

Austrian Expert Group on Prostitution

Position Paper on a Legal Ban on the Purchase of Sexual Services

The Expert Group on Prostitution was established in 2009 as a Sub-Working Group of the Task Force on Human Trafficking chaired by the Women's Section of the Austrian Federal Chancellery. It comprises 30 experts of police departments on human trafficking and prostitution, as well as specialised counselling centres for sex workers and members of relevant public service departments (health service, women's departments, legal departments responsible for prostitution laws and brothel licensing authorities).

The Expert Group on Prostitution opposes a ban on prostitution in the form of a ban on the purchase of sexual services (Criminalisation of Clients / "Swedish Model" / "Equality Model") due to the following reasons:

1. **A ban on the purchase of sexual services equals a ban on prostitution.** However, prostitution will thus not be stopped because **demand and supply will still exist.**
 - This was confirmed during the Covid-19-pandemic: The restrictions of sexual services in Austria led to a massive shift into illegality.
2. **A ban on prostitution leads to illegal and uncontrollable prostitution.**
 - **Illegality makes it more difficult to identify victims and to offer support, protection and counselling.** In an illegal market the police and counselling centres lose access to sex workers and thus possibilities to offer support; the police furthermore lose opportunities of carrying out control measures.
 - **The risk of exploitation and human trafficking** will thereby intensify.
 - **Living conditions** of sex workers will **deteriorate.**
 - The **state will lose possibilities to regulate** places where sex work takes place and to **influence working conditions.**
3. **International human rights organisations** as well as **sex workers' self-organisations** oppose sex purchase bans.
4. **Violence against sex workers and forced prostitution** are punishable by law in Austria.

A ban on the purchase of sexual services equals a ban on prostitution.

However, a ban doesn't reduce **demand for sexual services effectively but rather pushes the market into illegality.** This is demonstrated in countries where a sex purchase ban is in place, such as Swedenⁱ, Northern Irelandⁱⁱ and Franceⁱⁱⁱ. **The Covid-19-protection measures in Austria led to an actual prohibition to offer sexual services which led to a massive increase of illegal sex work in private apartments.**^{iv}

A ban on the purchase of sexual services would also prohibit sexual services for elderly people and people with disabilities (sexual assistance).

An illegal market increases the risk of human trafficking and impedes victim protection and support.

When the police lose insight, human traffickers can operate more freely and potential victims of trafficking are less likely to be identified. Furthermore, illegality impedes trust-building measures by the police. Sex workers that provide their services illegally, work more isolated and also counselling centres lose access to offer support.

A **clear distinction** between sex work on the one hand and human trafficking and sexual violence on the other is a precondition **to making violence more visible** and to take targeted measures against it. Generally considering sex workers as victims does not reflect reality. A **sex purchase ban also indirectly criminalises sex workers.** This leads to **violence and exploitation being reported less frequently** by victims and clients.

A ban on the purchase of sexual services increases stigmatisation of sex workers.

In fact, a sex purchase ban **leads to increased stigmatisation and marginalisation** of sex workers and clients become more **disrespectful and assaultive** (e.g. in Northern Ireland).

In an illegal system, sex workers lose negotiation power towards clients, landlords/-ladies of business premises etc. In general, sex workers become more dependent on third parties.

A ban on the purchase of sexual services does not create alternative income opportunities, but intensifies the often difficult social and economic situation of sex workers. If it is not possible to work legally, taxes or social service contributions are not being paid. **As a result, benefits cannot be claimed** (such as retirement, health services or benefits due to the Covid-19-pandemic).

By regulating sexual services in a way that rights of sex workers are at its centre, the state can influence working conditions. Only by **strengthening the rights** of sex workers, **living and working conditions can be improved** and thus the risk of exploitation and violence be reduced.

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ⁱ Charlotta Holmström and May-Len Skilbrei, 'The Swedish Sex Purchase Act: Where Does it Stand?' (2017), https://www.idunn.no/oslo_law_review/2017/02/the_swedish_sex_purchase_act_where_does_it_stand.

ⁱⁱ Department of Justice Northern Ireland, 'Assessment of impact criminalisation of purchasing sexual services' (17. September 2019), <https://www.justice-ni.gov.uk/news/report-published-impact-sex-purchase-offence>.

ⁱⁱⁱ Le Bail, Giametta, Rassouw, 'What do Sex Workers Think about the French Prostitution Act? A Study on the Impact of the Law from 13 April 2016 against the 'Prostitution System' in France' (April 2018), <https://www.medecinsdumonde.org/en/actualites/publications/2018/04/12/study-impact-law-13-april-2016-against-prostitution-system-france>.

^{iv} Austrian Expert Group on Prostitution, Forth Report (April 2021).