which in itself does not require any of these means being used. In doing so, the Belgian legislator is about to adopt far more stringent legislation than required by EU or UN minimum standards.

The government agreement of 2004 mentions the improvement of the legal position of prostitutes as one of the goals to be achieved during its 4 year stay in office. This could shift the national legislative model on prostitution from *new abolitionism* to *regulationism*. However, according to the national expert, it seems unlikely that the non-problematic consensual “organisation” of prostitution will be legalised, due to the persistent belief of some politicians and parties that prostitution is intrinsically exploitative.

#### *Quantitative aspects of THB for sexual exploitation and estimate of the number of actual victims*

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<sup>165</sup> Part of the information used to write this country profile was conveyed by Gert Vermeulen, Director of the Institute for International Research on Criminal Policy (IRCP), University of Ghent, Ghent.

<sup>166</sup> Danna, D., “Trafficking and prostitution of foreigners...”, op. cit., pp. 4–8.

<sup>167</sup> For further information see above § 4.1.

In Belgium there are three types of databases or data collection systems, each containing information on all types of offence under Belgian law, i.e. therefore including THB. In addition, a specific database on victims of THB has recently been developed. Also, with the aim of producing permanent, integrated strategic statistical analyses based on anonymous data furnished by all relevant departments and services (including anonymous data stored in all the aforementioned databases), it has very recently been decided to establish a Centre for Information and Analysis on Smuggling of and Trafficking in Human Beings (for further information see above section 5.1).

In Belgium many data are collected, but unfortunately they are almost completely confidential. The only available figures<sup>(168)</sup> (reported in the tables below) come from two of the three NGOs operating in the assistance of victims sector and regard the period 1999-2001. Because of the incompleteness of the figures, the final value must be considered to slightly underestimate the actual number of victims of THB.

TABLE 18: NUMBER OF OFFENCES AND OFFENDERS OF THB FOR SEXUAL EXPLOITATION IN BELGIUM. 1999-2001.

Year	Offenders
1999-2001	159

Source: IRCP

TABLE 19: NUMBER OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN BELGIUM. 1999-2001.

Year	No. of victims
1999-2001	173

Source: IRCP

Using the data provided by the IRCP it is possible to calculate the annual estimate of victims according to the methodology proposed in section 3. The results are summarised in table 20 below.

TABLE 20: ANNUAL ESTIMATE OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN BELGIUM. 1999-2001.

Year	Min.	Max.
1999-2001	1.730	3.460

Source: Transcrime on data IRCP

In order to obtain comparable data through the EU Countries table 21 below provides the annual index of victims of THB for sexual exploitation.

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<sup>168</sup> Vandekerckhove, W., Paric, Z., Moens, B., Orfano, I., Hopkins, R., Nijboer, J., Vermeulen, G., Bontinck, W., *Research based on Case Studies of Victims of Trafficking in Human Beings in 3 EU Member States, i.e. Belgium, Italy and The Netherlands*, Institute for International Research on Criminal Policy – Ghent University, Ghent, 2003, pp. 103–109.

TABLE 21: ANNUAL INDEX OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN BELGIUM, 1999-2001.

Year	Annual estimate of victims		Male pop. over 15 years	Annual index of victims (victims per 100.000 males over 15 years)	
	Min.	Max.		Min.	Max.
1999-2001	1.730	3.460	4.082.477 <sup>(169)</sup>	42	85

Source: Transcrime on data IRCP and Eurostat

#### *Qualitative aspects of exploitation*

- *Country description.* Belgium is a major destination country of THB for sexual exploitation.
- *Origin of the victims.* Women and children mainly come from West Africa (Nigeria) and Eastern Europe (Albania, Moldova, Ukraine, Russia, Romania, Bulgaria). Also a few cases of South American women from Ecuador are reported<sup>(170)</sup>.
- *Recruitment.* Traffickers offer deceive their victims promising them a regular job in Belgium as a waitress, dancer, artist, escort lady, housekeeper, beauty specialist etc. However, some women know in advance what they will do in Belgium, but they do not know the employment conditions. Finally a few victims are sold by families or institutions (like orphanages)<sup>(171)</sup>.
- *Division of the market.* The market of exploited prostitution in Belgium takes place almost exclusively *indoors*. It is estimated that 95% of the girls work in non-official brothels, night clubs and windows, followed by apartments, hotels, pubs and saunas/parlours. The remaining 5% are exploited in the *outdoor* market.
- *Kind of violence perpetrated.* Even if violence does not seem to be widespread, when perpetrated it is physical, sexual and psychological.
- *Rate of violence.* Consensus seems to be generalised (both *indoors* and *outdoors*) and for this reason violence seems to be of a limited extent.
- *Methods and frequency of the control.* The main method of control in the *indoor* market is visual monitoring by the traffickers and other prostitutes. Only rarely have restrictions of freedom and reclusion been observed. This appears to reinforce the thesis of a low rate of violence in the sector. In the *outdoor* market, in addition to the methods mentioned above, the monitoring through mobile phones is also used. In both markets these methods of control are “often” used during the day.
- *Earnings kept by the victims.* The earnings kept by the victims depend on the basis of the rate of consensus. When there is an agreement between the prostitutes and pimps the earnings kept by the girls varies between 30% and 50% of the total. In the case of violent exploitation the money left to the girls is less than 30%.
- *Duration of exploitation.* The duration of exploitation seems to be relatively short if compared to other countries, because it lasts from between 3 and 6 months. However, the duration of exploitation of West African prostitutes is longer than that of Eastern European women. This is due to the different debt bondage they undergo.

<sup>169</sup> Because of the aggregate nature of the data on victims, the figure representing males over 15 is the average of the years 1999, 2000 and 2001.

<sup>170</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>171</sup> Ibid.

*The impact of legislation on prostitution and of other factors on the quantitative and qualitative aspects of THB*

Besides the legislative pattern, according to the national expert, one can notice other intervening factors. The most significant one is the different level of welfare between origin countries and Belgium. In addition the exploitation of women and children is accentuated when there is illegal migration<sup>(172)</sup>. The feminisation of poverty and rate of unemployment together with strict national migratory regulations have a “strong” effect on THB. With regards the cultural and linguistic similarities between origin and destination country the impact is very low. Similarly, entrance into the European Union of a new Member State, also has a very low influence.

According to the Belgian expert the effect of the factor “level of anti-trafficking measures” on the qualitative and quantitative dimension of THB is “medium”. This can suggest that, at least in Belgium, the number of trafficked victims and the manner of their exploitation is not strongly dependent from the level of the law enforcement response. In addition, these measures are sometimes counterproductive, as they contribute to the expansion of an even more profitable market for smuggling.

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<sup>172</sup> Strict migration policies limit the possibilities of legal employment for third country nationals which critically increase their vulnerability for exploitation, either in the labour sector or the sex industry. More channels for (sex) labour migration are therefore the primary solution to smuggling and THB problems.



TABLE 22: FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE NATURE AND EXTENT OF TRAFFICKING IN BELGIUM. LEVEL OF EFFECT ON THB FOR SEXUAL EXPLOITATION.

Factor	Level of effect					
	No effect	Very low effect	Low effect	Medium effect	Strong effect	Very strong effect
Geographical position of the destination country	✓					
Cultural and linguistic similarities between the country of origin and the country of destination		✓				
Strict migratory regulations of the destination country					✓	
Entrance into the European Union of new Member States		✓				
Differential in level of welfare between the country of origin and the country of destination						✓
Feminisation of poverty and rate of unemployment					✓	
Level of anti-trafficking measures				✓		

Source: Transcrime on data provided by the Belgian national expert

### 6.2.2 France<sup>(173)</sup>

#### *National legislative pattern and current discussion on prostitution*

The French policy on prostitution falls under the *new abolitionist* model because *outdoor* prostitution is not prohibited. *Indoor* prostitution is prohibited by the criminal code when it is exercised in brothels.

The most significant (and discussed) problems, relating to prostitution and immigration, concern the inner security law of 19<sup>th</sup> March 2003 that punishes “passive soliciting” with two months imprisoning or a fine of 3,750 euro. “This new law makes their situation even more precarious and incites [prostitutes] to work in secret, thus creating more dependence and insecurity”<sup>(174)</sup>.

In the debate following the law, some newspapers argued that the introduction of passive soliciting as a major offence was an alternative way to make street prostitution illegal, as well as providing opportunities for police harassment, discrimination and arbitrary decision-making<sup>(175)</sup>. In practice, soliciting has indeed been interpreted by police in a very wide way: asking for money, addressing a potential client or, in some cases, just to be on the street looking for clients may be interpreted as soliciting. Generally speaking, it can be said that the police act at their discretion, which means they may view many different types of activity as “soliciting”<sup>(176)</sup>.

<sup>173</sup> Part of the information used to write this country profile was conveyed by Federica Marengo, *ALC-SPRS*, Nice.

<sup>174</sup> Tampep 6, op. cit.

<sup>175</sup> Allwood, G., op. cit., p. 7.

<sup>176</sup> Femmigration, *France*, available at <http://www.femmigration.net/work/france.html> (visited on 13<sup>th</sup> June 2005), op. cit.

In addition, the strict migratory regulation prevents many clandestine women from renting apartments, because they do not possess the necessary documents. As a consequence many foreign prostitutes are more exposed to exploitation and violence<sup>(177)</sup>.

*Quantitative aspects of THB for sexual exploitation and estimate of the number of actual victims*

In France there is one main source of data on THB: OCRTEH (*Office central pour la repression de la traite des êtres humaines*).

TABLE 23: NUMBER OF OFFENDERS FOR THB FOR SEXUAL EXPLOITATION IN FRANCE. 2000-2004.

Year	Offenders
2000	472
2001	466
2002	643
2003	709
2004	717

Source: OCRTEH

For the purposes of this study the estimates on victims of THB were based on the data provided by ALC. This is an NGO which coordinates *Ac.Sé* (the national scheme for assisting and protecting victims of THB funded by the French Ministry of Social Affairs and the Municipality of Paris)<sup>(178)</sup>.

The following data refer to sex workers who contacted ALC and not only to victims of THB. ALC is one of the many active NGOs in France and to our purpose its data were used as a proxy figure of the actual number of victims of THB who contacted NGOs all over the country.

TABLE 24: YEARLY NUMBER OF SEX WORKERS WHO CONTACTED ALC IN FRANCE. 1996-2003.

Year	No. sex workers
1996	91
1997	143
1998	133
1999	211
2000	326
2001	356
2002	574
2003	650

Source: ALC

Using the data provided by ALC it is possible to calculate the annual estimate of victims according to the methodology proposed in section 3. The results are summarised in table 25 below. It is highly likely that this process of calculation underestimates the real extent of the phenomenon.

TABLE 25: ANNUAL ESTIMATE OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN FRANCE. 1996-2003.

Year	Min.	Max.
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<sup>177</sup> Ibid.

<sup>178</sup> The network is composed of structures and shelters that provide specialised support and services to prostitutes and trafficked persons.

1996	910	1.820
1997	1.430	2.860
1998	1.330	2.660
1999	2.110	4.220
2000	3.260	6.520
2001	3.560	7.120
2002	5.740	11.480
2003	6.500	13.000

Source: Transcrime on data ALC

In order to obtain comparable data throughout the EU, table 26 below provides the annual index of victims of THB for sexual exploitation.

TABLE 26: ANNUAL INDEX OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN FRANCE. 1996-2003.

Year	Annual estimate of victims		Male pop. over 15 years	Annual index of victims (victims every 100.000 males over 15 years)	
	Min.	Max.		Min.	Max.
1996	910	1.820	22.401.681	4	8
1997	1.430	2.860	22.521.305	6	13
1998	1.330	2.660	22.639.025	6	12
1999	2.110	4.220	22.735.893	9	19
2000	3.260	6.520	22.863.751	14	29
2001	3.560	7.120	22.997.199	15	31
2002	5.740	11.480	23.142.877	25	50
2003	6.500	13.000	23.248.953	28	56

Source: Transcrime on data ALC and Eurostat

#### *Qualitative aspects of exploitation*

- *Country description.* France is a major destination country of THB for sexual exploitation. The phenomenon has been growing since the mid-nineties, involving particularly women and children from Eastern Europe and West Africa<sup>(179)</sup>.
- *Origin of the victims.* Women and children mainly come from Eastern European countries like Poland, Russia, Lithuania, Estonia, Moldavia, Rumania, Bulgaria, Yugoslavia, Kosovo, Albania and Kazakhstan. In addition many victims come from West African countries like Ghana, Nigeria, Sierra Leone, Cameroon, and Liberia<sup>(180)</sup>.
- *Recruitment.* The recruitment techniques vary according to the nationality of the victims. Eastern European women generally trust a friend or answer to ads in newspapers and job agencies. They are often deceived and think they are going to France to find an honest job. African women are usually recruited by someone they know and compelled to work to repay the debt they contract to come to France. Also African women are often deceived regarding the job they will have to do<sup>(181)</sup>.

<sup>179</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.

<sup>180</sup> Ibid.

<sup>181</sup> Ibid.

- *Division of the market.* According to the national expert, the market of exploited prostitution in France mainly takes place *outdoors* (70%) while the remaining 30% occurs *indoors*. However it must be noticed that the situation varies region by region, so for example in Paris *indoor* prostitution represents the 70% of the total.
- *Kind of violence perpetrated.* Both in *indoor* and *outdoor* markets, physical, sexual and psychological violence are used.
- *Rate of violence.* With regards both to the *indoor* and *outdoor* markets, it can be seen that the exploiters “often” use violence against victims.
- *Methods and frequency of the control.* Concerning *outdoor prostitution*, pimps control the women directly (visual control by themselves or by other prostitutes), by mobile phone and by threatening reprisals against the victim’s family. The situation is similar in the *indoor* market where visual control by traffickers and other prostitutes is exercised together with control by mobile phone and reclusion/freedom restrictions.
- *Earnings kept by victims.* The percentage of earnings kept by victims varies between 30% and 50% for Eastern European women, while African women seem to keep less money (0-30%).
- *Duration of exploitation.* The duration of exploitation in the *outdoor* market lasts between 3 and 6 months, but the duration of exploitation of Nigerians<sup>(182)</sup> is longer than for other victims from Central and Eastern Europe. *Indoors*, the exploitation is shorter: between 1 and 3 months. In general the short period of exploitation is linked to the duration of the tourist visa: after it expires women go back to their countries in order to obtain another one.

*The impact of legislation on prostitution and of other factors impacting on the quantitative and qualitative aspects of THB*

The policy on prostitution that regulates the sex market influences the qualitative methods of exploitation. An example of this in France is represented by the fact that as a consequence of the new offence of soliciting (2003), *outdoor* prostitution is declining in many French cities.

Apart from the legislative pattern, different factors, often correlated, influence THB for sexual exploitation.

According to the national expert there are three most significant intervening factors:

- the geographical position of France, above all for the freedom of movement in the Schengen area;
- the feminisation of poverty and rate of unemployment;
- the lack of coordination among public policies that creates unilateral analyses and interventions by public bodies (Police, Judicial authority, social department) and NGOs.

Besides these factors, the strict national migratory regulations and the differential in the level of welfare between the origin and the destination countries also have a “strong” impact on THB. A “medium” effect on THB is produced by the entrance into the European Union of new Member

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<sup>182</sup> However, it must be pointed out that the phenomenon of Nigerian trafficking in France is too recent to have a realistic overview.

States<sup>(183)</sup>, while the cultural and linguistic similarities between the origin and destination countries have a “low” impact on the increasing of THB.

With regards to the anti-trafficking measures; they provide a “medium” effect on THB. In order to improve their efficiency it is important to strengthen resocialisation opportunities for the victims.

TABLE 27: FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE NATURE AND EXTENT OF TRAFFICKING IN FRANCE. LEVEL OF EFFECT ON THB FOR SEXUAL EXPLOITATION.

Factor	Level of effect					
	No effect	Very low effect	Low effect	Medium effect	Strong effect	Very strong effect
Geographical position of the destination country						✓
Cultural and linguistic similarities between the country of origin and the country of destination			✓			
Strict migratory regulations of the destination country					✓	
Entrance into the European Union of new Member States				✓		
Differential in level of welfare between the country of origin and the country of destination					✓	
Feminisation of poverty and rate of unemployment						✓
Level of anti-trafficking measures				✓		
Lack of coordination among public policies						✓

Source: Transcrime on data provided by the French national expert

### 6.2.3 Italy<sup>(184)</sup>

#### *National legislative pattern and current discussion on prostitution*

The Italian policy on prostitution falls under the *new abolitionist* model because *outdoor* and *indoor* prostitution are not prohibited, but running a brothel is explicitly prohibited. Nevertheless, prostitution is not officially considered a profession and prostitutes do not enjoy workers' rights or social security benefits.

Law no. 75 of 1958 “Cancellation of regulations on prostitution and the fight against exploitation of prostitution” (known as “*Legge Merlin*”, after the senator who proposed it) abolished the *regulationism* model that was established in 1861<sup>(185)</sup>.

<sup>183</sup> In this regard according to the national expert the presence of people originating from the Baltic States and Czech Republic is decreasing after the entrance of these States into the European Union.

<sup>184</sup> Part of the information used to write this country profile was conveyed by Romina Cianfardone, Associazione *On the Road*, Martinsicuro (Teramo).

<sup>185</sup> For further information see above § 4.1.

In Italy, prostitution has always been a “hot” issue that is periodically discussed in the media and by the public at local and national level.

