

Comparative Report: Disrupt Demand

Working for equality



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About the Author

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Project Partners

Immigrant Council of Ireland is the lead partner in the Disrupt Demand project and is a human rights organisation and law centre. It supports and advocates for the rights of immigrants and their families and acts as a catalyst for public debate, legal and policy change. The Immigrant Council of Ireland is also a leading anti-trafficking organisation with expertise in policy and legislative change in this area. It has considerable experience with leading EU projects in the area of human trafficking and has produced high quality research and submissions, including on the issue of demand reduction.

Mouvement du Nid is a grassroots organisation and a social movement in France that acts in support of prostituted persons and is in opposition to the prostitution system that exploits their precarious conditions and vulnerability. Mouvement du Nid concentrates on the causes and consequences of prostitution.

Institute for Feminism and Human Rights is an international not-for-profit policy and research institute based in Sweden with members in a number of countries in Europe and internationally. The Institute for Feminism and Human Rights works to prevent and eliminate the socio-economic, legal and political discrimination of women and girls through the use of feminist strategies and research methods, and the application of international, regional and national human rights instruments.

Klaipeda Social and Psychological Services Center is a Lithuanian based non-governmental and non-profit organisation. Its main goal is to provide psychosocial help for victims of violence (physical, psychological, sexual, economical and institutional), including trafficking in human beings and sexual exploitation for the purposes of prostitution.

Mediterranean Institute for Gender Studies is a Cyprus-based non-governmental organisation primarily focused on gender equality and women's rights. The Mediterranean Institute for Gender Studies works to eliminate all forms of discrimination against women through a combination of research, lobbying and advocacy, education and training, awareness-raising, as well as the provision of expertise and consultancy services. The organisation has been working on demand reduction and prevention strategies in Cyprus, ultimately aiming at substantive legal changes.

EXIT (Exit – pois prostituutiosta ry) is a Finnish non-governmental organisation working to diminish prostitution and sexual maltreatment by focusing on preventive and advocacy work and participating in public debate. Youth Exit (Nuorten Exit) works on the domain of primary and secondary prevention of sexual maltreatment and paid sex with a focus on adolescents and young adults. The Exit Prostitution Association also works with substance abusers aged 18 to 25 years, providing counselling regarding sexual violence, different forms of maltreatment and prostitution.

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1

Introduction

This section provides the background to the ‘Disrupt Demand’ project, which was a ‘study examining campaign strategies in EU Member States to introduce legislative measures to discourage demand for sex trafficking’. The project is funded by the Internal Security Fund of the European Union (HOME/2015/ISFP/AG/THBX).

1.1. European Directives and international instruments addressing demand

Directive 2011/36/EU (replacing Council Framework Decision 2002/629/JHA)¹ is the most recent indication of the commitment of the European Union to addressing the demand for human trafficking. Article 18 states:

Member States shall take appropriate measures, such as education and training, to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings.

Part 4 specifically addresses the use of the services of victims of trafficking:

In order to make the preventing and combating of trafficking in human beings more effective by discouraging demand, Member States shall consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation as referred to in Article 2, with the knowledge that the person is a victim of an offence referred to in Article 2.

This directive reflects and re-enforces international instruments and conventions which specifically address demand. In 1949, the UN adopted the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*.² The Convention is one of the few international human rights instruments which sets forth the principle that prostitution and trafficking are ‘incompatible with the dignity and worth of the human person’. Women in prostitution are not to be considered as criminals but as victims who the state has a responsibility to protect. The Convention advocates punishment for those ‘who procure, entice or lead’ others into prostitution. Article 6 of The United Nations *Convention on the Elimination of all Forms of Discrimination against Women* (CEDAW) (1979) also stipulates:

States parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

1. Directive 2011/36/EU of the European Parliament and of the Council of the European Union on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, 2011 O. J. L 101 of 15.4.2011. URL: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>

2. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. Approved by General Assembly resolution 317 (IV), 1949. URL: https://ec.europa.eu/anti-trafficking/legislation-and-case-law-international-legislation-united-nations/convention-suppression-traffic_en

Over the past two decades international concern regarding the rise in trafficking of human beings has resulted in international instruments, conventions and directives. In 2000, the UN Assembly adopted the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*,³ which provided a definition and framework forming the basis of legislation at a global level. The Palermo Protocol (as it is known) specifically requires Member States to address demand. Article 9 urges states to:

Adopt or strengthen legislative or other measures, such as educational, social or cultural measures... to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

The Council of Europe *Convention on Action against Trafficking in Human Beings*⁴ also

urges states to consider taking measures to criminalise the use of services which are the object of exploitation, with the knowledge that the person is a victim of trafficking (Article 19).

These international instruments and the European Directive urging Member States to take action to address demand have led to the introduction of specific legal provisions and targeted measures in most Member States. However, despite these initiatives, trafficking has continued to grow within and into the European Union. This has increased the need to assess the effectiveness of measures aiming to reduce demand for the buying of services from victims of trafficking, in particular demand for buying sex from victims of trafficking for sexual exploitation.

1.2 'Disrupt Demand'

Within this context the 'Disrupt Demand' project is timely. The project is designed to support efforts to prevent human trafficking for sexual exploitation by reducing demand, through mapping and analysing successful strategies involving legal changes, and fostering co-operation among key stakeholders. For this purpose, existing laws and implementation strategies addressing demand and mechanisms for monitoring their effectiveness were analysed with a view to identifying and promoting good, transferable practice among Member States. The project is led by the Immigrant Council of Ireland, an organisation recognised as a leading anti-trafficking civil society organisation and licensed independent law centre in Ireland, with expertise in policy and legislative change in this area. The partners are Mouvement du Nid (MdN) which were instrumental in effecting comprehensive legislative change for demand reduction in France, enacted in early 2016. The Institute for Feminism and Human Rights (IFHR) brings valuable expertise and knowledge from

Sweden, a country which has implemented legal change to effectively reduce demand and prevent human trafficking for over 20 years. Klaipeda Social and Psychological Services (KSPSC) in Lithuania is a lead non-governmental organisation (NGO) and service provider attempting to influence legislative change to tackle demand. Mediterranean Institute for Gender Studies (MIGS) has vast experience in research programmes and EU funded projects, and has been working on demand reduction and prevention strategies in Cyprus. Exit Prostitution Association is a lead organisation in monitoring and evaluating legislative change and the implementation of demand-reduction measures in Finland.

3. UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000. URL: <http://www.refworld.org/docid/4720706c0.html>

4. Convention on Action against Trafficking in Human Beings, 2005 O. J. L 197.

1.3 Consultation process

A consultation process was conducted in Dublin in the initial phase of the project with the leading experts from the partner organisations represented: firstly, to ensure a shared understanding of the project aims and secondly, to facilitate discussion and build agreement on the purpose and content of the national and comparative reports. The researcher designed a draft template for the production of national reports which was sent to all partners prior to the consultation process. The template focused

on the legislative and policy context addressing demand and specific campaign strategies in relation to achieving legislative change in each country. This ensured clarity and consistency in relation to the data which should be gathered and the writing format and structure of the reports. The template was amended following the consultation process (see Appendix 1). Six national reports were compiled and sent to the researcher and form the basis of the main sections of this comparative report.

1.4 The national reports

The national reports contain a broad overview of trafficking and prostitution in the six Member States with a specific focus on demand for the purchase of sex from victims of trafficking. The reports are not exhaustive but seek to provide a comprehensive picture of the response to demand in their respective countries, drawing on data from research, government reports, police crime statistics and reports. The reports contain a brief historical and cultural background; the national legislative and policy frameworks to address trafficking;

structural mechanisms including National Referral Mechanisms; historical and current responses to prostitution in each country; law enforcement measures relating to the demand for the purchase of sex; public awareness campaigns; and strategies employed by the NGO sector to achieve legislative change in relation to demand. The analysis of the political and cultural context surrounding the phenomena of trafficking and prostitution reflects the views of each individual expert.

1.5 The comparative report

This report specifically focuses on measures to address demand for the purchase of sex from victims of human trafficking and from women and girls exploited in prostitution. Section 2 contextualises the issue of demand for the purchase of sex from victims of trafficking within the wider context of the gendered nature of trafficking and the commercial sex trade, into which the majority of girls and women are trafficked. Section 3 is drawn from the six national reports providing an analysis of the response to demand in the six countries, including: the profile of women who are prostituted and trafficked; the profile of the buyers of sex; analysis of the current legal and policy frameworks; the enforcement and

implementation of the laws addressing demand; the wider approach to the criminalisation of the organisers who facilitate and profit from supplying girls and women to meet demand; and public awareness campaigns addressing demand. Where empirical studies are directly cited from the national reports they are referenced in this text and further research, government data and reports cited in the national reports are listed in Appendix 2 to facilitate ease of reading. The outcomes of this project and this comparative report will contribute to our understanding of the effectiveness of measures to address demand in Member States.

2

Background context to trafficking for sexual exploitation, prostitution and demand

2.1 Trafficking in human beings

Trafficking in human beings is a complex phenomenon, intersecting with poverty, war and conflict, migration, socio-economic and gender inequalities, and violence against women. Impoverished regions of the world face high levels of indebtedness, deepening economic crises, increased gender inequalities and lowered social protection for women (UNESCO, 2004). The number of international migrants worldwide has continued to grow rapidly in recent years, reaching 258 million in 2017 with a constant migratory flow of people from poorer, less economically advanced regions and countries into richer, post-industrialised areas of the world (UN, 2017). On the other hand, restrictive migration policies and limited legal avenues to migrate create a context in which a range of people seek to profit by 'facilitating' movement and migration, including smugglers and traffickers. This places people in precarious situations where they are *'embarking on even more hazardous crossings'* (UNFPA, 2006:10). It is within these *'fertile fields of exploitation'* (Kelly, 2005:5) that vulnerable girls and women are easily targeted by operators who rapidly identify the potential for huge profit in 'facilitating' illegal migration and human trafficking, ensuring a supply of people to meet the demand for cheap, migrant labour, which in turn furnishes opportunities for exploitation in economic sectors of destination countries (Kelly, 2002). Trafficking, smuggling and illegal migration intersect and overlap in origin countries and what may begin as voluntary migration *'can result in trafficking and/or exploitation at a later stage'* (Anderson and Rogaly, 2005:19); a mutual agreement to be smuggled can result in a trafficking situation *'depending upon the actual conduct of the persons facilitating this form of illegal migration'* (Cadell, 2008:121). Once embarked upon a route of irregular migration, the evidence suggests the potential for exploitation is high, thus as Melrose (2010) argues, it is perhaps best to conceptualise these processes as existing on a *'continuum of predatory and exploitative practices'* (ibid:60). The current migration crisis created by war and conflict has exacerbated the risks for vulnerable people of being trafficked, due to the displacement of large masses of people and increasing numbers of people both being forced and desperately seeking to migrate. Women and girls are highly vulnerable and at risk of human trafficking for sexual exploitation in these precarious situations (Akee, Basu, Chau and Khamis, 2016).

