Legalized Prostitution

Austria • Belgium • Denmark • England • Estonia
European Union • Finland • France • Germany
Greece • Iceland • Italy • Latvia • Netherlands
Norway • Spain • Sweden • Switzerland • Turkey

February 2008

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## LEGALIZED PROSTITUTION IN SELECTED EUROPEAN COUNTRIES

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>LEGAL STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Prostitution: Legal since Jan. 1, 1975. Laws regulating prostitution require prostitutes to register, undergo periodic health examinations, be 19 years old or older, and pay taxes. Brothel Ownership: Illegal. Pimping: Illegal.¹</td>
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<tr>
<td>Belgium</td>
<td>Prostitution: Legal. Brothel Ownership: Legal. Pimping: Illegal.²</td>
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<tr>
<td>Denmark</td>
<td>Prostitution: Legal; must be over 18. Limits on soliciting. Brothel Ownership: Illegal. Pimping: Illegal.³</td>
</tr>
<tr>
<td>European Union</td>
<td>Prostitution: Governed by national legislation. Sex workers may be restricted from entry into a country only if prostitution is illegal for nationals.⁶</td>
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<tr>
<td>Finland</td>
<td>Prostitution: Legal; must be over 18.⁷</td>
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<tr>
<td>France</td>
<td>Prostitution: Legal; must be over 18. Soliciting is not legal. Brothel Ownership: Illegal. Pimping: Illegal.⁸</td>
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<tr>
<td>Germany</td>
<td>Prostitution: Legal. Brothel Ownership: Legal. Pimping: Legal; exploitative behavior considered criminal.⁹</td>
</tr>
<tr>
<td>Greece</td>
<td>Prostitution: Legal and regulated.¹⁰</td>
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<tr>
<td>Italy</td>
<td>Prostitution: Legal. Brothel Ownership: Illegal. Pimping: Illegal; procurement and living on the earnings of a woman in prostitution is prohibited.¹²</td>
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<tr>
<td>Latvia</td>
<td>Prostitution: Legal with limitations; requires monthly health check. Brothel Ownership: Illegal. Pimping: Illegal.¹³</td>
</tr>
<tr>
<td>Netherlands</td>
<td>Prostitution: Legal since Oct. 2000; prostitutes must be over 18 and clients must be over 16. Prostitutes must register and pay taxes. Brothel Ownership: Legal; subject to licensing and zoning requirements. Pimping: Legal; living off income from a prostitute is legal if it doesn't involve coercion.¹⁴</td>
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<tr>
<td>Norway</td>
<td>Prostitution: Legal; must be over 18.¹⁵</td>
</tr>
<tr>
<td>Spain</td>
<td>Prostitution: Legal. Pimping: Illegal.¹⁶</td>
</tr>
<tr>
<td>Sweden</td>
<td>Prostitution: Legal to sell sexual services but illegal to buy sexual services. Pimping: Illegal.¹⁷</td>
</tr>
<tr>
<td>Switzerland</td>
<td>Prostitution: Legal; prostitutes must register with city authorities and health authorities and get...</td>
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<tr>
<td>COUNTRY</td>
<td>LEGAL STATUS</td>
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<tr>
<td>Turkey</td>
<td>Prostitution: Legal; requires registering and attending clinics for regular examinations. Must carry identity card indicating the dates of his or her health checks. Health checks can be as often as twice a week. Sex workers cannot be married and their children are barred from occupying high rank in the army or police, or marrying persons of such rank, although they can work in other areas of government service. Brothel Ownership: Legal.19</td>
</tr>
</tbody>
</table>

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February 2008

2 Id.
3 See attached report from the Law Library on Denmark.
5 ProCon, supra note 1.
6 See attached report from the Law Library on the European Union.
7 See attached report from the Law Library on Finland.
8 See attached report from the Law Library on France.
9 The date of the legalization of prostitution in Germany is disputed. Some cite the passage of the 1927 Law for Combating Venereal Diseases, while others date it to the Prostitution Act of January 2002. Prostitution ProCon, supra note 1.
10 See attached report from the Law Library on Greece.
11 See attached report from the Law Library on Iceland.
12 ProCon, supra note 1.
13 See attached report from the Law Library on Latvia.
14 ProCon, supra note 1.
15 See attached report from the Law Library on Norway.
16 See attached report from the Law Library on Spain.
17 See attached report from the Law Library on Sweden.
18 ProCon, supra note 1.
19 Id.
LEGALIZED PROSTITUTION

It is legal to solicit sex and to buy sexual services from a person who is over the age of eighteen in Denmark. A person working as a prostitute is not covered by laws that govern workers rights, such as unemployment or pension laws. A person who solicits sex may not incite or invite people as clients in a manner that is meant to annoy them or stirs public offence.

Buying sex from a person under the age of eighteen is a criminal act and is punished by fines or imprisonment for up to two years. Furthermore, it is illegal to force a person into prostitution, and it can be illegal to make money from someone else’s prostitution or to prevent someone from giving up prostitution. It is also illegal to operate a brothel. A person who is found guilty of these charges can be sentenced to up to four years in prison.

