Input to the report of the Special Rapporteur on violence against women and girls to the Human Rights Council on prostitution and violence against women and girls

Insights from Serbia

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Belgrade, January 2024

# Legal framework in Serbia

The **prohibitionist model** in the Republic of Serbia is legally shaped by the Criminal Code and the Law on Public Order and Peace.

Article 184 of the Criminal Code is focused on *"Mediation in Prostitution"* – more about the problems with implementation of this article will be provided in the section *Connections between prostitution and trafficking*.

The Law on Public Order and Peace defines prostitution as "providing sexual services for remuneration in money or other value" (Article 3, paragraph 15). Article 16 specifies that anyone *engaging in prostitution*, *using prostitution services*, or renting premises for prostitution will be punished with a fine ranging from 50,000 to 150,000 dinars or imprisonment for a period of 30 to 60 days.

The mere fact that prostitution is defined and punishable under the Law on Public Order and Peace indicates **the way it is perceived in society — not as a phenomenon of male violence against women but as an "unlawful act that endangers or disrupts public order and peace, causes disturbance, or jeopardizes the safety of citizens, (...) offends morality (...)."** (Article 3, paragraph 3).

# Who is punished under the Law on Public Order and Peace (profiles of women in prostitution and men who are using women in prostitution)

Autonomous Women’s Centre (AWC)[[1]](#footnote-1) have been monitoring the implementation of the Law on Public Order and Peace through in-depth analysis of court verdicts for both engaging in prostitution and using prostitution services.

Data available bellow is based on the five-year period (2016-2020) of the implementation of the Law[[2]](#footnote-2).

**92% of persons convicted for engaging in prostitution are women, and 100% of those using prostitution services are men.**

Characteristics of women convicted for engaging in prostitution:

* Their average age is 33, but it ranges from 19 to 72 years of age;
* They are mostly uneducated or just have basic education (20% of women in prostitution are illiterate or did not finish elementary school, 23% finished elementary school, 28% graduated high school;
* In 96% of cases they are unemployed;
* Only 20% were married or living in a common law marriage;
* Only 17% of the women did not have children, while 65% had from one up to seven children;
* More than half of them (53%) had previous misdemeanour convictions;
* In 67% of the cases they engaged in street prostitution;
* They engaged in prostitution for payments ranging from 1,500 RSD to 2,500 RSD. **Compared with the average amount of fine they were sanctioned with, women had to engage in approximately 15 additional sexual acts in order to pay for it!**;
* In 63% of cases they were found guilty, despite the fact that they weren’t arrested while providing services, that is, despite the fact that at the time of arrest no client was present;
* When interrogated they would confess to engaging in prostitution because of difficult financial circumstances;
* In 88% of cases they were fined in the final verdict, while the fine averaged at about 30,000 RSD. **In a certain number of cases, women who engage in prostitution appealed to the court to give them a prison sentence instead of a fine because they weren’t able to pay it.**

Characteristics of men convicted for using prostitution services:

* Average age is 39, ranging from 18 to 69 years old;
* 32% of the men graduated high school;
* 55% of the men are employed;
* Equal percentages of men (32%) are not married as those who are married/living in a common law marriage;
* It was possible to determine that 37% of men who use prostitution services have children;
* 85% of them had no previous record of misdemeanour convictions;
* 100% of the men who used prostitution services were fined, on average of 39,018 RSD. **This means that prison sentences were only handed down to women who engage in prostitution, and not to men who are using services.**

Punishing those who engage in prostitution in order to prevent repetition of the same act doesn’t work, as can be seen from data showing that approximately half of persons who engage in prostitution were convicted of the same act again within this five-year period. Most of them were convicted twice, but it is extremely worrisome to see cases where some persons were convicted six times from 2016 to 2021, or even **eight, ten or 12 times**! **This leads to a conclusion that the problem of prostitution will not be solved with repressive measures, and that there is a need for an approach from a different angle – women’s human rights approach.**

**It is worth mentioning that in Serbia there are no support services for women in prostitution – they are not seen as victims of violence, but as criminals.**

# Violation of human rights of women: Institutional discrimination against women in prostitution in Serbia

An analysis done by the Autonomous Women’s Centre for the period 2016-2020[[3]](#footnote-3) shows a great discrepancy between the punitive measures handed down for engaging in prostitution and those for using prostitution services. Analysis of a total of 495 verdicts shows that 386 persons were convicted of engaging in prostitution while only 109 were convicted of using prostitution services. **It is therefore evident that persons who engaged in prostitution were convicted 3.5 times more often than those who used prostitution services.**

The verdicts show discrepancies in court practise related to what constitutes an act of prostitution under the Law of Public Order and Peace, which is explained under the following examples.

In 63% of verdicts women convicted of engaging in prostitution were the only ones convicted under the Law, although it takes at least to persons to engage in the act of prostitution – one who is selling prostitution services and the other who is using them. In these cases, women were convicted solely because they were “offering services”, “expecting clients”, “standing on the place where usually are standing women in prostitution” etc – **the act of sexual intercourse for remuneration didn’t happen.**

Hight conviction rate for women is also connected to the issue of confession of an act – there were cases where both women and men were jointly arrested – she *confessed* to be engaging in prostitution and *was sanctioned*, while he *didn’t confess* and *was released* for the same act for which she was punished.