Some of the offences provided by the Merlin Law have caused and still cause a lot of discussion as they are considered outdated and a violation of prostitute and client rights. For instance, the criminalisation of those who favour the prostitution of another person are much disputed since, under this provision, for example, it is also possible to punish a client who drives a prostitute to her/his place of work and who permits her/him to change clothes inside his car. Following the same reasoning, prostitutes who live and share costs with other prostitutes or with a partner can be punished. These scenarios are less common nowadays but they are strongly dependant on the interpretation of the Merlin law by the judges.

The significant number of bill proposals on prostitution sitting in Parliament mirrors the constant interest towards this issue. The approaches proposed greatly differ but they generally aim at regulating prostitution through the legalisation of its *outdoor* and/or *indoor* forms. Currently, the Bossi-Fini-Prestigiacomo bill proposal (Governmental Bill n. 3826/2003) is the one most debated. This bill proposal intends to amend some parts of the Merlin Law and to fight street prostitution as “the most serious offences of sexual exploitation are committed in this place”<sup>(186)</sup>. Article 1 of the bill, in fact, prohibits the exercise of prostitution in a public place. Violation of this article would be punishable with a fine or arrest for up to 15 days of the prostitute while the client would have to pay a fine, which would cancel or limit the application of the aiding and abetting prostitution crime. Assistance between prostitutes and the rental of apartments for the purpose of prostitution would be no longer considered to be acts that favour the exploitation of prostitution. This bill would allow that the condominium regulations may limit or prohibit the exercise of prostitution within their own premises. This proposal does not mention medical checks for prostitutes, but it proposes that, in case of a death or grievous bodily harm as a result of a sexual illness, the judge must assess whether the prostitute was negligent as to her/his health controls.

According to its opponents, Bill no. 3826 is a repressive law that does not provide a clear definition of prostitution, listing a whole series of obligations prostitutes should fulfil without being entitled to any rights. It is considered discriminatory and thus unconstitutional as prostitutes and clients would be punished differently even though they adopted the same behaviour<sup>(187)</sup>. It also fails to appropriately address the phenomenon of trafficking. Through the application of this bill proposal, victims of trafficking for the purpose of sexual exploitation may be re-victimised as the result of their confinement in hidden places and the enforcement of their immediate expulsion as illegal immigrants without verifying if they are actually victims and, thus, without complying with the tenets of Article 18 of the Immigration Law.

#### *Quantitative aspects of THB for sexual exploitation and estimate of the number of actual victims*

Statistics on offences and offenders of THB and prostitution were published by Transcrime and the Anti-Mafia National Division. This study mapped the phenomenon of THB and smuggling in Italy by collecting judicial data from 149 of the Italian Prosecutor’s offices during the period June 1996 - June 2001<sup>(188)</sup>.

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<sup>186</sup> See the preliminary report to the bill n. 3826/2003 available at <http://www.senato.it/leg/14/BGT/Schede/Ddliter/19430.htm> (visited on 9th March 2005).

<sup>187</sup> Tampep 6, op. cit., p. 112.

<sup>188</sup> Savona, E.U., Belli, R., Curtol, F., Decarli, S., Di Nicola, A., *Trafficking in Persons and Smuggling of Migrants in Italy*, op. cit. The study collected information on offenders and offences in the period 1996–2001 not broken down by year. This is the reason why data are here presented in an aggregated form.

TABLE 28: NUMBER OF OFFENCES AND OFFENDERS FOR THB FOR SEXUAL EXPLOITATION IN ITALY. 1996-2001.

Year	Offences	Offenders
1996-2001	6.074	7.582

Source: Transcrime and Anti-Mafia National Division

In Italy, available data on victims of trafficking for sexual exploitation are provided by the Department for Equal Opportunities. These data only refer to trafficked persons who joined the Social Assistance and Integration Programme managed by accredited NGOs and local authorities and funded by the abovementioned Department, as envisaged by Article 18 of the Legislative Decree no. 286/98 and its executory regulation (Dpr. No. 394/99). As to the time period, the data only cover some of the years considered by this study, namely 2000, 2001, 2002, 2003. In the table below, we have also included year 2004 to provide a longer time span of reference to highlight the trend in the phenomena analysed.

TABLE 29: NUMBER OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN ITALY. MARCH 2000-MARCH 2004.

Year	No. of victims
March 2000 - March 2001	1.755
March 2001 - March 2002	1.836
March 2002 - March 2003	1.797
March 2003 - March 2004	1.971

Source: Italian Department for Equal Opportunities

Data on the stay permits issued to the trafficked persons who joined the Programme of Social Assistance and Integration, on the language classes and job training attended, and on the jobs found are also available. In addition, the Department for Equal Opportunities presented data on the overall number of persons, mostly engaged in the prostitution market, accompanied to the social and health services by the NGOs and the local authorities. These persons did not necessarily join the abovementioned programme. As a result, the data are much higher (29.097) and refer to the prostitutes contacted without making any distinction between persons who had been trafficked and those who had not been trafficked to be exploited in the sex market in Italy.

Using the data provided by the Italian Department for Equal Opportunities it is possible to calculate annual estimate of victims according to the methodology proposed in section 3. The results are summarised in the table 30 here below.

TABLE 30: ANNUAL ESTIMATE OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN ITALY. MARCH 2000-MARCH 2004.

Year	Min.	Max.
2000-2001	17.550	35.500
2001-2002	18.360	36.720
2002-2003	17.970	35.940
2003-2004	19.710	39.420

Source: Transcrime on data Italian Department for Equal Opportunities

In order to obtain comparable data through the EU Countries table 31 below provides the annual index of victims of THB for sexual exploitation.

TABLE 31: ANNUAL INDEX OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN ITALY, 2000-2004.

Year	Annual estimate of victims		Male pop. over 15 years <sup>(189)</sup>	Annual index of victims (victims per 100.000 males over 15 years)	
	Min.	Max.		Min.	Max.
2000-2001	17.550	35.500	23.384.753	75	151
2001-2002	18.360	36.720	23.408.889	78	157
2002-2003	17.970	35.940	23.423.664	77	153
2003-2004	19.710	39.420	23.582.032	84	167

Source: Transcrime on data Italian Department for Equal Opportunities and Eurostat

#### *Qualitative aspects of exploitation*

- *Country description.* Italy is a destination and transit country of THB for sexual exploitation. In fact migrant women represent the highest percentage of the population engaged in the sex industry, reaching 90% of street prostitutes in some cities.
- *Origin of the victims.* In 1991, African women appeared on the streets, followed by Albanians in 1993. In 1997, the flow of migration of women from Eastern Europe and the countries of the former Soviet Union started and, as a result, many girls and women from Ukraine, Russia, Moldova, Romania, Poland, Hungary, and Bulgaria arrived in Italy<sup>(190)</sup>. This is reflected in the data on the countries of origin of trafficked persons entered in the Social Assistance and Integration Programme. According to the data issued by the Department for Equal Opportunities, 39% of the victims assisted are from Africa (mainly Nigeria), 31% from the Balkans, 29% from the former USSR bloc (that also includes some Eastern European countries) and 1% from South America.
- *Recruitment.* Nigerian women may be recruited vis-à-vis a sale, knowledge of or direct contact with friends, acquaintances, relatives or through previously trafficked women in Italy who have been given positions of authority as a recruiter. Unlike the case of Nigerian women, in Albania recruitment is based on: the orders of a member of the clan to which the woman belongs; violence and, in extreme cases, abduction; sentimental attachments and false promises of marriage. Women from Eastern Europe are recruited by methods that differ according to the country of origin and the characteristics of the woman concerned. The most common methods are: contacts in nightclubs (in the cases involving women already working as prostitutes in the country of origin); fashion and entertainment agencies and/or study-travel agencies, via advertisements in local newspapers; direct and/or indirect knowledge of friends or relatives; recruitment in Italy<sup>(191)</sup>.
- *Division of the market.* Exploited prostitution takes place at different venues even though outdoor prostitution is more widespread (75%). Prostitutes also provide sexual services in private apartments, hotels, night clubs, bars, massage parlours, and saunas for the remaining 25%

<sup>189</sup> Population refers to the years 2000, 2001, 2002, 2003.

<sup>190</sup> See *inter alia*: Donadel, C., Martini, E.R. (eds.), op. cit.; Carchedi, F. (ed.), *Prostituzione Migrante e Donne Trafficate. Il Caso delle Donne Albanesi, Moldave e Rumene* [Migrant Prostitution and Trafficked Women. The Case of Albanian, Moldavian and Romanian Women], Franco Angeli, Milan, 2004; Magistrali, G. (ed.), *Life stories*, Regione Emilia-Romagna, Bologna, 2004; Ronzini, P., *Il Mercato delle Donne. Prostituzione, Tratta e Sfruttamento* [The Market for Women. Prostitution, Trafficking and Exploitation], Donzelli, Roma, 2002; Candia, G., et al., *Da Vittime a Cittadine. Percorsi di Uscita dalla Prostituzione e Buone Pratiche di Inserimento Sociale e Lavorativo* [From Victims to Citizens. Exit Paths from Prostitution and Good Practices of Integration], Ediesse, Rome, 2001; Carchedi, F., Mottura, G., Piccolini, A., Campani, G. (eds.), op. cit.

<sup>191</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.



of the market<sup>(192)</sup>. However, the trend to move women from the streets to *indoor* places has been noted throughout Italy. This can be read as a criminal reaction to the increasingly repressive strategies implemented by law enforcement agencies as well as a way to fulfil “the clients” request to enjoy a greater level of privacy and less social pressure while purchasing sexual services”<sup>(193)</sup>.

- *Kind of violence.* In both *indoor* and *outdoor* markets physical, sexual and psychological violence have been observed.
- *Rate of violence.* Even though violence is “often” experienced by both *indoor* and *outdoor* trafficked prostitutes, the latter suffer more severe violence. Nowadays trafficked prostitutes exploited *indoors* and *outdoors* often give their permission to come to Italy to work in the sex industry when recruited. They do not know, though, the real living and working conditions they will encounter once in the destination country.
- *Methods and frequency of the control.* Both *outdoors* and in *indoor* premises, they are controlled directly or via mobile phones by their exploiters and “often” also by other prostitutes who have been involved in the trade for a longer time. Checks on the number of condoms used seem to be less common, if non-existent in most areas, both in *indoor* and *outdoor* prostitution. In some places, this practice is employed in street prostitution only at the very beginning of the exploitative cycle. It must be emphasised that the practice and the level of control has greatly changed since the 90s as a result of the development of the phenomena of prostitution and trafficking. Currently, trafficked prostitutes are less frequently controlled by their exploiters than in the past, when control was constant and coercive. The quality and means of control have changed. Restrictions to freedom of movement are “seldom” used, and less frequently than in the past. When adopted, they tend to be exercised more *outdoors*.
- *Earnings kept by victims.* The percentage of earnings kept by exploited prostitutes varies according to the nationality of the exploited persons concerned. Generally speaking, it is possible to state that exploited *outdoor* prostitutes keep between 0 and 30% of their earnings, while those exploited *indoors* retain between 30 and 50% of their earnings.
- *Duration of exploitation.* The average duration of exploitation tends to last longer for street prostitutes and for persons of Nigerian (3-5 years), Albanian (1-3 years) and Romanian origin (6-8 months) than those from the former Soviet Union (3-6 months).

*The impact of legislation on prostitution and of other factors on the quantitative and qualitative aspects of THB*

The cyclical public discussion on the Bill proposal on how to amend the prostitution law (“*Disegno di legge Bossi-Fini-Prestigiacomo*”) has a major impact on the dynamics of *outdoor* prostitution. Whenever the media raises the issue, street prostitution generally decreases as a result of the fear of deportation as the bill proposes to ban *outdoor* prostitution in favour of legalised forms of *indoor* prostitution. Some street prostitutes then move into premises where they generally have less contact with people (social workers, neighbours, acquaintances, etc.) who can help them, especially if they are trafficked.

<sup>192</sup> Recently two studies focusing on the underground forms of prostitution were published: Saponaro, A., *et al.*, *Il sommerso. Una Ricerca Sperimentale su Prostituzione al Chiuso, Sfruttamento, Trafficking* [The submerged. An Experimental Research on Indoor Prostitution, Exploitation, Trafficking], Quaderni di Strada, Provincia di Pisa, Pisa, 2004; Donadel, C., Martini, E.R. (eds.), *op. cit.* Both studies were developed within the framework of EC funded projects.

<sup>193</sup> Vandekerckhove, W., Paric, Z., Moens, B., Orfano, I., Hopkins, R., Nijboer, J., Vermeulen, G., Bontinck, W., *op. cit.*, p. 151.

Restrictive immigration regulations tend to favour the rise of underground markets of smuggling, trafficking and exploitation. If immigration restrictions do not address the needs of the national job market and national and international policies of cooperation between countries do not address the root causes of trafficking, it will continue to develop and find new forms. For instance, the repressive strategy called for by the Italian Immigration Law used against illegal migrants in general and illegal migrant prostitutes in particular does not allow for the proper identification of trafficked persons. Often, law enforcement officers regard migrant prostitutes as smuggled persons and repatriate them without assessing whether they are the victims of trafficking. Indeed, no standardised identification procedures of victims of trafficking are in place in Italy.

Apart from the types of legislation/models on prostitution, other intervening factors, often correlated, may influence the number of women and children trafficked and the manner of their exploitation.

According to the national expert<sup>(194)</sup>, the most significant factor is the geographical position of Italy that has greatly favoured its role both as country of destination and as country of transit. Since the early 90s in fact, the Italian peninsula has experienced a massive increase of illegal border crossings by undocumented migrants smuggled or trafficked. Subsequently, smugglers and traffickers have started to use the “traditional” northern paths dividing Italy from France, Switzerland and Slovenia as illegal ports of entry. Also, Apulia, Calabria and Sicily have rapidly become the main illegal landing zones.

Other factors that have a “strong” effect on THB are:

- the disparity between the socio-economic conditions of the countries of origin and those of Italy that plays a significant role in attracting persons who intend to ameliorate their conditions and those of their families;
- the feminisation of poverty and rate of unemployment in the home country become a key push factor of trafficking. A migratory project that entails a temporary stay in Italy – even as a prostitute, is in fact seen as a tool to achieve a better future in terms of improvement of the economic condition, social status and gender position;
- the entrance into the European Union of new Member States;
- the strict migratory regulations of Italy.

The public debate on bill proposal has a “medium” effect on THB, while the level of anti-trafficking control measures has a “low” effect on THB. This can suggest that, at least in Italy, the number of trafficked victims and the manner of their exploitation is not strongly dependent on the level of law enforcement responses.

Finally the cultural and linguistic similarities between the country of origin and Italy have a “very low” effect on THB.

TABLE 32: FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE NATURE AND EXTENT OF TRAFFICKING IN ITALY. LEVEL OF EFFECT ON THB FOR SEXUAL EXPLOITATION.

Factor	Level of effect					
	No effect	Very low effect	Low effect	Medium effect	Strong effect	Very strong effect
Geographical position of the destination country						✓

<sup>194</sup> In this instance, information was provided by Isabella Orfano, independent researcher.

Cultural and linguistic similarities between the country of origin and the country of destination		✓				
Strict migratory regulations of the destination country					✓	
Entrance into the European Union of new Member States					✓	
Differential in level of welfare between the country of origin and the country of destination					✓	
Feminisation of poverty and rate of unemployment					✓	
Level of anti-trafficking measures			✓			
Public debate on bill proposal				✓		

Source: Transcrime on data provided by the Italian national expert

### 6.3 PROHIBITIONISM

#### 6.3.1 Lithuania<sup>(195)</sup>

##### *National legislative pattern and current discussion on prostitution*

The Lithuanian policy on prostitution falls under the *prohibitionist* model as both *outdoor* and *indoor* prostitution are prohibited. These are not considered criminal offences but administrative infringements (“engagement in prostitution”) punished by a fine. Procuring and running a house “for the purpose of sexual immorality” are punished (Article 239 of Lithuanian Criminal Code)<sup>(196)</sup>.

In spite of its illegal status, in practice prostitution is tolerated and spreading even if it is “considered a negative social appearance, in most of cases related to crime, transmission of STI, drug use, and discrimination and exploitation of women in this business”<sup>(197)</sup>.

In 2002 Lithuania adopted the National Programme for Control and Prevention of Trafficking in Human Beings and Prostitution 2002-2004 to fight against trafficking.

##### *Quantitative aspects of THB for sexual exploitation and estimate of the number of actual victims*

Data on offences and offenders on THB for sexual exploitation started to be gathered in 1999 by the Criminal Search Division of the Police Department within the Ministry of the Interior, a few months after the entrance into force of the new article against trafficking (Article 131 of the Criminal Code).

TABLE 33: NUMBER OF OFFENCES AND OFFENDERS FOR THB FOR SEXUAL EXPLOITATION IN LITHUANIA, 1999-2003.

Year	Offences	Offenders
1999	3	2

<sup>195</sup> Part of the information used to write this country profile was conveyed by Justina Zeltinyte, Missing Persons Families Support Center, Vilnius.

<sup>196</sup> For further information see above § 4.1.

<sup>197</sup> Tampep 6, op. cit., p. 126.

2000	5	3
2001	19	7
2002	17	6
2003	18	2

Source: Ministry of Interior

It is noteworthy that Lithuanian studies<sup>(198)</sup> and public conferences<sup>(199)</sup> use statistics on missing persons and nationals forcibly repatriated from abroad to partially explain the major trends of THB.