Human trafficking is a highly gendered phenomenon. Data generated since 2005 by US State Department's *Trafficking in Persons Reports* (TIP) on transnational trafficking in persons estimates that between 600,000 to 800,000 men, women, and children are trafficked across international borders each year. A total of 80 per cent are women and girls, with up to 50 per cent under 18, the majority of whom are trafficked into commercial sexual exploitation. The International Labour Organisation (ILO) estimates 20.9 million people globally are victims of forced labour, including trafficking for sexual exploitation, and that this *'captures the full realm of human trafficking for labour and sexual exploitation'* (ILO, 2010:13). Within this, 4.5 million (22 per cent) are estimated to be victims of forced sexual exploitation and 14.2 million are victims of forced labour exploited in the private economy. Data from the United Nations Office on Drugs and Crime (UNODC) indicates the vast majority, 96 per cent, of the identified victims of trafficking in human beings for sexual exploitation are female (UNODC, 2010). Trafficking into and within the European Union is highly gendered with three-quarters (75 per cent) of victims for all purposes being female. Data from Eurostat (2015) indicates a distinct gender split within the different types of exploitation, with trafficking for the purpose of sexual exploitation being the most prevalent form of trafficking in the EU (two-thirds or 67 per cent) and nearly all, 96 per cent, women.

Estimates of victims of human trafficking are based on those identified and registered as such in nation states. Therefore, despite the improved global estimates provided by bodies such as the ILO, UNODC and Eurostat, the ILO acknowledge an ongoing lack of reliable national data, made all the more complex by significant variations in the interpretation of the UN Protocol and depending upon who has the role of identifying victims of trafficking. Thus, the ratio between estimates of those who are identified as victims of trafficking and those who remain unidentified varies according to expert opinions, with estimates falling within a range of one in four, one in 10 and one in 20 (Di Nicola *et al.*, 2005; Kutnik *et al.*, 2007; UNODC, 2010).

2.2 Gender, migration, trafficking and prostitution

The demand for cheap labour continues to grow in particular sectors of the economies of richer countries with high levels of exploitation and most irregular migrants and trafficked people will find themselves within this *'shadow economy'* (Sassen, 2003:264); locations where, as many commentators have observed, the normal protections of the state and the legal systems are largely absent (Aronowitz, Theuermann and Tyurykanova, 2010; Van Liemt, 2004). Female migrants are mainly located within the personal services or *'tertiary sector'* (Monzini, 2005:70) including care work, catering, domestic labour, contract cleaning, and the *'sexual entertainment'* and prostitution sectors. Migrant women now make up between 80 per cent and 90 per cent of those in prostitution in Italy, Spain, Austria and Luxembourg, and between 60 per cent and 75 per cent in Finland, the Netherlands, Belgium, Germany, France, Greece, Denmark and Norway (Tampep, 2009), suggesting an average of 84 per cent which is the widest range of nationalities in any one region (UNODC, 2010). The routes of migrant women into prostitution and international trafficking reflect the same pattern from less developed and poorer regions to richer ones, leading from the global South to the North. However, in the European context, the majority of victims of trafficking for the purpose of sexual exploitation are now female EU nationals from the poorer regions in Central and Eastern European states to the wealthier Western European Member States (Europol, 2016). The emergence of *'transnational red-light districts'* in border regions in Europe such as Germany and the Czech Republic and Finland and Russia have been described as *'locations where the gendered and ethnicised demand of the wealthy and the supply of the poor are encountered in their most visible form'* (Marttila, 2008:33).

The commercial sex trade is a highly lucrative location for exploiting women due to a number of factors including: the demand for a constant supply of new girls and women to meet male demand; the level of criminality, illegal activity, coercion and violence within the prostitution-related activities; the high profit margins for pimps and brothel owners in the organisation of the sale of commercial sex; and the potential for multiple occasions of use and exploitation (D'Cunha, 2002; Monzini, 2005; Kelleher *et al.*, 2009). The UNODC (2010) estimates that as many as one million women in Europe are involved in prostitution

and one in seven of the women involved in this industry are trafficking victims, amounting to 140,000 women in total. It is estimated that in any national regime that regulates prostitution activities, between 10 per cent and 24 per cent of women will fit the international definition of being trafficked (Kutnik *et al.*, 2007; Seo-Young *et al.*, 2012) and that the profits alone from trafficked women in Europe could be as high as €2.5 billion (UNODC, 2010). Significantly, research consistently indicates victims of trafficking are inserted into the prostitution market, in which the demand for adult women as well as underage girls is high, and are intended for the same kind of users who consider the women and girls to be *'interchangeable goods'* (Monzini, 2005:3). Consequently, any measures seeking to address human trafficking for sexual exploitation must recognise victims *'can be hidden within mixed populations of independent, exploited and coerced prostitutes and in mixed migration flows'* (Walby *et al.*, 2016).

In this context it is important to refer to the definition of human trafficking within the UN Palermo Protocol, which defines the broad range of situations of recruitment and transportation in which the consent of the person is deemed to be irrelevant where consent has been acquired by means of force, coercion, deception, fraud, the abuse of power over a person in a position of vulnerability or of the giving or receiving of payments or benefits in order to gain control of a person. As Sigma Huda, the UN Special Rapporteur on Violence against Women argues, it is rare that entry to and involvement in prostitution *'does not involve, at the very least, an abuse of power and/or an abuse of vulnerability'* including *'power disparities based on gender, race, ethnicity and poverty'*, and that therefore, one can conclude *'for the most part prostitution as actually practiced in the world, usually does satisfy the elements of trafficking'* (Huda, 2006:23).

2.3 Gender equality and violence against women

The Resolution of the European Parliament of 26 February 2014 specifically addresses the impact of sexual exploitation and prostitution on gender equality (2013/2103(INI)). It recommends the European Commission undertakes further research on patterns of prostitution, trafficking for the purpose of sexual exploitation and the increased level of sex tourism in the EU. The Walby *et al.* (2016) study into the gender dimensions of trafficking recognises that while in legalised or regulated systems of prostitution, such as in Germany and the Netherlands, a certain level of exploitation is considered acceptable and legal when it is *'proportionate'*, in another sense:

the taking of profits from the selling of sex may be considered unreasonable exploitation per se, in the context of the pursuit of the goal of gender inequality whereby mutuality rather than commercial exchange in intimacy is regarded as an essential part of a system of gender equality (Walby et al., 2016:28).

The report also recognises the specific harm of sexual exploitation in that there are:

severe, brutal and long-term, gender-specific physical, gynaecological and mental health harms, risks to life and traumas from trafficking for purposes of sexual exploitation (Walby et al., 2016:8).

This reflects a substantial body of empirical evidence on the harm of sexual exploitation for trafficked and prostituted women. In a study of 207 girls and women who had been trafficked, almost all (95 per cent) had been subjected to severe and on-going physical and sexual violence; over half (57 per cent) reported physical injuries; 89 per cent reported threats of violence to themselves and their families including threats to kill, and 70 per cent reported that they had no freedom of movement (Zimmerman *et al.*, 2006). Numerous studies indicate the consequences of being exploited in prostitution for women's physical, sexual, reproductive and mental health are severe and that the rates and frequency of extreme violence, including homicide, are exponentially higher for women in prostitution than the general population of women and girls (Coy, 2009; Farley *et al.*, 2003; O'Connor, 2017; Potterat *et al.*, 2004; Raphael and Shapiro, 2002; Raymond *et al.*, 2002)

2.3 Gender equality and violence against women

Human traffickers operate within global supply and demand chains involving the targeting, recruitment and coercion of vulnerable people, those who transport and move people into destination countries' exploitative markets, those who profit from the exploitation of victims in those destination countries and the final link in the chain of exploitation, the buyer or consumer of labour or services from those victims (Monzini, 2005). The ILO uses the term *'demand'* as *'the desire and preference for a particular commodity labour or service'* and the term *'demand side'* of trafficking to describe the *'nature and extent of exploitation of the trafficked victims after reaching the destination point'*. They also factor in the *'social, cultural, political, economic, legal and development factors that*

shape the demand and influence or enable the trafficking process' (ILO, 2006:2). However, without the demand for specific goods or services there would be no market and therefore no need for a supply. The International Organisation for Migration (IOM) identifies demand as the root cause of trafficking while acknowledging other contributing factors:

The demand for cheap labour, sexual services and certain criminal activities are root causes of trafficking. Poverty of opportunity and resources, as well as a lack of social power are other contributing factors. (IOM, 2014)

Some argue the demand for a service or goods does not necessarily mean a deliberate or intentional demand for that service or goods to be produced

by an exploited or trafficked person. However, in unregulated and exploitative sectors the ILO (2006:15) concludes that in reality 'demand for labour/services' may be indivisible from 'demand for labour/services from a trafficked person' and that studies of the demand aspect of trafficking should 'focus more broadly on demand for a certain type of labour/services' (2006:15).

A recent report examining progress taken by the European Commission and any other relevant stakeholders under the EU Strategy towards the eradication of trafficking in human beings (2012–2016) states:

Trafficking in human beings is a crime driven by demand and profit. The profits, in both the legal and illegal economies, result in a complex interplay between supply and demand that must be addressed if the crime is to be eradicated.

In relation to trafficking for sexual exploitation, this 'complex interplay' involves traffickers and recruiters targeting and exploiting vulnerable girls and women in order to supply them to the commercial sex trade; local pimps and prostitution 'businesses' and organisers profiting from that exploitation; and the demand from buyers of sex for a fresh supply of women and girls to meet their sexual demands in the commercial prostitution trade. As Walby et al. (2016:23) state:

Demand reduction concerns changing the wider environment into which people may be trafficked so as to reduce incentives for trafficking. In the case of trafficking for purposes of sexual exploitation, this wider environment is critically shaped by the institution of prostitution.

“

The demand for cheap labour, sexual services and certain criminal activities are root causes of trafficking. Poverty of opportunity and resources, as well as a lack of social power are other contributing factors. (IOM, 2014)

3

Comparative analysis of demand in the six Member States

3.1 Gender equality and violence against women

The critical importance of locating the issues of human trafficking, prostitution and demand firmly within a gender equality and gender-based violence framework underpins the six national reports, written by country experts. There is a shared understanding of trafficking and prostitution as gender specific forms of exploitation, both rooted in and causing gender inequality:

*Like other types of gender-based violence, such as domestic abuse and structural violence against women, trafficking for the purposes of sexual exploitation has wider causes of gender and social inequalities, and has wider social implications beyond the obvious and immediate damage to the victims of trafficking only. **Cypriot report***

The Cypriot expert also highlights how patriarchal values strongly promote the gender stereotypes and the objectification of women in Cyprus, especially migrant women, which *inter alia* normalises and increases demand for sexual services. This is demonstrated by the flourishing businesses of cabaret, nightclubs, bars, private apartments and massage parlour owners, which have become the location for the exploitation of thousands of trafficked women.