With all this in mind, our conclusion is related not only to the implementation of the Law (which is proved to be discriminatory against women in prostitution), but the Law itself. **The Law on Public Order and Peace (including how it is being implemented) is discriminatory, misogynist and violates human rights of women** because it doesn’t take into account either patriarchal or economic power dynamics between men and women, meaning that *it equally treats parties in fundamentally unequal positions*. **This relates not only to the Law in Serbia, but to all laws that are avoiding to see the gender dimension of prostitution, and its economic, psychological and social aspects. Additionally, this also relates to the model of full decriminalisation of all aspects of prostitution, as women and girls in prostitution are one of the most vulnerable social groups in need of affirmative actions, which cannot be achieved if they are left to the free market, punters, and pimps.**

**That is why the only legal framework that does recognizes all these important aspects is the Equality Model** – proscribing complete decriminalization of women in prostitution and exit strategies (psychological care and economic empowerment), while at the same time criminalizing the punters and those who are misusing already difficult situation of women in prostitution.

# Media promotion of prostitution

Although in Serbia, according to the mentioned Article 184 of the Criminal Code, it is prohibited to "promote or advertise prostitution through means of public information and other similar means," this provision is rarely enforced in practice.

During the year 2022, media in Serbia, including those with national coverage, invited as interviewees individuals convicted of mediating in prostitution or those currently accused of both this and the criminal offense of human trafficking[[4]](#footnote-4). In the same period, a book by a man convicted of mediating in prostitution was promoted, leading to the publication of names of women in prostitution in the media, along with their "catalogues", accompanied by speculation about the prices of sexual services. **Through such media coverage, prostitution was romanticized and portrayed as a glamorous "profession," while women in prostitution were depicted as individuals earning staggering sums of money, which reinforces stereotypes and diverts the topic from the field of human rights.**

With the exception of a few women's non-governmental organizations advocating for the abolition of prostitution[[5]](#footnote-5), there have been no reactions in the public discourse, especially not from state representatives, regarding this type of media reporting or calls to recognize prostitution as a form of violence against women.

# Connections between prostitution and trafficking

As already mentioned, the Criminal Code of Serbia, in Article 184, *Mediation in Prostitution*, states that anyone who "induces or incites another person to engage in prostitution, or participates in the delivery of one person to another for the purpose of engaging in prostitution, or who, through means of public information and other similar means, promotes or advertises prostitution", will be punished with imprisonment ranging from six months to five years and a fine.

On the other hand, Article 388 defines the criminal offense of *Human Trafficking* for which a higher penalty is prescribed – imprisonment from 3 to 12 years.

In the *U.S. State Department's Human Trafficking Report* for the year 2023, it is noted that in Serbia, **cases of human trafficking for sexual exploitation are often classified as *Mediation in Prostitution***, even when the victims are children[[6]](#footnote-6). The same report for the year 2019 also points out the frequent occurrence of cases where, after reaching a plea agreement, human trafficking cases for the purpose of sexual exploitation are prosecuted as *Mediation in prostitution*[[7]](#footnote-7).

These practices are having a strong impact not only the level of sanction, but also in terms of **support services provided for trafficking survivors, as unfortunately no such services are provided for women in prostitution.**

Looking at these practices through a feminist lens, we believe that there are clear connections between prostitution and human trafficking for the purpose of sexual exploitation. In practice, these acts are sometimes challenging to separate, and both acts constitute severe violations of women's human rights. Therefore, it is discriminatory to distinguish survivors on those who have and those who don’t have access to support services.

1. Autonomous Women’s Centre is is a woman, non-governmental organization founded in 1993. AWC website: <https://womenngo.org.rs/en> [↑](#footnote-ref-1)
2. Publication with more data available on this link: <https://womenngo.org.rs/images/publikacije-nasilje/I_appeal_to_the_court.pdf> [↑](#footnote-ref-2)
3. Publication available on this link: <https://womenngo.org.rs/images/publikacije-nasilje/I_appeal_to_the_court.pdf> [↑](#footnote-ref-3)
4. An Open letter to Republic Public Prosecutor's Office submitted by the Autonomous Women’s Center, was left without reaction. The letter is available in Serbian on this link: <https://womenngo.org.rs/vesti/1857-otvoreno-pismo-republickom-javnom-tuzilastvu> [↑](#footnote-ref-4)
5. An example of an advoacy action taken by the Network of Women against violence in Serbia: <https://womenngo.org.rs/en/news/519-appeal-to-the-women-s-parliamentary-network-in-respect-to-the-regulation-of-penalties-for-prostitution> [↑](#footnote-ref-5)
6. Report available here: <https://www.state.gov/reports/2023-trafficking-in-persons-report/serbia/> [↑](#footnote-ref-6)
7. Report available here: https://www.state.gov/reports/2019-trafficking-in-persons-report/serbia/ [↑](#footnote-ref-7)