

Prostitution in Portugal (Legal framework)

In Portugal it does not exist a specific law forbidding or regulating prostitution. In 2001 the Penal Code was modified by *Law 99/2001 of 25.08.2001*, in order to enforce punishment of exploitation of prostitution, most specifically children prostitution (i.e. the one who forces a child to become a prostitute) and to include punishment mechanisms for traffic of human beings (see point 2).

1. GENERAL OVERVIEW OF PROSTITUTION IN PORTUGAL

Source: EUROPEAN INTERVENTION PROJECTS AIDS PREVENTION FOR PROSTITUTES - Final Report Europap 1994

Web site: <http://allserv.rug.ac.be/~rmak/europap/rapfin.html#PORTUGAL>

Note: although this report is from 1994, the situation is kept in broad terms the same (with the exceptions mentioned above: enforcement of traffic of human beings and the fact that, now-a-days prostitutes come mainly from South America and Eastern Europe)

Legislation

Prostitution was legal in Portugal until 31/12/1994. Women working in prostitution had to be registered and the houses where prostitution took place were controlled by certain regulations. In order to keep their prostitute's license, women were submitted to periodic medical investigations for venereal diseases. Non-registered women, found in brothels or in public places, were arrested and sent to Tores gaol, the best-known for female prisoners. The owners of houses with non-registered "girls" were subject to legal sanctions (arrest or fine). The law of 19/09/62, law 44579, forbade the practice of prostitution from the 1/1/63 and listed punishments and sanctions against women exercising prostitution, as well as against those facilitating, promoting or exploiting prostitution. This legal statement defines prostitutes as, those girls or women who practice sexual intercourse with any man in return for remuneration or any economic profit. Brothels, and all the houses where prostitution could be exercised, were legally closed. With this the collection of all data concerning the sanitary control of prostitutes was stopped. The government proclaimed itself to be abolitionist and, "sets under jurisdiction all the complex gear [factors] which actually exploit them [prostitutes]". This abolitionist policy did not eradicate prostitution. For 20 years prostitutes were liable to prosecution and could be placed under arrest. This law was partially revoked by the actual Portuguese Penal Code (1/1/83): the practice of prostitution is not punished; only its exploitation and/or the facilitating of it are penalized. So, unless there is an offence against decency and public morals, prostitution is "tolerated". Curiously, the law only takes account of female prostitution. Male prostitution is not acknowledged, nor is its exploitation penalized. The client, however, is never subjected to punishment. At present there are no specific sanitary laws directed at prostitutes. There may be different attitudes in different localities when these regulations are applied in practice. The civil governors in each district are charged with enforcing the law. Local regulations and police attitudes may differ widely from city to city. Street prostitutes can be prosecuted under offences against public morality, but such prosecutions are rare. Many local administrations practice a policy of toleration, so long as there is no public disturbance or offence against

public morality. Other administrations do urge the policy to pursue repressive policies to push prostitution, drug use and homosexuality, underground or, at least, to confine them to the old, traditional areas, trying to hide these "evils" from public attention. In certain areas the police are sometimes forced to intervene by pressure from citizens, or residents who regard prostitution as a public nuisance in their area. Public opinion towards prostitution is ambiguous, with different attitudes towards female and male prostitution. The former is tolerated and regarded as a necessary evil, the latter is not accepted and is much more hidden. In a hypocritical society of "public virtues and private vices", people are reminded that prostitution exists by some organized groups, in certain areas, when there are cases of reported violence against prostitutes. These events are covered extensively by the media. Occasionally there is much discussion in the media, for several days or even weeks, but without any practical consequences. There have been debates where some key public opinion forming figures argue for the need to legalize brothels and to have sanitary control over prostitutes. Prostitutes are therefore marginalised, stigmatised and/or subject to "victimization".

[...]

