

# Disrupt Demand: Implementation Framework

Working for **equality**



## INTRODUCTION

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This implementation framework for Member States is underpinned by the findings and recommendations of the comparative study which examined the approach of Member States to criminalising demand for the purchase of sex from victims of trafficking.<sup>1</sup> The study found that the narrow remit of the EU Directive<sup>2</sup> criminalising the purchase of sex only where there is proof that the person is a victim of trafficking or procuring leads to a minimal standard of response which has proven to be inoperable from an enforcement point of view and ineffective in relation to the wider goal of acting as a deterrent in reducing demand. Furthermore, a narrow focus on demand for victims of trafficking has led to the absence of a co-ordinated and resourced strategy on addressing commercial sexual exploitation which is where the vast majority of women trafficked for sexual exploitation are located. The evidence in relation to the effectiveness of the Swedish/Nordic model as an anti-trafficking measure is irrefutable. The most recent comparative figures between Sweden, the Netherlands and Germany are telling. It is estimated that the Netherlands has a rate of nine times and Germany a rate of between 30 and 40 times that of prostitution in Sweden.<sup>3</sup> This is critical evidence in relation to reducing trafficking for sexual exploitation as studies demonstrate a very clear correlation between the scale of prostitution and the level of trafficking in a destination country with the number of victims of trafficking estimated to vary from 10% to 24% of the overall numbers in the sex trade.<sup>4</sup> In other words, regardless of the prostitution regime, simply allowing the sex industry to grow increases the flow of trafficked people to that jurisdiction and conversely addressing demand and reducing the size of the commercial sex trade is an effective anti-trafficking measure.<sup>5</sup> However, as other countries follow the Swedish approach,<sup>6</sup> it is critical that they are fully cognisant of the wide range of institutional mechanisms and measures that were put in place by the Swedish government to ensure the success of all the objectives of the law. The continuing commitment of the Swedish state to providing resources for implementation, policing, services, evaluation and monitoring have ensured that the laws on prostitution and trafficking are embedded in government policy.

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<sup>1</sup> O'Connor, M. (2018). 'Comparative Report from the "Disrupt Demand" Project' (Part of the 'Study Examining Campaign Strategies in Member States to Introduce Legislative Measures to Discourage Demand for Sex Trafficking', funded by the Internal Security Fund of the European Union, under the call HOME/2015/ISFP/AG/THBX).

<sup>2</sup> European Union Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA [2011] OJ L101/1.

<sup>3</sup> Walby, S. et al., (2016). *The Study on the Gender Dimension of Trafficking in Human Beings: Final Report* (Luxemburg, European Commission, Migration and Home Affairs) 23.

<sup>4</sup> Kutnik, B., Belser, P. and Danailova-Trainor, G. (2007). *Methodologies for global and national estimation of human trafficking victims: current and future approaches*. Geneva: International Labour Organisation (ILO).

<sup>5</sup> Seo-Young, C., Dreher, A. and Neumayer, E. (2012). *Does legalized prostitution increase human trafficking?* Economics of Security Working Paper, 71. Berlin. Economics of Security.

<sup>6</sup> This approach has now also been introduced in Iceland, Norway, France, Northern Ireland and Ireland.

Consequently, this implementation framework draws heavily from the Swedish experience as outlined in the Swedish national report.<sup>7</sup> The French law has also now provided an exemplar of a comprehensive law which not only criminalises the purchase of sex and de-criminalises those exploited in prostitution, but also provides a statutory basis for service provision and exit routes. The comparative report highlights the importance of recognising the wider significance of sex purchase laws, not merely as anti-trafficking measures but as fundamentally about addressing gender inequality and violence against women. The recommendations of previous EU reports on responses to trafficking are referred to in this implementation framework.