In Lithuania no official database on trafficking exists. According to the U.S. State Department Trafficking in Persons Report, in 2003 over 200 victims received assistance through Lithuanian organisations. Unfortunately, the available data are not sufficient to carry out a comprehensive statistical analysis that reflects the national situation as to THB to and from Lithuania.

The data herein reported refer to Lithuanian women trafficked abroad, repatriated and taken care of by the Missing Persons' Families Support Center. This NGO is based in Vilnius and is engaged in the anti-trafficking activities. Because of the incompleteness of the figures, the final value must be considered to underestimate the actual number of victims of THB.

TABLE 34: NUMBER OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN LITHUANIA. 1997-2004.

Year	No. of victims
1997	4
1998	4
1999	8
2000	16
2001	10
2002	12
2003	17
2004	19

Source: Missing Persons' Families Support Center

Using the data provided by the Missing Persons' Families Support Center it is possible to calculate the annual estimate of victims according to the methodology proposed in section 3. The results are summarised in table 35 below.

TABLE 35: ANNUAL ESTIMATE OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN LITHUANIA. 1997-2004.

Year	Min.	Max.
1997	40	80
1998	40	80
1999	80	160
2000	160	320
2001	100	200

<sup>198</sup> Tureikytė, D., Sipavičienė, A., "Trafficking in Women in Lithuania: Magnitude, Mechanism and Actors" in IOM, *Trafficking in Women and Prostitution in the Baltic States. Social and Legal Aspects*, Helsinki, 2001, p. 288 ff.

<sup>199</sup> Missing Persons' Families Support Center, Human Rights Committee at the Parliament of the Republic of Lithuania, *Reintegration Problems of Trafficking Victims in Lithuania. Reports of International Conference*, Vilnius, 2004.

2002	120	240
2003	170	340
2004	190	380

Source: Transcrime on data Missing Persons' Families Support Center

In order to obtain comparable data through the EU Countries table 36 below provides the annual index of victims of THB for sexual exploitation.

TABLE 36: ANNUAL INDEX OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN LITHUANIA. 1997-2004.

Year	Annual estimate of victims		Male pop. over 15 years	Annual index of victims (victims per 100.000 males over 15 years)	
	Min.	Max.		Min.	Max.
1997	40	80	1.294.553	3	6
1998	40	80	1.288.497	3	6
1999	80	160	1.284.381	6	12
2000	160	320	1.281.214	12	25
2001	100	200	1.279.129	8	16
2002	120	240	1.286.628	9	19
2003	170	340	1.292.792	13	26
2004	190	380	1.296.295	15	29

Source: Transcrime on data Missing Persons' Families Support Center and Eurostat

#### *Qualitative aspects of exploitation*

- *Country description.* In the last few years the sex industry has been constantly growing in Lithuania, as has THB for the purpose of exploitation in prostitution. Lithuania is not only a country of origin of persons trafficked to Germany, Norway, Italy, France, Spain, Denmark, The Netherlands, the United Kingdom, Poland, Japan, Turkey, etc., but also a transit and destination country.
- *Origin of the victims.* Migrant prostitutes, mainly come from Central and Eastern Europe (esp. Russia, Belarus, Ukraine, Poland) and, recently, from China.
- *Recruitment.* As stated above, in Lithuania there are native (75-80% of the total sex workers) and migrant prostitutes. The latter are often trafficked persons that know they are going to work in the sex industry but are not aware of the exploitative conditions and abuse they will suffer. They often cross Lithuanian borders legally holding a temporary visa and then they just overstay.
- *Division of the market.* The only available qualitative data concerning prostitution and the correlated phenomena of trafficking and exploitation are those collected by the Lithuanian AIDS Centre, a governmental organisation established in Vilnius. This information is collected through the administration of a questionnaire to key-informants of authorities and NGOs dealing with issues of the sex trade and trafficking<sup>(200)</sup>.

According to the data collected through this survey, in Lithuania, national sex workers operate in the *outdoor* market (25%) and *indoors* (75%). The latter is divided into apartments (25%), club

<sup>200</sup> Tampep 6, op. cit., p. 125 ff.

and bars (30%) and massage parlours (15%)<sup>(201)</sup>. In addition, there is a hidden segment of the market that takes place behind closed doors and is controlled by agencies that advertise their “services” through disguised ads offering “flowers delivered to your home”, “massage” and “escort services”<sup>(202)</sup>.

With regards to migrant prostitutes, mainly women from Central and Eastern Europe and China, they are exploited on the streets (60%) and, to a lesser extent, in apartments (30%) and massage parlours (10%).

Competition between local and national prostitutes has been noted.

- *Kind of violence perpetrated.* Both *indoors* and *outdoors*, prostitutes undergo physical, sexual and psychological violence.
- *Rate of violence.* Due to their illegal position and the resulting lack of social and legal rights, prostitutes are often in a vulnerable position that can result in severe forms of exploitation. This situation is worsened because of, *inter alia*, the constant fear of being caught and the ever-increasing demand for (cheaper) sexual services. Prostitutes working in both the *indoor* and *outdoor* markets of prostitution “often” experience violence.
- *Methods and frequency of the control.* Trafficked persons exploited in *indoor* and *outdoor* prostitution are “often” visually controlled by their exploiters, by other prostitutes or via mobile phones. Those working in *indoor* premises tend to experience restrictions of their freedom.
- *Earnings kept by victims.* The percentage of the earnings kept by the exploited prostitutes *indoors* and *outdoors* varies between 0 to 30% of the total amount. No variation as to the percentage of the earnings kept has been recorded based on the nationality of the persons concerned.
- *Duration of the exploitation.* According to the national expert involved in this research, the average duration of exploitation tends to last between 6 months and a year for prostitutes working *indoors* and *outdoors*, while no variation as to the duration of exploitation according to the nationality of the exploited prostitutes has been recorded.

*The impact of legislation on prostitution and of other factors on the quantitative and qualitative aspects of THB*

The debate over the legalisation of prostitution is recurrent. The supporters of the present law claim that a regulatory system would not change the problems and, even if it solved some, it would create others<sup>(203)</sup>. Those who support the legalisation of prostitution believe that it would “take away any possibility of control”<sup>(204)</sup> and coercion. Furthermore, the advocates of the regulatory system think that the criminalisation of prostitution does not allow prostitutes to enjoy social rights and properly defend themselves from the violent behaviour of their exploiters and clients. Furthermore, a ban on prostitution encourages the spread of linked illicit activities and also encourages the migration of Lithuanian prostitutes to other countries<sup>(205)</sup>.

Apart from the types of legislation/models on prostitution, other intervening factors, often correlated, may influence the number of women and children trafficked and the manner of their exploitation.

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<sup>201</sup> Ibid., p. 126.

<sup>202</sup> Tureikytė, D., Sipavičienė, A., op. cit., p. 285.

<sup>203</sup> Ibid., p. 343.

<sup>204</sup> Tampep 6, op. cit., p. 126.

<sup>205</sup> Ibid.

According to the national expert, the most significant factor is the differential in the level of welfare between the countries of origin and Lithuania.

Other factors that, according to the national expert, have a “strong” effect on THB are:

- the entrance into the European Union of new Member States; in particular, after Lithuania joined the European Union (May 2004), the number of Lithuanian women voluntarily or coercively moving to richer EU Member States has increased significantly;
- the feminisation of poverty and rate of unemployment;
- the level of anti-trafficking control measures of the country. The national expert pointed out the ineffectiveness of the Lithuanian anti-trafficking control measures. This leads many traffickers to operate in the country due to this lack of control.

Analysing other intervening factors, the geographical position of Lithuania has a “medium” effect on THB.

The cultural and linguistic similarities between origin and destination country and the strict migratory regulations of the destination country have a “very low” effect on THB.

TABLE 37: FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE NATURE AND EXTENT OF TRAFFICKING IN LITHUANIA. LEVEL OF EFFECT ON THB FOR SEXUAL EXPLOITATION.

Factor	Level of effect					
	No effect	Very low effect	Low effect	Medium effect	Strong effect	Very strong effect
Geographical position of the destination country				✓		
Cultural and linguistic similarities between the country of origin and the country of destination		✓				
Strict migratory regulations of the destination country		✓				
Entrance into the European Union of new Member States					✓	
Differential in level of welfare between the country of origin and the country of destination						✓
Feminisation of poverty and rate of unemployment					✓	
Level of anti-trafficking measures					✓	

Source: Transcrime on data provided by the Lithuanian national expert

### 6.3.2 Sweden<sup>(206)</sup>

#### *National legislative pattern and current discussion on prostitution*

<sup>206</sup> Part of the information used to write this country profile was conveyed by Monika Karlsson and Lars Korsell, National Council for Crime Prevention, Stockholm.

The Swedish policy on prostitution falls under the *prohibitionist* model because *outdoor* and *indoor* prostitution are prohibited. With the introduction of law 1998:408 purchasing casual sex is punished with a fine or imprisonment for a maximum of 6 months.

Law 1998:408 was enforced after a long debate among Parliament, women's associations and the three commissions on prostitution created during the 1980s<sup>(207)</sup>. The reform abrogated the former *abolitionist* model introduced in 1918<sup>(208)</sup>.

Visible prostitution on the streets has declined and one explanation is the legislation of 1998. However, there are suggestions that visible prostitution had already begun to move from the streets before the legislation came into force and became less visible as a consequence of the growing use of mobile phones, e-mail and the Internet. Moreover, the same development has occurred in the drug market.

Prostitution and trafficking are important questions in criminal policy because of the interest of feminist movements, the importance of human rights and the people's awareness of the involvement of organised crime. Therefore, it is most likely that the struggle against prostitution and trafficking in different fields will continue with intensity. One example of this is the problem that the victims of prostitution could be treated as illegal immigrants.

#### *Quantitative aspects of THB for sexual exploitation and estimate of the number of actual victims*

The police authorities collect data on offences and offenders regarding the current legislation, while the National Council for Crime Prevention (NCCP) is responsible for the publication of the national official crime statistics. Before 2003 information on THB were recorded by the Swedish National Criminal Investigation Police (SNCIP). Local police authorities have an obligation to report cases of procuring that relate to THB. The SNCIP have published annual reports regarding the trafficking situation since 1999 which include information from the local police authorities. The compilation of this information is however not done in statistical form, but rather by describing the cases qualitatively. There is therefore no way of extracting the number of offenders from the reports. The generally very few preliminary investigations each year, from around five to ten. To look at the situation before 1998 one must study the official crime statistics for the crime of procuring, but it is impossible to know whether they include cross-border transfers of human beings.

TABLE 38: NUMBER OF OFFENCES OF THB FOR SEXUAL EXPLOITATION IN SWEDEN. 2003.

Year	Offences
2003	21

Source: NCCP

Data on victims of THB are not included in the official crime statistics. SNCIP give vague estimates in their reports on victims and suspect that their estimate (from at least 2002) was an underestimate.

TABLE 39: ANNUAL ESTIMATE OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN SWEDEN. 2000-2003.

Year	No. of victims	
	Min.	Max.
2000	200	500
2001	200	500

<sup>207</sup> Svanström, Y., op. cit., pp. 227–244.

<sup>208</sup> Danna, D., "Trafficking and prostitution of foreigners...", op. cit., p. 2.



2002	200	500
2003	400	600

Source: SNCIP

In order to obtain comparable data through the EU Countries, table 40 below provides the annual index of victims of THB for sexual exploitation.

TABLE 40: ANNUAL INDEX OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN SWEDEN, 2000-2003.

Year	Annual estimate of victims		Male pop. over 15 years	Annual index of victims (victims per 100.000 males over 15 years)	
	Min.	Max.		Min.	Max.
2000	200	500	3.538.812	6	14
2001	200	500	3.556.135	6	14
2002	200	500	3.577.192	6	14
2003	400	600	3.599.876	11	17

Source: Transcrime on data SNCIP and Eurostat

#### *Qualitative aspects of exploitation*

- *Country description.* Sweden is a destination and transit country of THB for sexual exploitation.
- *Origin of the victims.* Women and children mainly come from Eastern European countries (Estonia, Lithuania, Russia and Poland)<sup>(209)</sup>.
- *Recruitment.* Women are often deceived by traffickers in their home country in order to convince them to migrate to work in hotels or as home nurses. Some victims are aware of what they will have to do in Sweden, but they do not know the living conditions and the rate of exploitation. In many cases women try to rebel against their traffickers during the transportation, but they are subjugated through rape, threats of retaliation against their family, etc.<sup>(210)</sup>.
- *Division of the market.* Before law 1998:408, *indoor* exploited prostitution was estimated to amount to two thirds of all prostitution. After the law was introduced, *indoor* exploited prostitution was estimated to have increased to 80% of all prostitution (according to a report published in 2000 by the national council for crime prevention). Visible prostitution on the streets has therefore declined and in part this can be attributed to the new law. However, there are also suggestions that visible prostitution had already begun to move *indoors* before the new legislation, as a consequence of the growing use of mobile phones, e-mail and the internet. Moreover, the same development has occurred in the drug market. *Outdoor* prostitution occurs in the three largest cities in Sweden, Stockholm, Gothenburg and Malmo. There is very little knowledge of the extent of different types of *indoor* prostitution in Sweden. There has been an increase in the use of the internet over recent years. The estimation of the number of women who advertise their services on the internet varies between 80 – 250. In addition prostitution exists in some restaurants, hotels and night clubs, and sometimes in relation to conferences, boat cruises to Finland and private parties. It is also known that prostitution takes place in apartments, which seems especially common for trafficked women.
- *Kind of violence perpetrated.* Most prostitutes that come into contact with different NGOs have been exposed to violence such as physical abuse, rape, and serious threats by clients.

<sup>209</sup> Transcrime, *MON-EU.TRAF II...*, op. cit.

<sup>210</sup> Ibid.

- *Rate of violence.* Concerning the violence used during the exploitation process, it is difficult to determine its actual degree in *outdoor* prostitution. Also regarding the *indoor* market there is little knowledge. In the description of cases of THB known to the police given in SNCIP's annual reports it is evident that trafficked women regularly suffer violence at the hands of their traffickers.
- *Methods and frequency of the control.* Many methods of control are used to subdue trafficked women, in both the *indoor* and *outdoor* markets. Freedom restrictions and threats have been observed, while in some cases there are reports of women being given mobile phones that can only receive incoming calls. With regards prostitution in apartments, the women are normally driven to the place of work by traffickers, who control them directly. In many cases passports, money and mobile phones are taken away in order to limit the victim's freedom. Finally, some women have been made dependent on drugs.
- *Earnings kept by victims.* The percentage of earnings kept by the exploited prostitutes *indoors* and *outdoors* varies between 0 to 30% of the total amount.
- *Duration of the exploitation.* The duration of exploitation varies a lot in the *outdoor* market and it is not possible to determine its length<sup>(211)</sup>. Also the length of exploitation in *indoor* prostitution is evidently very varied. Among younger women, there may be casual encounters where contact has been made via the Internet, or when the women have been approached by men in restaurants or clubs. The SNCIP mention in their reports that the trafficked women generally stay shorter periods in Sweden, between a few weeks to a few months.

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<sup>211</sup> Regarding the *outdoor* prostitution, the National Board of Health and Welfare states that many women, and especially those with an active drug addiction, have stayed in prostitution for many years, up to 20 years or more in some cases. However it is rare to find people under 20–25 years old in *outdoor* prostitution, for this reason it seems impossible to draw a conclusion on the length of exploitation for everybody in *outdoor* prostitution in Sweden.

*The impact of legislation on prostitution and of other factors on the quantitative and qualitative aspects of THB*

The SNCIP discusses the consequences of the legislation in Sweden on the level of trafficking in the country. They have received information that suggests that the law has given Sweden a reputation for being a difficult country to operate prostitution in. This could deter traffickers. At the same time, they also point out that because of the new law the clients of the prostitutes no longer step forward as witnesses, as they are then admitting their own crimes. Nevertheless, the SNCIP continues to report their opinion that the law works as a barrier against trafficking in Sweden. The traffickers have moved to other markets, such as those in Norway and Denmark. There is information from the victims of THB in Sweden that traffickers have had problems finding enough sex buyers in Sweden, the demand has been much lower than expected.

A problem encountered is a lack of information relating specifically to the methods of exploitation. A consequence of the prohibition in Sweden could be the invisibility of the activity than in other countries. This may prove to be a disadvantage for the trafficked women, who will have fewer opportunities to contact outsiders about their situation. On the other hand, the legislation mirrors the common opinion in Sweden that these crimes must be treated seriously. This means that once the women succeed in getting help, they will have a greater chance of escaping from their predicament. Currently the protection of these women is not as good as the primary organisations involved in working with these crimes would like. There are ongoing discussions about the possibilities of further helping the victims of THB. This will eventually also facilitate criminal investigations of the crimes (when the women are forced to leave the country it is very expensive to get their testimony, and they often disappear).

The legislation of 1998 has contributed to a decline in *outdoor* prostitution. A problem with the less visible prostitution at the present time is that it is more difficult to get information about the victimisation of the prostitutes. Even if prostitution overall has declined as a consequence of the 1998 legislation, it is reasonable to believe that the prostitutes with less resources, or at least some of them, have been more closely linked to organised crime because of problems with languages; in addition not everybody can manage to administrate prostitution via the web.

Apart from the types of legislation/models on prostitution, other intervening factors, often correlated, may influence the number of women and children trafficked and the manner of their exploitation.

According to the national expert, the most significant ones are:

- the differential in level of welfare between the country and destination country;
- the feminisation of poverty and rate of unemployment;
- the inequality between the sexes. According to the national expert this factor is very assertive in influencing THB, because without the acceptance of degrading women by forcing them into prostitution, there would not be any demand for this kind of prostitution.