Prostitution population

It is difficult, even impossible, to calculate the exact number of people working in the sex industry. Many sex-workers do not regard themselves as prostitutes. Others go underground and are controlled by well organized networks. Sometimes there are reports in the media about the trafficking of young people to Spain or other countries, and even inside Portugal, to work in bars or houses. Female, male and child prostitutes exist in Portugal. The difference between them is the public acknowledgement and greater tolerance of the women and the absence of such acknowledgement or tolerance of the others. Until 1963, there was a system for the registration of female prostitutes, with regular checks at the Dispensaries of Social Hygiene, and it is suggested that the police may have some kind of records of people involved in the 'milieu'. A significant number of men or boys operate as sex-workers in various areas of Lisbon and other cities. A rough estimate indicates that in Lisbon there are 6,500 people working in prostitution every day (source: ex-prostitutes working in an outreach project). Prostitutes of foreign origin constitute a significant proportion of the total number, mainly coming from Africa (primarily Portuguese ex-colonies: Cape Verde, Guinea, Angola, Mozambique). These women have differences of cultural values and behaviour. All types of prostitution exist in Portugal, except for the window prostitutes: the street-walkers and the road-prostitutes are the most visible, but many work in bars, saunas, massage parlours, escort agencies and houses/brothels. The situation on a local level varies. A distinction should be made between large cities, like Lisbon and Porto, and coastal zones, like the Algarve and districts along the northern coast, which have a large prostitution population corresponding to the economic power of clients, and the rest of the country, where prostitution is less concentrated. The distribution of prostitution is in certain well known streets and "traditional" areas of the cities and their outskirts, as well as along the sides of many well known roads. There is no self-organization amongst prostitutes in Portugal.

2. Penal Code

Artigo 169.º (Tráfico de pessoas) [*traffice of human beings*]

Quem, por meio de violência, ameaça grave, ardil, manobra fraudulenta, abuso de autoridade resultante de uma relação de dependência hierárquica, económica ou de trabalho, ou aproveitando qualquer situação de especial vulnerabilidade, aliciar, transportar, proceder ao alojamento ou acolhimento de pessoa, ou propiciar as condições para a prática por essa pessoa, em país estrangeiro, de **prostituição** ou de actos sexuais de relevo, é punido com prisão de 2 a 8 anos.

Art. 170 (Lenocínio) [*prostitution*]

1 - Quem, profissionalmente ou com intenção lucrativa, fomentar, favorecer ou facilitar o exercício por outra pessoa de **prostituição** ou a prática de actos sexuais de relevo é punido com pena de prisão de 6 meses a 5 anos.

2 - Se o agente usar de violência, ameaça grave, ardil, manobra fraudulenta, de abuso de autoridade resultante de uma relação de dependência hierárquica, económica ou de trabalho, ou se aproveitar de incapacidade psíquica da vítima ou de qualquer outra situação de especial vulnerabilidade, é punido com pena de prisão de 1 a 8 anos.

Art. 176 (Lenocínio e tráfico de menores) [*prostitution and traffic of children*]

1 - Quem fomentar, favorecer ou facilitar o exercício da **prostituição** de menor entre 14 e 16 anos, ou a prática de actos sexuais de relevo é punido com pena de prisão de 6 meses a 5 anos.

2 - Quem aliciar, transportar, proceder ao alojamento ou acolhimento de menor de 16 anos, ou propiciar as condições para a prática por este, em país estrangeiro, de prostituição ou de actos sexuais de relevo, é punido com pena de prisão de 1 a 8 anos.

3 - Se o agente usar de violência, ameaça grave, ardil, manobra fraudulenta, abuso de autoridade resultante de uma relação de dependência hierárquica, económica ou de trabalho, actuar profissionalmente ou com intenção lucrativa, ou se aproveitar de incapacidade psíquica da vítima, ou de qualquer outra situação de especial vulnerabilidade, ou se esta for menor de 14 anos, é punido com pena de prisão de 2 a 10 anos.