

## Mandate of the Special Rapporteur on violence against women and girls

### Statement on French Law 2016-444 - Strengthening the Fight Against the Prostitution System and Providing Support for Prostituted Persons in France

#### Special Rapporteur on violence against women and girls, Reem Alsalem

The Special Rapporteur on violence against women and girls wishes to share her position on France's *Law on Strengthening the Fight Against the Prostitution System and Providing Support for Prostituted Persons (Law 2016-444)* within the framework of European Court of Human Rights case *M.A. & Others v France*.<sup>1</sup> The case was lodged by 250 individuals involved in prostitution and supported by 19 French NGOs and aims to obtain the repeal of provisions within the afore-mentioned law that criminalize those who pay for sex. The legal basis of the case stems from the claim that the law contravenes three articles of the European Convention on Human Rights, that uphold the right to life (article 2); the prohibition of inhuman and degrading treatment (article 3); and the right to a private life (article 8).

#### *Impact of the current French law*

The Law 2016-444 is based on a comprehensive approach. It decriminalized “prostituted persons” and recognized persons in prostitution as victims. It also strengthened support for people who are victims of prostitution, pimping or trafficking in human beings for the purpose of sexual exploitation, by providing them with access to a State-sponsored exit programme, jointly operated by civil society organizations, that includes financial and housing support, access to psychological support, vocational training and a temporary residence permit for foreign victims. It also provides for prevention and awareness-raising initiatives to combat the commodification of women's bodies.<sup>2</sup> To reduce the demand that fosters sexual exploitation, the law criminalizes the purchase of sexual services with a fine of up to 1500 euros and of up to 3750 euros for a repeat offence. It also provides for a 5-year prison sentence and a 75,000 euro fine if the crime is committed against a minor. In December 2019, a challenge to Law 2016-444 was lodged before the French constitutional court, but the constitutionality of the law was upheld. In its ruling the presiding judges held that the law helped protect women “by depriving pimps of their profits” and that it “fights against this activity and against the sexual exploitation of human beings, criminal activities founded on coercion and enslavement”.<sup>3</sup> The

---

<sup>1</sup> Case No: 63664/19, 64450/19, 24387/20, 24391/20 et 24393/20

[https://hudoc.echr.coe.int/fre#{%22respondent%22:\[%22FRA%22\],%22documentcollectionid%22:\[%22COMMUNICATEDCASES%22\],%22itemid%22:\[%22001-209407%22\]}](https://hudoc.echr.coe.int/fre#{%22respondent%22:[%22FRA%22],%22documentcollectionid%22:[%22COMMUNICATEDCASES%22],%22itemid%22:[%22001-209407%22]})  
[https://hudoc.echr.coe.int/fre#{%22respondent%22:\[%22FRA%22\],%22documentcollectionid%22:\[%22COMMUNICATEDCASES%22\],%22itemid%22:\[%22001-209407%22\]}](https://hudoc.echr.coe.int/fre#{%22respondent%22:[%22FRA%22],%22documentcollectionid%22:[%22COMMUNICATEDCASES%22],%22itemid%22:[%22001-209407%22]})

<sup>2</sup> LOI n° 2016-444 du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000032396046>

<sup>3</sup> Decision of Constitutional Court n° 2018-761 QPC, 1 February 2019: <https://www.conseilconstitutionnel.fr/decision/2019/2018761QPC.htm>

## **Mandate of the Special Rapporteur on violence against women and girls**

law has also been recognized by the High Council of Equality in France as “contributing to build a society of formal and real equality between men and women”.<sup>4</sup>

The Special Rapporteur welcomes the holistic approach taken by France on prostitution, which both protects and provides alternatives for prostituted persons, while combating those who exploit their vulnerabilities: traffickers, pimps and sex-buyers.

### *International human rights law on prostitution*

The criminalization of the purchase of sexual acts has a strong legal basis in international human rights law as it is recognized as a legitimate instrument that States can resort to in order to protect anyone, including women and girls against exploitation and abuse.