## **NATIONAL STRATEGY TO ADDRESS TRAFFICKING FOR SEXUAL EXPLOITATION AND PROSTITUTION**

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An integrated and a co-ordinated whole of Government response to the commercial sex trade is necessary to address demand for victims of trafficking for sexual exploitation. The introduction of laws relating to prostitution and trafficking needs to be accompanied by a comprehensive range of measures which include enforcement policies, protection and support for all victims of sexual exploitation, monitoring and evaluation and preventative initiatives. National Action Plans on prostitution and trafficking should be developed underpinned by the principles of gender equality and human rights and informed by the wider body of law and policy on gender equality and gender-based violence.<sup>8</sup> Ministerial responsibility and a dedicated unit within government for overseeing the plan is called for. Effective implementation of NAPs demands that each government department with responsibility for actions, in particular departments of justice, health and education need to formally incorporate prostitution and trafficking into their remit. Each department should have clear targets and actions, with indicators benchmarks, timeframes and budget allocations which enable transparency and monitoring. Priority areas for the NAPs should include:

- A comprehensive legislative framework covering prostitution and trafficking
- Police enforcement policies and guidelines
- Access to justice for all victims of commercial sexual exploitation
- Support services, health care and exit routes
- Prevention and education
- Monitoring and evaluation mechanisms

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<sup>7</sup>Ekberg, G.S. (2017). *Swedish Laws, Policies and Interventions on Prostitution and Trafficking in Human Beings: A Comprehensive Overview*. Stockholm. [www.researchgate.net/publication/321254711\\_SWEDISH\\_](http://www.researchgate.net/publication/321254711_SWEDISH_)

<sup>8</sup> Yonkova, Gillan, Keegan, O'Connor, Charlton, and Zobnina (2018) *An analysis of the Anti-trafficking Directive from the perspective of a victim of a gender-based violence*, Vilnius: European Institute for Gender Equality.

## LEGISLATION AND ENFORCEMENT

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Addressing the demand for victims of trafficking for sexual exploitation necessitates a comprehensive set of laws which encompass the range of criminal offences within the commercial sex trade.

### Laws governing the commercial sex trade

- Trafficking laws: International instruments and EU Directives on trafficking should be fully transposed into national legislation. New and emerging forms of trafficking such as trafficking for exploitative sham marriage should be monitored, and laws enacted to reflect these.<sup>9</sup>
- Laws on the organisation of the commercial sex trade: The wider environment within which trafficking for sexual exploitation exists is the commercial sex trade. International traffickers operate in collaboration with local prostitution organisers including prostitution agencies, pimps and those profiting from commercial sexual exploitation. Therefore, laws relating to pimping, procuring and organisation of prostitution need to be robust, reflecting the serious nature of these offences and the likely intersection with human trafficking crimes. Further research and action is needed to criminalise online advertising and the use of communications technology in the organisation of prostitution and the targeting of girls and women for sexual exploitation.
- Demand: As the comparative report shows, the only effective deterrent in relation to demand for victims of trafficking for sexual exploitation is to criminalise the buyers of sex. It is time that the EU recognised the evidence and the growing recognition among Member States that the introduction of a criminal offence for the buying a person for sexual gratification is urgent to address the increasing numbers of victims of trafficking for sexual exploitation within and into the EU.
- De-criminalisation of people exploited in prostitution and victims of trafficking in street and indoor locations is a critical component of an effective demand strategy based on the human rights of those exploited in prostitution.
- Communication technology and the internet have transformed the sex trade in terms of targeting of women and girls, recruitment, transnational organisation by pimps and traffickers and the ease of access and availability for buyers of sex. Legislative responses need to be developed which can successfully criminalise this activity.

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<sup>9</sup> Cosgrove, C., O'Connor, M. and Yonkova, N. (2016) *Exploitative Sham Marriages and Human Trafficking in Ireland*. Dublin: Immigrant Council of Ireland.

## **ENFORCEMENT**

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The introduction of laws on trafficking and prostitution are ineffective without a comprehensive range of measures to ensure effective implementation of the law. Women in prostitution and victims of trafficking are integrated into the same sex trade and subjected to pimping, coercion and exploitation. Without an overall police strategy on prostitution the comparative report revealed that the prosecution of pimps, procurers and brothel owners tends to be sporadic with occasional special police operations targeting individual establishments and organised crime. Furthermore, there is a failure to identify the levels of coercion and control exercised over women, which prevents their identification as victims of trafficking. Specialist dedicated police units must be resourced to investigate the commercial sex trade and to carry out surveillance operations on indoor locations. The levels of sexual violence, sexual assault and rape are exponentially high for women in the sex trade. Therefore, it is critical that the range of offences contained in the laws on sexual offences against the person are applied in the context of prostitution and trafficking. Training for police should be done in co-operation with specialist women's service to ensure a gender specific victim centred and human rights approach.<sup>10</sup> Police and technical experts should also be resourced to investigate, track and prosecute the use of communications technology by organisers of prostitution. Sentencing patterns should be monitored closely to ensure consistency and that the sentence is commensurate with the seriousness of the offence.

