



EXPERT STATEMENT

EUROPEAN COURT OF HUMAN RIGHTS HISTORIC DECISION: A MAJOR STEP FORWARD FOR MIGRANT WOMEN IN THE FIGHT AGAINST PROSTITUTION

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The European Network of Migrant Women (ENoMW) is elated with a historic decision by the European Court of Human Rights in the case of **M.A. and others v France** (Applications nos 63664/19 and 4 others). **This landmark ruling affirms that the abolitionist model, which criminalises the purchase of sexual acts and provides support to victims of prostitution, does not violate human rights.**

Prostitution inherently entails severe human rights violations, physical and psychological harm, and increased trafficking networks in countries where buying sexual acts is legal. On the contrary, the French abolitionist model, also adopted in Europe by Sweden, Norway, Ireland and Iceland, is a crucial step in fulfilling legal obligations to discourage the demand for sexual exploitation and support victims of prostitution and trafficking. Thanks to today's decision, France will be able to maintain and fully enforce this system nationwide. **The European Network of Migrant Women calls on other European States to follow this example and adopt the only approach which fully protects women's rights.**

A Triumph for At Risk Women and Girls, All Over Europe

This decision is a **monumental victory for women and girls across Europe, especially for migrant, refugee, and asylum-seeking women and girls, who are disproportionately at risk of being targeted by pimps, traffickers and male buyers of sexual acts, falling victims of the violence of**

prostitution. The decision sends a powerful message that their human rights and dignity are paramount, and that measures to protect them are not only justified but essential. It reinforces the French abolitionist system which introduces crucial measures to support them. The law **guarantees a temporary residence permit to those who report or testify against traffickers and pimps, or those who engage in exit programs, regardless of their collaboration with law enforcement.** This is especially impactful given that around **83% of people in prostitution in France are migrant women.**

A Victory for All of Europe

This ruling builds on significant steps forward such as the European Parliament's resolution in September 2023, which recognised prostitution as a form of violence against women and girls (VAWG), and the UN Special Rapporteur on VAWG Reem Alsalem's report highlighting the human rights violations inherent to prostitution and underscoring the need for States to adopt an abolitionist approach. **Together, these milestones create a robust framework for safeguarding women's rights and combating sexual exploitation in prostitution, reaffirming that women's rights and dignity are paramount and that no human being should be commodified.**

In her October 27, 2023, statement on French law n° 2016-444, **Special Rapporteur Reem Alsalem praised France's holistic approach to prostitution, which protects prostituted individuals and offers**

them alternatives, while combating exploiters: traffickers, pimps, and buyers of sexual acts. Referring to CEDAW, Recommendation no. 38, the Palermo Protocol, and UN Resolution 77/194 on trafficking women and girls, she affirmed that **criminalising the purchase of sexual acts is legally sound under international human rights law as a legitimate means to protect against exploitation and violence.**

The French abolitionist law has improved access to justice, compensation, and support for victims of prostitution and trafficked individuals. **Since its adoption in 2016, 1,247 individuals, mostly women and girls from highly discriminated groups, accessed state-supported exit programs, with 95% leaving prostitution permanently.** Repealing it would have endangered the most at risk women and girls, exposing them to increased violence and exploitation by traffickers and buyers. Repealing it would have been a betrayal for women and girls in countries with similar laws, weakening an internationally recognised legal tool against sexual exploitation and human trafficking. Finally, **repealing it would have sent a harmful message to all states, implying that the protection of vulnerable individuals against the violence of prostitution is not a priority. It would have been a global setback in the global fight for justice and women's human rights.**

Key Insights from the Decision

The European Court of Human Rights conducted a thorough examination of French law, international conventions, and comparative legal systems. The Court concluded that the abolitionist approach is not in violation of Article 8 of the European Convention on Human Rights (protecting private life), as it pursues legitimate aims: **protecting public order, health, and the rights and freedoms of others.** The Court noted that France's approach, rooted in the abolitionist model, is **legitimate and proportionate, aiming to prevent crime and uphold public safety.** It emphasised the **importance of treating individuals in prostitution as victims, which includes measures for social and professional reintegration.**

Importantly, the court acknowledges the challenges faced by those in prostitution (such as clandestinity, isolation, lack of security, difficulty accessing rights, precariousness, health risks, and marginalisation), **noting that these issues existed before the 2016 law and that it cannot establish a causal link between the penalisation of clients and the alleged increase in difficulties.**

The court reviewed the legislative process leading to the 2016 law, validating the precautions taken, including commissioned reports and parliamentary work that acknowledged controversies regardless of the model chosen. It particularly noted that the security and health risks for those in prostitution were thoroughly considered during the law's development, and **the penalisation is part of a broader framework guaranteeing the protection of victims,** including measures taken to destigmatise individuals in prostitution, provide vulnerable status (thus, increasing their protection), abolish the offence of soliciting, and work with police to address stereotypes.

The Court also highlights that **the general and absolute criminalisation also helps to combat the prostitution of minors, a growing issue,** by facilitating the penalisation of buyers of sexual acts from minors, even if it cannot be proven that they knew the individual was underage.



Paving the Way for A Global Adoption of the Abolitionist Model

This decision paves the way for states across Europe and the world to adopt the abolitionist model, the only approach that protects the fundamental rights and inherent dignity of victims and survivors. This victory is the culmination of relentless efforts and mobilisation by survivors and grassroots feminist organisations across Europe and the world.

The European Network of Migrant Women calls on all states that profit from prostitution to recognise that they are on the wrong side of history. These states must uphold the fundamental rights and dignity of women and girls by amending their legislation and providing robust protection for victims. The time to act is now, to ensure a future free from exploitation and violence.

The European Court of Human Rights decision removes the Damocles sword hanging over the heads of countless vulnerable women and girls in prostitution. It solidifies the protection and support they desperately need, ensuring their rights and dignity can be upheld through an abolitionist approach.

The European Network of Migrant Women celebrates this victory.

Together, we can create a safer, fairer world for all.

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