The Finnish expert finds political responses to trafficking for sexual exploitation and prostitution are framed by perspectives on violence against women. She explains that despite being regarded in many ways as a forerunner of women's citizenship and women's civil and political rights, Finland has struggled with adopting new policies and legislation when it comes to women's rights for their bodies and sexuality:

*The latest CEDAW report in 2014 criticised Finland once again for neglect concerning legislation on rape, support services for victims of rape, prostitution and domestic violence practices and services. These contexts frame the public and political attitude to prostitution in Finland. **Finnish report***

Prostitution is understood by all the experts as a serious barrier to gender equality, which is not just harmful to the prostituted woman or child, but also to society at large. Trafficking and prostitution are regarded as incompatible with internationally accepted principles of human

rights and the dignity and worth of the human person and the equal rights of men and women:

*To end prostitution and human trafficking for sexual purposes, the political, social, legal and economic conditions under which women and girls live should be ameliorated by introducing measures such as poverty reduction, sustainable development, measures that promote gender equality and counteract male violence against women and girls, as well as social programmes focusing specifically on women and girls. **Swedish report***

The Lithuanian report describes how the intersection of gender inequality and poverty is a driving factor in making girls and women vulnerable. Furthermore it outlines how pimps and traffickers intentionally target girls and women who experience economic, racial and/or ethnic marginalisation and discrimination:

*Fewer available jobs for women in the job market, gender discriminatory work policies, high level of unemployment, the wider economic situation, the low status of females in society and the problem of unequal opportunities for men and women are all push factors, with the main pull factor being the powerful demand for 'sexual services'. Networks of casinos and striptease clubs are expanding, and the means to recruit women for sexual exploitation are changing. **Lithuanian report***

The harm to women's physical, sexual, reproductive and psychological health is highlighted by the experts, all of whom work directly with trafficked women and women in prostitution and/or work closely with specialist services:

*Regardless of location and operating mode, prostitution behind closed doors forges a lawless zone where all types of violence go unpunished: insults, humiliations, assaults, rapes and even murders. Beyond this violence, the imposed sexual act itself is a form of violence, as proven by the physical and psychological damage and trauma presented by prostituted persons. **French report***

The consistent rise in the number of girls and women trafficked and prostituted in the European Union is of grave concern to all the experts. The Irish report reveals the highly organised and mobile nature of the contemporary sex trade where

international traffickers collaborate with pimps and prostitution agencies in destination countries in the commercial sexual exploitation of women and girls:

The sex industry is present and thriving in every county in Ireland; it is a highly gendered phenomenon and there are clearly interconnections between prostitution and trafficking for the purposes of sexual exploitation. Irish women still constitute a small number of women in prostitution but the vast majority of women are young, vulnerable migrants recruited and trafficked from impoverished regions of the world. Irish report

While they acknowledge EU and Member State initiatives to address this phenomenon, there is consensus that without recognising the demand to have girls and women available for sale as the root cause of trafficking for sexual exploitation, measures to combat it will fail:

It is understood that if men did not consider it their incontrovertible right to buy and sexually exploit women and children, prostitution and trafficking in human beings for sexual purposes would not occur. Swedish report

3.2 The profile of trafficked women and women in prostitution

The six Member States are countries of destination and transit for victims of trafficking, with Lithuania also being an origin or source country. The profile of women and girls who are trafficked and recruited into the commercial prostitution trade of the six countries reflects the general European pattern that the majority are migrant girls and women from impoverished regions of the world and the European Union, although national citizens still constitute a minority of women and girls who are trafficked and prostituted in each country. Third country nationals who are consistently identified across the six Member States include women from West Africa, particularly Nigeria, and Brazil, China, Ukraine and Russia. However, all six countries have seen a major increase in European citizens being identified as victims of trafficking, visible in indoor and street prostitution: in particular women from Lithuania, Estonia, Bulgaria, Latvia, Poland and Romania. Street prostitution remains visible in all countries but to a far lesser extent as the current commercial prostitution trade is primarily located in indoor venues such as nightclubs, strip clubs and massage parlours. It is increasingly found in private premises such as hotels and apartments, mainly organised through the internet, as well as in the homes of the prostitution users. The lack of available, reliable and consistent data in relation to the numbers of women in prostitution and those identified as victims, trafficked for sexual exploitation, was an issue of concern for most countries.

The historical and geopolitical contexts and the specific patterns of migration pertaining to each Member State has an impact on who constitutes victims of trafficking and those exploited in prostitution. In Cyprus, many migrant women have historically been and still are trafficked in Cyprus for sexual exploitation under the pretext of working as 'entertainment' dancers in cabarets and nightclubs by obtaining the 'artiste' visas (now renamed as 'performer' visa). The term 'artiste' in Cyprus has been used interchangeably with the term 'prostitute' not only by the wider Cypriot society, but also by the state itself since the mid-70s. During the 1980s the issue of the 'artistes' became subject to heated debate, since migrant women working under this specific status were often forced and coerced into prostitution. This resulted in attempts from the relevant governmental authorities to implement stricter criteria for the entry of 'artistes' to Cyprus in order to limit sexual exploitation but also to exercise more control over labour migration more generally. The majority of women who entered Cyprus under this status came mainly from two Asian countries, the Philippines and Thailand, but also from countries of the Middle East and Latin America. During the 1990s, the collapse of socialist regimes of the eastern bloc and the increase in unemployment and poverty – mostly affecting women – combined with the prohibition of Filipino women working as 'artistes', led to the birth of a new 'trend' in relation to sexual exploitation of women in Cyprus. Eastern European women became the women of choice for traffickers and buyers of sexual services, a phenomenon which continues to the present day.

In Finland, the commercial sex trade expanded in the early 1990s with the dissolution of the Soviet Union, the establishment of new regimes in the former Eastern Bloc and a serious domestic recession. The recession caused large-scale unemployment and bankruptcies that led to the need to start new small businesses, which included topless bars, striptease bars and sex telephone services. The trade of Finnish and foreign women for prostitution purposes expanded and demand and buying of sex became more acceptable and more visible in the public sphere. The Finnish expert highlights the high mobility of migrant women in prostitution in Finland, being moved around the country, staying in one place only for a short period of time and many then leaving the country. An estimation by the Finnish National Bureau of Investigation is that 500 to 1,000 persons are selling sex on any given day with only about 200 to 300 of them estimated to be living permanently in Finland (Niemi and Aaltonen, 2014).

From the early 2000s, Ireland saw a major shift from street-based prostitution, mainly populated by Irish and some women from the U.K., to a rapidly expanding indoor commercial sex trade populated by migrant women. Research published in 2009 (Kelleher *et al.*, 2009) revealed a highly organised and mobile sex trade with an estimated 1,000 women in indoor prostitution. Over 800 women are advertised on the internet; 87 per cent to 97 per cent of whom are migrant women aged between 18 and 58 years with some evidence that girls as young as 16 years are involved; 51 different nationalities of women advertised including a high number of women from Latin America and Central European countries. This research found 102 women were identified as victims trafficked for sexual exploitation, 11 per cent of whom were minors at the time, the majority of whom were from West Africa. Official figures published since 2009 indicate that an average of 65 people were identified as alleged and/or suspected victims of trafficking each year, the majority of whom are women who have been trafficked for the purpose of sexual exploitation from Africa, South Asia and Latin America with an increasing number from the EU in recent times. The Irish authorities have recently reported an increase in suspected victims of trafficking from Nigeria (some related to upheavals from Boko Haram attacking villages), Romania, Brazil and Pakistan. The identification process in Ireland continues to be criticised by international monitoring bodies and it is believed the official figures do not reflect the number of women trafficked to Ireland.

Lithuania is a transit and destination country, but it is also a source country for women and girls subjected to trafficking for the purpose of prostitution. Observers estimate 40 per cent of

identified Lithuanian trafficking victims are women and girls subjected to sex trafficking within the country. Lithuanian women are also subjected to sex trafficking in Western Europe and Scandinavia. An average of 100 victims of trafficking are identified on an annual basis, the majority of whom have been trafficked for the purpose of sexual exploitation. As an origin country, Lithuania provides valuable insight into the targeting and recruiting of vulnerable girls and women by pimps and traffickers. Poverty is a critical underlying factor in all cases, but the Lithuanian expert describes how the intersection of poverty with other factors in the lives of marginalised and isolated groups in society leads to their being directly targeted by pimps and traffickers:

[Risk factors include] experience of poverty or homelessness, lack of education, use of alcohol, drugs or gambling addiction, involvement in criminal activities, experience of psychological, physical or sexual abuse, violence in a family, young people unable to take care of his or her social, material, emotional life, people who have mental disorders and those already involved in prostitution. Lithuanian report

Lithuania has identified children in residential care as a particularly vulnerable group. It has been revealed that an estimated 4,000 children institutionalised in orphanages, and those in special schools and foster homes have been groomed and targeted for sexual abuse, sexual exploitation and prostitution by people known to them. Lithuania has also seen the emergence of a new form of trafficking which targets the same vulnerable girls and women for the purpose of exploitative sham marriage. The patterns of recruitment into prostitution are similar in that girls and young women are groomed and targeted by organisers and traffickers to migrate to Western European countries, but in this case the purpose is to provide a mechanism for third country nationals to circumvent European immigration laws by marrying an EU citizen. In France, they have also observed a rejuvenation of pimps procuring on council housing estates, with new and very tough networks recruiting the most vulnerable minors. There has also been an alarming phenomenon of the arrival of increasingly younger Nigerian girls and women to France. It is estimated between 6,000 and 8,000 minors are involved in the prostitution sector, 30 per cent of whom are French.

The number of women in prostitution in Sweden has remained very low (approx. 600-800), compared with neighbouring countries, since the introduction of the legislation making the purchase of a sexual service illegal. The number of cases of trafficking in human beings for sexual purposes has also been relatively

stable since the introduction of legislation in 2002 and 2004 which criminalises all forms of trafficking in human beings. The victims of human trafficking for sexual purposes to, through and within Sweden, are almost without exception women and girls, mainly between 16 and 40 years of age, with some younger girls also falling victim. The majority of women in recent years were citizens of EU Member States from Eastern and South-Eastern Europe, in particular Romania, with women being recruited in Bulgaria, Ukraine, Russia, Lithuania and Poland. Some women, who originally came to Europe from Nigeria and who hold residence permits in, for example, Italy and Spain, were also trafficked to Sweden for prostitution purposes. Likewise, the traffickers, recruiters and procurers of victims who were trafficked to Sweden for prostitution purposes over time, are citizens of the same European Member States (some with permanent residency in Sweden) and are part of smaller networks that recruit victims locally in friendship circles, through family connections, or with the use of social media. In 2016, the number

of reported cases of trafficking in human beings for sexual purposes increased to 85 compared with 2015 when only 58 cases were reported. Most of these cases (46) were reported by the Swedish Migration Authority, and involved, in the majority of cases, crimes which were committed in countries other than Sweden, against women and girls who were fleeing armed conflict, starvation or national disasters in countries such as Syria, Iraq and Afghanistan.