Women and girls, from most marginalized communities, from the lowest casts, in situations of migration, of poverty, constitute the overwhelming majority among prostituted persons. Their vulnerability as a result of long-standing structural discrimination on multiple grounds makes them more vulnerable to exploitation and abuse.

The CEDAW Convention, Article 6, states that States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. In the same spirit, the General Recommendation 38 of the CEDAW Committee on trafficking in women and girls in the context of global migration calls upon States to discourage the demand that fosters exploitation of prostitution and leads to trafficking in persons.

The (Palermo) Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, in particular its Article 9(5), calls upon States to adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Similarly, the UN Resolution 77/194 on Trafficking in women and girls adopted on 15 December 2022 in plenary session of the UN General Assembly by all Member States calls upon Governments *to intensify their efforts to prevent and address, with a view to eliminating, the demand that fosters the trafficking of women and girls for all forms of exploitation and in this regard to put in place or to enhance preventive measures, including legislative and punitive measures to deter exploiters of trafficked persons, as well as ensure their accountability.*

---

<sup>4</sup> “The High Council of Equality welcomes the decision of the Constitutional Court” <https://www.haut-conseil-egalite.gouv.fr/violences-faites-aux-femmes/travaux-du-hce/article/cp-qpc-prostitution-le-haut-conseil-a-l-egalite-salue-la-decision-du-conseil>

## Mandate of the Special Rapporteur on violence against women and girls

It is worth mentioning that the Special Rapporteur on trafficking in persons, especially women and children, recognized that the obligation created by Article 9(5) can be effectively met through criminalization of the use of prostituted persons and good faith enforcement of these provisions.<sup>5</sup>

Finally, in terms of international standards, the European Parliament resolution of 14 September 2023<sup>6</sup> recognizes prostitution as a form of violence and calls on Member States to adopt all the pillars of the abolitionist model: the decriminalization of prostituted persons, their access to exit pathways, the criminalization of the purchase of sexual acts and all forms of pimping, and the implementation of awareness-raising programmes aimed at men and young people in particular.

### *Positive consequences of the French law*

Although the law is still relatively recent, encouraging effects have already been observed:

Comparative estimates of the number of prostituted persons between France and other European countries, which have decriminalised the purchase of sexual acts, illustrate that it had a limiting effect.

1,247 prostituted persons,<sup>7</sup> almost all women and girls from the most discriminated groups, have had access to a State-sponsored exit programme. These programmes have radically changed their lives, as 95% of them have left prostitution permanently at the end of the course.<sup>8</sup> This is an initiative that is currently unique in the world and should be encouraged.

Regarding the fight against trafficking for the purpose of sexual exploitation, the approach taken under the French law also appears to have reinforced access to justice, compensation and support for prostituted persons.

These preliminary results are in conformity with results from countries that have also criminalized the purchase of sex for longer periods of time.

Finally, the benefits of the law and associated measures appear to be understood and supported by the majority of the French population. According to an independent national survey carried

---

<sup>5</sup> Statement of Special Rapporteur on the Human Rights aspects of the victims of trafficking in persons, especially women and children Sigma Huda, 20 February 2006, E/CN.4/2006/62, paragraph 88. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G06/109/64/PDF/G0610964.pdf?OpenElement>

<sup>6</sup> European Parliament resolution of 14 September 2023 on the regulation of prostitution in the EU: its cross-border implications and impact on gender equality and women's rights, [https://www.europarl.europa.eu/doceo/document/TA-9-2023-0328\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2023-0328_EN.html)

<sup>7</sup> French Minister of Equality, April 2023 : <https://www.causette.fr/societe/en-france/isabelle-lonvis-rome-je-souhaite-porter-une-nouvelle-strategie-nationale-de-lutte-contre-la-prostitution-a-la-rentree>

<sup>8</sup> Ibid

## Mandate of the Special Rapporteur on violence against women and girls

out in 2019,<sup>9</sup> 65% of the population considered that buying a sexual act should not be possible in a society that advocates equality between women and men, and 73% felt that doing so amounted to profiting from the distress of prostituted persons for personal satisfaction. 71% considered that it should not be possible to buy access to the body and sexuality of others, and 74% said that prostitution was a form of violence. Each of these statements was supported by a majority of both women and men, which seems to confirm the Haut Conseil à l'Égalité's assertion on the role of the law as an instrument for the achievement of formal and real equality between women and men.

