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MYTHS ABOUT BELGIUM'S "SEX WORK EMPLOYMENT"¹ LAW

1. BELGIUM DECRIMINALISED PROSTITUTION IN 2022

FALSE: Even before 2022, law did not punish prostitution. The Penal Code used to criminalise pimping, i.e. all forms of exploitation of the prostitution of others. What the 2022 Penal Code reform² did decriminalise, is pimping. In Belgium, it is now considered legitimate to exploit the prostitution of others and thereby generate profit as long as the profit is not deemed “abnormal”. The 2024 ‘sex work employment’ law created a status of employee and employer in prostitution: pimps who operate under the conditions provided for by the law may no longer be prosecuted. They are now legally considered legitimate ‘employers’.

Besides, until its repeal in 2022, ‘soliciting’ was defined in the Penal Code as ‘provoking a person to debauchery [...] in a public space [...] by words, gestures or signs’. A few municipal regulations³ also criminalised some other conducts, such as visibly negotiating the price of sexual acts in certain streets. The interaction of such municipal regulations with the Penal Code raises legal questions, resulting in the annulment of several municipal provisions by the Council of State,⁴ and in the lack of actual application of these regulations.

2. THE BELGIAN “SEX WORK EMPLOYMENT” LAW IS A WORLD FIRST

FALSE: For several years now, pimps in the Netherlands and Germany have been able to hire people for prostitution, and New Zealand has specific employment contract regulations concerning prostitution. The legislative changes in Germany and in the Netherlands have already produced negative impacts,⁵ which the Belgian legislator does not seem to have considered or analysed prior to the adoption of the law.

3. BEFORE THE “SEX WORK EMPLOYMENT” LAW, PROSTITUTED PEOPLE COULD NOT WORK LEGALLY OR BENEFIT FROM SOCIAL SECURITY COVERAGE

FALSE: Prior to this law, prostituted people were already able to enjoy self-employment status,⁶ and thus the respective social rights, such as maternity leave, pension, work incapacity allowance, family allowances.⁷ Social security cover is not “offered” to employees or to the self-employed, who are entitled to it against tax payments. For prostituted people, those tax payments will imply performing a number of sexual acts, which will not bring them a direct income. As a result, they will need to perform additional sexual acts than they do at present.

4. THE “SEX WORK EMPLOYMENT” LAW WILL EFFECTIVELY ALLOW PROSTITUTED PEOPLE TO REFUSE THE PERFORMANCE OF SEXUAL ACTS THEY DO NOT DESIRE TO PERFORM

FALSE: According to the letter of the law, prostituted people may refuse to perform sexual acts at any time. Should they refuse more than ten acts over the course of a six-month period, both they and the pimp/“employer” can request the intervention of a service designated by the King, which will examine the “employer’s” compliance with regulations on well-being at work.

Generally speaking, labour law aims to protect employees from the inherent imbalance in the relationship with the employer, resulting from the employees’ extreme dependence on their job.

However, the following reasons suggest that, in practice, the refusal to perform sexual acts cannot be secured:

- a) **Prostituted persons will likely be pressured to avoid refusing sexual acts**, especially as the pimp/‘employer’ will have to pay social security contributions for the employee. This implies that prostituted persons will start being “profitable” to them only after having performed a significant number of sexual acts. In prostitution, the imbalance between “employee” and “employer” is particularly significant, given that prostituted persons often face additional vulnerability factors, such as economic hardship (e.g. single mothers with dependent children), difficulties in finding other jobs due to poor command of the local language, lack of valid residence documents, etc.⁸
- b) **The figure of ten refusals is disconnected from the reality of prostitution.** Prostituted persons have to refuse sex on a regular basis, especially as they are asked for unprotected sex (i.e. without a condom), at least once a day on average.⁹ The figure of ten refusals can easily be reached within a few days. Moreover, **the law lacks precision as to the exact consequences of the intervention** of the department for prostituted persons. This will likely deter them from reaching the figure of 10 refusals, as they may fear that the activation of this mechanism could threaten their job.

5. MOST PROSTITUTED PEOPLE WELCOME THE ENTRY INTO FORCE OF THE “SEX WORK EMPLOYMENT” LAW

FALSE: Prostituted people interviewed in the media are mainly Belgians, who have alternatives to generate income outside of prostitution.¹⁰ However, they are

a minority: in Belgium, 90% of prostituted people are estimated to be foreigners and 80% are victims of trafficking.¹¹ They are driven into prostitution by economic hardship, and most of them wish to exit prostitution. Subordination constitutes a determining feature of the employment contract, causing the ‘sex work employment’ status to likely endorse the coercion pimps exercise onto prostituted people. The vulnerability of these people prevents them from voicing their needs and concerns openly. In Germany, where prostitution can be carried out under the status of employee for over 20 years, only a minority (estimated at 10%)¹² of prostituted persons do use this status.