The six experts expressed increasing concern regarding the grooming, targeting and sexual exploitation of young girls who are vulnerable, marginalised or in institutional care in their own countries. The current migration crisis is also of grave concern in creating further high risk contexts for girls and women. These issues are critical to highlight as they demonstrate the need for special protection measures to be put in place by statutory and voluntary agencies in Member States and by international agencies working with displaced people and refugee populations.

3.3 Demand: the buyers of sex

A recent EU funded transnational study provides insight into the profile and behaviour of buyers within Member States. The research was conducted in 2014 across five countries: Bulgaria, Cyprus, Finland, Ireland and Lithuania and included interviews or completed surveys with 763 purchasers of sex, 71 face-to-face interviews and 692 online survey responses (Keegan and Yonkova, 2014). The average buyer of sex is male, well-educated, with middle to high income, and in a relationship at the time of the purchase of a sexual act. In the main, the male buyers viewed the females involved in the transactions as consenting adults and were unlikely to conceptualise the women from whom they purchased sex as potential victims of human trafficking. This despite the fact almost one third of male respondents who reported purchasing sex also reported encountering some form of exploitation including sellers who were legally under the age of consensual sex. When asked what would make them refrain from buying, the primary deterrents indicated were public exposure and/or legal measures.

A previously unpublished qualitative study conducted in Cyprus by MIGS casts further light on the attitude of buyers to the women they

purchase. Most interviewees were aware that women in prostitution may be victims of trafficking but they still want the 'services' they paid for and will not ask whether this woman was forced or not into prostitution. As the Cypriot expert explains:

Sex buyers adopt a position of conscious non-responsibility...they are not concerned about the personal histories or circumstances of women... what brings many men into the market of commercial sex is the unrealistic and socially ingrained sense of entitlement to have their 'sexual needs' met under any circumstances, and to obtain what they consider rightfully theirs. Cypriot report

According to the Cypriot expert one of the major factors affecting demand for sexual services in Cyprus is the tendency to stereotype and objectify women, and particularly Eastern European women, as sex symbols:

Racial and ethnic stereotypes play a prominent role in the sex industry and this inherent sexism and racism led to the stereotype that Eastern European women – poor, white, blond, tall and thin – are sexually available, willing to please and with no sexual inhibitions. Cypriot report

This intersection of sexism and racism is also reflected in a study of buyers in Finland, who mostly bought in Baltic countries, in particular Tallinn in Estonia (Marttila, 2008). The study reveals that part of the attraction of prostitution is a desire to have sex in the context of traditional gender order and male dominance accompanied by 'ethno-sexualisation of "other" women', which she argues 'may be used to justify the objectification and exploitation of women of a different nationality' (ibid:42).

Research in Ireland analysing over 1,000 postings on Punter.net Ireland (an internet site where buyers post reviews on the women from whom they have bought sex) reveals the same consumerist and commodified attitude to women as seen in the studies above (Kelleher et al., 2009). The key ratings were for: good value for money; the physical attributes of women; the degree of sexual gratification and satisfaction with explicit details of sexual acts demanded; the expectation that the women enjoy the sex with severe criticism of women who did not appear engaged; and an expectation of 'the girlfriend experience'.

The French expert also points out that demand is influenced by the approach to prostitution in bordering countries. France is surrounded on almost all borders by countries with a non-abolitionist approach: Belgium, Switzerland, Germany and Spain especially, which offer shop windows and brothels of all sizes, from clubs and bars through to 'industrial' establishments. The trafficking of prostituted persons is also significant on borders, traditionally on the Belgian border, and now very widespread towards Geneva but also Catalonia, with young men from the south of France organising carpools to go to the brothels at La Jonquera. This is an important observation for the EU in monitoring trends of buyers following the introduction of measures to address demand in a Member State.

According to Swedish official crime data over 20 years, all perpetrators of the offence that criminalises the purchase of a sexual service or a sexual act from a child under the age of 18, are men and boys. Male prostitution users pay for sexual acts while exploiting women, girls, men and boys. They represent all ages, with the majority being between 25 and 55 years of age, all income classes and a wide diversity of nationalities and ethnic backgrounds. Prostitution users have been, or are, married or cohabiting with a partner of the opposite or same sex, and they often have children. Men who have or have had many sexual partners are the most common prostitution users (National Institute for Population Health, 2000). The majority

of men who had purchased sexual services had done so on one to three occasions, whereas one in 10 of the prostitution users had purchased a sexual service on more than 10 occasions, often in connection with job-related travels (Svedin, 2012).

A recent pilot study of prostitution users in the region of Stockholm showed that of the 274 cases in 2016 reported under the offence that prohibits the purchase of a sexual service (including attempts), 188 prostitution users were Swedish citizens, with the remaining 86 representing 38 different nationalities. All prostitution users were men between 15 and 81 years of age, with seven prostitution users being under 20 years old, the majority of prostitution users contacting the procurers via online prostitution websites, and sexually exploiting the victims in their own private homes or in a hotel (Report 18, National Rapporteur on Trafficking in Human Beings, 2017).

Patterns of demand and the attitudes displayed by buyers in the six Member States reflect international research which consistently indicates a commodified and consumerist perspective, with buyers expressing a strong sense of entitlement as consumers to have one's sexual demands met once payment has been made (Coy, Horvath and Kelly, 2007; MacLeod, Farley, Anderson and Golding, 2008; O'Connell Davidson, 1998). The primary concern of buyers is to have their sexual needs met; they are unlikely to be discerning or concerned about the means through which women entered prostitution, the circumstances they are currently in or whether they are coerced or trafficked.

3.4 National legislation addressing demand

All Member States have introduced legislation to address the demand for the purchase of sex from victims of trafficking. However, as this section will demonstrate, measures introduced reflect the different political perspectives on prostitution which pertain to each country. The limited approach in Finland, Cyprus and Lithuania (and prior to 2017 in Ireland) involves laws which criminalise the purchase of sexual acts only where the person is a victim of trafficking and/or procuring. This section will examine these legislative measures and some of the debates surrounding the introduction of these offences.

3.4.1 Criminalising the purchase of sexual acts from a trafficked person

In Finland, there is a partial sex-purchase ban prohibiting purchasing sex from victims of the sexual trade who have been subjected to pandering and human trafficking. The criminal code on sex offences was changed in 2006 after a long political and public debate that began with a government bill in 2004 which did not suggest banning the purchase of sex, but proposed the strengthening of the provision on pandering, establishing a new provision on human trafficking and aggravated pandering and giving the police more rights when investigating certain crimes. This bill laid the groundwork for discussion by extensively describing the current prostitution situation. In 2005, a bill was proposed banning the purchase of sex from any person while not criminalising the selling of sex, with the rationale of curbing the demand of prostitution and international crime connected to prostitution and human trafficking. However, following intensive debate which failed to reflect the human rights and gender equality focus of the original bill, a variety of possible problems with implementation and possible misinterpretations of the provision were brought up including: changing the Criminal Code is not an effective method in reducing organised crime around prostitution; it should not be changed on moral grounds; social policy could better address these issues; and banning the purchase of sex would violate basic rights - meaning mainly the basic rights of those men who purchase sex (Aaltio, 2009). Finally, while there was a strong consensus on protecting the victims of human trafficking and procuring, the bill was defeated and, as a compromise, the provision was to ban the purchase of sex only when the seller was a victim of procuring

and human trafficking, the offender was aware of the circumstances and the attempt was intentional.

A precedent for the threshold of intentionality was set in a 2012 case in the Supreme Court where the defendant accused of the abuse of a sexual trade victim was found innocent as the Supreme Court ruled the offence was not intentional. The Supreme Court stated that although the intention in establishing the partial sex-purchase ban was to encourage buyers of sex to make sure the person in prostitution is not a victim of sexual trade, there could not be a lower threshold in proving intentionality in these cases than there is in other criminal cases. The Supreme Court decided the general provision of intentionality in the Criminal Code was applicable (KKO, 2012:66). This case was widely discussed because of the vulnerable position of the plaintiff: she did not speak Finnish or English and appeared younger than her age would have suggested. In 2015, further changes to the law were made where the purchase of sex from victims of the sexual trade through negligence was criminalised making it a criminal offence to engage in sexual intercourse or comparable sexual act for payment when there is a reason to suspect the seller is a victim of pandering or human trafficking. This means the buyers of sex can no longer avoid legal responsibility by gaining as little information as possible from the person selling sex and the conditions surrounding them. The new provision is meant to be easier to apply (HE 229/2014).

*In Cyprus, Article 17 of the Trafficking Law 60(I) 2014 'penalises persons who use services provided by victims of trafficking if they should reasonably have been able to assume that the service was provided by a victim of trafficking.'*⁵

Article 61 also contains provisions regarding preventive and intervention measures discouraging demand as per the requirements stated in the Council of Europe Convention on Action against Trafficking in Human Beings and Directive 2011/36/EU.

When a person is found guilty the person is subject to imprisonment for up to three years or to a fine not exceeding €15,000 or both penalties. To date there have been no convictions under this provision. However, efforts from civil society, mainly MIGS and other local NGOs, by lobbying key MPs are

⁵ Ibid.

seeking to exert pressure on the state to remove the wording 'reasonable assumption' found in this article, since it can inhibit the delivery of justice by creating loopholes for perpetrators. The proposal is currently under discussion at the parliamentary committee with responsibility for human rights and equal opportunities for men and women.

In Lithuania, in 2012, the laws on human trafficking were amended to prosecute the users of forced labour and services taking into account Directive 2001/36/EU. The law is clear in that it is only applicable where the use of force can be demonstrated. No buyers of sex have been prosecuted under this law. The issue of the liability of a client for buying sexual services was further addressed in June 2005 in the Administrative Violations Code, which was one of the measures to reduce the demand for prostitution services in Lithuania. The offence covers both persons who earn from prostitution and persons who use paid prostitution services. It excludes persons who have been involved in prostitution who are dependent or under physical or psychological violence or deception, by any means, or being a minor and/or a victim of human trafficking, when the status is recognised in the criminal proceedings. According to this article, a fine (from 300 to 1,000 LTL) may be imposed on the prostitute and the client. In reality, the Lithuanian expert asserts that the evidence consistently indicates that women in prostitution are primarily the focus of law enforcement. In relation to buyers, they are rarely prosecuted and as this is a minor administrative offence the only penalty is a minimal fine.

3.4.2 Criminalising the purchase of sex from any person

The Swedish response to prostitution arose within the context of the public debate which originated in the 1960s regarding sexual relations and power differences between men and women, leading to new insights and new initiatives to strengthen and ameliorate the position of women in society. A feminist analysis of violence against women emerged, framing male violence as a crucial mechanism for maintaining male power and the subordinate position of women. Prostitution is understood to be a form of male sexualised violence against women and as a serious barrier to gender equality, which was harmful to the prostituted woman or child, but also to society at large. The initiative to criminalise men was eventually carried forward in the late 1990s by the women's associations of the political parties.

