

Statement by Austria to the call for 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

This statement has been prepared by Austria in cooperation with the **National Task Force on Combating Human Trafficking** and its Permanent **Working Group on Sexual Services**. Austria highly appreciates that the specific human rights situation of sex workers is addressed at UN level.¹

In this statement, the **term sex work**² is used to refer to the **voluntary** provision of sexual services between **consenting adults** in return for some form of remuneration. This also reflects the term used by the UN Working Group on Discrimination against Women and Girls in their recent position paper (please refer to question 6).

In view of the sensitivity of the issue it is considered of utmost importance to distinguish between sex work and (sexual) exploitation/human trafficking. This without losing sight of the fact that sex work regularly takes place in a precarious environment characterized by strong stigmatization and a lack of rights. The **clear distinction** between sex work on the one hand and human trafficking as well as sexual violence on the other is being seen as a **precondition to making violence more visible** and **taking targeted measures**.

9. How effective have legislative frameworks and policies been in preventing and responding to violence against women and girls in prostitution?

11. What measures are in place to assist and support women and girls who wish to leave prostitution?

Austria has a strong legal framework in place to protect from (sexual) violence and the sexual integrity of all women. Additionally, specific criminal offences address and counter exploitative and vulnerable circumstances.

Regarding sex work, Austria has implemented a regulatory system thriving to protect the sexual integrity and self-determination of sex workers and to improve working conditions by ending still existing legal and factual discrimination against sex workers.

Implementation, maintenance and further development of this system is based on a thorough and considerate monitoring of the sex work sector.

The comprehensive regulations of sex work in Austria take into account its special risks. These include, in particular, requirements for brothel operations and strict control measures as well as reporting and health screening requirements for sex workers in conjunction with a wide range of

¹ The forms of discrimination, marginalization and stigmatization were also recently highlighted by the *Working Group on discrimination against women and girls* in its position paper "Eliminating discrimination against sex workers and securing their human rights" <https://www.ohchr.org/en/special-procedures/wg-women-and-girls/eliminating-discrimination-against-sex-workers-and-securing-their-human-rights>

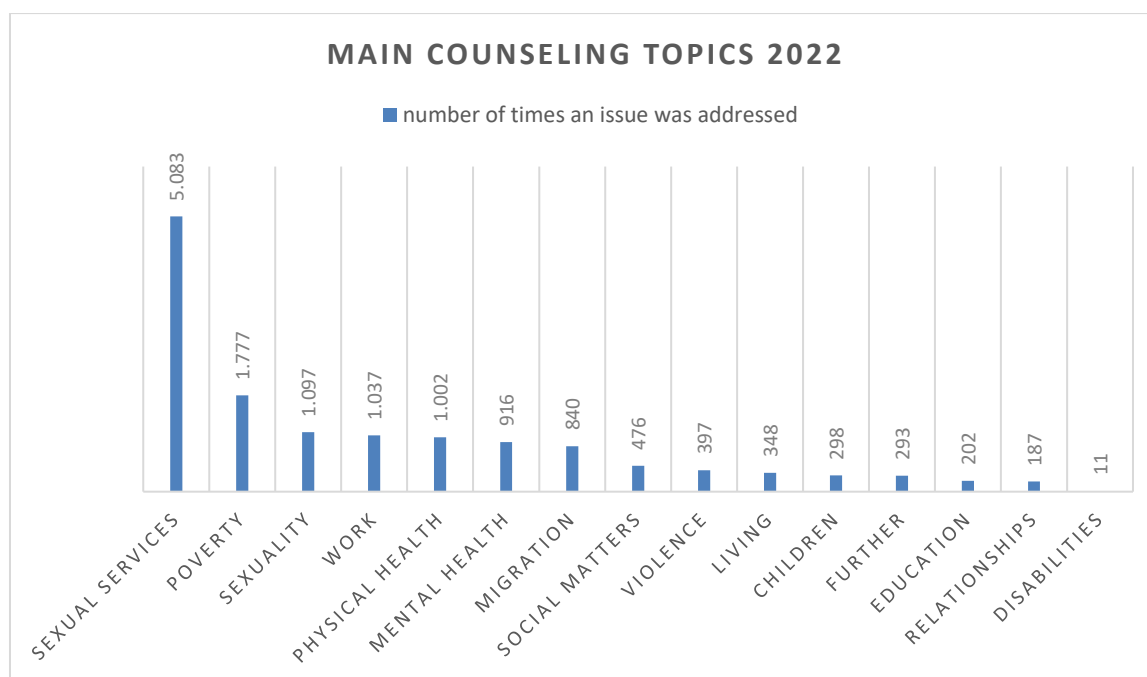
² In addition, sexual service is used as a synonym in Austria.

counseling services. Clients and third parties who violate the physical or sexual integrity of sex workers will be prosecuted. The same applies to clients who are aware of an exploitative situation involving the sex workers.

