



**Observatory for
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Regulation of prostitution in Bulgaria, Romania and the Czech Republic

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Abstract:

Many women working as prostitutes in Germany have a migration background from the Czech Republic, Bulgaria or Romania. The legal regulation of prostitution in these countries differ in some cases significantly from the regulations which apply in Germany. For this reason, the following expertise presents the key points of the legal position and the current reform debates in these three states in the form of fact sheets.

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1 Background

Many women employed in prostitution in Germany originate from Romania, Bulgaria or the Czech Republic. In the following expertise, the legislation regulating prostitution in these three countries is explained in the form of a brief country profile (factsheet). The factsheets aim to shortly present the main features of the legal situation these individuals face in their respective countries of origin. Current reform discussions are also examined.

2 Romania

Up until the beginning of 2014, prostitution in Romania was banned under the criminal law. This ban was lifted on 1.2.2014. Since then, prostitution has been regarded as an administrative offence and is subject to a fine. Romania therefore continues to be one of the few European states in which the provision of sexual services is punished (Model 1 – ban on prostitution). However, this is no longer a criminal act, but an administrative offence. If the fine is not paid, the persons concerned must fulfill community service or an alternative term of imprisonment. In practice, this does result in the police not issuing any fines as in most cases these are not paid.

In February 2015, the government proposed an amendment to the criminal law relating to the prostitution of minors. The amendment sets out to include child abuse as a new criminal offence. Prospectively, clients are to be punished who knowingly use the services of a prostitute who is a minor. Also the attempt is punishable by law.¹

3 Bulgaria

Prostitution has been legal in Bulgaria since 1990, but is not subject to any further regulation (Model 3). Prostitution is neither expressly permitted nor banned under Bulgarian law. In accordance to this political approach, however, all third party activities are a criminal offence. This includes all third party activities which aim to facilitate or organise the provision or purchase of sexual services.

- Persons who systematically make premises available in return for payment for the practicing of sexual intercourse, or publically advertise premises for the practicing of sexual intercourse, are punished with a fine of up to 1000 Lev (approx. € 500)
- Persons who entice others into prostitution with the aim of material benefit or maintain premises in which sexual services are offered face a custodial sentence of up to six

¹ The author presumes that the amendment has been proposed due to the implementation of the Lanzarote Convention in Romanian law. Furthermore, it could also be presumed that the criminal offence will be introduced analogously to the Austrian Criminal Code, which regulates prostitution of minors under Section 207 b (3) – Abuse of young people. A Czech expert explained that when European and international legal obligations are implemented, it is customary procedure in central and eastern European states to copy the laws from countries of Western Europe. The latter however, is purely the presumption of the author

years or a fine of 5000 to 10000 Lev (approx. € 2,500 to € 7,500). The criminal offence is committed regardless of whether the material benefit has been received.

- Persons who entice others to misuse drugs in order to lead them into prostitution face a custodial sentence of five to ten years or a fine of 10,000 to 15000 Lev (approx. € 7,500 to € 10,000).
- The passing on of contacts of persons who are minors with the intention of prostitution is punishable with a prison sentence of up to six years or a fine of 5,000 to 10,000 Lev (approx. € 2,500 to € 7,500).
- Since 2009, clients of prostitutes who are minors face a custodial sentence of up to three years (regulation introduced as part of the implementation of the Lanzarote Convention).
- In addition, some criminal regulations which are no longer applied in practice, such as the punishment of prostitutes due to idleness, continue to exist. As these regulations continue to form part of criminal law, they contribute to significant legal uncertainty.

Prostitution was banned during the Communist regime. The practice of forced relocation was used with regard to prostitutes.

4 Czech Republic

4.1 Historical development

- Text Up to 1922 regulative model
- Up to 1956 abolitionism
- Prostitution was banned under the socialist regime until 1990 and was regarded as “parasitic conduct” preventing and undermining honest work.

4.2 Current legal situation

Since 1990 prostitution is no longer banned, but takes place within a legally grey area. For a long time, prostitution was not subject to Czech law. In 2010 prostitution was reincorporated as part of criminal law in the context of endangering the moral development of children.² No further regulation on the basis of legal requirements occurs. The Czech Republic thus follows model 3 (Prostitution is legal, but unregulated).