In 1998 a government bill on violence against women was presented to the Swedish Parliament and, among other actions aiming to address male violence against

women, proposed the criminalisation of the purchase of sexual services. This Act was the outcome of two Commissions of Inquiry presented in 1995 – one on prostitution and one on violence against women. The law on prostitution was thus firmly embedded within measures to address male violence against women, including a strengthened sexual harassment law and a new offence punishing repeated instances of male violence against a woman in an intimate relationship:

The legislation that prohibits the purchase of a sexual service came into being as one in a series of preventive laws and measures aimed specifically at the protection of vulnerable women and girls against serious acts of sexual violence, but also to create a society where the culture of domination through prostitution is changed into a culture where the human rights of all women and girls are protected. Swedish report

On 1 January 1999, Sweden became the first country in the world to introduce a law prohibiting the purchase of sexual services. The legislation was later incorporated into the Penal Code as a criminal law offence, with the following wording:

A person who, in other cases than previously stated in this chapter, obtains a casual sexual relation in exchange for payment shall be sentenced for the purchase of a sexual service to a fine or imprisonment for at the most one year. Swedish Penal Code, Chapter 6: Sexual Crimes, Chapter 6)

What is stated in the first paragraph also applies if the payment has been promised or made by someone else. The offence applies to all forms of sexual services, whether they are purchased on the street, in brothels, in a hotel, in someone's home, or in other similar circumstances. Attempts to purchase a sexual service are also punishable under the Penal Code. Those who are exploited in prostitution are not subject to criminal or administrative penalties and the law provided extensive resources to the provision of services to support those exploited.

There have been some amendments to the offence. The offence now also criminalises the purchase of a sexual service by a third person or group of persons purchasing a sexual service for someone else. This situation can occur when a sexual service is offered as a gift in the context of a stag party or, for example, when businesses offer it as a business benefit or for male business associates. On 1 July 2011, amendments to the offence came into force, including an increase in the maximum sentence from six months to one year in prison. The purpose of the increase of the penalty scale was to allow a more nuanced assessment by the courts in aggravated cases of the purchase of

sexual services. This could be, for example, when the prostitution buyer uses excessive force, or infringes upon the dignity of the victim through humiliating acts. As a result of the increase in the penalty scale, the opportunities for law enforcement to apprehend and arrest prostitution users were also expanded. Law enforcement is permitted to use mobile phone dumping to establish how and through which medium prostitution users are able to contact the organisers of the prostitution users, meet up with their victims and sometimes ascertain the method of payment.

Significantly, from the outset the Swedish law was not simply punitive; it was intended to be declarative and normative, sending a very clear message that it is unacceptable to buy a person for sexual gratification:

the legislation, policies and strategies that aim to discourage the demand are primarily designed to ensure that men take criminal, ethical and normative responsibility for their own and other men's oppressive sexual behaviour, and importantly, change/modify their conduct. Swedish report

From 2000 on, Sweden developed and implemented comprehensive policies and strategies across all policy areas to ensure the implementation of the laws on prostitution and trafficking. In 2001, the Swedish Government appointed a Special Advisor on Prostitution and Trafficking in Human Beings based in the Government Division on Gender Equality. This advisor was charged with the task of coordinating actions within the government, with the responsible public agencies, including the National Police, and with specialised social services agencies, women's equality-seeking associations, and other civil society and human rights organisations. The integration of measures to address prostitution and trafficking into the institutions of the state has continued to the present day; these are elaborated upon in Section 3.4.3.

In April 2016, the French Government passed a comprehensive legislative framework aiming to strengthen the fight against the system of prostitution and trafficking for sexual exploitation. The law reflects abolitionist principles embodying gender equality, human rights and freedom from sexual violence and sexual exploitation. The French law came about after a long, sustained campaign and political engagement led by Mouvement du Nid working closely with politicians and policy makers. The criminalisation of buyers of sex was the subject of heated debates, particularly on the nature of the crime to be filed. In the end, the provision is a simple misdemeanour rather than a more serious offence that abolitionists fought for. The legal provision states that:

The act of soliciting, accepting or obtaining relations of a sexual nature from a person engaging in prostitution, including on an occasional basis, in exchange for remuneration, a promise of remuneration, the provision of benefits in kind or the promise of such benefits is punishable by a €1,500 fine. (Law No 2016-444)

The Act also includes higher penalties for repeated offences punishable by a €3,750 fine and supplementary punishment in the form of awareness training where the buyer is obligated, where required, at his own expense, to complete an awareness course deterring the purchase of sex acts.

While there has been much media focus on these provisions, the law is far more wide-ranging. The Act modifies the provisions of nine legislative codes introducing severe penalties for the organisation of prostitution, pimping and procuring; extensive support measures and resources to support people in prostitution including exit routes and welfare support. It also contains specific measures and residency rights for migrant and trafficked persons. Temporary residence permits to a victim of procuring or trafficking is extended *'for the entire duration of the process to exit prostitution and achieve social and professional integration, as long as the conditions foreseen for its issuance continue to be met.'*

As in Sweden, the law is also intended to be declarative in stating that no individual shall:

derive any gain whatsoever from the prostitution of others, nor shall they organise or facilitate the commodification of the human body and of sexuality; they shall not access the body of others or their sexuality or obtain sexual relations in exchange for remuneration; and no person shall be reduced to selling access to their body and their sexuality to survive. French report

Given the increasing use of the internet in the organisation of prostitution, it is worth noting the French law contains a provision which creates an *'obligation upon internet service providers to promptly inform the competent public authorities of any content that violates the Act in respect of pimping, and to make public the means and measures they devote to combatting such illegal activities'*.

In Ireland, The Criminal Law (Sexual Offences) Act 2017 was enacted with a provision criminalising the purchase of sex. Following a major campaign, lobbying and political engagement by the Turn Off the Red Light campaign, in 2012 the Department of Justice and Equality published a Discussion Document on the Future Direction of Prostitution Legislation. The

Joint Oireachtas (Parliament) Committee on Justice, Defence and Equality was requested by the Minister to undertake public consultation and hearings on the document. The Committee received over 800 written submissions for consideration and, on foot of the submissions, the Committee agreed to hear evidence in a series of public and private hearings from relevant organisations and individuals. The Committee also examined various approaches to reform having regard to the positions adopted in other jurisdictions, including Sweden, New Zealand, the Netherlands, Germany and Australia, noting the differing views expressed by those who engaged with the review process to the different approaches.

In its final report the Committee noted the high degree (four in five) support for the Swedish approach expressed by contributors to the review, including the unequivocal support by Trade Unions which had rejected prostitution as a form of work, the Irish Medical Organisation, the service providers assisting those (including children) who are victims of harm and exploitation in prostitution and organisations supporting migrants and other ethnic minorities who are victims of trafficking. In addition to a strongly positive normative effect on social attitudes to sexuality and gender equality, the Committee found a demand reduction led approach with the introduction of a ban on the purchase of sex could lessen the incidence of harms associated with prostitution and the economic basis for human trafficking in Ireland for the purpose of sexual exploitation. The Committee also concluded that measures which reduce demand for prostitution would contribute to the State's fulfilment of its obligations to eliminate discrimination against women, to combat prostitution and sexual exploitation of children, to suppress the exploitation in prostitution of women, and to prevent and suppress human trafficking and the demand for it. The Committee further recommended law reform to include the introduction of a summary offence penalising the purchase of sexual services of another person by means of prostitution, or any request, agreement or attempt to do so. It should also be clarified that no offence is committed by the person whose sexual services are sold. The Committee also recommended increased penalties for trafficking for the purposes of sexual exploitation.

In 2015, The Criminal Law (Sexual Offences) Bill was published and following a lengthy parliamentary debate the Act was passed on 22 February 2017. The Act is a wide-ranging piece of legislation containing provisions including improved measures to protect children from online predators; strengthened offences to tackle child pornography; harassment orders to protect victims of convicted sex offenders; provisions to be introduced regarding evidence

by victims, particularly children; maintaining the age of consent to sexual activity at 17 years of age and providing for a new 'proximity of age' defence. Part 4 of the Act introduces an offence which criminalises any person who purchases or attempts to purchase sexual activity from another person:

A person who pays, gives, offers or promises to pay or give a person (including a prostitute) money or any other form of remuneration or consideration for the purpose of engaging in sexual activity with a prostitute shall be guilty of an offence and shall be liable on summary conviction— (a) in the case of a first offence, to a class E fine, and (b) in the case of a second or subsequent offence, to a class D fine.

An amendment to older legislation pertaining to the selling of sex on the streets removes the offence for soliciting for the purpose of prostitution but, importantly, the offence of soliciting for the purpose of buying sex remains. This was a critical part of the lobbying process as there was some pressure to maintain a public order offence against the seller in street prostitution.

Although the purchase of sex offence is seen as minor (it is a summary offence involving a fine) the fact it is contained within sexual offences legislation was welcomed by those campaigning for the law, as it sends out a strong signal that this is an unacceptable sexual act. In the introduction of the law and the political debate which ensued during parliamentary debates, the Minister consistently referred to the law as promoting gender equality and that prostitution is a form of violence and sexual exploitation. Unfortunately, unlike in France, there are no statutory provisions or administrative policies providing that a person exploited in prostitution, even in particularly vulnerable situations, is entitled to receive a temporary residence permit if needed in order to co-operate with a criminal investigation/prosecution (including serious organised crime) or to access recovery/exit programmes and support.

Following the passing of the law the Government announced that a review of the law relating to prostitution would be carried out within three years. The review will include:

- information as to the number of arrests and convictions in respect of offences under section 7A of the Act of 1993 during the period from the commencement of that section,
- an assessment of the impact of the operation of that section on the safety and well-being of persons who engage in sexual activity for payment.

To date no figures have been released by an Garda Síochána (the Irish police) on arrests under the new legislation.

In Ireland, prior to 2017, the approach to addressing the demand for the purchase of sex was limited to the purchase of sex from a trafficked person. The Criminal Law (Human Trafficking) Act 2008 contains a provision making it illegal to 'solicit or importune' a trafficked person for the purpose of sex. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding €5,000 or a term of imprisonment not exceeding 12 months, or both. However, if the defendant can prove that he or she did not know and had no reasonable grounds for believing the person in respect of whom the offence was committed was a trafficked person, s/he cannot be prosecuted. There have been no convictions to date. The 2017 Act amends the trafficking legislation by broadening the scope of the original offence from 'soliciting or importuning' a trafficked person and it is now an offence for a person to pay, give, offer or promise to pay or give a person (including the trafficked person) money or any other form of remuneration or consideration for the purposes of the prostitution of a trafficked person. The maximum penalty for this offence is five years. This offence remains in place alongside the recent introduction of the sex buyer offence which means the offence of buying a victim of trafficking is still considered a more serious offence than the buying of sex from any another person in Irish law. As in France, the criminalisation of the purchase of sex in Ireland came about after a lengthy political process and public campaign which is described in Section 2.