### **Data recorded should include:**

- Number of police operations, raids and surveillance operations on premises
- Arrests, charges, prosecutions and convictions of organised crime and pimps
- Arrests, charges and prosecutions of buyers
- Convictions of traffickers
- Convictions and sentencing patterns
- Number and level of police training programmes on prostitution and trafficking
- Inclusion of front line services in police training
- Measure of co-operation with front line services
- Referral mechanisms and protocols in place

### **Trends on the internet should be monitored including:**

- The numbers and profile of women being advertised on the internet
- The recruitment by prostitution agencies
- The use of the internet to advertise women and locations
- The use of the internet by buyers of sex

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<sup>10</sup> See Benson, S. (2018) Irish Case study on NGO and Police Co-operation for the Disrupt Demand Project

## **PROTECTION, LEGAL ADVOCACY AND SUPPORT**

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De-criminalisation is a core element of the Swedish/Nordic approach but the introduction of the laws on the purchase of sex must also be accompanied by a wide range of measures to ensure there are no negative consequences for prostituted and trafficked women. The right to protection, accommodation, legal advocacy and support for victims of trafficking have been enshrined in legislation and/or statutory guidance in most Member States.<sup>11</sup> Recognising the coercive circumstances in which women enter the sex trade, these rights need to be extended to all women who are subjected to commercial sexual exploitation, when they are in prostitution and when they are seeking to exit. Member States should be cognisant of the rights enshrined in the Anti-Trafficking Directive<sup>12</sup> and the Victims' Rights Directive<sup>13</sup> in delivering protection and gender-specific assistance to victims of sexual exploitation.

## **ACCESS TO JUSTICE AND LEGAL ADVOCACY**

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Research has highlighted the importance of early and specialised legal intervention for victims of trafficking.<sup>14</sup> However, women in prostitution who have not been defined as trafficked may also be subjected to coercive control by agencies and pimps and may need the same level of protection and safety following police raids and/or when seeking to exit. Given that an overwhelming majority of women in prostitution are migrant women and that many may be undocumented, it is critical that all women have immediate access to accurate information and legal advice. Legal representation from specialised lawyers ensures that women obtain consistent information regarding their rights including the right to remain in the state.

## **COMPREHENSIVE RANGE OF SERVICE PROVISION**

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Assistance and support should be provided immediately to women who have been subjected to commercial sexual exploitation regardless of whether they have been identified as victims of trafficking or not. Responses should include an assessment of the potential threat of re-victimisation; the level of trauma experienced and exhibited by the person; their psychological and physical health needs; their sexual and reproductive and secure gender

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<sup>11</sup> O'Connor, M. (2015). *Upholding legal rights: Early legal intervention for victims of trafficking*. Dublin: The Immigrant Council of Ireland, EU/ ISEC Programme.

<sup>12</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

<sup>13</sup> European Union Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA [2012] OJ L315/57.

<sup>14</sup> Ibid, 11.

specific accommodation.<sup>15</sup> Member States have a responsibility to respond to the long-term needs of women who have been sexually exploited in their jurisdiction regardless of migrant status, including access to welfare, education, training and employment.

## **DATA RECORDING BY LEGAL ADVOCACY AND SUPPORT SERVICES**

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Front line services to prostituted and trafficked women should be resourced to ensure adequate recording mechanisms are in place to enable the monitoring of trends in the commercial sex trade and the evaluation of interventions with women. Data gathering is critical in assessing whether the intended outcomes of the introduction of the law on the purchase of sex have been achieved and in ensuring there are no negative impacts on women.