A person who acts as an intermediary between a prostitute and his or her clients can be punished with imprisonment for up to three years if he makes a profit from his actions or he acts as an intermediary frequently.

Trafficking is illegal in Denmark and is punishable with up to eight years of imprisonment, according to the Danish Penal Code, section 262 a.

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1 Lovgivning om prostitution og menneskehandel, Servicestyrelsen (Danish Center for Research on Social Vulnerability), http://www.vfcudsatte.dk/page726.asp (last visited Feb. 5, 2008).
3 Id. at § 223 a.
4 Id. at § 228.
5 Id. at § 229.
The issue of prostitution falls within the jurisdiction of the Member States of the European Union. There is no uniform regulation of prostitution among the EU Members. In the majority of the Member States, prostitution is legal, but in others it is not. Even though the EU has no competence on prostitution per se, other issues and phenomena associated with prostitution, such as trafficking and organized crime, fall within the ambit of the EU, and therefore they are regulated at the EU level.

The principles of free movement and the pursuit of economic activities, which are part of the key four principles of the single market, apply to sex workers as well, as decided by the European Court of Justice. In Aldona Magorzate Jany and Others v. Netherlands, the Court held that “prostitution is an activity by which the providers satisfies a request by the beneficiary in return for consideration without producing or transferring material goods. Consequently, prostitution is a provision of services for remuneration, which falls within the concept of economic activities.”

Member States may restrict the entry and right of establishment to a sex worker, on the grounds of public policy under article 39 of the EC Treaty, only if the Member State concerned prohibits engaging in prostitution for its own nationals.

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2 Id.
It is illegal to buy sexual services from a victim of sex trade in Finland. This includes victims of procurement and trafficking and is punishable by fines or up to six months in prison. It is also illegal to buy sexual services from a person under the age of eighteen.\(^1\)

A person who buys sexual services in a public place can be fined in accordance with the Public Order Act.\(^2\)

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\(^2\) Ordningslagen, Act No 612 of 2004.
Prostituting oneself is not punishable, but the prostitute may be charged with soliciting, including passive soliciting. This offense is punishable with two months’ imprisonment and a €3,750 fine (about US$5,550). The prostitution of minors is prohibited. The Civil Code defines “minor” as “an individual of either sex who has not yet reached eighteen years of age.” Any minor who prostitutes him/herself is considered in danger and falls under the protection of the competent juvenile justice judge.

Owning or operating a brothel is illegal and is punished with ten years’ imprisonment and a fine of €750,000 (about US$1,110,000).

Pimping is punished with seven years’ imprisonment and a fine of €150,000 (about US$225,000). The penalties are increased to ten years’ imprisonment and a fine of €1,500,000 (about US$2,220,000) where it is committed with respect to a minor and to fifteen years’ imprisonment and a €3,000,000 (about US$4,440,000) fine if the minor is under fifteen.

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1 CODE PENAL, art. 225-10-1, (Dalloz 2008).
3 CODE PENAL, art. 225.10.
5 Id., art. 225-7-1.
Prostitution is not a criminal offense in Greece. It has been legalized and regulated since 1981.\footnote{Law 1193 of 1981, as amended. Episemos Ephemeris tes Hellenikes Demokratias [EEHD], Part A., No. 350 (1981).} Women who engage in prostitution must be at least twenty-one years old and must be registered and report to the police authorities.
An amendment to the Icelandic Penal Code in 2007 made prostitution legal in Iceland. It is now legal to solicit sex and to buy sexual services, but it is illegal for a third party to profit from the prostitution. The Icelandic Government argues that those who work as prostitutes often do so because they do not have any other choices or are forced into prostitution by others. By making prostitution legal, the Government hopes that more prostitutes will come forward and lead authorities to those who are responsible.\(^1\)

It is, as mentioned, illegal for third parties to profit from prostitution. The Icelandic Penal Code provides that those who make their living from others’ prostitution can be imprisoned for up to four years. Those who, by means of alluring, encouraging, or intimidation, force others to solicit sex or who make prostitution a source of income from, for example renting of accommodations, can be punished by imprisonment for up to four years, fines, or one year in prison in cases where there are mitigating circumstances. Through an amendment to the Penal Code, it is now also illegal to organize sexual relations between others for money, even if the third party does not profit from it. It has also become illegal to advertise prostitution.\(^2\)

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\(^2\) Id.
Although prostitution is not legalized in Latvia, neither is it prohibited. In 1998, Latvia acceded to the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others,\(^1\) and accepted the obligation to abolish any laws requiring the registration or supervision of people engaged in prostitution. The influx of foreign tourists, however, who used Latvia as a sex tourism destination forced the country’s government, in 2001, to pass a Regulation entitled Rules on Limiting Prostitution Activities.\(^2\)