Other factors that have a “strong” effect on THB are:

- the entrance into the European Union of new Member States. This factor is particularly significant regarding the Baltic countries which are the main origin States for THB towards Sweden. In this regard the available information indicates a decrease in the cases of THB from these countries. The national expert underlines how this can be due to two main circumstances:
  - a) new Member States are becoming attractive for traffickers, because the living conditions are more similar to the “old” EU Member States, so traffickers modify their activities accordingly;
  - b) Swedish law enforcement agencies are no longer allowed to interrogate persons from these countries about their occupation in Sweden.

Above all, the second factor can alter the perception of the extent of THB because of the diminished controls by police.

A “low” effect on THB for sexual exploitation is produced by:

- the geographical position of Sweden. Even if Sweden is a rich and close country to many origin States, the available data indicate that it has been transforming from a destination to a transit nation to Norway or Denmark. This can be due to the fact that one of the easiest ways to reach Norway and Denmark from the Baltic States is via Sweden;
- the strict migratory regulations of Sweden. Sweden is not among the countries in Europe that has the strictest migratory regulations, but in line with the EU has been developing more restrictive legislation. This could lead to an increase in the demand for illegal immigration; however the national expert underlines how the majority of trafficked persons in the country come from new EU Member States that, therefore, no longer undergo strict controls. This is the reason why the migratory policy could have a limited effect on THB;

A “very low” effect on THB for sexual exploitation is produced by:

- the cultural and linguistic similarities between origin and destination countries.

With regards to the level of anti-trafficking control measures - according to the national expert - they have a “strong” effect on THB. In fact, even if Sweden foresaw specific anti-trafficking measures many of them do not work properly, because of the lack of funds for police or for problems linked to the concrete implementation of these measures.

TABLE 41: FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE NATURE AND EXTENT OF TRAFFICKING IN SWEDEN. LEVEL OF EFFECT ON THB FOR SEXUAL EXPLOITATION.

Factor	Level of effect					
	No effect	Very low effect	Low effect	Medium effect	Strong effect	Very strong effect
Geographical position of the destination country			✓			
Cultural and linguistic similarities between the country of origin and the country of destination		✓				
Strict migratory regulations of the destination country			✓			
Entrance into the European Union of new Member States					✓	
Differential in level of welfare between the country of origin and the country of destination						✓
Feminisation of poverty and rate of unemployment						✓
Level of anti-trafficking measures					✓	
Inequality between the sexes						✓

Source: Transcrime on data provided by the Swedish national expert

## 6.4 REGULATIONISM

### 6.4.1 Austria<sup>(212)</sup>

#### *National legislative pattern and current discussion on prostitution*

The Austrian policy on prostitution falls under the *regulationism* model as, according to federal legislation, both *outdoor* and *indoor* prostitution are not prohibited and can be regulated. Facilitation (procuring, promoting, pandering, etc.) and exploitation of prostitution are criminal offences. Yet, prostitution is not considered to be a legal form of work with all the corresponding rights<sup>(213)</sup>.

However, as prostitution must be regulated by the provinces and municipalities, the resulting legal provisions and policies differ greatly throughout the country. In some provinces, street prostitution and brothels/windows are prohibited while in others they are regulated. Prostitutes may work only on a self-employed basis and are required to register with the district authority, the health services or the police, depending on the legislation in place in a given area. If they do not comply with these provisions, prostitutes may be fined or expelled if they are not national citizens. In some provinces they must also undergo compulsory weekly health checks and work only in restricted areas and at certain hours of the day. If they do not they can be fined and, in some cases, even arrested.

In Austria, prostitution can be also performed by non-EU citizens, who can obtain “temporary residence permits for self-employed persons without a permanent place of residence” to work as prostitutes. These permits are envisaged by the “Decree on Show Dancers and Prostitutes (2001) and does not allow a change of job or for the holder to apply for a residence permit. This makes these permit holders completely dependent on the bar and brothel owners and, therefore, potential victims for several forms of exploitation<sup>(214)</sup>.

Even though it is regulated in several areas of the country, prostitution is considered “a contravention of public morality (*sittenwidrig*)”<sup>(215)</sup> and sex workers are greatly stigmatised<sup>(216)</sup>.

#### *Quantitative aspects of THB for sexual exploitation and estimate of the number of actual victims*

The data on offences and offenders regarding THB for sexual exploitation issued by the Federal Ministry of the Interior, for the years 1996-2003, are incomplete. While the number of offences is registered for the entire time period considered, that of the matching offenders is not. Nevertheless, as table 42 shows, the annual number of offences recorded has continuously oscillated and the number of offenders has increased significantly (45 in 2000, 48 in 2001, 223 in 2003).

TABLE 42: NUMBER OF OFFENCES AND OFFENDERS OF THB FOR SEXUAL EXPLOITATION IN AUSTRIA. 1996-2003.

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<sup>212</sup> Part of the information used to write this country profile was conveyed by Evelyn Probst, LEFÖ-IBF – *Interventionsstelle für Betroffene des Frauenhandels*, Vienna.

<sup>213</sup> For further information see above § 4.1.

<sup>214</sup> Gender Street Project, *Gender Street. A Transnational Initiative on Social and Labour Inclusion for Trafficked Women and Migrant Sex Workers*, Gender Street Project, Savigliano (Italy), 2004, p. 35.

<sup>215</sup> Femmigration, *Austria*, available at <http://www.femmigration.net/countries/austria.html> (visited on 3<sup>rd</sup> May 2005).

<sup>216</sup> Gender Street Project, op. cit., p. 37.

Year	Offences	Offenders
1996	55	-
1997	74	-
1998	194	-
1999	49	-
2000	125	45
2001	56	48
2002	70	-
2003	169	223

Source: Ministry of Interior, Federal of Investigation

No official database on victims of trafficking exists in Austria. The only available data are provided by *LEFÖ-IBF*, a Vienna based NGO, active since 1995 in the field of assistance to sex workers and victims of trafficking. According to *LEFÖ-IBF*, the victims of trafficking identified in Vienna through its services, between 1998 and 2003, are as follows:

TABLE 43: NUMBER OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN VIENNA. 1998-2003.

Year	No. victims
1998	47
1999	130
2000	143
2001	183
2002	208
2003	142

Source: *LEFÖ-IBF*

Using the data provided by the *LEFÖ-IBF* it is possible to calculate the annual estimate of victims according to the methodology proposed in section 3. The results are summarised in table 44 below.

TABLE 44: ANNUAL ESTIMATE OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN VIENNA. 1998-2003.

Year	Min.	Max.
1998	470	940
1999	1.300	2.600
2000	1.430	2.860
2001	1.830	3.660
2002	2.080	4.160
2003	1.420	2.840

Source: Transcrime on data *LEFÖ-IBF*

In order to obtain comparable data throughout the EU table 45 (below) provides the annual index of victims of THB for sexual exploitation.

This index was elaborated using the data provided by *LEFÖ-IBF* on the number of victims in the region of Vienna, where the most of Austrian prostitution takes place. The population of Vienna, however, does not represent the major part of the national population, therefore an estimate of victims compared to Viennese population would greatly overestimate the actual extent of the phenomenon.

Therefore, for the purposes of this study, it has been decided to compare the number of Viennese victims to the total population of Austria and consider that it underestimates the true figure.

TABLE 45: ANNUAL INDEX OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN AUSTRIA. 1998-2003.

Year	Annual estimate of victims		Male pop. over 15 years	Annual index of victims (victims per 100.000 males over 15 years)	
	Min.	Max.		Min.	Max.
1998	470	940	3.134.459	15	30
1999	1.300	2.600	3.147.631	41	83
2000	1.430	2.860	3.165.407	45	90
2001	1.830	3.660	3.184.780	57	115
2002	2.080	4.160	3.217.217	65	129
2003	1.420	2.840	3.242.483	44	88

Source: Transcrime on data *LEFÖ-IBF* and Eurostat

#### *Qualitative aspects of exploitation*

- *Country description.* Austria is a transit and destination country of THB for sexual exploitation. This phenomenon has been growing after the collapse of Berlin wall.
- *Origin of the victims.* In Austria, migrant prostitutes represent the highest percentage of the population employed in the sex sector. Since the 80s, foreign prostitutes (mainly women and transsexuals) started to migrate to Austria and work in different parts of the country. Currently, they represent 70% of the total number of sex workers, reaching 100% in some border areas. They generally come from several countries in Latin America (especially the Dominican Republic), Asia, Africa (mainly Nigeria) and, recently, from Eastern Europe (Hungary, Romania, Bulgaria, Poland, the Czech Republic, Slovakia, Serbia) and former Soviet Union countries (Russia, Ukraine).
- *Recruitment.* Victims often know they will work in the prostitution field, but traffickers deceive them regarding the living conditions and the rate of exploitation. In some cases women are promised jobs like house cleaners, hotel-maids, waitresses, dancers, au-pairs, etc.<sup>(217)</sup>.
- *Division of the market.* In Austria exploited prostitution takes place 75% *indoors*, while the *outdoor* market accounts for 25%.
- *Kind of violence perpetrated.* Women are generally subject to physical, sexual and psychological violence perpetrated by traffickers, pimps, bar/window/club owners. They sometimes also suffer from forms of discrimination deriving from the policies and legislative provisions implemented.
- *Rate of violence.* Concerning both *indoor* and *outdoor* markets, it is difficult to determine the actual degree of violence perpetrated. However, as a result of the ever-increasing growth of the sex industry, the greater demand for sex services, the growing involvement of organised crime syndicates and the different policies in place, many people employed as prostitutes suffer from different forms of exploitation and violence. Migrant and local prostitutes have thus become more vulnerable and at risk of being victimised by different players active in the prostitution market.
- *Methods and frequency of the control.* Trafficked prostitutes who work *indoors* tend to be subject to freedom restrictions and to be visually controlled by their traffickers/exploiters and/or

<sup>217</sup> Transcrime, *MON-EU-TRAF II...*, op. cit.



by other prostitutes and through regular checks generally performed using mobile phones. Prostitutes working in the *outdoor* market are usually controlled by other prostitutes and via mobile phones. The frequency of such controls varies but it seems to be greater for those exploited in the *indoor* market (“often”) than for those exploited *outdoors* (“seldom”).

- *Earnings kept by victims.* The percentage of the earnings kept by the exploited prostitutes varies between 0 to 30% of the total amount. No variation in this trend has been registered based on the nationality of the exploited persons concerned.
- *Duration of exploitation.* The average duration of exploitation tends to last longer (6 months to 1 year) for the *indoor* market than the *outdoor* one (3-6 months). No details as to the duration of exploitation according to the places of the *indoor* market (i.e. apartments, brothels, hotels, night clubs, pubs, saunas, parlours) and to the nationality of the exploited prostitutes have been recorded.

*The impact of legislation on prostitution and of other factors on the quantitative and qualitative aspects of THB*

The regulatory system currently enforced in Austria has had a strong influence on the structuring of the legal and illegal markets of *indoor* and *outdoor* prostitution.

The different (legal/illegal) status of prostitution in the 9 provinces of Austria and the distinct provisions issued by each municipality or province do not favour a sound and homogenous knowledge of the prostitutes’ rights especially on the part of migrant prostitutes, who consequently tend not to be fully informed about the rights they are entitled to as both migrant and sex workers.

The regulatory system has favoured a massive increase in migrant prostitution. It indirectly supports the spreading of the illegal market in the sex industry, which deprives migrant prostitutes of their legal, social and health rights and thus promotes their exclusion and exploitation. In this scenario, organised crime has flourished and increased its influence in the sex industry. This has occurred in spite of the mandatory registration as sex workers and compulsory health checks required by the prostitution law.

This situation also reflects current restrictive federal immigration measures, the provincial and municipal legislation on prostitution and the increasing control activities performed by law enforcement agencies that often respond to the citizen requests for “law and order”. This is clearly exemplified by the prostitution law that has been in force in Vienna since May 2004. This law has brought about more restrictions and penalties for those who infringe the law provisions but it does not improve the conditions of prostitutes.

According to Austrian law, only trafficked persons who co-operate with the police and the judiciary – at the discretion of the competent authorities - are entitled to protection measures, once they are officially recognised as “victims” and become witnesses in court proceedings against their traffickers and/or exploiters. As a result the majority of trafficked persons do not profit from these measures as they are generally too frightened to report their exploiters as they fear retaliation against their relatives and/or do not trust the authorities, which is often due to their personal experience of corrupt officers in their country encountered during the trafficking process.

Apart from the types of legislation/models on prostitution, other intervening factors, often correlated, may influence the number of women and children trafficked and the manner of their exploitation.

According to the national expert the most significant factor is the feminisation of poverty and the rate of unemployment present in the origin countries.

Other factors that have a “strong” effect on THB are:

- the strict migratory regulations of Austria. In particular, since the visa regulation between Austria and Romania concerning visas for sex-workers changed, there has been visibly more victims of THB;
- the demand for cheap and insecure labour.

A “medium” effect on THB for sexual exploitation is produced by:

- the geographical position of Austria;
- the entrance into the European Union of new Member States;
- the differential in the level of welfare between origin and destination countries.

Finally, according to the national expert, the level of anti-trafficking control measures has a “low” effect on the qualitative and quantitative dimension of THB. This can suggest that in Austria at least, the number of trafficked victims and the manner of their exploitation is not strongly dependent on the level of the law enforcement response.

TABLE 46: FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE NATURE AND EXTENT OF TRAFFICKING IN AUSTRIA. LEVEL OF EFFECT ON THB FOR SEXUAL EXPLOITATION.

Factor	Level of effect					
	No effect	Very low effect	Low effect	Medium effect	Strong effect	Very strong effect
Geographical position of the destination country				✓		
Cultural and linguistic similarities between the country of origin and the country of destination	✓					
Strict migratory regulations of the destination country					✓	
Entrance into the European Union of new Member States				✓		
Differential in level of welfare between the country of origin and the country of destination				✓		
Feminisation of poverty and rate of unemployment						✓
Level of anti-trafficking measures			✓			
Demand for cheap and insecure labour					✓	

Source: Transcrime on data provided by the Austrian national expert

#### 6.4.2 Germany<sup>(218)</sup>

##### *National legislative pattern and current discussion on prostitution*

The federal policy on prostitution falls under the *regulationism* model because since January 2002 a national law regulates *indoor* and *outdoor* prostitution, which is then officially considered as work. Before 2002, the regulation of prostitution was managed by each municipality that specified zones for the exercise of prostitution. In reality this was an “imperfect” *regulationism*, because prostitution was not considered as a regular job (i.e. no health care, no tax provisions, etc.)<sup>(219)</sup>

Today many *Länder* regulate prostitution, accordingly to national legislation, giving prostitutes the right to social and health care. By contrast, five *Länder* and several municipalities do not allow prostitution and they sometimes fine the purchase of sexual services, creating an inhomogeneous legal framework for the country<sup>(220)</sup>.

Prostitutes have full access to social security measures (unemployment, health insurance and pension schemes) and they can also sue the employer or the client in case they fail to remunerate the sex services provided. Prostitutes are not obliged to register and to take regular health tests but, according to the National Infection Law, they can be forced to undergo medical checks if they are suspected to have a disease. Finally, prostitutes are subject to several restrictions resulting from “an interplay

<sup>218</sup> Part of the information used for this country report was conveyed by Baerbel Uhl and Claudia Vorheyer, Department of Political Sciences of the University of Leipzig, and Christiane Howe, Context – Network of prostitution migration and human rights, Frankfurt.

<sup>219</sup> Danna, D., “Cattivi costumi...”, op. cit., pp. 51–52.

<sup>220</sup> For further information see above § 4.1.

between alien law, penal law, administrative law and civil law”<sup>(221)</sup>. For instance, they can work only in certain areas at certain times and can be fined or, in case of foreigners, be deported if they do not comply with the regulations.

Nationals of the old European Member States are allowed to work as prostitutes autonomously or for an employer, while citizens of the new Members States may work (probably until 2009) only as self-employed prostitutes, provided that they satisfy all the necessary requirements. Prostitutes from non-EU countries are not contemplated by this law.

In February 2005 Bavaria proposed a law to the *Bundesrat* (Federal Council) that punishes the purchaser of services from trafficked persons forced into prostitution<sup>(222)</sup>. This proposal is currently being discussed by the German media, society and politicians.

Some commentators argue that the 2002 prostitution law is somehow contradictory to the point that it is differently interpreted<sup>(223)</sup>. For instance, some public prosecutor’s offices consider “employment contracts as a form of pimping and are bringing charges”<sup>(224)</sup> or, in some cases, even though a contract has not been signed, a prostitute may be subject to social security contribution and tax deductions<sup>(225)</sup>.

As to the legal possibility of recovering remuneration, the practice has shown its difficulty in application. Firstly, because the claimant has to present reliable eyewitnesses that can prove that an agreement has been made between the client and the prostitute who fulfilled her/his part of duties<sup>(226)</sup>; secondly, migrant undocumented prostitutes are not willing to sue the clients who do not pay them because they would be immediately detected as illegal migrants by the police and/or as illegal workers by the competent labour authorities<sup>(227)</sup>. Even if they could appoint a lawyer to overcome this hurdle, they prefer not to make use of this legal provision.

#### *Quantitative aspects of THB for sexual exploitation and estimate of the number of actual victims*

For the purposes of this study statistics from the *Bundeskriminalamt* (Federal Criminal Police) on THB and prostitution were chosen. There are data on both offences against victims of THB and the number of persons arrested, as can be seen in table 47 below.