Quantitative data gathered could include:

### **Profile of women in the sex trade**

- Profile of women accessing the services in terms of age, nationality, ethnicity and migrant status
- Age of being trafficked or recruited into prostitution
- Methods of targeting and recruitment
- Number of women on the streets and in indoor locations
- Numbers and nationality of trafficked women and girls presenting
- Length of time and locations in prostitution
- Emerging trends in the profile and nationalities of women presenting including refugee women
- Numbers of women referred to exit programmes
- Number of women exiting
- Barriers for women and emerging needs in terms of support and exiting

### **Impact on health**

- Physical, sexual and reproductive health issues women are presenting to sexual health clinics and general health services
- Sexual acts demanded by buyers
- Number and type of tests and procedures women in prostitution undergo
- Mental health issues women are presenting with and psychological supports needed
- Emerging health issues
- Barriers for women in accessing health services

### **Legal advocacy and representation**

- Numbers of women referred to legal aid and specialised legal practitioners
- Migrant and trafficked women's experience in relation to:
  - Provision of safe, gender specific accommodation

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<sup>15</sup> See Yonkova, Gillan, Keegan, O'Connor, Charlton, and Zobnina (2018) *An analysis of the Anti-trafficking Directive from the perspective of a victim of a gender-based violence*, Vilnius: European Institute for Gender Equality for a detailed list of recommendations regarding gender specific assistance and support

- Access to welfare and financial support
- Being deported/ 'asked' to leave the country
- Supported to return home
- Granted leave to remain

### **Police response**

- Trafficked women identified in the sex trade by police and referred to services
- Number of prostituted women referred following police raids
- Reporting of crime by women to police especially violence/assaults by punters and pimps
- Arrests, charges, prosecutions of women on the street and indoors for any crimes, such as loitering, living off the earnings of prostitution or migration offences

Qualitative data can provide rich information to complement the quantitative data and could include:

### **Interviews with front line practitioners**

- Profile of women coming to services in terms of age and nationality
- Psychological and physical impacts of sexual exploitation on the health and well-being of their clients
- Organisation of the sex trade including the control exercised by pimps and prostitution agencies
- Levels of violence and abuse women have reported from pimps, traffickers and buyers
- Buyers sexual demands reported by women
- Current barriers for women accessing services
- Development needs of the services in extending support
- Emerging vulnerable groups such as refugee women and girls

### **Interviews with trafficked and prostituted women**

- Routes and pathways into prostitution and being trafficked including the personal, social and economic circumstances of women prior to entry
- Multiple risk factors which create the conditions in which girls and young women are recruited and targeted by traffickers and pimps
- Lived experience of women once within the sex trade including the levels of control, coercion and violence
- Buyers sexual demands
- Harmful impacts of sexual exploitation on mental, physical, sexual and reproductive health
- Needs in relation to health services
- Long term needs in terms of exiting

## **PUBLIC AWARENESS, EDUCATION AND RESEARCH**

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Public awareness and preventative strategies should be central to government strategies recognising that the wider declarative and normative intentions of the purchase of sex laws are to reduce demand and to increase public awareness of prostitution as an obstacle to gender equality. The ongoing commitment of the Swedish government in terms of ensuring these wider goals were fully realised needs to be recognised by all Member States when they are introducing sex purchase laws. Measures should include:

- Attitudinal surveys to assess public support for the legal and policy approach to prostitution and surveys on the number and percentage of the population of men who have purchased sex should be conducted periodically.
- Educational modules should be developed and delivered in schools firstly, as a preventative measure in relation to the recruitment of girls into the commercial sex trade to and secondly to deter young men from becoming buyers of sex. These programmes need to be regularly evaluated to assess the impact and attitudinal change.
- Research is critical in providing an evidence base for policy development and interventions. Resources should be made available to conduct empirical research and gather data in critical areas including:
  - Mapping the scale and extent of prostitution and trafficking for sexual exploitation on the streets and in indoor locations
  - Identifying emerging patterns of the sex trade in terms of targeting and recruitment
  - Investigating the number of prostitution-related activities and number of individuals advertised online
  - Documenting the harmful consequences of prostitution for the health and well-being of girls and women and the ongoing needs and barriers for women in relation to exiting

## **MONITORING AND EVALUATION**

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The importance of independent external review mechanisms such as GRETA are critical in ensuring that theoretical commitments are implemented fully and translate into visible progress and outcomes. However, for a detailed country specific assessment of the impact of the laws on prostitution and trafficking an Independent National Rapporteur should be appointed by each Member State. The Rapporteur should have the authority to review non-identifiable data from the statutory and non-governmental agencies. Annual reports should include the data outlined above.

