



**Observatory for
Sociopolitical Developments
in Europe**

Prostitution in Belgium: federal legislation and regulation at the local level

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Abstract:

This expertise examines the regulation of prostitution in Belgium. While the Belgian national law prohibits all third party activities concerning prostitution, e. g. renting out rooms or running a brothel, the regulation at the local level is characterized by a broad variety of different rules. This expertise explains the contradictions between national law and local regulation as well as the differences observed between the different local policy approaches. The expertise forms part of the Observatory's comprehensive research on the regulation of prostitution.

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1 Introduction: the regulation of prostitution in Belgium

In Belgium, the municipalities were the competent regulatory authorities in the area of prostitution until 1948. In 1948, local regulation was abolished, and the regulation of the sector became a federal competence.¹ Since then, the government has pursued a so-called abolitionist approach.² Neither prostitution nor the purchase of sexual services are punishable offences, but third-party activities are generally prohibited. There is no further regulation of prostitution in the form of directives at the national level (model 3).³ However, there are two special features of Belgian law that correspond to a regulatory approach (model 4): firstly, the municipalities are still permitted to regulate prostitution in their respective areas where public order issues are concerned. This is the case in many model 3 states, but in such states it is only exercised in the form of prohibitions in certain areas (the establishment of prostitution-free zones). As the example of Antwerp shows (section 3.1.2), this competence in Belgium is interpreted very broadly by some municipalities, and there is widespread regulation in the form of directives. Secondly, Belgian law tolerates third-party gains from prostitution to a limited extent (section 2.1). Belgian law therefore cannot be clearly classified as belonging to either model 3 or model 4; instead, it represents a mixed form.

2 Regulation at the federal level

At the federal level, Belgium pursues a model 3 policy, i.e. prostitution and the purchase of sexual services are permitted, but they are not subject to further regulation in the form of directives. As a consequence, national regulations concerning prostitution are primarily found in criminal law and tax law.

2.1 Criminal law

Criminal law⁴ prohibits the following:

- Procuring: a person who lures another into prostitution or solicits for the purposes of prostitution, who exploits the immoral behaviour or the prostitution of another in any way is guilty of an offence under Art. 380 § 1.1° and 4°.

¹ The regional level does not intervene in policy in the area of prostitution. The only exception is regional funding for NGOs involved in social work.

² The idea behind this policy approach is that prostitution will cease to exist in the long term if all activities associated with it are prohibited (e.g. the provision of premises).

³ For further information on the different models, see the expertise “Regulatory approaches to prostitution in European comparison” (Reinschmidt 2015).

⁴ The following paragraphs are the author’s own version of an English summary (David; Loopmans, forthcoming). It is not an official translation of the original legal text.

- Procuring through the provision of premises: a person who operates a brothel, who sells, leases or otherwise makes available rooms or other premises for the purposes of prostitution with the objective of making unjust gains is guilty of an offence under Art. 380 § 1.2° and 3°.
- Aggravated pimping: procuring that is exercised by means of deception, violence, threats or duress or through the abuse of a vulnerable situation (e.g. due to illegal or uncertain immigration status, pregnancy, illness or disability) is prohibited under Art. 380 § 3.
- Public advertising for clients: a person who incites others to immoral behaviour in public places through words, gestures or signs is guilty of an offence under Art. 380 b.
- All forms of advertising for the purposes of prostitution, including vague and allusive forms, are prohibited under Art. 380 t.

The 1995 criminal law reform⁵ introduced two key new measures: firstly, the solicitation of clients through all forms of communication is prohibited (including gestures and signs, see Art. 380 t). Secondly, the offence of procuring has been partially relaxed with respect to third-party participation in the gains of prostitutions. Living together with prostitutes is no longer an offence. In addition, premises can be let for the purposes of prostitution provided that abnormally high gains are not made as a result.⁶

2.2 Employment and tax law

Prostitution is considered immoral in Belgium. As a consequence, contracts of sale and employment contracts for the purposes of prostitution are not valid. However, prostitutes are liable for income tax. They are considered self-employed individuals for tax purposes.

2.3 Reform efforts at the national level

Since the beginning of the twenty-first century, many draft bills proposing a reform of national legislation in the area of prostitution and a shift away from model 3 have been introduced. These bills contained proposals for wider legalisation and stronger regulation, for example the introduction of a licensing system for brothel operators⁷ and the creation of a special legal status for “sexual service providers”.⁸ But advocates of a ban on prostitution have also introduced draft bills. These aimed to introduce a prohibition on the purchase of sexual services and a ban on window prostitution. However, to date there has been no general revision of Belgian law at the federal level. Weitzer (2014) argues that this clearly illustrates the political

⁵ The act of 13.04.1995 contains *Regulations for tackling human trafficking and child pornography*.

⁶ The law does not define precisely what constitutes abnormally high gains (a vague legal term); this is therefore decided by the courts in individual cases (David; Loopmans, forthcoming).

⁷ Draft bill to regulate prostitution, Belgian Chamber of Representatives, 07.02.2002 (cited in David; Loopmans, forthcoming).