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<sup>221</sup> Femmigration, *Germany*, available at <http://www.femmigration.net/countries/germany.html> (visited on 4<sup>th</sup> May 2005).

<sup>222</sup> Bundesrat: Antrag des Freistaates Bayern: Entschließung des Bundesrates zur Bekämpfung des Menschenhandels. Drucksache 141/05. 24.02.2005.

<sup>223</sup> Tampep 6, op. cit., p. 77.

<sup>224</sup> Ibid.

<sup>225</sup> Ibid.

<sup>226</sup> Femmigration, *Germany*, op. cit.

<sup>227</sup> Ibid.

TABLE 47: NUMBER OF OFFENCES AND OFFENDERS FOR THB FOR SEXUAL EXPLOITATION IN GERMANY. 1996-2003.

Year	Offences	Offenders
1996	382	-
1997	396	1.106
1998	318	751
1999	257	805
2000	321	837
2001	273	747
2002	289	821
2003	431	1.110

Source: *Bundeskriminalamt*

The *Bundeskriminalamt* also provides reliable information regarding the number of victims of THB for sexual exploitation in Germany. The official figures are shown in table 48 below. The general trend indicates (after a decrease in the years 1997-1999) a constant rise in the number of the victims of THB between 2002 and 2003. However, it is necessary to point out that this increase is caused by the amendment of the statistics in 2003. In that year the *Bundeskriminalamt* included national and in-border victims of trafficking into German statistics on this crime for the first time, as defined in the second Protocol to the Palermo Convention of 2000.

TABLE 48: NUMBER OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN GERMANY. 1996-2003.

Year	No. of victims
1996	1.326
1997	1.201
1998	840
1999	801
2000	926
2001	987
2002	1.108
2003	1.235

Source: *Bundeskriminalamt*

Using the data provided by the *Bundeskriminalamt* it is possible to calculate the annual estimate of victims according to the methodology proposed in section 3. The results are summarised in table 49 below.

TABLE 49: ANNUAL ESTIMATE OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN GERMANY, 1996-2003.

Year	Min.	Max.
1996	13.260	26.520
1997	12.010	24.020
1998	8.400	16.800
1999	8.010	16.020
2000	9.260	18.520
2001	9.870	19.740
2002	11.080	22.160
2003	12.350	24.700

Source: Transcrime on data *Bundeskriminalamt*

In order to obtain comparable data throughout the EU table 50 below provides the annual index of victims of THB for sexual exploitation.

TABLE 50: ANNUAL INDEX OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN GERMANY, 1996-2003.

Year	Annual estimate of victims		Male pop. over 15 years	Annual index of victims (victims per 100.000 males over 15 years)	
	Min.	Max.		Min.	Max.
1996	13.260	26.520	33.031.763	40	80
1997	12.010	24.020	33.186.449	36	72
1998	8.400	16.800	33.269.540	25	50
1999	8.010	16.020	33.342.410	24	48
2000	9.260	18.520	33.471.631	28	55
2001	9.870	19.740	33.599.365	29	59
2002	11.080	22.160	33.797.817	33	66
2003	12.350	24.700	33.973.090	36	73

Source: Transcrime on data *Bundeskriminalamt* and Eurostat

#### *Qualitative aspects of exploitation<sup>(228)</sup>*

- *Country description.* Germany is a major country of destination for human trafficking for sexual exploitation and, due to its geographical position, it is also an important place of transit.
- *Origin of the victims.* The majority of migrant women trafficked to be exploited in the sex industry mainly come from Lithuania, Latvia, Ukraine, Belarus, Russia, Poland, Czech Republic, Romania, Bulgaria, Thailand, Nigeria.
- *Recruitment.* Victims trafficked to Germany are generally recruited by means of job offers as barmaids, waitresses, salespersons, au-pairs, dancers, or prostitutes that due to the living and working conditions entailed, turn out to be very exploitative. In several cases, marriage offers with a German citizen or a legal resident are also used as a recruiting means. Advertisements in local magazines and on the internet are increasingly used to lure potential victims into the

<sup>228</sup> The information for this paragraph were conveyed by Christiane Howe, member of the NGO "Context" – Network of prostitution migration and human rights, Frankfurt.

traffickers' web. Trafficked persons exploited in the sex industry enter German both illegally and legally with a tourist visa and then just overstay.

- *Division of the market.* In Germany exploited prostitution takes place almost exclusively *indoors*. In fact, both national and foreign prostitutes prefer to work in apartments, clubs, hotels, bars and brothels for safety reasons<sup>(229)</sup>. Even if it has largely decreased, *outdoor* prostitution still exists and it is mainly practised by German drug addicts, who prostitute themselves in order to gain the necessary money to buy drugs. Furthermore, undocumented foreign prostitutes prefer not to work on the streets since they are strictly monitored through raids by the police<sup>(230)</sup>. Street prostitution is regulated through the so-called "*Sperrgebietsverordnungen*" (Restricted Zone Rulings), which establish where and when it can take place. Such regulations differ greatly throughout the country. As a result, in some towns prostitution is permitted everywhere, while in others it is restricted to certain areas at certain times, or outlawed altogether<sup>(231)</sup>. The significant mobility of migrant prostitutes can be a consequence of such diverse prostitution rules existing within and amongst the *Länder*. The *Bundeskriminalamt* estimates that 96,3% of the trafficked prostitutes are exploited in bars and brothels (72,5%), private flats (18,2%) and by escort services to private homes and hotel rooms (5,6%). The remaining 3,7% are exploited in the *outdoor* market<sup>(232)</sup>. However, it must be stated that this general pattern varies region by region: e.g. in Frankfurt brothels are used almost exclusively, while in Hanover there is also a remarkable percentage of street prostitution, finally in Berlin the two markets are almost equally divided.
- *Kind of violence perpetrated.* Concerning violence used during the exploitation process, the *indoor* market seems to be a little more violent than the *outdoor* market. There is a relatively limited use of psychological violence, mainly related to threats regarding relatives in the country of origin, while sexual and physical violence are considered as *extrema ratio*.
- *Rate of violence.* *Indoors* violence is "often" employed, while *outdoors* violence is used "seldom".
- *Methods and frequency of the control.* The methods of control also follow this trend: in the *indoor* market there is constant pressure on the women through visual control by traffickers and other prostitutes, some forms of freedom restriction and the control of the money earned. The frequency of the controls can be estimated as taking place at least once a day. In the *outdoor* market psychological pressure is maintained through the methods mentioned above, as well as control through mobile phones. Control of the number of condoms is neither used in the *indoor* nor in the *outdoor* market, because clients normally do not want to use them. In this case the frequency of the control seems to be a little bit higher than the *indoor* market.
- *Earnings kept by victims.* The earnings kept by victims vary between 30% and 50%. With regard to this, it must be said that sometimes victims agree to be paid a fixed weekly amount of money by their exploiters. For this reason the percentage that remains with the victims can vary a lot, depending on the number of clients.
- *Duration of exploitation.* The average duration of exploitation in the *indoor* market is estimated as 3-6 months, while in the *outdoor* market it is a little shorter (1-3 months). However this datum can vary a lot in the latter sector where in some cases exploitation up to 10 months has been observed.

<sup>229</sup> Tampep 6, op. cit., p. 80.

<sup>230</sup> Ibid.

<sup>231</sup> Femmigration, *Germany*, op. cit.

<sup>232</sup> Bundeskriminalamt, *Lagebild Menschenhandel 2003*, Bundeskriminalamt, Wiesbaden, 2004, available at <http://www.bka.de/lageberichte/mh/2003/mh2003.pdf> (visited on 15<sup>th</sup> July 2005).

*The impact of legislation on prostitution and of other factors on the quantitative and qualitative aspects of THB*

Since 2002 Germany has fallen under the *regulationism* model, that sets a legal framework for prostitutes, but it seems not to have had a significant impact on the extent of the phenomenon of THB for sexual exploitation. Indeed, the apparent rise of trafficking victims registered between 2002 and 2003 cannot be considered as one of the consequences of the prostitution law but as the resulting effect of the inclusion of new items in the recording system of the Criminal Federal Police. In fact, since 2003, the CFP also register national and in-border victims of trafficking in its annual statistics.

The different prostitution rules (e.g. time and area restrictions) implemented by the *Länder* cause a significant mobility of prostitutes within Germany and across borders. This makes it more difficult to properly identify and count for statistical purposes those who are also trafficked.

Apart from the types of legislation/models on prostitution, other intervening factors, often correlated, may influence the number of women and children trafficked and the manner of their exploitation.

According to the national expert, the most significant factor is the entrance into the European Union of new Member States. Many people will have many more opportunities to migrate legally and this fact could lead to a decrease in the demand for illegal migration (*smuggling*). At the same time however, the enlargement of the EU could make the number of exploited prostitutes increase because they could be more easily introduced into the country.

Other factors that have a “strong” effect on THB are:

- the strict migratory regulations of Germany. The difficulties in entering the country legally, for non-EU nationals, make the demand for illegal immigration increase. In this pattern the number of trafficked women and children also increases;
- the differential in level of welfare between the countries of origin and Germany;
- the feminisation of poverty and rate of unemployment;
- the level of anti-trafficking control measures.

A “medium” effect on THB for sexual exploitation is produced by the geographical position of Germany. The national expert highlights in particular how some international airports (e.g. in Frankfurt) are often used as gateways to enter the country.

Finally the cultural and linguistic similarities between the country of origin and Germany, that is limited only to Polish women, have a “very low” effect on THB.

TABLE 51: FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE NATURE AND EXTENT OF TRAFFICKING IN GERMANY. LEVEL OF EFFECT ON THB FOR SEXUAL EXPLOITATION.

Factor	Level of effect					
	No effect	Very low effect	Low effect	Medium effect	Strong effect	Very strong effect
Geographical position of the destination country				✓		
Cultural and linguistic similarities between the country of origin and the country of destination		✓				
Strict migratory regulations of the destination country					✓	



Entrance into the European Union of new Member States						✓
Differential in level of welfare between the country of origin and the country of destination					✓	
Feminisation of poverty and rate of unemployment					✓	
Level of anti-trafficking measures					✓	

Source: Transcrime on data provided by the German national expert

#### 6.4.3 The Netherlands<sup>(233)</sup>

##### *National legislative pattern and current discussion on prostitution*

In The Netherlands prostitution is legal since 1 October 2000, which makes the Dutch country fall within the *regulationism* model. Since the lifting of the general ban on brothels, it is legal to voluntarily sell and buy sexual services between consenting adults, under the rules set by the State<sup>(234)</sup>.

Before 2000 prostitution was neither regulated nor prohibited, only running a brothel was expressly forbidden, thus including The Netherlands in the *new abolitionist* model<sup>(235)</sup>.

The sex sector is regulated by a system of licensing managed by the Municipalities, which are responsible for the elaboration of the local policies to govern prostitution. In this regard, the Association of The Netherlands Municipalities published a set of guidelines aimed at the owners of brothels, sex shops, and streetwalkers. Such guidelines specifically set rules as to the minimum size of working areas, location, safety, fire and hygiene measures, as well as the working conditions of prostitutes. Administrative sanctions are foreseen for those who do not comply with the requirements set by the competent municipality. The supervision and inspection may be performed by different actors (Municipal Medical and Health Service, fire service, Health and Safety Inspectorate, Tax and Customs Administration) however in most cases, police officers are appointed to check the regular functioning of the sex establishments<sup>(236)</sup>.

In compliance with the provisions set out by the Hague Declaration<sup>(237)</sup> (1997), in the year 2000, The Netherlands appointed the National Rapporteur on Trafficking in Human Beings (NRM). The main tasks of the NRM are “to collect information and report to the Dutch government on THB”<sup>(238)</sup>, that should then consequently discuss, plan, and adjust anti-trafficking measures. The anti-trafficking legislations have also provided for the appointment of a national Judicial Officer and some regional Judicial Officers on Human Trafficking; the establishment of THB contact functionaries of the Immigration and Naturalisation Services; and the Project Group on Prostitution and Trafficking of the Police. Both at the judicial and the law enforcement level, ad hoc guidelines to investigate THB cases have been issued<sup>(239)</sup>.

<sup>233</sup> Data contained in this country profile are based on primary sources and on the qualitative information on prostitution and trafficking provided by Maria de Cock, STV, Amersfoort.

<sup>234</sup> For further information see above § 4.1.

<sup>235</sup> The Netherlands Ministry of Foreign Affairs, op. cit.

<sup>236</sup> Korvinus, A.G., van Dijk, E.M.H., Koster, D.A.C., Smit, M., op. cit., p. 16.

<sup>237</sup> The Hague Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for The Purpose of Sexual Exploitation, The Hague, 24–26 April 1997.

<sup>238</sup> Korvinus, A.G., van Dijk, E.M.H., Koster, D.A.C., Smit, M., op. cit., p. 8.

<sup>239</sup> Gender Street Project, op. cit., p. 30.

Part of the current debate focuses also on the different prostitution rules implemented by the Dutch municipalities, which cause great mobility of prostitutes among different cities. The lack of harmony between the local prostitution policies causes a constant movement of sex workers and, subsequently, trafficked persons from one area to another.

Both sex workers and anti-trafficking support organisations call for some changes to the law that legalise prostitution in The Netherlands. The main reason for this request is the resulting deterioration of the living and working conditions of migrant sex workers that, besides being illegal aliens, they are now also considered illegal prostitutes<sup>(240)</sup>. The debate thus focuses on the appeal to extend the legal possibilities to work as prostitutes also to non-EU citizens, regardless of their nationality.

General discussions are also held on the need to improve the conditions and protection measures for victims of trafficking, especially for those returning back home. In depth risk assessments on the dangers involved in going back to the country of origin and in joining reintegration programmes are considered key elements to avoid the further victimisation of the assisted persons.

*Quantitative aspects of THB for sexual exploitation and estimate of the number of actual victims*

The data on offences regarding THB for sexual exploitation issued by the Dutch National Rapporteur on Trafficking in Human Beings (NRM), for the years 1998-2002, are incomplete. While the number of offenders registered for the same time period is not. Nevertheless, as table 52 shows, the annual number of offenders recorded has been increasing since 1999.

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<sup>240</sup> Tampep 6, op. cit., p. 137.

TABLE 52: YEARLY NUMBER OF OFFENCES AND OFFENDERS FOR THB FOR SEXUAL EXPLOITATION IN THE NETHERLANDS. (1998-2002).

Year	Offenders
1998	134
1999	103
2000	138
2001	130
2002	201

Source: Bureau NRM

In The Netherlands, the available data on victims of trafficking for sexual exploitation are provided by the *Stichting tegen vrouwenhandel*/Foundation against trafficking in women (*STV*), which was appointed by the government to register the (possible) victims of trafficking that can eventually either return back to their country or apply for the B9 procedure<sup>(241)</sup>. *STV* collects and stores information provided by the police, shelters, organisations for asylum seekers and refugees, welfare bodies, youth agencies, individual citizens and victims themselves. It must be remembered that the information is based on third party reports and, therefore, cannot be fully comprehensive<sup>(242)</sup>.

TABLE 53: NUMBER OF VICTIMS OF THB FOR SEXUAL EXPLOITATION.

Year	No. of victims
1996	121
1997	180
1998	228
1999	287
2000	341
2001	284
2002	343
2003	257

Source: *STV*

Using the data provided by *STV* it is possible to calculate the annual estimate of victims according to the methodology proposed in section 3. The results are summarised in table 54 below.

<sup>241</sup> B9 procedure foresees the possibility for victims of THB to obtain a temporary residence permit if they act as witness in proceedings against traffickers.

<sup>242</sup> Korvinus, A.G., van Dijk, E.M.H., Koster, D.A.C., Smit, M., op. cit., p. 55.

TABLE 54: ANNUAL ESTIMATE OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN THE NETHERLANDS. 1996-2003.

Year	Min.	Max.
1996	1.210	2.420
1997	1.800	3.600
1998	2.280	4.560
1999	2.870	5.740
2000	3.410	6.820
2001	2.840	5.680
2002	3.430	6.860
2003	2.570	5.140

Source: Transcrime on data *STV*

In order to obtain comparable data throughout the EU table 55 below provides the annual index of victims of THB for sexual exploitation.

TABLE 55: ANNUAL INDEX OF VICTIMS OF THB FOR SEXUAL EXPLOITATION IN THE NETHERLANDS. 1996-2003.

Year	Annual estimate of victims		Male pop. over 15 years	Annual index of victims (victims per 100.000 males over 15 years)	
	Min.	Max.		Min.	Max.
1996	1.210	2.420	6.206.452	19	39
1997	1.800	3.600	6.233.141	29	58
1998	2.280	4.560	6.265.742	36	73
1999	2.870	5.740	6.302.151	46	91
2000	3.410	6.820	6.339.934	54	108
2001	2.840	5.680	6.386.912	44	89
2002	3.430	6.860	6.437.908	53	107
2003	2.570	5.140	6.475.636	40	79

Source: Transcrime on data *STV* and Eurostat

### *Qualitative aspects of exploitation*

- *Country description.* The Netherlands is a destination country of THB for sexual exploitation.
- *Origin of the victims.* In The Netherlands, migrant women represent the highest percentage of the population engaged in the sex industry; as a matter of fact illegal aliens make up to 80 to 90% of all prostitutes<sup>(243)</sup>. They come mostly from the following countries: Bulgaria, Romania, Russian Federation, Moldova, Belarus, Albania, Nigeria and other Western African countries. A small but significant percentage is Dutch.
- *Recruitment.* Foreign women are often deceived with false promises of better life conditions and a decent job. Some of them are aware they will work as prostitutes, but do not know the hard conditions of exploitation they will face<sup>(244)</sup>. With regards to Dutch prostitutes, they are often

<sup>243</sup> Tampep 6, op. cit., p. 136.