3.4.3 Criminalising prostitution

In line with international obligations, EU Member States have introduced numerous measures to address trafficking in human beings including dedicated legislation, government policy frameworks, national action plans, specialised police officers and units, and a range of provisions to deliver services and legal representation to those identified as victims across the six Member States. Trafficking laws contain severe penalties and police operations have resulted in many successful prosecutions and convictions of traffickers in the six Member States.⁶ However, while it is understood trafficking is a difficult and complex crime to prosecute, there is agreement among experts that the number of convictions remains worryingly low and that sentencing is not consistent or sufficiently harsh to act as a deterrent. Furthermore, in relation to trafficking for sexual exploitation, the conviction of traffickers is only one element of addressing demand embedded within the wider environment in which

trafficking for sexual exploitation exists; namely prostitution. International traffickers co-operate with domestic traffickers, pimps, procurers and organisers of prostitution in destination countries, facilitating and profiting from the demand for girls and women to be available for sexual exploitation. In contrast to the extensive laws, severe penalties and state infrastructure surrounding trafficking, besides Sweden, prostitution has been mainly dealt with as a public order offence within criminal and/or administrative law as a misdemeanour, with harsher penalties for pimping, procuring and the organisation of prostitution. Until very recently in Ireland and France, and currently in Cyprus and Lithuania, the focus of law enforcement is on the maintenance of public order, in particular the buying and selling of sex in street locations, with occasional police operations targeting organised crime and brothel keeping. The experts in these Member States concur that where both the seller and the buyer are criminalised for minor public order offences such as soliciting and importuning, the burden of criminality traditionally fell on women on the streets, with occasional arrests of buyers for soliciting on the streets. As the Cypriot expert states:

prostitution is not perceived as a matter of violence against women and sexual exploitation or a violation of their right to physical integrity, life and freedom, but merely as a behaviour that violates social order and morality. **Cypriot report**

In Cyprus, even though the operation of a brothel, the promotion of women into prostitution, coercion in prostitution and pimping as well as soliciting are criminal offences under the Cypriot Criminal Code, these offences are considered to be misdemeanours and not felonies, which results in low sentences, leading the Cypriot expert to conclude, '[in the] most part indoor locations act with impunity'. Prostitution as such is not a criminal offence so, as it stands, those criminalised under the penal code are the pimps and brothel owners as well as women in prostitution while sex buyers remain invisible. They are regarded as the 'victims' of being solicited to buy sex and consequently not criminalised.

The Cypriot expert also highlights the differential treatment of migrant women in prostitution. In an article under aliens and immigration law, the penal code stipulates that prostitutes and persons living from earnings made from prostitution are prohibited immigrants who are not allowed to enter Cyprus. Therefore, while a woman, irrespective of her ethnic origin, is not subjected to criminal

⁶ The wider response to trafficking including the details of convictions are contained in the National Reports.

prosecution under the Criminal Code, if a foreign woman is arrested for prostitution, she is deported and declared to be a forbidden immigrant under rapid administrative procedures. Whether she has been the victim of trafficking for sexual exploitation is usually taken into consideration but, inevitably, the woman is issued with the order.

In Finland, although the selling or buying of sex is as such not criminalised, purchasing or offering of 'sexual services' in a public place is prohibited under public order offences. There have been periods of enhanced surveillance of the streets, for example by the Helsinki police in 2011, but not in recent years. The enforcement of the legislation in question is not at all systematic, and according to police statistics street prostitution has not been targeted in recent years. The punishment for a public order offence is a fine of €100 but the offence will not lead to an entry into the criminal record or a trial, since it is considered a minor offence. However, as in Cyprus, there is an additional consequence for non-citizens and those not holding residence permits as they may be refused entry to the country if there is reasonable cause to suspect she or he is selling sexual services. The Finnish expert cites extensive research which concludes, 'one can safely assume that the Public Order Act is targeting mainly women with foreign origin selling sex and only in some cases men buying sex' (Niemi and Aaltonen, 2014).

In relation to cases regarding abuse of victims of the sex trade, procuring and trafficking, there is some evidence of a slow increase since 2010. However, the researchers found the majority of charges of sex purchase are waived and where there is a charge it is minimal, in most cases a fine. They also note that in several procuring and trafficking cases there was no mention that police had registered or investigated sex purchasers (ibid., 2014). The Finnish expert found:

the partial sex-purchase ban probably has little effect in reducing the demand for prostitution, since getting prosecuted for these crimes happens rarely and when it does, the punishment is most probably rather small, even considering the penal scale of this particular offence. This pattern of enforcement does not support the purpose of the provision to especially protect those who are being subjected to trafficking, sexual exploitation and illegal practices. **Finnish report**

The expert also cites the concerns of the National Rapporteur who noted in practice, threats of violence, debt relationship and limitations of one's autonomy are often interpreted as part of pandering/pimping rather than elements of human trafficking. Trafficking in human beings has more often been thought of in terms of recruiting and transportation

of victims rather than seen as a process of abuse and submission. In enforcement and implementation of the law there have been definitive problems with understanding that a situation which had initially started on a voluntary basis can become human trafficking when abuse, violence and threats increase. This might be caused by the general tendency not to recognise violence against women and the fact that prostitution is mostly seen as an immigration and public safety issue in Finnish discourse. These concerns are shared by the Lithuanian expert who highlights the fact there has been a failure to identify victims of trafficking who are located among women in prostitution. Indicators of trafficking including coercion, control and exploitation are not recognised, leading to victims of trafficking being subjected to administrative offences for prostitution.

In Ireland, prior to 2017, a similar pattern pertained with the focus on public order offences on the streets, which resulted in mainly those selling sex being criminalised and occasional police operations on brothel keeping and organised crime. However, the Irish expert observed a dramatically low level of soliciting offences in 2015/6 which would suggest (although this cannot be verified) a number of factors related to the campaign may have had an impact upon police practice including:

the dialogue with the Turn Off the Red Light campaign with the Gardai (police) in relation to the vulnerability of women in prostitution; the report and engagement with the Oireachtas (Parliament) committee and in particular the training and close co-operation with Ruhamá in relation to diverting rather than arresting women on the street; and the awareness of the new law de-criminalising women in prostitution that was coming. **Irish report**

This is an important observation highlighting the value of close co-operation between the police, specialist women's services and those campaigning for change in revealing the harm and levels of exploitation women in prostitution may be subjected to, even if they are not victims of trafficking. However, the streets now represent a very small part of the commercial sex trade in Ireland. For the most part, a trend which has been observed in all six countries is the movement indoors, primarily into brothels and private premises such as apartments and hotels. This further increases the ability of pimps and organisers to operate away from public and police scrutiny. A particular factor of interest in Ireland is that publishing or distributing any advertisements for brothels or prostitutes in Ireland is prohibited. The prohibition also covers advertisements

⁷ NGO service for women in prostitution.

for brothels posted on the internet but does not cover advertisements located outside the State, which has resulted in the main website advertising prostitution in Ireland being located outside the jurisdiction. The French law has a specific provision making the advertising and promotion of prostitution on the internet a criminal offence and it will be worth monitoring how this can be implemented.

Prior to 2016 in France, as in the countries above, the focus of law enforcement was on women on the streets, procuring and the organisation of prostitution. Every year more than 1,500 prostituted persons were arrested for crimes of solicitation. However since April 2016 not a single prostituted person has been arrested on these grounds and 937 clients have been arrested in the year following the introduction of the law. The French expert notes France has very severe penalties for trafficking and pimping/procuring and that many police operations have resulted in successful prosecutions of transnational procuring and trafficking networks involving Romanian, Nigerian, Chinese, Eastern European, Central and South American and Western European operators, including two French operators. However, a continuing weakness is in the lack of consistency in enforcement and sentencing, with the judiciary in many cases opting for the minimum as opposed to the maximum sentencing options.

The recent French law has clearly had an immediate impact on policing in terms of the focus of law enforcement being on the buyer not the person selling sex on the streets. But the French expert highlights a number of challenges ahead, including: the inconsistency in the implementation of the criminalisation of buyers from region to region; the continued use of other public order offences against women in some areas; weak implementation of the law in relation to minors in prostitution, particularly in relation to the defence by buyers of not knowing her age; trafficked and procured women being regarded as undocumented migrants rather than victims of exploitation; delays in the resourcing and establishment of exit route programmes, services and accommodation for women seeking to exit prostitution. It is also worth noting all the arrests of buyers have been on the streets and that a further challenge will be the policing and arrest of buyers in indoor locations.

For two decades, the Swedish Government has developed a comprehensive integrated strategy on prostitution and trafficking for sexual exploitation, which is embedded within the policies and structures of the state. While the majority of Member States have national action plans (NAPs) on trafficking, the Swedish national action plan integrates both

prostitution and trafficking for sexual purposes and contains 36 separate measures, mainly directed at public agencies. It has five priority areas: protection and support for people at risk; prevention; higher standards and greater efficiency in the justice system; increased national and international co-operation; and higher level of knowledge and awareness. SEK 213 million was set aside over three years to ensure the implementation of the proposed measures. Combatting prostitution and trafficking for sexual exploitation are also an integral part of state policy at both a domestic and international level, within the National Strategy against Men's Violence against Women (2017–2026) and the Swedish Foreign Service Action Plan for a feminist foreign policy (2015–2018), which aims to strengthen the human rights of women and girls. The enforcement of the laws on prostitution and trafficking continue to be prioritised, monitored and resourced within the National Police Authority, the Prosecution Authority, the Swedish National Courts Administration, the Migration Authority, the National Board of Health and Welfare (NBHW) and the Gender Equality Agency (2018).

Since the legislation came into force on 1 January 1999, 7,059 men have been apprehended for attempting to purchase or for having purchased a sexual service resulting in 3,006 convictions. In addition, 1,593 men have been arrested for the purchase of a sexual act from a child under 18 years of age resulting in 233 convictions. There have been 1,328 reported crimes for procuring and 481 for trafficking for sexual exploitation. Through the direct or indirect intervention by the police, many more have been dissuaded from purchasing someone for the purpose of exploitation in prostitution. These arrest figures indicate the successful enforcement of the law but a government-appointed Commission of Inquiry in 2010 indicates the wider positive outcomes of the law. The Inquiry found the law has acted as an effective anti-trafficking measure; reduced the number of people in prostitution compared to neighbouring states such as Denmark, which, at the time, had three times the number of people in prostitution; and has had the desired normative effect with strong public support for the law. The law has proven to be an effective deterrent to sex purchasers with a decrease in reported users down from 13.6 per cent in 1996, 7.9 per cent in 2008 and 7.5 per cent in 2015, with a normative effect on prospective buyers. Despite claims by critics of the Swedish approach that criminalising the purchase of sexual services and sexual acts increases the risk to women in prostitution, the Walby *et al.* (2016) research once again confirms there is no evidence to substantiate this claim.