The rules established legal norms regarding the provision of sex services; they, however, did not recognize such services as a labor activity and did not define the status of sex service providers. The Rules stated that each community with more than 20,000 inhabitants shall define areas where individuals engaged in prostitution are allowed to offer their services or receive requests for such services. Sex services can be provided within private residences in these areas, which are owned or rented by the service provider personally, who cannot be younger than eighteen years of age. This provision was aimed at limiting street prostitution. Because the creation of brothels is not allowed, hotel rooms cannot be offered for prostitution, and administrative punishment for hotel owners was introduced. Also, the Rules prohibited work in groups, services of middlemen, and imposed on prostitutes a requirement to undergo medical checkups monthly according to the procedure determined by the Minister of Health Protection, and provide customers with updated health records upon request. Reportedly, only about 100 prostitutes’ health certificates were issued in Riga, the capital city of Latvia, before 2007, although according to police reports, about 6,000 women offer sex services in Riga, the capital city of Latvia.\(^3\)

In October 2007, the rules were amended by a new restriction which lists places where and near to which prostitution is prohibited. These places include cultural, educational, religious, entertainment, healthcare, and sport institutions, as well as buildings where state and municipal authorities are located. The regulation also lists services for which paid performance is prohibited. Local governments are required to define areas where individuals cannot offer or provide sex services.\(^4\) Recently passed amendments to the Criminal Code provide for increased punishment for engagement of minors in prostitution and for organizing a group aimed at recruiting an individual into prostitution.\(^5\)

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\(^5\) LV, Jul. 17, 2006, No. 86.
It is currently illegal to buy sexual services from someone under the age of eighteen in Norway. There are no provisions in the Penal Code that criminalize the buying or soliciting of sexual services from or by those over the age of eighteen. This does not mean that there are cases where buying sexual services is not covered by other criminal provision such as for example rape.¹

The Norwegian Government has proposed criminalizing the buying of sexual services, to be punished with fines and/or imprisonment of up to one year. It is important to note that it is the buying of sexual services that would be criminalized in the proposal; it will not be illegal to solicit sexual services. The proposal is still under consideration. The Government’s aim is to submit a bill to Parliament by the summer of 2008.²

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Executive Summary

The current Criminal Code¹ in force since 1995, amended in 1999² and 2003,³ punishes actions connected with prostitution, but not voluntary prostitution itself. It penalizes actions inducing or maintaining prostitution as a result of violence or coercion, or the abuse of a situation of need or superiority or vulnerability of the victim;⁴ prostitution of minors;⁵ and the exploitation of prostitutes by pimps.⁶

In 1995, most behaviors around prostitution, such as pimping, were decriminalized by the new Penal Code⁷, except in the case of the prostitution of minors and those considered “legally incapacitated,” such as individuals with mental health problems.⁸

In 2003, pimping of adult prostitutes was criminalized again, even when the prostitution is voluntary. The 2003 amendment of the 1995 Criminal Code⁹ contained the criminalization of behaviors surrounding prostitution, such as promoting the prostitution of others or benefiting from it; even in case of voluntary prostitution.

The reform increased the penalties in four cases: the crime of promotion of prostitution of minors and the disabled¹⁰, the crime of forced prostitution when perpetrated by public authorities or civil servants taking advantage of their positions within the state;¹¹ when the person who has parental authority, guardianship, or foster care responsibilities over a prostitute who is younger than eighteen years old or “legally incapacitated” does not actively attempt to stop him/her from acting as a prostitute;¹² and when the crimes related to prostitution were committed by criminal organizations or associations.¹³

A new crime was created under Organic Law 4/2000 on Immigration,¹⁴ which penalizes the

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⁴ Código Penal, art. 188.1.
⁵ Código Penal, arts. 187 & 188.2.
⁶ Código Pena, art. 188.1
⁷ G. Quintero Olivares and F. Morales Prats, COMENTARIOS AL NUEVO CODIGO PENAL 945 (2005)
⁸ Id.
⁹ Código Penal, art. 188.1.
¹⁰ Código Penal, art. 187.1.
¹¹ Código Penal, art. 187.2.
¹² Código Penal, art. 189.5.
¹³ Código Penal, art. 187.3.
trafficking of people with the aim of sexually exploiting them. Under this new provision, forced prostitutes who have been trafficked may obtain residence and work permits.\textsuperscript{15}

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\textsuperscript{15} \textit{Id.}, art. 55.1.
Sweden has criminalized the buying of sexual services, but it is legal to solicit sexual services. According to the Swedish Penal Code, a person who buys sexual services may be sentenced to fines or prison for up to six months. Procurement is also illegal in Sweden and is criminalized in the Penal Code with up to four years in prison. The Penal Code states “anyone who promotes or encourages or improperly exploits for commercial purposes casual sexual relations entered into by another person in exchange for payment is guilty of a criminal offence and shall be sentenced to imprisonment for at most four years for the crime of procuring.”

In July 2002, trafficking in humans for sexual purposes was criminalized, and in 2004 the provision was broadened to include trafficking within Sweden and trafficking for other purposes than sexual trade, such as illegal trade in human organs.

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1 Ch. 6, 11§ Swedish Penal Code (Svensk Författningssamling 1962:700).
3 Id.