<sup>244</sup> Transcrime, *MON-EU.TRAF II...*, op. cit.

underage girls that fall victims of the so-called “loverboy system”. Such a system is based on the seduction of a vulnerable girl on the part of a young man who will eventually exploit her as a prostitute, a drugs courier or a shoplifter<sup>(245)</sup>.

- *Division of the market.* Exploited prostitution takes place in different premises, i.e. sex clubs, brothels, windows, private apartments, streets, massage parlours, hotels, bars and in other places through escort services. New forms of “hidden” prostitution are emerging, connected with the use of mobile phones and the internet, through which clients are contacted. It is noteworthy that, after the legalisation of prostitution, a significant number of illegal migrant prostitutes moved from the brothels and windows to the streets<sup>(246)</sup>. This may be due to the stricter controls for brothels which led to less trafficking cases in the controlled area (official brothels), but more hidden trafficking practises (*outdoor* and in the escort branch). As a consequence, this has also led to stiff competition (also with the drug addicted prostitutes who traditionally prostitute themselves on the streets), which produces frequent arguments and breaches of the peace, a considerable price reduction and a tendency to adopt risky health behaviours (e.g. unprotected sex). According to the information collected, however, the highest percentage of trafficked sexual services are still offered *indoors* (70%), while the remaining 30% occurs *outdoors*.
- *Kind of violence perpetrated.* Exploitation may take different forms depending on individual circumstances even if standardised types of exploitation have been registered according to the country of origin of the victims<sup>(247)</sup>. Physical, psychological and sexual violence is used both on *indoor* and *outdoor* prostitutes.
- *Rate of violence.* Both *indoor* and *outdoor* trafficked prostitutes “often” experience violence. However, the latter are at greater risk of violence even if setting up tolerance zones has led to a reduction of violence<sup>(248)</sup>. Moreover, in the officially registered brothels violence seldom occurs when compared with the other sectors of the *indoor* market (apartments, escort services, etc.), which are by nature more “concealed”.
- *Methods and frequency of the control.* Both *outdoors* and in *indoor* premises, trafficked prostitutes are controlled directly or via mobile by their exploiters, who also restrict their freedom of movement. Victims are often moved to different Dutch cities and/or to different establishments, also as a means of control that, consequently, favours a higher degree of isolation. Other control methods frequently employed are: debt bondage, blackmail, seizure of personal documents, threatening to sell to another exploiter, giving incorrect information on police and service providers, forced use of psychotropic substances, and religious rituals<sup>(249)</sup>. Such controls are used often, both for those exploited in the *indoor* market and for those exploited *outdoors*.
- *Earnings kept by victims.* The percentage of the earnings kept by the exploited prostitutes working both *indoors* and *outdoors* varies between 0 to 30% of the total amount.
- *Duration of the exploitation.* The average length of the exploitation process varies between 6 months and 1 year. However, there are cases of women that were forced in prostitution for more than a year. As for the duration of exploitation, it may change depending on residence status: women that are illegally staying in The Netherlands are more vulnerable and have fewer possibilities to break away from the trafficking structures.

<sup>245</sup> Korvinus, A.G., van Dijk, E.M.H., Koster, D.A.C., Smit, M., op. cit., p. 50.

<sup>246</sup> A survey conducted in 2000 estimated that prostitution (exploited and non) took place 95% *indoors*. The Netherlands Ministry of Foreign Affairs, op. cit.

<sup>247</sup> Hopkins, R., Nijboer, J., “The Netherlands”, in Vandekerckhove, W., Paric, Z., Moens, B., Orfano, I., Hopkins, R., Nijboer, J., Vermeulen, G., Bontinck, W., op. cit.

<sup>248</sup> See also Working Group on the Legal Regulation of the Purchase of Sexual Services, op. cit., p. 25.

<sup>249</sup> Bureau NRM, *Trafficking in Human beings. First Report of the Dutch National Rapporteur*, Bureau NRM, The Hague, 2002, pp. 69–70.

*The impact of legislation on prostitution and of other factors on the quantitative and qualitative aspects of THB*

Even though The Netherlands is one of the most advanced countries regarding registration and referral of victims of trafficking, according to the NRM, it is still rather difficult to identify them and, consequently, to gather the actual figures of persons trafficked into or within the Dutch borders<sup>(250)</sup>. This is due to several factors, such as, *inter alia*, the reluctance of trafficked persons to contact the police that they are often told to be corrupt, or through the physical impossibility to do so; the fear of reprisals against their family in the home country; the worry of being immediately deported as illegal aliens; the conditioning by religious rituals and spells (e.g. voodoo, juju-marabou); the “romantic” involvement with the exploiters and/or traffickers. The common practice of quickly deporting undocumented migrants – usually as a result of police raids - without checking if they are actually victims of trafficking is also a major factor that does not allow proper identification and registration. Furthermore, the established system of protection is maintained as a deterrent since it does not favour victims who come forward given that, according to the B9 regulations, a trafficked person is obliged to act as a witness to join the scheme and gain corresponding “benefits”.

The lifting of the general ban on brothels has certainly reduced the cases of trafficking in the legal sector of prostitution due to the increased police control, nevertheless it is negatively regarded by several sex workers and anti-trafficking grassroots movements and support organisations since it worsened the status of migrant sex workers that are now both irregular aliens and illegal prostitutes. The resulting side effect of this is a high territorial mobility and the swift transfer of such target groups into more hidden forms of prostitution in order to avoid detection by the police. Therefore, they are likely to be subject to more exploitative conditions and have less chances to contact support organisations or the police for help. The diverse, sometimes contradictory rules implemented through the prostitution policy developed at municipal level also produces a high rate of mobility among migrant prostitutes and, therefore, (potential) victims of trafficking. Consequently, these (potential) victims of trafficking will not be included in any official count or registration of the persons trafficked into or within The Netherlands.

According to the NRM the effect produced by the lifting of the general ban on brothels cannot be measured for a variety of reasons:

- the true situation of trafficking when prostitution was not yet legalised is unknown and thus, no scientific comparison can be made;
- municipalities implemented prostitution policies over different time spans so no uniform single transformation can be identified at national level;
- trafficking is a crime that is covertly committed and the majority of its victims do not report it;
- the nature and extension of trafficking are influenced by other factors<sup>(251)</sup>.

Furthermore, the comparison of studies carried out two years before and two years after the lifting of the ban shows that the number of investigations increased after the legalisation of prostitution as well as the numbers of victims registered by STV and of B9 holders<sup>(252)</sup>.

Even though the media and public opinion believe that THB has increased after the legalisation of prostitution, the NRM maintains that this conclusion does not take into account that at least some sectors of the sex industry are now regularly controlled and, therefore, are “clean”. However, even

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<sup>250</sup> Korvinus, A.G., van Dijk, E.M.H., Koster, D.A.C., Smit, M., op. cit., p. 64.

<sup>251</sup> Korvinus, A.G., van Dijk, E.M.H., Koster, D.A.C., Smit, M., op. cit., p. 183.

<sup>252</sup> Ibid., p. 184.

this element cannot lead to a definite conclusion as to the relation between legalisation of prostitution and the scope of THB<sup>(253)</sup>.

Nevertheless, due to the abovementioned reasons, it is still not possible to draw definite conclusions as to the direct connections between the regularisation of prostitution and THB for sexual exploitation. The forthcoming study of the police on the second evaluation of the legislation will contribute to a better understanding of the correlations between the legalisation of prostitution and trafficking so as to assess its positive and negative affects on such phenomena.

Apart from the types of legislation/models on prostitution, other intervening factors, often correlated, may influence the number of women and children trafficked and the manner of their exploitation.

According to the national expert the most significant one is the differential in level of welfare between the countries of origin and The Netherlands.

Other factors that have a “strong” effect on THB are:

- the entrance into the European Union of new Member States. According to the figures provided by *STV* persons trafficked from these countries are often part of minorities (e.g. Roma) or migrants living in new Member States. At the same time, however, people from the pre-accession countries (Bulgaria and Romania) can already travel freely to The Netherlands (due to lifting the visa procedures). Trafficked prostitutes from these countries are currently at the top of the list of most trafficked people. For this reason, this factor must be taken into account in order to understand if and how the situation could change in the near future<sup>(254)</sup>,
- the feminisation of poverty and rate of unemployment.

A “medium” effect on THB for sexual exploitation is produced by:

- the geographical position of The Netherlands;
- the strict migratory regulations of The Netherlands. The strict migratory policies have a positive and negative effect on THB: on the one hand less people are able to reach the country and so theoretically less exposed to THB, on the other hand, these difficulties in practice make the demand for illegal migration rise;
- the level of anti-trafficking control measures. Anti-trafficking measures can have a positive effect on THB above all through support programmes and National Action Plans. However, it must be said that criminal groups go on with their activities until it is profitable, above all moving women from one city to another. This prevents anti-trafficking control measures from being completely effective.

TABLE 56: FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE NATURE AND EXTENT OF TRAFFICKING IN THE NETHERLANDS. LEVEL OF EFFECT ON THB FOR SEXUAL EXPLOITATION.

Factor	Level of effect					
	No effect	Very low effect	Low effect	Medium effect	Strong effect	Very strong

<sup>253</sup> Ibid.

<sup>254</sup> “The enlargement of the European Union has also represented a significant change as to the status of formerly illegal migrants working in the sex industry now fully-fledged EU citizens of Lithuania, Latvia, Estonia, Czech Republic, Slovakia, Slovenia, Poland, Hungary, Malta and Cyprus. When citizens of all new Member States will be allowed to work as employed prostitutes (currently only 8 out of 10 can legally do so even though they can work on self-employed basis), an increase of number of prostitutes from these countries will likely occur, but if also the figures of trafficked persons will raise is considered an “open question”. Ibid., p. 181.

6. Country profiles for selected Member States

						effect
Geographical position of the destination country				✓		
Cultural and linguistic similarities between the country of origin and the country of destination	✓					
Strict migratory regulations of the destination country				✓		
Entrance into the European Union of new Member States					✓	
Differential in level of welfare between the country of origin and the country of destination						✓
Feminisation of poverty and rate of unemployment					✓	
Level of anti-trafficking measures				✓		

Source: Transcrime on data provided by the Dutch national expert







## 7.

### ANALYSIS ON THE CORRELATIONS BETWEEN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION AND THE QUANTITATIVE AND QUALITATIVE ASPECTS OF TRAFFICKING

The following synoptical table is an overview of the main results of the study. It systematises and summarises the information provided by the national experts contained in the country profiles of section 6, making their comparison easier. In this table the reader will find the eleven selected Member States listed under their respective legislation typology/model on prostitution. Besides the legislation/model on prostitution, the following variables will be presented for each selected Member State.

- *General index of victims.* This index is the average of the annual national indexes of victims for years 2000, 2001 and 2002<sup>(255)</sup>. The annual national index is the ratio between the annual national estimate of victims and the number of males residing in the country aged over 15 in the year under consideration (i.e. the number of potential clients for these victims) per 100.000. This index has been constructed in order to make the estimates of victims - presented in the country profiles - comparable across countries which have different populations and therefore a different demand for prostitution (that is to say, for instance, that 1.000 victims of trafficking per year in Belgium is not equal to 1.000 victims of trafficking per year in Italy);
- *Percentage of outdoor/indoor prostitution of the total trafficked prostitution market.* This percentage refers to the quota of trafficked women and children who exercise prostitution *outdoors* and *indoors* in the country;
- *Violence index in outdoor/indoor trafficked prostitution.* This index refers, on a scale from 0 (no violence) to 100 (maximum violence), to the level of violence exercised by traffickers/exploiters on the trafficked victims in *outdoor* and *indoor* prostitution in the country (for more details on how the violence index was constructed from the answers of the expert to the questionnaire please see *Annex B*);
- *Percentage of earnings kept by victims in outdoor/indoor prostitution.* This percentage highlights how much goes to the victims and how much to his or her traffickers/exploiters in *outdoor* and *indoor* trafficked prostitution in that country;
- *Intervening factors.* It is not always possible to establish clear causal relationships between a given type of prostitution policy and the number of trafficked persons or modalities through which the sexual exploitation takes place. Too many variables/factors intervene in this relationship, making it spurious. Therefore, other than the legislations/policies on prostitution, here are the other intervening variables that are, according to the national experts, the most significant.

TABLE 57: LEGISLATIVE MODELS ON PROSTITUTION AND EXTENT AND NATURE OF TRAFFICKING OF WOMEN AND CHILDREN FOR SEXUAL EXPLOITATION IN SELECTED EU MEMBER STATES.

ABOLITIONISM				
UE Member States	General index of victims of THB for sexual exploitation	Outdoor trafficked prostitution	Indoor trafficked prostitution	Most significant intervening factors

<sup>255</sup> These three years have been selected since they are the most recent ones for which data are available for the vast majority of the selected countries.

7. Analysis on the correlations between legislation typologies/models on prostitution and quantitative and qualitative aspects of trafficking

	Min.	Max.	% of the total market	Violence index	% of earnings kept by prostitutes	% of the total market	Violence index	% of earnings kept by prostitutes	
<b>Czech Republic<sup>(256)</sup></b>	9		20	83,4	0-30	80	69,9	30-50	<ul style="list-style-type: none"> <li>- Geographical position</li> <li>- Differential in level of welfare</li> <li>- Feminisation of poverty and rate of unemployment</li> <li>- Available health services free of charge</li> </ul>
<b>Poland</b>	10	19	20	79,3	-	80	75,2	-	<ul style="list-style-type: none"> <li>- Strict migratory regulations</li> <li>- Feminisation of poverty and rate of unemployment</li> <li>- Level of the anti-trafficking control measures</li> <li>- Lack of secondary legislation</li> <li>- Organised crime groups profits</li> </ul>
<b>Spain</b>	36	72	10	24,8	-	90	86,7	30-50	<ul style="list-style-type: none"> <li>- Differential in level of welfare</li> <li>- Geographical position</li> <li>- Cultural and linguistic similarities</li> <li>- Strict migratory regulations</li> <li>- Feminisation of poverty and rate of unemployment</li> </ul>

<sup>256</sup> The general index of victims for Czech Republic was elaborated on the estimate of victims by *Rozkos bez rizika*, a Prague based NGO.

7. Analysis on the correlations between legislation typologies/models on prostitution and quantitative and qualitative aspects of trafficking

NEW ABOLITIONISM									
UE Member States	General index of victims of THB for sexual exploitation		Outdoor trafficked prostitution			Indoor trafficked prostitution			Most significant intervening factors
	Min.	Max.	% of the total market	Violence index	% of earnings kept by prostitutes	% of the total market	Violence index	% of earnings kept by prostitutes	
<b>Belgium</b> <sup>(257)</sup>	42	85	5	59,9	0-50	95	56,6	0-50	<ul style="list-style-type: none"> <li>- Differential in level of welfare</li> <li>- Strict migratory regulations</li> <li>- Feminisation of poverty and rate of unemployment</li> </ul>
<b>France</b> <sup>(258)</sup>	18	37	70	76,7	0-30	30	73,4	0-50	<ul style="list-style-type: none"> <li>- Geographical position</li> <li>- Feminisation of poverty and rate of unemployment</li> <li>- Lack of coordination between public policies</li> </ul>
<b>Italy</b> <sup>(259)</sup>	77	154	75	75,1	0-30	25	58,4	30-50	<ul style="list-style-type: none"> <li>- Geographical position</li> <li>- Strict migratory regulations</li> <li>- Entrance into the EU of new Member States</li> <li>- Differential in level of welfare</li> <li>- Feminisation of poverty and rate of unemployment</li> </ul>

<sup>257</sup> Data are referred to the period 1999–2001.

<sup>258</sup> As explained in § 6.2.2 these figures underestimate the phenomenon.

<sup>259</sup> The figures regarding the general index of victims refer to the period March 2000 – March 2002.

7. Analysis on the correlations between legislation typologies/models on prostitution and quantitative and qualitative aspects of trafficking

PROHIBITIONISM									
UE Member States	General index of victims of THB for sexual exploitation		Outdoor trafficked prostitution			Indoor trafficked prostitution			Most significant intervening factors
	Min.	Max.	% of the total market	Violence index	% of earnings kept by prostitutes	% of the total market	Violence index	% of earnings kept by prostitutes	
<b>Lithuania</b> <sup>(260)</sup>	10	20	60	70,1	0-30	40	73,4	0-30	<ul style="list-style-type: none"> <li>– Differential in level of welfare</li> <li>– Entrance into the EU of new Member States</li> <li>– Feminisation of poverty and rate of unemployment</li> <li>– Level of anti-trafficking measures</li> </ul>
<b>Sweden</b> <sup>(261)</sup>	6	14	20	66,5	0-30	80	66,7	0-30	<ul style="list-style-type: none"> <li>– Differential in the level of welfare</li> <li>– Feminisation of poverty</li> <li>– Inequality between the sexes</li> </ul>

<sup>260</sup> As explained in § 6.3.1 these figures underestimate the phenomenon.