⁸ Draft bill to improve measures to tackle sexual exploitation, to regulate prostitution and create humane conditions in practice, Belgian Senate, 06.02.2013 (cited in David; Loopmans, forthcoming).

disagreement within this policy area in Belgium. None of the “camps” has been able to hold sway in the debate. Instead, prostitution is not an issue that sets the national political agenda.⁹

3 Regulation at the local level

Local regulations may regulate prostitution with regard to the protection of public safety and order or morality. Municipalities can therefore prohibit prostitution in particular areas or in the vicinity of certain establishments (such as schools, etc.). In contrast to national legislation however, many municipalities tolerate brothels and other prostitution businesses provided that they do not lead to public order disturbances and cause widespread indignation amongst residents. For this reason, Loopmans and Van den Broeck (2011) refer to the situation as a **system of unregulated tolerance**.

This system of unregulated tolerance predominated across Belgium at the local level in the 1990s. However, since the beginning of the twenty-first century, **greater divergence in local approaches to prostitution can be observed** (Loopmans 2014). City councils have exercised their right to regulate locally to protect public order and morality in very different ways. Some municipalities have pursued a prohibition strategy, whilst other towns and cities have introduced stricter regulations:

- Liège prohibited window prostitution in the city in 2009. In Ghent, prostitutes were driven out of the inner city areas where they had traditionally been based. Antwerp and Charleroi have prohibited street prostitution.
- At the same time, greater attempts to regulate in the form of directives can be observed (not just in the form of bans, but also in policies with wider scopes). Antwerp has comprehensively restructured its red-light district (section 3.1.2). This initiative inspired Seraing (where the ban in neighbouring Liège led to a dramatic increase in prostitution) and Brussels to pursue similar policy approaches (but ultimately without success in Brussels to date due to strong political resistance, section 3.1.1). A similar integrated approach is also under discussion in Ghent.

3.1 A comparison of two local approaches to regulation: window prostitution in Brussels and Antwerp

The differences in local policy approaches can be clearly illustrated by comparing window prostitution in Brussels with the situation in Antwerp.

⁹ According to Weitzer (2014), advocates of a ban on prostitution do not enjoy widespread support in Belgium. Even the right-wing populist parties are not known as outspoken advocates of a ban. The law enforcement authorities for their part fear that a complete ban could make their work considerably more difficult.

3.1.1 Brussels

Window prostitution exists in Brussels in different parts of the city. Particularly large numbers of windows are concentrated in the red-light district near the Brussels-North railway station and around Aarschotstraat (Rue d'Aerschot). Aarschotstraat is located in one of the poorest districts of Brussels, where the majority of residents are Muslims of Middle Eastern and Maghreb origin. Approximately 250 to 300 prostitutes work in 60 windows in Aarschotstraat. Almost all of them are of eastern European origin (70% Bulgarian, 15% Romanian). Around 100 women work in the neighbouring streets, the majority of whom are from Ghana and Nigeria (data correct as of 2008).¹⁰

The organisation of prostitution: pimps and madams

Prostitution in Aarschotstraat is controlled by a network of pimps and madams known as *mesdames*. In most of the houses, there is a madam who rents the rooms. Formerly, they were often older Belgian women, but today they are generally Bulgarian. The madams take the payment from the clients, inform the prostitutes when a client's time is up and intervene if there are problems between the prostitutes and clients (e.g. in the case of attacks by clients). However, their most important role is to control the prostitutes so that the pimps can remain out of the police's sight and reach. The majority of the pimps operate on this basis from their home countries (Bulgaria and Romania) without being present in the local area at all. The madams are not visible from the street and leave all negotiations with the clients to the prostitutes. The prostitutes can keep around half their earnings and have a certain degree of freedom as regards their hours of work (Weitzer 2014).

The organisation of prostitution: premises

The women mostly work in eight-to-twelve-hour shifts. Frequently up to four women share a window. The room behind it is often only divided with curtains. The prostitutes do not live in the rooms or houses, residing instead in other districts.

As brothels are prohibited under national law, the majority of window buildings in Brussels are passed off as bars. They have a licence for the sale of alcohol and offer a small selection of drinks for sale. The prostitutes are registered as waitresses with the tax authorities. Officially, the madams are bar keepers or cleaning ladies. Since the houses are bars officially, no beds are permitted in the rooms (otherwise they would have to be registered as hotels or would obviously be brothels and hence prohibited). Therefore, there are only sofas. For the same reason, there are also no showers in most cases (ibid.).

¹⁰ According to a study in 2010 (Petrunov), the overwhelming majority of the women knew what form of employment awaited them in Belgium (cited in Weitzer 2014).