### *Human rights consequences of any potential repeal of the French law*

The Special Rapporteur is concerned that, far from ensuring access to the rights guaranteed by articles 2, 3 and 8 of the ECHR, the potential repeal of the criminalization of the purchase of sexual acts would further expose the most discriminated women and girls, who are the overwhelming majority in the sex trade<sup>10</sup>, to the control, violence and inhuman and degrading treatment of trafficking networks and sex buyers.

The Special Rapporteur is also concerned that the negative impact of this repeal would not be limited to France, but may also expand to include other Member States of the Council of Europe, and possibly beyond, which for the moment have the same or similar legislation to France as it may open the door for the roll-back from an internationally recognized tool to fight against the demand that fosters trafficking in human beings for the purchase of sexual exploitation,<sup>11</sup> in denial of international Human Rights law and international standards.

### *Evidence of increased exposure of women and girls to violence in the case of decriminalization of the purchase of sexual acts*

The arguments that decriminalizing the demand for the purchase of sexual acts improves the safety, dignity and living conditions of prostituted women does not appear to be supported by facts. Prostitution results in grave human rights violations for those women and girls involved, and negatively impacts their physical, psychological and social health. Furthermore, they suffer

---

<sup>9</sup> IPSOS, Les Français et la prostitution, 2019 [https://www.ipsos.com/sites/default/files/ct/news/documents/2019-01/les\\_francais\\_et\\_la\\_prostitution.pdf](https://www.ipsos.com/sites/default/files/ct/news/documents/2019-01/les_francais_et_la_prostitution.pdf)

<sup>10</sup> European Parliament resolution of 14 September 2023 on the regulation of prostitution in the EU: its cross-border implications and impact on gender equality and women's rights [https://www.europarl.europa.eu/doceo/document/TA-9-023-0328\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-023-0328_EN.html)

<sup>11</sup> OSCE, *Discouraging the demand that fosters trafficking for the purpose of sexual exploitation*, 2019, p.42 [https://www.osce.org/files/f/documents/7/f/489388\\_2.pdf](https://www.osce.org/files/f/documents/7/f/489388_2.pdf)

### **Mandate of the Special Rapporteur on violence against women and girls**

stigma, systematic violence, including assault, rape, killing or attempted killing, inhumane and degrading treatment, rising to the level of torture.<sup>12</sup>

Furthermore, in countries where the purchase of sex is legal, a rise in trafficking and pimping networks has been observed, with the objective of providing the “supply” to answer the increasing demand for the purchase of sexual acts.

It has been observed that large and highly organized trafficking networks have developed in order to provide the “supply” to answer the increasing demand for the purchase of sexual acts in countries that have decriminalized and/or legalized it.

In conclusion, the Special Rapporteur urges the French Government to continue to intensify its fight against the demand for the purchase of sexual acts. The current Law 2016-44 is commendable and represents a significant step towards advancing the legal obligations of Article 9(5) of the Palermo Protocol – namely, discouraging the demand that fosters sexual exploitation that leads to trafficking – while also providing important support for persons who have been or are at risk of becoming trafficked for the purpose of sexual exploitation. All efforts should therefore be made to maintain the law as is, and to ensure that it is fully implemented throughout the country.

---

27 October 2023

---

<sup>12</sup> Medicos del Mundo, Prostitución y trata de seres humanos en España con fines de explotación sexual <https://www.medicosdelmundo.org/que-hacemos/espana/prostitucion-y-trata-de-seres-humanos-con-fines-de-explotacion-sexual>