<sup>261</sup> The general index of victims of THB for sexual exploitation in the table was elaborated from an estimate of victims by the Swedish National Criminal Investigation Police (SNCIP). For Sweden it was not possible to calculate the average annual national estimate of victims according to the methodology proposed in this Report. According to SNCIP, their value underestimates the actual number of victims of THB for sexual exploitation.

REGULATIONISM									
UE Member States	General index of victims of THB for sexual exploitation		Outdoor trafficked prostitution			Indoor trafficked prostitution			Most significant intervening factors
	Min.	Max.	% of the total market	Violence index	% of earnings kept by prostitutes	% of the total market	Violence index	% of earnings kept by prostitutes	
<b>Austria</b> <sup>(262)</sup>	59	111	25	54,1	0-30	75	75,1	0-30	<ul style="list-style-type: none"> <li>- Feminisation of poverty</li> <li>- Strict migratory regulations</li> <li>- Demand for cheap and insecure labour</li> </ul>
<b>Germany</b>	30	60	3,7	49,9	30-50	96,3	49,9	30-50	<ul style="list-style-type: none"> <li>- Entrance into the EU of new Member States</li> <li>- Strict migratory regulations</li> <li>- Differential in the level of welfare</li> <li>- Feminisation of poverty</li> <li>- Level of the anti-trafficking measures</li> </ul>
<b>The Netherlands</b>	50	101	30	76,8	0-30	70	76,8	0-30	<ul style="list-style-type: none"> <li>- Differential in the level of welfare</li> <li>- Entrance into the EU of new Member States</li> <li>- Feminisation of poverty</li> </ul>

Source: Transcrime

Starting from this table, this section aims to underline, where and if possible, some correlations between the type of legislation on prostitution and the amount of trafficking present and the modalities of the exploitation. Before going further however, it is important to warn of the limits of this analysis. These limits depend, most of all, on the scarcity of data on the number of victims and on the modalities of their exploitation. The consequences are:

- the pioneer nature of the presented estimates of victims and indexes of annual trafficked victims;
- the need for using the opinion of experts in order to assess the modalities of the exploitation;
- the impossibility of building statistical models capable of correlating the considered variables.

The information in section 6 and the results of the analysis reflect the most up to date data one can collect. Even so, given the current state of the art and the many limitations that have been outlined, these results must be interpreted with caution, taking into accounts all these limitations. Notwithstanding this, they represent a first step towards a deeper understanding of the problems subject to this study.

#### 7.1 LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION AND OUTDOOR/INDOOR TRAFFICKED PROSTITUTION

With reference to the impact legislation typologies/models on prostitution have on the place where victims of trafficking are exploited (*outdoor* and *indoor*), according to the data collected through this experimental study, it is possible to say:

- Under a model of “regulationism”, trafficked prostitution is more frequently exercised indoors. It is highly likely that traffickers/exploiters, in a country where *outdoor* and *indoor* prostitution are not prohibited as long as it is conducted according to the State’s regulation, choose not to exploit their victims *outdoors*, since a violation of the rule would be more visible and,

<sup>262</sup> As explained in § 6.4.1 these figures underestimate the phenomenon.

consequently, more risky. This is the case in Austria, Germany, and The Netherlands. A further example can be given by the political debate in Italy where, as we saw, a cyclical public discussion on the Bill proposal on how to amend the prostitution law (*“Disegno di legge Bossi-Fini-Prestigiacomo”*) has been ongoing and has had a major impact on the dynamics of street prostitution. This bill, in fact, proposes to ban and prohibit street prostitution in favour of regulated forms of *indoor* prostitution. The bill proposes a very strict regime of *regulationism* where *outdoor* prostitution is totally prohibited. Notably, whenever the media raises the issue, street prostitution generally decreases as a result of fear of deportation as some street prostitutes move to *indoor* premises;

- *Under a model of “abolitionism”, trafficked prostitution is more frequently exercised indoors.* For example, in the case of *the* Czech Republic, Poland and Spain. This could be due to at least two reasons. First, given the fact that the traffickers/exploiters are free to choose where to display their criminal activities, it is more likely that they will choose the less visible segment of the market. Second, as illustrated by Spain - in practice, abolitionist countries often tolerate much more *indoor* prostitution, as it is less disturbing for the population, and concentrate law enforcement efforts more on the *outdoor* segment;
- *Under a model of “new abolitionism”, trafficked prostitution is more frequently exercised outdoors.* It is the examples of France and Italy, which tolerate *outdoor* and *indoor* prostitution but criminalise the running of brothels. This criminalisation of one of the main forms of *indoor* prostitution could have pushed the market to spread *outdoors*. Belgium does not fall under this rule, though being a new abolitionist country, because of its practice. In fact, Belgium does not treat *indoor* and *outdoor* prostitution the same way. *Indoor* prostitution, due to its invisibility, is much more tolerated than the *outdoor* market;
- *Under a model of “prohibitionism”, trafficked prostitution is more frequently exercised indoors.* This is the case for Sweden where, after the introduction of law 1998:408 (introducing prohibitionism), the rate of *indoor* prostitution has indeed increased. In fact, before law 1998:408, *indoor* exploited prostitution was estimated to amount to two thirds of all prostitution. After the law was introduced, *indoor* exploited prostitution was estimated to have increased to 80% of all prostitution (according to a report published in 2000 by the national council for crime prevention). Visible prostitution on the streets has therefore declined, and this can be in part attributed to the new law.

## 7.2 LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION AND LEVEL OF VIOLENCE IN TRAFFICKED PROSTITUTION

With reference to the impact legislation typologies/models on prostitution have on the level of violence in *outdoor* and *indoor* trafficked prostitution, according to the data collected through this experimental study, it is possible to say:

- *Generally speaking, violence in the trafficked prostitution market does not seem to be strictly dependent on the model on prostitution.* Violence is a natural component of THB for sexual exploitation and it is highly likely that the level of violence is influenced more by other factors than by the legislation/model on prostitution (i.e. level and complexity of organised crime present in the country; level of law enforcement, anti-trafficking control measures, etc.);
- *The type and level of violence used both in the indoor and outdoor markets against trafficked prostitutes seems to have changed particularly in the destination countries. In fact, in several cases, “softer” forms of violence have been registered, i.e. traffickers and/or exploiters seem to*



employ less violent means (e.g. use of mobile phones, partial share of earnings, increased involvement of other prostitutes as “controllers”, etc.) than in the past to exert control on the trafficked persons they exploit;

- *Nevertheless, if one were to express a general rule (whose confirmation should be backed by the analysis of better data than currently exists), according to the collected data it seems that the models of “abolitionism” and “new abolitionism” are those which can develop a slightly higher level of violence than other models.* Traffickers and/or exploiters may be inclined to adopt more violent behaviours in those countries where they adopt these models as they can be perceived as more tolerant and risk of being apprehended as lower;
- *The wide-spread view that the exploitation of victims of trafficking is always more violent outdoors than indoors does not seem to be confirmed.* The level of violence is quite homogenous between *outdoor* and *indoor* trafficked prostitution and furthermore, in some countries (such as Austria and Spain), the level of *indoor* violence is actually much greater than the level of *outdoor* violence. Austria and Spain are countries in which the share of the *indoor* trafficked prostitution is greater than the share of *outdoor* trafficked prostitution;
- Even if it not always confirmed, *if in a given country trafficked prostitution is exercised much more in one of the two sectors (outdoors or indoors), this could also be the sector which displays a higher level of violence.* This is probably due to the concentration of criminal actors and the subsequent higher levels of competition in the market;
- *The level of violence, independently from its causes and from the sector of trafficked prostitution (outdoors and indoors), seems to be slightly higher in the new EU Member States.* Also this could possibly be due to higher competition between criminal groups operating in the market.

### 7.3 LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION AND NUMBER OF TRAFFICKED WOMEN AND CHILDREN

With reference to the impact legislation typologies/models on prostitution have on the number of trafficked women and children, whilst once again warning of the limits of this analysis, according to the data collected through this experimental study, it is possible to say:

- *Old EU Member States display higher numbers of victims of trafficking for sexual exploitation.* This, *independently* from their model on prostitution, also seems to be the effect of two concurrent factors: a) these countries often possess more reliable quantitative data on victims; b) these countries are destination countries of the trafficking chain. *Numbers seem therefore to be strongly influenced by the demand;*
- *In 2000, in the 11 selected countries, an estimated number of women and children from a minimum of about 44,000 to a maximum of about 88,000 were trafficked for sexual exploitation. This estimate increased in 2002 to a minimum of about 50,000 and a maximum of 100,000. For 2003, the trend seems still to be on the rise<sup>(263)</sup>;*
- *In countries that provide comprehensive schemes of protection and assistance to victims of trafficking (e.g. Belgium, Italy, and The Netherlands), the data on trafficked persons are more reliable and the figures are higher. This is due to the fact that victims are more eager to come*

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<sup>263</sup> This estimate has been obtained by aggregating the single national estimates which have been elaborated in this Report and are displayed in each country profile of section 6.

*forward and provide information if they are afforded a complete set of support services and measures that can help them to recover and gain trust into authorities;*

- *Several intervening factors seem to influence the number of women and children trafficked for sexual exploitation beyond the legislative model of prostitution. With reference to the indexes of annual trafficked victims, there are also substantial variations among countries belonging to the same legislative model. This makes it difficult to extrapolate a unique causal relationship explaining the number of trafficking victims;*
- *Nevertheless, taking this statement with due attention, the models that seem to “produce” more victims – especially if one considers old EU Member States – are “new abolitionism” and “regulationism” whilst the model that seems to “produce” less victims is “prohibitionism”. With reference to regulationism, the analysis in the country profiles has shown that sometimes (see for instance Austria) the effect of regulation can be a massive increase in migrant prostitution and an indirect support to the spreading of the illegal market in the sex industry. However, this reflection should nevertheless be regarded with caution and should be seen as a starting step for further analysis rather than a definitive judgement. One could argue that, for instance, under a regime of prohibitionism, victims are less visible and therefore can be less easily registered or recorded by statistics and that the opposite happens under a regime of new abolitionism. As the Swedish expert suggests, the beginning of prohibitionism in the country may have created less visible prostitution, and a problem with less visible prostitution at the present time is that it is more difficult to get information about the victimisation of the prostitutes. Regardless, the effect of the Swedish change in policy, from abolitionist to prohibitionist, has also been a concrete decrease in the number of victims. The Swedish expert reports that there is information from the victims of THB in Sweden that traffickers have had problems finding enough sex buyers in Sweden, the demand has been much lower than expected. One should also consider a possible geographical displacement, that is to say that traffickers have moved to other markets, such as those in Norway and Denmark;*
- *In fact, a final evaluation of the legislative models on prostitution in the European Union in terms of their impact on the number of victims should be based on more reliable and comparable empirical statistics (especially on victims) and on a wider set of data referred to other factors/variables (also referring to, for instance, the level of anti-trafficking efforts, the level of law enforcement, the level of corruption, the level of organised crime, the level of openness/closeness of immigration policies of a given Member State, etc.). Only by having good data, not only on victims, but also on these other factors/variables, could it be possible to use statistical multivariate analyses that would be able to assess the different relative contribution of each single factor/variable, including the legislation model of prostitution adopted, to the production of the investigated phenomenon (i.e. number of victims). This view is supported below, in the next paragraph.*

#### **7.4 FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE NATURE AND EXTENT OF TRAFFICKING**

Finally, it is important to stress that the model on prostitution adopted by a given Member State is not the only factor which may have an effect on the number of victims of THB and on the modalities of their exploitation in the prostitution market. The national experts themselves - replying to the questionnaire which asked them “are there any other factors that influence these quantitative/qualitative aspects (e.g. geographic position, immigration, anti-trafficking legislations, etc.)?” – answered that there may be other possible intervening factors.

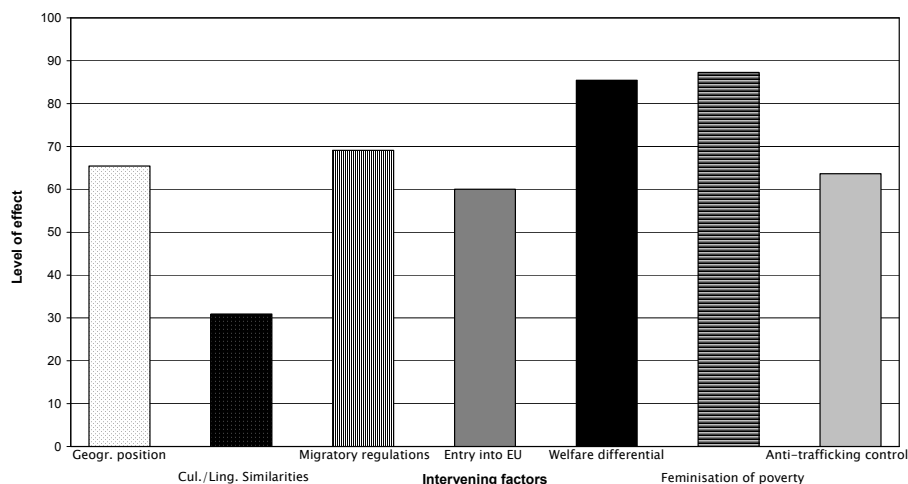
What is the relevance of each of these factors in determining the nature and extent of trafficking? Which is the most important one? The reader finds an answer to these questions in the above graph. For those intervening factors put forward by the national experts for the eleven selected Member States, the graph shows the *EU Level of Effect Index*, i.e. the level of effect that the factor has on THB at the EU level (eleven selected Member States). This index goes from 0 (no effect on THB) to 100 (very strong effect on THB). The higher this index, the greater the effect the factor has on THB at the EU level.

Here is a list of the factors that, beyond the legislation typologies/models on prostitution, may affect the nature and extent of THB at the EU level, going from the most to the least significant factor:

1. The feminisation of poverty and rate of unemployment;
2. The differential in level of welfare between the country of origin and the country of destination;
3. The strict migratory regulations of the destination country;
4. The geographical position of the destination country;
5. The level of anti-trafficking control measures of the country;
6. The entrance into the European Union of new Member States;
7. The cultural and linguistic similarities between the country of origin and the country of destination.

According to the experts, the most important factors are those relating to a differential in poverty, unemployment and welfare between countries. That is to say that, before changing national policies governing prostitution or even migratory regulations and anti-trafficking counter-measures, nations should concentrate on the issues of inequality. Of course, this does not mean that it is not fundamental to approach the problem of THB from other angles of perspective, too.

GRAPH 1: INTERVENING FACTORS, OTHER THAN LEGISLATIONS/MODELS ON PROSTITUTION, THAT MAY



AFFECT THB FOR SEXUAL EXPLOITATION. EU LEVEL OF EFFECT INDEX.

Source: Transcrime on data by national experts

In addition to the above-mentioned factors highlighted by the consulted experts, one could also add, *inter alia*, the level of competence and spread of organised criminal groups already existing in the destination country, the level of corruption in the country, as well as the nature and diffusion of the demand for sex services.

It would be of utmost importance to also consider all these factors as causal factors impacting on the number of trafficked persons and/or on the modalities through which the sexual exploitation takes place together with the model of legislation on prostitution. Unfortunately, due to the current state of data available, this cannot be done. It could be realised only if countries also collected data on these factors and made them measurable and comparable across Member States. Again, this makes the reader understand how much attention should be given to reading the aforementioned conclusions which consider only policies on prostitution as the causal factor of THB.

## 8.

### RECOMMENDATIONS TO THE EUROPEAN PARLIAMENT, OTHER EU INSTITUTIONS AND MEMBER STATES

At the end of this study it is possible to draft some recommendations to the European Parliament, other EU institutions and Member States on how to address the problem of trafficking in women and children for sexual exploitation from the point of view of the relationship between the model on prostitution and the extent and the modalities of trafficking. These recommendations for intervention directly flow from the results of the study. It has however to be remembered that the analysis of the ethical and moral debate on prostitution was out of the scope of the present criminological research. Therefore, consideration of the ethical and moral aspects involved in adopting and implementing such recommendations is left to the policy-makers.

Recommendations 1 to 9 are more general in nature and refer to actions that would yield a better understating of the problem at the EU level. Recommendations 10 to 15 refer to the possible consequences that changes in policies of prostitution would bring, as they may be forecast using the current state of affairs.