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Prostitution is not perceived as a matter of violence against women and sexual exploitation or a violation of their right to physical integrity, life and freedom, but merely as a behaviour that violates social order and morality.
Cypriot report

4

Conclusions and Recommendations

4.1 Conclusions

In examining the approach of Member States to criminalising demand for the purchase of sex from victims of trafficking we can see it is the conceptualisation of prostitution which underpins the legislative and policy framework adopted. If the state deems it is a legitimate demand to have people, primarily girls and women, made available to supply sexual acts for money, then as long as they are not identified as trafficked, procured, pimped or minors, this is regarded as acceptable and legal. Consequently, the only criminalisation of the buyer is where the person bought is proven to be a victim of trafficking or pimping, and where the buyer is aware of that fact. This is the position also taken by the EU Directive 2011/36/EU and the Council of Europe Convention, so these states can claim they are fulfilling their minimum obligations under the Convention and the Directive. This is the approach followed in Cyprus, Finland and Lithuania, and prior to 2016/17, in France and Ireland. The evidence from these countries suggests criminalising the purchase of sex only where there is proof the person is a victim of trafficking or procuring is inoperable from an enforcement point of view and ineffective in relation to the wider goal of acting as a deterrent and reducing demand. Furthermore, in the absence of a national co-ordinated and resourced strategy on prostitution-related activities, the wider environment in which demand for victims of sexual exploitation is situated, the prosecution of pimps, procurers and brothel owners tends to be sporadic with occasional special police operations targeting individual establishments and organised crime groups.

In Sweden, and since 2016 and 2017 in France and Ireland respectively, the state has adopted the position that prostitution is a form of violence against women and therefore the demand to have any girls or women made available to supply sexual acts for money is not regarded as legitimate or acceptable and, therefore, the purchase of sex is a criminal offence. This approach, as described, is underpinned by principles of gender equality and human rights and leads to an integrated national strategy to address both prostitution and trafficking for the purpose of sexual exploitation. This approach has also proven to be an effective anti-trafficking and demand reduction measure. The most recent figures in relation to Sweden compared to the Netherlands and Germany are telling. It is estimated the Netherlands has a rate of nine times and Germany a rate of between 30

and 40 times that of prostitution in Sweden (Walby *et al*, 2016). In addition, studies demonstrate a very clear correlation between the scale of prostitution and the level of trafficking in a destination country, with the number of victims of trafficking estimated to vary from 10 per cent to 24 per cent of the overall numbers in the sex trade (Seo-Young *et al.*, 2012; Danailova-Trainor and Belser, 2006). This data is critical evidence in relation to what measures are effective to reduce human trafficking for sexual exploitation. In other words, regardless of the regime regulating prostitution-related activities, simply allowing the prostitution industry to grow, increases the flow of trafficked people to that jurisdiction; conversely, addressing demand and reducing the size of the market for prostitution-related activities is an effective anti-trafficking measure.

However, as other countries follow the Swedish approach, it is critical they are fully cognisant of the wide range of institutional mechanisms and measures put in place by the Swedish Government to ensure the success of all the objectives of the law. The positive outcomes for women in prostitution and for society have been possible not simply by enacting a law, but by the continuing commitment of the Swedish state to providing resources for services and policing, and ensuring that the wider intention of the law is embedded in domestic and foreign policy. The French law has also now provided an exemplar of a comprehensive law which not only criminalises the purchase of sex and de-criminalises those exploited in prostitution, but also provides a statutory basis for service provision and exit routes. It is important to note all six experts emphasise the importance of recognising the wider significance of sex purchase laws, not merely as anti-trafficking measures but, fundamentally, about addressing gender inequalities and violence against women.

4.2 Recommendations

The following recommendations arise from the comparative report but are also informed by other relevant EU reports.

- 1** We welcome the efforts by EU Member States to develop a comprehensive legal and policy framework on trafficking in human beings for sexual purposes. However, Member States should recognise the current remit of the EU Directive 2011/36/EU, which criminalises the purchase of sexual services only where there is proof the person is a victim of human trafficking, is inoperable from an enforcement point of view and ineffective in relation to addressing the increasing numbers of victims of trafficking for sexual exploitation within and into the European Union.

 - 2** Recognising the shortcomings in EU Directive 2011/36/EU approach and extensive evidence regarding the success of the Swedish approach, Member States should introduce a criminal offence for buying a person for sexual acts as the only effective means to reduce demand for victims of trafficking for sexual exploitation. Decriminalisation of people exploited in prostitution, including victims of trafficking, should be an integral part of any legislative framework.⁸

 - 3** Member States should develop integrated and co-ordinated whole-of-government strategies to respond to the commercial sex trade and to address the demand for victims of trafficking for sexual exploitation. The introduction of laws relating to prostitution and human trafficking needs to be accompanied by a comprehensive range of measures which include enforcement policies, protection and support for all victims of sexual exploitation, monitoring and evaluation, and preventative initiatives.

 - 4** National action plans on prostitution and human trafficking should be developed, underpinned by the principles of gender equality and human rights and informed by the wider body of law and policy on gender equality and gender-based violence⁹. Detailed targets, benchmarks, indicators, timeframes and budget allocations should be integral to national action plans. Ministerial responsibility and oversight with a dedicated unit within government is required.
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8. EC (2016:8), *The Gender Dimension of Trafficking in Human Beings*, prepared by Walby, S. et al., concludes that victims of trafficking for sexual exploitation 'can be hidden within mixed populations of independent, exploited and coerced prostitutes and in mixed migration flows'.

9. Yonkova, N., Gillan, S., Keegan, E., O'Connor, M., Charlton, D., and Zobnina, A. (2018) *An analysis of the Anti-trafficking Directive from the perspective of a victim of a gender-based violence*. Vilnius: European Institute for Gender Equality.

5

Member States should ensure that international instruments and EU Directives on human trafficking are fully transposed into national legislation. New and emerging forms of trafficking such as trafficking for exploitative sham marriage should be monitored and laws enacted to reflect these.¹⁰ Academic and community research should be funded and carried out to strengthen laws and policy measures for their prevention.

6

Laws relating to the procurement and organisation of prostitution need to be robust, reflecting the serious nature of these offences and the likely intersection with human trafficking crimes. Further research and action is needed to criminalise online advertising and the use of web-based and other forms of communications technology tools in the organisation of prostitution-related activities, and the targeting of girls and women for sexual exploitation¹¹

7

Specialist police and prosecutions units must be resourced to investigate and prosecute those responsible for prostitution-related activities and to carry out surveillance operations on indoor locations. Training for police should be carried out in co-operation with experienced women's victim-support services to ensure a sex-specific, victim-centred and human rights approach¹². Recognising signs of coercion and control alongside signs of trafficking should form a core part of the training to ensure the identification and referral of all women subjected to coercion and procuring. Police and technical experts should be resourced to investigate, track and prosecute the use of communications technology by organisers of prostitution-related activities. Sentencing patterns should be monitored closely to ensure consistency and that they are commensurate with the seriousness of the offence.

8

Decriminalisation is a core element of the Swedish/Nordic approach but the introduction of the laws prohibiting the purchase of sexual acts/services must also be accompanied by a wide range of measures to ensure there are no negative consequences for prostituted and trafficked women¹³. The right to protection, accommodation, early legal intervention, legal advocacy and support for victims of trafficking have been enshrined in legislation and/or statutory guidance in most Member States¹⁴. Recognising the coercive circumstances in which women enter the sex trade, these rights need to be extended to all women who are subjected to commercial sexual exploitation, when they are in prostitution and when they are seeking to exit.

10. Cosgrove, C., O'Connor, M. and Yonkova, N. (2016) *Exploitative Sham Marriages and Human Trafficking in Ireland*. Dublin: Immigrant Council of Ireland.

11. See e.g. project case study by the Institute for Feminism & Human Rights, and Ekberg, G.S. and Werkman, K. (2016) *A Snapshot Study on the Prevalence, Laws, Policies and Practices regarding Prostitution and Trafficking in Human Beings for the Purpose of Sexual Exploitation in Belgium: Final Report*, Brussels: Sorbus Research.

12. See Benson, S. (2018). Case study on NGO and police co-operation for the 'Disrupt Demand' project.

13. See e.g. Ekberg, G.S. (2018) *Swedish Laws, Policies and Interventions on Prostitution and Trafficking in Human Beings: A Comprehensive Overview*.

14. O'Connor, M. (2015). *Upholding legal rights: Early legal intervention for victims of trafficking*. Dublin: The Immigrant Council of Ireland, EU/ ISEC Programme.

9

Member States should be cognisant of the rights enshrined in the Anti-Trafficking Directive¹⁵ and the Victims' Rights Directive¹⁶ in delivering protection and gender-specific assistance to victims of sexual exploitation. Member States have a responsibility to respond to the long-term needs of women who have been sexually exploited in their jurisdiction regardless of their legal status as migrants, including access to welfare, education, training and employment.

10

Member States should ensure exit programmes are in place for women seeking to exit prostitution and adequate long-term funding for such support services is in place.

11

Public awareness and preventive strategies should be central to government strategies, recognising the wider declarative and normative intentions of the laws that ban the purchase of sexual acts are to prevent and reduce demand, and to increase public awareness of prostitution as an obstacle to gender equality. Attitudinal surveys to assess public support for the legal and policy approach to prostitution and data, including through public surveys on the number and percentage of the population of men who have purchased sex, should be conducted periodically.

12

Member States should commit adequate resources to research in order to ensure solid and reliable evidence in relation to the impacts of the law is publicly available. Areas should include: mapping of the scale and extent of prostitution-related activities and trafficking for sexual exploitation in all relevant localities, including indoor venues; investigation of the number of prostitution-related activities and number of individuals involved online; research on the harmful consequences of prostitution for the health and well-being of girls and women; and the ongoing needs and barriers for women in relation to exiting.

13

An Independent National Rapporteur on Trafficking in Human Beings should be appointed by each Member State. The Rapporteur should have the authority and resources to access and evaluate non-identifiable data from the statutory and non-governmental agencies.

15. Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

16. European Union Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA [2012] OJ L315/57.

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Regardless of the regime regulating prostitution-related activities, simply allowing the prostitution industry to grow, increases the flow of trafficked people to that jurisdiction; conversely, addressing demand and reducing the size of the market for prostitution-related activities is an effective anti-trafficking measure.

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Appendices

Appendix 1

The reporting template for the production of national reports

1. Context (2 pages)

Political, demographic, cultural context

This section should be short, presenting only information that you believe is relevant to the project, e.g. information which impacts on campaigns for / implementation or enforcement of laws targeting demand for human trafficking for sexual exploitation

2. Legislative Framework (5 pages)

This section will be largely descriptive

Descriptive

Legislative Context

Outline existing laws on human trafficking and prostitution – thus situating laws targeting demand for human trafficking for sexual exploitation within this overall context

Laws Targeting Demand for Human Trafficking

This section should specifically focus on laws targeting demand for human trafficking for sexual exploitation

Rationale

This section should include information on the rationale behind the current legislative context and the specific approach to demand reduction

3. Enforcement and Implementation (5 pages)

Descriptive

Enforcement Patterns

- a. Who is criminalised under current laws relating to human trafficking and prostitution?
- b. To what extent are laws targeting demand for human trafficking for sexual exploitation used and who is criminalised under them?