Prostitution does not form part of commercial law and is thus not recognised as trade (i. e. immoral). Prostitutes frequently achieve legal employment status by specifying another (self-

² The practicing, organising, protection and the provision of prostitution in the vicinity of schools and other institutions attended by children is banned. When introducing the law, the Czech Republic was guided by German law, but it was much more broadly structured and is therefore more restrictive. This criminal regulation is an instrument often used for banning prostitution in public spaces (is very comprehensively prosecuted).

employed capacity (e.g. waitress). This means they pay taxes and have access to social insurance.³

Municipalities regulate prostitution under the area of “municipal matter of public order”. Many communities have set up restricted zones. Since a Supreme Court ruling in 2007, municipalities are able to ban street prostitution completely. Prostitutes face a fine if they do not comply with the ban.

4.3 Reform efforts

Stronger regulation of prostitution has been discussed since the 1990s as the unclear interpretation of this grey area is regarded as unsatisfactory. A draft bill of the Ministry of the Interior failed in 2005. The City of Prague subsequently made use of their right of initiative and proposed multiple bills to parliament which have so far been unsuccessful. Each new draft bill was more detailed and more restrictive than the previous one.

The most recent draft contains the following regulations:

- Permit system for prostitutes: Prostitutes have to apply for a license. The approval depends on fulfillment of the following prerequisites: Prostitutes must have health insurance and must be in a sufficiently good state of health; they must not have previous convictions with regard to selected criminal offences; they must have Czech citizenship or be EU citizens; they must be at least 18 years of age. Practicing prostitution without a license is an administrative offence, a fine of 50.000 CZK (approx. € 1,800) can be imposed.
- Ban on street prostitution: street prostitution is to be banned nationwide and is no longer subject to the regulatory authority of the municipalities.
- Permit system for brothels: brothels are to be legalised, but are subject to a permit system.⁴
- Prostitution in private rooms (apartment prostitution): Prostitutes are only permitted to work alone in their private apartments. They require a permit for this. In addition, the landlord’s consent is required. Furthermore, the prostitutes themselves must ensure that the environment is sufficiently secure. A fine of 2 million CZK (approx. € 73,000) can be imposed for practicing apartment prostitution without a permit
- Introduction of mandatory regular health examinations for prostitutes. A fine is imposed for non-compliance
- Introduction of a national register for prostitutes
- A specific identification for prostitutes showing surname and first name is to be issued by the municipalities for the prostitutes. It must be shown to the client upon request.

³ A study of brothels in Prague showed that approx. 50% of prostitutes opted for this route.

⁴ Unfortunately I have no further information available regarding the organisation of the permit system for brothels (Requirement of the operator and/or operation). If there is interest, I am able to willingly undertake further research.

4.4 Evaluation

The Czech reform bill aims at comparatively far-reaching regulation. However, this is not aimed first and foremost at the improved protection of prostitutes, but instead at **protecting clients and minimizing public disturbance**. This is evident amongst other as the bill includes a range of 19 administrative offences for prostitutes (with fines of up to 2 million CZK), but only one for clients (for the purchase of sexual services at times and locations where prostitution is banned, maximum fine of 15,000 CZK – approx. € 550). Moreover, clients of prostitutes without a license do neither face a fine nor a penalty. The regulation requiring that, in the case of apartment prostitution, prostitutes are expected to be responsible for their own safety, but at the same time are only permitted if working alone, is another example showing that protection of prostitutes is not at the heart of the draft bill.

The intention of the reform proposal could be explained by the social understanding of prostitution. In the Czech Republic, prostitution is seen as a pathological, yet unavoidable phenomena, the negative impacts of which must be reduced for the general public. The explanatory memorandum relating to the amendment to the 1995 Municipalities Act clarifies this understanding:

„Prostitution is a social pathology which cannot however, as historical experience shows, be entirely eradicated. It can, however, be regulated in a way as to eliminate the disruption of public order, the endangering of education of children and youth, and any offence to public moral sensibility.“

(Explanatory Memorandum, 1995 Amendment to Municipalities Act quoted from Havelková).

5 References

Information relating to Romania is based on written information from Laura Albu, President of the Romanian Womens' Lobby.

For information relating to Bulgaria, please see “Legalizing Prostitution – Pros and Cons“, Risk Monitor, Sofia: 2011 (Chapter 8 was translated as part of a service contract).

Information about the Czech Republic is based on a presentation by Barbara Havelková, University of Oxford, on the subject of “The Czech Reform Proposal to 'regulate' prostitution – a step back by hundred years” at the conference “Troubling Prostitution: Exploring intersections of sex, intimacy and labour” of the ProsPol COST Action Network , Vienna 17.4.15.

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