*GENERAL RECOMMENDATIONS FOR ACTIONS THAT WOULD YIELD A BETTER KNOWLEDGE OF THB FOR SEXUAL EXPLOITATION AND MAKING THE UNDERSTANDING ON THE LINK BETWEEN MODELS OF PROSTITUTION AND THE NATURE AND EXTENT OF THB FOR SEXUAL EXPLOITATION EASIER*

1. *Actions should be taken by the Member States to implement a comprehensive and shared anti-trafficking law based on the international and European legislative provisions, such as the UN Trafficking Protocol (2000), the EU Council Framework Decision on combating trafficking in human beings (2002), and the Council of Europe Convention on Action against Trafficking in Human Beings (2005).* The harmonisation of the legislative framework at the European level would greatly contribute to the gathering of data based on the same definition of the crime, the offenders and the victims, thus making quantitative and qualitative information on THB more comparable at the EU level.
2. *Actions should be taken by the Member States to improve the identification procedures of trafficked persons especially by the law enforcement agencies, the judiciary, the immigration services, the labour inspectorates, and the service providers.* Such procedures should also enable the identification of persons with a legal status, i.e. nationals trafficked within their own country or documented migrants, that are very often neglected by statistics of trafficking.
3. *Actions should be taken by the Member States to improve data gathering and data collection procedures on the trafficking of women and children for sexual exploitation, with special focus on victims, and particularly, on child victims too often neglected in the statistics, when they should constitute a separate category.* Particular attention should be paid to the development of guidelines for data collection and storage that will enable a homogenous and sound cross-country comparability.
4. *Actions should be taken to collect in a comparable way in different Member States also data on other variables than can be studied as important causal factors of the extent and the modalities of trafficking other than the model on prostitution, such as:*
  - the nature and diffusion of the demand for sex services;
  - the level of anti-trafficking control measures;
  - the level of closure/openness of migratory regulations;
  - the enlargement of the European Union;
  - the level of welfare of the country;
  - the level of feminisation of poverty;

- the level of competence and spread of organised criminal groups;
  - the level of corruption in various sectors (law enforcement, judicial, political, etc).
5. *Actions should be taken by the Member States and the EU institutions to fund studies to develop empirical and comprehensive methodologies and tools to collect and collate information on prostitution and trafficking for sexual exploitation, taking into account the hidden nature of the phenomena and all the intervening and cross-cutting factors.*
  6. *Actions should be taken by the Member States to establish a national collection mechanism, that could be e.g. a National independent Rapporteur or other similar body, as recommended by the Experts Group on Trafficking in Human Beings of the European Commission, that involves all main players (law enforcement agencies, the judiciary, the social services and NGOs, etc.) that collect data on the phenomenon herein considered.*
  7. *Actions should be taken by the European institutions to set up a collection mechanism at the EU level so as to provide updated information on the development of the phenomena of prostitution and trafficking for the purpose of exploitation in the sex industry within the 25 Member States and, therefore, develop appropriate measures and policies to address the identified needs of the persons concerned.*
  8. *Both National and European collection mechanisms should be managed by bureaus with an independent status and a clear mandate with no operational or political functions. Such bureaus should periodically report and propose recommendations, based on the analysis of the data collected, to their government, parliament, or in the case of the European mechanism, to the European Parliament.*
  9. *Actions should be taken to improve the collaboration with service providers and NGOs that offer a wide set of services to prostitutes, trafficked persons and migrants. NGOs and service providers are often in fact the holders of useful and detailed hard data that could greatly contribute to the national and/or European collection mechanisms. It would be of utmost importance to co-design with such key-actors a common collection spreadsheet to gather the relative data.*

*SPECIFIC RECOMMENDATIONS ON THE LINK BETWEEN MODELS OF PROSTITUTION AND THE NATURE AND EXTENT OF THB FOR SEXUAL EXPLOITATION*

10. *Once the state of the art of statistics is improved, actions should be taken to continue the study on the link between models of prostitution and the nature and extent of trafficking for sexual exploitation. In fact, a final evaluation of the models on prostitution in the European Union in terms of their impact on the extent and nature of trafficking should be based on more reliable and comparable statistics (especially on victims) and on a wider set of data referred to other factors/variables (see recommendations 1 to 9).*
11. *Actions should be taken to improve knowledge on the role of the demand for prostitution. The analysis has shown that, especially in old Member States, numbers of trafficked victims seem also to be strongly influenced by the demand. Few studies have been carried out on this aspect (also at EU level) which deserves more careful attention. This is needed to understand “how” the demand shapes the supply and to enable actions are to be taken.*
12. *Should the Member States take actions to implement a model on prostitution of “abolitionism”, “regulationism”, “or “prohibitionism”, they should consider, inter alia, that trafficked prostitution will probably move indoors, becoming less visible; yet should the Member States take actions to implement a model of “new abolitionism”, they should consider, inter alia, that trafficked prostitution will probably move outdoors.*

13. *Should the Member States take actions to implement a model of “new abolitionism” or “regulationism”, they should consider that these models seem to “produce” more victims of trafficking for sexual exploitation.*
14. *Should the Member States take actions to implement a model of “prohibitionism” they should consider that this model seems to “produce” less victims of trafficking for sexual exploitation even though this is not sufficiently proven by the collected data and, most of all, it can arise from misleading evidence resulting from the fact that, under a regime of “prohibitionism”, victims are less visible and therefore can be less easily registered or recorded by statistics. A further analysis based on better and diversified data (see recommendations from 1 to 9) is thus required to assess if there is any causal correlation between the models of “prohibitionism” and the phenomenon of trafficking for sexual exploitation in the sex industry.*
15. *Whatever the model on prostitution that Member States take action to implement, violence will be higher in the sector (outdoor/indoor) of trafficked prostitution in which traffickers/exploiters are more active. The level of violence, independent from its causes and from the sector of trafficked prostitution (outdoor and indoor), will probably be higher in the new EU Member States.*





## **ANNEX A**

### **QUESTIONNAIRE FOR NATIONAL EXPERTS**



**NOTE TO HELP THE EXPERT IN THE COMPILATION OF THE QUESTIONNAIRE**

Questions 5 to 9 divide the prostitution market into *indoor* and *outdoor*. For the purposes of this study *indoor* prostitution refers to apartments, brothels, hotels, night clubs, pubs, saunas and parlours. *Outdoor* prostitution refers to the sex market that takes place in the streets.

For *consensus* at question no. 6 it is meant the total or partial willingness of the victims to be inserted into the prostitution market.

n. a. = not available.

**A) NATIONAL LEGISLATIVE PATTERN ON PROSTITUTION**

1. Do you agree with the contents of the attached country profile? Do you have any comments/suggestions?

2. Are there any political trends, legislative proposals, public discussion, etc. aiming to modify the existing legislation on prostitution in your country?

**B) DATA ON THB FOR SEXUAL EXPLOITATION**

3. Which are the authorities that collect data on THB in your country? Can you provide us with raw data on offences and offenders (possibly from 1996 to 2003)?

Comment:

Year	Offences	Offenders
1996		
1997		
1998		
1999		
2000		
2001		
2002		
2003		

4. Are there any specific data on victims of THB for sexual exploitation? Can you provide us with raw data on victims who came in contact with NGOs or with the police/judicial authorities (possibly from 1996 to 2003)?

Comment:

Year	No. of victims
1996	
1997	
1998	
1999	
2000	
2001	
2002	
2003	

### C) EXPLOITATION FORMS

5. In your opinion, what is the percentage of exploited prostitution in the different markets?

INDOOR

%

OUTDOOR

%

If possible break down according to these categories:

Apartments	%
Brothels	%
Hotels	%
Night clubs	%
Pubs	%
Saunas/parlours	%

6. In your opinion, what is the frequency of violence and consensus in the different markets of prostitution? (*only one answer per sector is allowed*)

Violence	Indoor	Outdoor
never		
seldom		
often		
always		
n. a.		

7. In your opinion, what kind of violence is perpetrated during the exploitation? (*more than one answer per sector is allowed*)

Violence	Indoor	Outdoor
----------	--------	---------

physical		
sexual		
psychological		

8. In your opinion, what kind of methods of control are maintained by the exploiters? (*more than one answer per sector is allowed*)

Control	Indoor	Outdoor
visual control by traffickers		
visual control by other prostitutes		
control by mobile phone		
control of the no. of condoms		
reclusion/freedom restriction		
other (specify) <input type="text"/>		

- 8.1 In your opinion, what is the frequency of the controls during the day? (*only one answer per sector is allowed*)

Frequency of the control	Indoor	Outdoor
never		
seldom		
often		
always		
n. a.		

9. In your opinion, how long does the average duration of exploitation last? (*only one answer per sector is allowed*)

Duration of exploitation	Indoor	Outdoor
up to 1 month		
1-3 months		
3-6 months		
6 months to 1 year		
1-3 years		
unlimited		
n. a.		

- 9.1 In your opinion, is there any variation in the duration of exploitation among the different places of the *indoor* market (i.e. apartments, brothels, hotels, night clubs, pubs, saunas/parlours)?

9.2 In your opinion, does the duration of exploitation change regarding to the nationality of the victims? If yes please explain why and how.

10. In your opinion, what is the percentage of earnings kept by the victims? (*only one answer per sector is allowed*)

Percentage of earnings kept	Indoor	Outdoor
0		
0-30		
30-50		
50-80		
80-100		

10.1 In your opinion, is there any variation in the money kept by the victims regarding their nationality? If yes please indicate the trends.

### C) POLICIES ON PROSTITUTION

11. In your opinion, does the way in which the prostitution market is regulated in your country influence the number of the victims of THB (quantitative aspect) and the methods of exploitation (qualitative aspect)? If yes please explain why and how.

12. In your opinion, are there any other factors that influence these quantitative/qualitative aspects (e.g. geographic position, immigration, anti-trafficking legislations, etc.)? If yes please explain why and how.

---

## **ANNEX B**

### **METHODOLOGY TO MEASURE THE VIOLENCE INDEX**





The following steps were followed when measuring, in each country, the level of violence exercised by traffickers/exploiters on the trafficked victims in *outdoor* and *indoor* prostitution.

**STEP 1. Selection of the indicators.** The first step was to select the indicators of violence perpetrated by the exploiters in the *indoor* and *outdoor* market of prostitution. They are: A) the frequency of violence used; B) the kind of violence; C) the kind of method of controls used by the exploiters; D) the frequency of the controls during the day; E) the average of the duration of exploitation.

**STEP 2. Preparation and sending of the questionnaires.** The selected indicators were translated into questions, which were then incorporated into a questionnaire (see *Annex A*) and sent to the national expert for each selected Member State.

**STEP 3. Quantification of the level of violence perpetrated by the exploiters in the indoor and outdoor market of prostitution.** For each indicator/question, some modalities/answers were possible. To each modality/answer a numerical value on a scale from 0 to 100 was assigned. The closer the numerical value to 100, the greater the violence is in the *indoor/outdoor* market with regard to that indicator. Below are the indicators with the possible modalities/answers with the numerical value assigned.

INDICATOR 1: frequency of violence in the different markets of prostitution.

<b>Violence</b>	<b><i>Indoor</i></b>	<b><i>Outdoor</i></b>
Never	0	0
Seldom	33	33
Often	67	67
Always	100	100

INDICATOR 2: kind of violence perpetrated during the exploitation.

<b>Violence</b>	<b><i>Indoor</i></b>	<b><i>Outdoor</i></b>
1. physical	33	33
2. sexual	33	33
3. psychological	33	33
2 out of the 3 above modalities	67	67
All the 3 above modalities	100	100

INDICATOR 3: kind of methods of control maintained by the exploiters.

Control	Indoor	Outdoor
1. visual control by traffickers	16,6	16,6
2. visual control by other prostitutes	16,6	16,6
3. control by mobile phone	16,6	16,6
4. control of the no. of condoms	16,6	16,6
5. reclusion/freedom restriction	16,6	16,6
6. other (specify) <input type="text"/>	16,6	16,6
2 out of the 6 above modalities	33,3	33,3
3 out of the 6 above modalities	49,9	49,9
4 out of the 6 above modalities	66,6	66,6
5 out of the 6 above modalities.	83,3	83,3
All the 6 above modalities	100	100

INDICATOR 4: frequency of the controls during the day.

Frequency of the control	Indoor	Outdoor
never	0	0
seldom	33	33
often	67	67
always	100	100

INDICATOR 5: average of the duration of exploitation.

Duration of exploitation	Indoor	Outdoor
up to 1 month	16,6	16,6
1-3 months	33,3	33,3
3-6 months	49,9	49,9
6 months to 1 year	66,6	66,6
1-3 years	83,3	83,3
unlimited	100	100

For each country a *Violence Index* was constructed, which quantified, on a scale from 0 (no violence) to 100 (maximum violence), the level of violence exercised by traffickers/exploiters on the trafficked victims in *outdoor* and *indoor* prostitution. This index was developed by calculating the average from the numerical values assigned to each indicator

of violence. *The higher this index, the greater the violence perpetrated during the exploitation process in the analysed country.*

Both in cases of non-reply or the indicator's non-availability, the indicator was not taken into account in the calculation.



## **ANNEX C**

### **ADDITIONAL QUESTIONNAIRE FOR NATIONAL EXPERTS – EFFECTS OF THE INTERVENING FACTORS ON THB FOR SEXUAL EXPLOITATION**



On 26 May 2005 Transcrime presented the *Interim study on National Legislation on Prostitution and the Trafficking in Women and Children* to the European Parliament.

The Interim study dedicated its chapter 9 to the analysis of the correlations between typologies/models of legislation on prostitution and quantitative and qualitative aspects of trafficking. The study highlighted possible other intervening factors, besides from policies on prostitution, that could influence THB. The European Parliament was particularly interested in this issue and asked for a refinement and a systematisation of these factors to be inserted in the final version of the study.

For this reason, the table below lists the most significant intervening factors, as emerged from the answers to the questionnaire provided by the national experts during the first phase of the study.

We wished to improve the understanding of the impact of these factors on THB across the European Union, and to better systematise the results of the previous phase of the study. Therefore, for each intervening factor existing in his/her country, we asked the national expert, on the basis of his/her personal experience and/or on the available data, to:

- mark the level of impact on the quantitative and qualitative aspects of THB (from “very low effect” to “very strong effect”) [When a factor is not significant or not applicable in the country, please check “no effect”] (Part 1);
- provide a brief description or examples of how the factors influence THB in the country (Part 2).



**PART 2. BRIEF DESCRIPTION OR EXAMPLES OF HOW THE FACTORS INFLUENCES THB IN THE COUNTRY**

The geographical position of the destination country

The cultural and linguistic similarities between the country of origin and the country of destination

The strict migratory regulations of the destination country

The entrance into the European Union of new Member States

The differential in level of welfare between the country of origin and the country of destination

The feminisation of poverty and rate of unemployment

The countries' level of anti-trafficking control measures

Other factors...





## **ANNEX D**

### **METHODOLOGY TO MEASURE THE EFFECT OF THE INTERVENING FACTORS ON THB FOR SEXUAL EXPLOITATION**



The following steps were followed in measuring the effect of the intervening factors, other than legislations/models on prostitution, on THB for sexual exploitation in the selected countries.

*STEP 1. Selection of the intervening factors.* The most significant intervening factors, besides from policies on prostitution, that can influence THB were selected. The selection concentrated on those factors that had emerged from the answers provided by the national experts, to the first phase questionnaire. They are: A) the geographical position of the destination country; B) the cultural and linguistic similarities between the country of origin and destination country; C) the strict migratory regulations of the destination country; D) the entrance into the European Union of new Member States; E) the differential in level of welfare between the country of origin and the destination country; F) the feminisation of poverty and rate of unemployment; G) the level of anti-trafficking control measures in the country.

*STEP 2. Preparation and sending of the questionnaires.* These selected intervening factors were incorporated into an additional questionnaire (see *Annex C*) which was sent to the national expert for each selected Member State. The national expert was asked to assign a level of effect for each intervening factor existing in his/her country with a bearing on THB for sexual exploitation (from “very low effect” to “very strong effect”).

*STEP 3. Description of the effect of the intervening factors on THB for sexual exploitation in each selected Member State.* On the basis of the replies to the questionnaire, it was possible to describe the effect of each intervening factor existing in the Member State.

*STEP 4. Quantification of the effect of the intervening factors on THB for sexual exploitation at the EU level (eleven selected Member State).* As shown in the above table, for each factor, in each country, a numerical value on a scale from 0 to 100 was assigned to the six possible levels of effect of the intervening factors on THB. The closer the value to 100, the greater the effect of the factor on THB.

For each intervening factor, an *EU Level of Effect Index*, i.e. the level of effect that the factor has on THB at the EU level (eleven selected Member States), was developed by calculating the average from the numerical values assigned to that factor for that country. *This index goes from 0 (no effect on THB) to 100 (very strong effect on THB). The higher this index, the greater the effect of the factor on THB at the EU level.*

**FACTORS OTHER THAN LEGISLATION TYPOLOGIES/MODELS ON PROSTITUTION THAT MAY AFFECT THE  
NATURE AND EXTENT OF TRAFFICKING IN THE SELECTED COUNTRY. LEVEL OF EFFECT ON THB FOR  
SEXUAL EXPLOITATION**

<b>FACTOR \ EFFECT ON THB</b>	<b>NO EFFECT ON THB</b>	<b>VERY LOW EFFECT ON THB</b>	<b>LOW EFFECT ON THB</b>	<b>MEDIUM EFFECT ON THB</b>	<b>STRONG EFFECT ON THB</b>	<b>VERY STRONG EFFECT ON THB</b>
THE GEOGRAPHICAL POSITION OF THE DESTINATION COUNTRY	0	20	40	60	80	100
THE CULTURAL AND LINGUISTIC SIMILARITIES BETWEEN THE COUNTRY OF ORIGIN AND THE DESTINATION COUNTRY	0	20	40	60	80	100
THE STRICT MIGRATORY REGULATIONS OF THE DESTINATION COUNTRY	0	20	40	60	80	100
THE ENTRANCE INTO THE EUROPEAN UNION OF NEW MEMBER STATES	0	20	40	60	80	100
THE DIFFERENTIAL IN LEVEL OF WELFARE BETWEEN THE COUNTRY OF ORIGIN AND THE DESTINATION COUNTRY	0	20	40	60	80	100
THE FEMINISATION OF POVERTY AND RATE OF UNEMPLOYMENT	0	20	40	60	80	100
THE LEVEL OF ANTI-TRAFFICKING CONTROL MEASURES OF THE COUNTRY	0	20	40	60	80	100
OTHER. PLEASE SPECIFY <input type="text"/>	0	20	40	60	80	100
OTHER. PLEASE SPECIFY <input type="text"/>	0	20	40	60	80	100
OTHER. PLEASE SPECIFY <input type="text"/>	0	20	40	60	80	100