Additional Considerations

Are there any additional or alternative penalties that must be considered when looking at enforcement of the above measures? Is there evidence, for example, of migrant women in prostitution being removed from the country, rather than being prosecuted (qualitative or quantitative)? Is there spent conviction legislation in the country? Does this apply to those prosecuted for offences under current laws, specifically women penalised in prostitution?

Analysis

What can enforcement patterns tell us about implementation of the law? Specifically, under the different models, who is targeted? What can that reveal about the effectiveness of laws targeting demand, including the extent to which they are used and the relationship between different approaches to demand reduction and targeting of vulnerable women in prostitution / potential victims of trafficking?

4. Public Awareness (5 pages)

Descriptive

Generating Awareness

Public awareness campaigns/educational programmes by government which have/will increase support for the laws and deter buyers

Analysis

This section should answer the question – have the **government** invested in the success of any laws targeting demand?

5. Institutional Framework (5 pages)

🔍 Descriptive

National Institutions

- National Coordinators
- National Rapporteurs or Equivalent Mechanisms

Cooperative Structures, e.g. multidisciplinary groups

The above sections should briefly describe the form, functions, and practices of the different institutions and structures in the area.

🔍 Analysis

What role has the above institutions and cooperative structures played in the implementation of laws targeting demand? Have they helped, hindered, or failed to impact on implementation of laws targeting demand?

6. Assessing the Law's Impact (10 pages)

🔍 Descriptive

Impact

- Assessing the impact of the laws on trafficked and prostituted women (current and proposed) and the size of the commercial sex-trade
- Research and evaluation in relation to the wider impact of the laws including attitudinal surveys with the public; demand/buyers research

🔍 Analysis

What can the above tell us about the impact of existing laws targeting demand for human trafficking for sexual exploitation?

7. Achieving Legislative Change (10 pages)

🔍 Descriptive

Campaign strategies used (or being used) to achieve legislative change including:

- research and evidence
- political engagement
- coalition/alliance building
- survivor input and involvement
- specific focus on sectors such as health/trade unions
- public awareness campaigns
- media and communication strategies
- Choose two of the above strategies and describe efforts undertaken by your organisation

🔍 Analysis

Why were those strategies most effective?

Appendix 2: Research, government data and reports cited in the national reports

Cyprus

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- Chrysostomou, Annette. "Police condemned for buying sex to uncover pimping." *Cyprus Mail*. 18 June, 2017. **URL:** <http://cyprus-mail.com/2017/06/18/police-condemned-buying-sex-uncover-pimping/>
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- Combating Trafficking and Exploitation of Human Beings and Protection of Victims Law (L.87(I)/ 2007)
- Combating Trafficking in Human Beings and Sexual Exploitation of Young Persons Law (L. 31(I)/2000)
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- <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=860538&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.
- European Parliament Resolution on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)).
- European Parliament Directive 2004/81/EC on the residence permit issued to third-country

- nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, 2004. **URL:** <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32004L0081&from=EN>
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Conferences / seminars

- Cyprus Equality Observatory, 22 March 2017 conference: “Trafficking in women for forced labor”.
- Cyprus Women Lobby, 2012 one-day press seminar: “Violence against Women and Prostitution”.

- Geopolitical Institute Daedalus, 5 December 2006 national conference: "Migration in the 21st century".
- Mediterranean Institute of Gender Studies and the European Parliament Office in Cyprus, 2014 conference: "The demand dynamics of trafficking in women for sexual exploitation".

Finland

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- Mediterranean Institute of Gender Studies, 12 October 2010 conference: "Trafficking in Women for Sexual Exploitation: Policies and Strategies for Prevention and Intervention." URL: http://www.medinstgenderstudies.org/wp-content/uploads/Josie-Christodoulou_THB.pdf
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Campaigns

- "Human trafficking is not a fairy tale" (2012 Ministry of Justice, Non-Discrimination Ombudsman, IOM, four labour unions and other parties)
- "Stop Smugglers" (Finnish Ministry of Foreign Affairs campaign, 2016)
- Yhteisvastuukerays (Finnish Lutheran Church focused in 2017 on victims of human trafficking)

France

- 5th Plan of Action against “all” acts of violence committed against women, 2017/2019.
- “A decision made by the CNDA, Cour Nationale du Droit d’Asile (French National Court for Right of Asylum), dated 24 March 2015, recognised the existence of a social group for female victims of trafficking in human beings for the purpose of sexual exploitation.” (Case Law)
- Abolition 2012 collective, 29 November 2011, first abolitionist Convention at the French National Assembly.
- Access to compensation for damages (article 706-3 of the Code of Criminal Procedure)
- Ac.Sé scheme (“Accueil Sécurisant” or secured reception) is a national protection mechanism for victims of human trafficking (from page 7 of the report)
- Act no 2016-444 of the 13th April 2016, Aiming to Strengthen the Fight Against the Prostitution System and to Assist Prostituted Persons. This legislation impacted the following legislation:
 - article 6 of Act Number 2004-575 of the 21st June 2004 for Confidence in the Digital Economy
 - article L451-1 of the Family and Social Action Code
 - article 706-40-1 to Title XVII of Book IV of the Code of Criminal Procedure
 - article L.8112-2 of the Labour Code
 - article L121-9 of the Family and Social Action Code
 - article L441-1 of the Building and Dwellings Code
 - article L121-9 of the Family and Social Action Code
 - articles L316-1 and L316-1-1 of the Code governing the Entry and Stay of Foreigners and the Right of Asylum
 - article L851-1 of the Social Security Code
 - article L.345-1 of the Family and Social Action Code
 - articles 222-3, 222-8, 222-10, 222-12 and 222-13 of the Penal Code
 - article 706-3 of the Penal Procedures Code
 - article 2-22 of the Penal Procedures Code
 - article 306 of the Penal Procedures Code
 - article 225-10-1 of the Penal Code
 - article L.1181-1 of Title VII of the 1st Book of the First Section of the Public Health Code
 - article 312-17-1 of the Education Code
 - article L312-16 of the Education Code
 - article 611-1 of the Penal Code and amends article 225-12-1 of the Penal Code
 - articles 131-16 and 225-20 of the Penal Code
- Aggravating circumstances of resorting to the prostitution of others (article 225-12-2 of the French Criminal Code)
- Article L 316-1 of the Ceseda (Code for Entry and Residence of Foreigners in France and the Right of Asylum)
- Article 611-1 on the criminalisation of clients
- Bousquet/Geoffroy report (13 April 2011).
- Carlton trial in 2015 (Case Law)
- “Coalition pour l’Abolition de la Prostitution” (Coalition for the Abolition of Prostitution (CAP international)), 12 November 2014, 1st congress.
- CNCDH (French National Consultative Commission for Human Rights) and rapporteur for human trafficking, 2015 report on human trafficking
- *Comité d’orientation de la Mission interministérielle de protection des femmes contre les violences et de lutte contre la traite des êtres humains* (MIPROF) (Steering committee of the Interministerial mission for the protection of women against violence and the fight against human trafficking). 1st National Action Plan for the Fight Against Human Trafficking, 2014-2016 period.
- Comprehensive reduction of health-related harm policy (article L1181-1 of the Public Health Code)
- Council of Europe Convention on Action Against Trafficking in Human Beings of 16 May 2005.
- European Parliament resolution, 6 February 2013, includes prostitution in the list of acts of violence and violations of human rights which must be fought.
- Extraterritorial application of the penalty for resorting to prostitution (article 225-12-3)
- FEM, «Féministes en Mouvement», 2012. «Mais qu’est-ce qu’elles veulent (encore)?» (“What do they want now.
- French Criminal Code (from pages 3 – 4 of the report); the following articles are referred to:
 - article 225-5 and 225-6
 - article 225-7
 - article 225-7-1
 - article 225-8
 - article 225-9
- French Penal Code: Articles 225-4-1 and 2, and articles 225-14-1 and 2
- French law no. 2003-239 for internal security, dated 18 March 2003, introduced the human trafficking offence in the French Penal Code.
- French law no. 2013-711, dated 5 August 2013 on human trafficking, is an application of European Union law and France’s international commitments
- HCEFH, Haut Conseil à l’Egalité entre les Femmes et les Hommes (High Council for Gender Equality) aka HCE. June 2016, the HCE published a report on sex education for it to be rendered consistent with the French law dated 13 April 2016.
- “Manifeste des salauds” (Bastards’ manifesto) published in a review under the heading “Touche pas à ma pute” (Don’t touch my whore)
- Mouvement du Nid, May 2015. “Prostcost study”: ProstCost investigation providing an estimation of the economic and social costs of prostitution
- Mouvement du Nid, November 2013. Gathering accounts of prostituted persons denouncing the exploitation of which they were victims; particularly focused on the last 30 years. Quarterly publication in *Revue Prostitution et Société* (Prostitution and Society journal).
- Mouvement du Nid, February 11, 2010. Presentation to the French National Assembly of the findings of its assessment of public policies in terms of prostitution.
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- Ocrteh, Office Central de Répression de la Traite des Etres Humains (French Central Office for the Punishment of Human Trafficking) (reference for data on page 14 of the report)
- Parliament’s adoption of a Resolution to reaffirm France’s abolitionist position (6 December 2011)
- Penalty for repeated offence (Article 225-12-1 of the French Criminal Code)
- Penalty for resorting to the prostitution of a minor or a vulnerable person (article 225-12-1)
- Prohibition from resorting to the prostitution of others (article 611-1 of the French Criminal Code)
- Protection of victims as witnesses and claimants (article 706-40-1 of the Code of Criminal Procedure)
- Protection, assistance and support for exiting prostitution (article L121-9 of the French Family and Social Action Code)
- Strasbourg Administrative Tribunal, 2014 (Case Law)
- Supplementary punishment in the form of awareness training regarding the fight against the purchase of sexual acts (article 131-16 of the French Criminal Code)
- Zéromacho, 2011. Manifesto: “We shall not go to the woods; men say no to prostitution”.

Media

- Candice Renoir, French police drama TV series, dedicated one of its episodes in May 2017 to the murder of a militant abolitionist.
- Caught red-handed in the van of a prostitute, *Le Dauphiné.com*, 16/02/17
- Columns signed by different groups within society in support of the proposed new abolitionist legislation:
 - Health: “violence is inherent to prostitutional activity” and that “the health of prostituted persons and their protection from violence, from assault, from sexually transmitted diseases go hand in hand with a global support system and a reduction of prostitution and its related violence.” – 12 November 2013, *Le Monde*; and 28 March 2015, *Journal du Dimanche*.
 - 13 October 2014, *Journal du Dimanche*
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