Counseling is an essential prerequisite for informing sex workers about their rights and obligations. Improved knowledge of sex workers about their rights also has a preventive effect against exploitation and violence. Moreover, counseling centers work in a confidence-building manner and thus offer a necessary tool for effective crime prevention in this area.

In Austria, there are eight counseling centers for sex workers in six federal states, which are (co-)financed by the Directorate General for Women and Equality in the Federal Chancellery. Their services include psychosocial support, social work and close cooperation with the entire psychosocial and violence-related counseling system in Austria. Sex workers who want to change careers are supported in this decision.

These specialist counseling centers provided advice to a total of 2,600 sex workers in 2022. An analysis (see below) of the main counseling topics of these centers shows that "sexual services" was the most common topic, including information on national and regional legal issues as well as tax and social security issues.



In addition to the counseling centers mentioned above, there are further two publicly funded counseling centers for sex workers that are not included in the statistics presented above.

For female victims of all forms of human trafficking, a renowned and experienced NGO has been appointed official intervention center. This organization, Lefö-IBF operates several shelters. In case of necessity, the counseling centers for sex workers refer clients to this organization for trafficked women.

4. What forms of violence are prostituted women and girls subjected to (physical, psychological, sexual, economic, administrative, or other)?

5. Who is responsible for the perpetration of violence against women and girls in prostitution?

Sex workers can be affected by various forms of **interpersonal violence** – sexual, physical and psychological violence, economic exploitation, domestic violence, breaches of data protection etc. – and responsibility always lies with the perpetrators.

Furthermore, sex workers are always affected by **structural violence through stigmatization, discrimination and marginalization**. This also includes the language often used in the discourse on sex work. Generally viewing sex workers as victims does not reflect reality and at the same time weakens their position. Undifferentiated language disempowers people in sex work by denying them any decision-making power and thereby contributes to their stigmatization and vulnerability.

It is therefore necessary to address both interpersonal violence against sex workers and victims of human trafficking, as well as structural violence.

In 2019, the Northern Irish Department of Justice published an evaluation³ of the sex purchase ban, which had been introduced by law three years before. The report revealed that clients had become more disrespectful and aggressive towards sex workers.

However, the demand for sexual services was not reduced by the new legal situation, but had merely shifted to illegality. As a result, sex workers were pushed even further to the margins of society and lost negotiating power with clients and other relevant people, such as landowners of business premises.

Whereas by regulating sex work in a way that focuses on the rights of sex workers, a state can have a positive **influence on their working conditions and thus reduce the risk of exploitation and violence**.

6. Describe the linkages, if any, between prostitution and the violation of the human rights of women and girls.

In September 2023, the UN Working Group on Discrimination against Women and Girls published the position paper "[Eliminating discrimination against sex workers and securing their human rights](#)", which was developed in close cooperation with sex workers and addresses the discrimination, stigmatization and marginalization of sex workers in order to protect their human rights. As the UN Working Group has already extensively dealt with the linkages between prostitution and the violation of the human rights of women, we would like to refer to this paper.

³ Department of Justice Northern Ireland, 'Assessment of impact criminalisation of purchasing sexual services' (17. September 2019), [Report published on impact of sex purchase offence | Department of Justice \(justice-ni.gov.uk\)](#)

8. How is the issue of consent dealt with? Is it possible to speak about meaningful consent for prostituted women and girls?

The term *sex work* refers to the voluntary provision of sexual services between consenting adults in return for some form of remuneration. If consent is absent – due to threats, violence, deception, fraud or abuse of power – the act is to be considered a violation of human rights and criminal law. Accordingly, the Austrian law criminalizes all these forms of violence.