The role of the police

Weitzer's comparative study found that the police are scarcely present in Aarschotstraat. Police activity is limited to acute street disturbances rather than generally tackling procuring structures. The situation was different in the 1990s, when Aarschotstraat was controlled by Albanian pimps. A number of Albanian women reported to the police that they had been abused and exploited by their pimps. There were also open outbursts of violence between the pimps. The police could not ignore these obvious abuses and disturbances, and arrested the pimps and destroyed their networks (ibid.). Since Aarschotstraat has been dominated primarily by Bulgarians and Romanians, and these groups have operated fewer obviously coercive structures, the local police has rarely intervened compared to other red-light districts in Europe. The federal police occasionally inspect the rooms and attempt to obtain information on the networks in which the women work (ibid.).

Conclusion

To avoid breaching regulations, many window buildings in Brussels are officially declared as bars. The local authorities tolerate window prostitution as long as exploitative structures and violence do not escalate openly. For the women, the consequence is that they often work in poor hygiene conditions and are subject to the strict control of their madam.

3.1.2 Antwerp

Antwerp has a long tradition of prostitution linked to the city's history as a port. It has always been a visible part of the cityscape, in particular in the old harbour district (Schipperskwartier). For decades Antwerp did not enforce the 1948 national act, which abolished local regulatory competence and prohibited third-party activities, only enforcing it in cases of serious public nuisance. But this also gave those involved in the sector reason to fear selective enforcement of the ban.

In the 1990s, prostitution was widespread in Antwerp. There was a total of around 240 windows in 17 streets of the harbour district and in three streets near the station. After the opening of the Eastern Bloc, a considerable rise in organised crime and violent clashes was noted. Around 4,000 cars drove through the harbour district every night. Calls from residents urging the city council to act increased (ibid.).

Restructuring the harbour district

In 1999, the city council approved a **four-point plan** that aimed to:

1. Restrict prostitution to a single red-light zone;
2. Reduce public nuisance;
3. Eliminate the involvement of organised crime in prostitution;
4. Improve working conditions for prostitutes.

The city then began to shift window prostitution into a **tolerance zone**. The police closed all the windows outside the tolerance zone and rounded up street prostitutes.¹¹ Additional traffic blocks were installed to remove client traffic from these areas. The city invested funds totalling more than €10 million in the renewal of the harbour district.¹² Amongst other measures, a former municipal property was converted into a modern eros centre with 50 windows. At the same time, **stricter regulations for window buildings** were introduced.

Prostitution in the new red-light district

Whereas previously there were around 280 windows scattered over 20 streets, now roughly the same number of windows are located within three blocks in the new tolerance zone. In total, around 400 prostitutes work in the windows. A window can be rented for approximately €800 per week. Usually two women split the rent and work in shifts. In contrast to the situation in Brussels, there are separate rear rooms, and the rooms are not partitioned with curtains. The windows are not “camouflaged” as bars. There are no madams or sofas instead of beds. The whole district has been converted into a pedestrian zone, and no outdoor seating is provided (park benches, etc.) to avoid unwanted gatherings of visitors.

The overwhelmingly majority of the prostitutes are of eastern European origin (Bulgarian or Romanian). The third-largest group is formed of Nigerians. Male prostitutes do not work in the windows in the tolerance zone. Instead they operate in sauna clubs, bars or parks.

Requirements in the new red-light district

- Building owners who rent windows to prostitutes must apply for a licence (permit system). The licence is signed by the mayor.
- Window owners are prohibited from renting rooms to minors or prostitutes without a valid residence permit.
- There are separate building regulations for window prostitution buildings (for example, regulations concerning sanitation facilities, the standards of comfort and the external appearance of the building).
- The prostitutes are not permitted to live in the buildings.
- Compliance with the regulations is monitored by the city authorities. Fines are imposed about five times a year due to shortcomings (defective showers, etc.).
- City representatives meet twice a year with all the window owners to inform them about the latest developments and requirements, and to hear their views and concerns.

¹¹ Street prostitution is prohibited in Antwerp, see section 2.

¹² Federal funding was also been invested in the project.

The role of the police

Police officers patrol the tolerance zone on foot day and night. A special local bylaw permits them to stop, question and search any person in the area. There is a small police station, but it is not permanently staffed and merely serves as an interrogation room. However, this is not obvious to visitors. These measures are intended to give visitors to the district the impression that there is a round-the-clock police presence. Police teams make site visits to the prostitutes at regular intervals to check their passports and residence permits.

Healthcare

The city opened a clinic (Ghapro) inside the tolerance zone in 2002. The clinic offers free, anonymous psychological counselling, testing and treatment for sexually transmitted diseases, and support for those who want to exit prostitution. The prostitutes are recorded under a pseudonym and their date of birth. In 2008, the clinic provided 2,785 counselling sessions/medical examinations. It also employs a mobile outreach worker.

Conclusion

In contrast to Brussels, Antwerp has, at great expense, shifted prostitution into a new tolerance zone, which is subject to strict requirements (such as building standards and permit systems). This regulation of prostitution aims to both minimise public nuisance and improve working conditions for the women. The women work in modernised buildings that are subject to certain minimum standards. In addition, medical treatment and counselling has been provided locally specifically for the prostitutes. The extent of local regulation in Antwerp is so great that Weitzer (ibid.) sees it as being almost at odds with the national law on prostitution.

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