On the other hand, the decision by a person to earn a living by providing sexual services rather than taking up another kind of work is to be respected. The core question, whether consensus is given within a sexual act, must always be assessed on a case-by-case basis, just as with any other sexual interaction.

Furthermore, the (indirect) criminalization of sex work fails to address possible underlying causes of poverty and lack of access to economic and social rights that may influence the decision to earn a living by providing sexual services rather than taking up another kind of work.

12. What are the obstacles faced by organizations and frontline service providers in their mission to support victims and survivors of prostitution?

The importance of **distinguishing between victims of violence as well as exploitation and persons engaging in sex work** need to be highlighted once more.

The EU Fundamental Rights Agency only recently published the report "Challenges facing civil society organizations working on human rights in the EU" showing that civil society organizations in general continue to face threats and attacks, excessive legal and administrative restrictions, lack of funding and limited access to information and decision making processes.⁴

It also showed that organizations active in the field of sex work face even greater challenges. Activists suffer increasing intimidation, legal proceedings and smear campaigns against their work enhanced by the social controversy surrounding sex work.

On the global level, **stigmatization** und **criminalization of sex work** therefore also **reduces the capacities of organizations and frontline service providers to support sex workers**.

10. What measures are in place to collect and analyse data at the national level with a view to better understanding the impact that prostitution has on the rights of women and girls?

14. Are frontline organizations and survivors' organisations sufficiently included in policymaking at the national and international level?

A Permanent Working Group on Sexual Services has been established in Austria in 2009 as a sub-working group of the Task Force on Combating Human Trafficking. This was and still is due to the conviction supported by evidence, that a legal and well regulated market for sex work counteracts

⁴ EU Fundamental Rights Agency (FRA), 'Protecting civil society – Update 2023', <https://fra.europa.eu/en/publication/2023/civic-space-2023-update#read-online> (18.10.2023), S 41f.

the risk of (sexual) exploitation and makes it easier to detect victims of trafficking. The nationwide Working Group includes members of the police, specific counseling centers and administration.

It monitors the situation of sex workers in Austria, evaluates measures taken and develops recommendations for policy stakeholders in order to improve working conditions. Sex workers' interest groups are invited to participate in individual sessions. The Working Group publishes a report every three years including data, current developments and challenges as well as recommendations.

15. What recommendations do you have to prevent and end violence associated with the prostitution for women and girls?

A sex purchase ban leads to **increased stigmatization and marginalization** of sex workers and clients become more disrespectful and assaultive.⁵ In an illegal system, sex workers lose negotiation power towards clients, property owners of business premises etc. In general, sex workers become more dependent on third parties. The COVID-19 restrictions – which included prohibition of sex work during lockdowns – have proven the negative effects of **driving the market into illegality** also in Austria.

Moreover, a ban on the purchase of sexual services does not create alternative income opportunities, but exacerbates the social and economic situation of sex workers.

Therefore the **European Coalition on Sex Workers Rights and Inclusion**, which is a network of 15 leading international civil society organizations in the fields of human rights, public health and migration policy, **advocates against criminalization**⁶ and there is also **extensive academic research** backing this position.⁷

Hence, it is essential to distinguish clearly between sex work and (sexual) violence including trafficking to take targeted action against all forms of violence, discrimination and stigmatization.

Furthermore, only by regulating sexual services in a way that **rights of sex workers are at its center**, the state can influence working conditions. As in other areas of work with a high risk of human trafficking – such as 24-hour care, the construction industry or agriculture – efforts need to be made to **strengthen rights** and control of working conditions rather than repression. 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.

Last but not least, it has to be stated that the root causes of trafficking in human beings need to be addressed. It is therefore of utmost importance to create economic systems in which jobs ensure sufficient funds for a decent life for all.

⁵ Department of Justice Northern Ireland, 'Assessment of impact criminalisation of purchasing sexual services' (17. September 2019), [Report published on impact of sex purchase offence | Department of Justice \(justice-ni.gov.uk\)](#)

⁶ <https://www.amnesty.org/ar/wp-content/uploads/2023/01/EUR0161052022ENGLISH.pdf>.

⁷ [Statement of concern re. the research: 'the differing EU Member States' regulations on prostitution and their cross-border implications on women's rights' by A/Prof Andrea Di Nicola \(d3n8a8pro7vhmx.cloudfront.net\)](#)