6. GRANTING PROSTITUTION A FULL EMPLOYMENT STATUS WILL HELP OVERCOME THE STIGMA ATTACHED TO PROSTITUTED PEOPLE, INCLUDING WHEN IT COMES TO REPORTING THE ASSAULTS THEY SUFFER IN THE COURSE OF PROSTITUTION ACTIVITIES

FALSE: The scope of the new law is limited to labour law and does not deal with access to justice. Unfortunately, the stigma attached to prostitution is a long-standing phenomenon, deeply rooted in society, even in countries where a similar legislative framework has been implemented for decades. The creation of an employment status is unlikely to help overcome the stigma. Actually, the fact that prostitution was not punished by law – including before the 2022 and 2024 laws – did nothing to prevent the stigma. The lack of appropriate care from the police before complaints from prostituted people and the adoption of municipal regulations against conducts related to prostitution (see myth 1) following complaints from local residents are clear evidence of that.

What the 2024 law really does is to normalise that women’s bodies - the vast majority of prostituted people – can be legitimately exploited. The law endorses that, upon payment, women’s bodies can be accessed irrespectively of their desire and of the – often precarious and violent – situation that they are in. Belgian society should question this ancient male privilege – whereby men’s supposedly irrepressible sexual need takes precedence over women’s health – and consider prostitution within the continuum of violence against women.

7. THE “SEX WORK EMPLOYMENT” LAW MEETS THE NEEDS OF PROSTITUTED PEOPLE

FALSE: Prostituted people often suffer from homelessness, post-traumatic stress, financial insecurity as well as from multiple forms of violence.¹³ As migrants, they often need residence documents and the authorisation to work in

Belgium. These issues are not addressed in any way by the law. As grassroots organisations can attest, a vast majority of prostituted people clearly express the will to exit this often violent and unwanted situation, rather than the alleged need to organise the conditions in which prostitution is carried out. However, the law does not respond to these needs and, especially, does not foresee any financial support nor does it secure access to safe housing, residence permit, and healthcare for the potential consequences of prostitution.

8. INTERNATIONAL LAW ENCOURAGES STATES TO ADOPT A LEGISLATIVE FRAMEWORK THAT RECOGNISES PROSTITUTION AS WORK IN ITS OWN RIGHT

FALSE: International law requires States to criminalise the exploitation of prostitution, regardless of the consent of prostituted persons, as prostitution intrinsically violates the fundamental right to physical and psychological integrity.

Article 1 of the **1949 United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others**, signed and ratified by Belgium in 1965, obliges States to “punish any person who, to gratify the passions of another:

- 1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person;
- 2) Exploits the prostitution of another person, even with the consent of that person”.¹⁴

Article 6 of the **United Nations Convention on the Elimination of All Forms of Discrimination against Women**, also signed and ratified by Belgium in 1985, legally requires the States to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women”.¹⁵

Belgium signed and ratified both international conventions and is therefore legally bound to comply with them. The adoption of the law of 2024 by Belgium constitutes a violation of such international law commitments.¹⁶





Founded in 2013, isala is a Belgian grassroots association committed to supporting people in prostitution and fighting the system that exploits them. The association, run by volunteers, offers unconditional support focused on autonomy by proposing an integral programme for leaving prostitution, meeting the essential and long-term needs of the individuals concerned.

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1. [Law of 3 May 2024 containing provisions on sex work under employment contract](#), referred to in this document as the 'sex work contract'.
2. Analysis made by isala in January 2023 on the "[Penal Code reform on sexual infringements: what changes on prostitution](#)".
3. [Regulation for the control of nuisances in the Alhambra district and surrounding area of the City of Brussels of 8 May 2017](#).
4. [Council of State judgement n° 234.152 of 16 March 2016](#).
5. European Parliament study of 27 July 2021: 'The differing EU Member States' regulations on prostitution and their cross-border implications on women's rights'. This was also noted by the Belgian Council for Equal Opportunities between Men and Women in its [opinion 156 of 10 December 2020](#) on the social rights of prostituted people.
6. In Belgium, a self-employed person carries out a profitable professional activity that is not linked to an employer by an employment contract. The self-employed people are their own boss. The self-employed workers are also considered responsible for their own social security.
7. [Acerta: Self-employed or employee, which is the difference?](#)
8. P. Govers, G. Absil, P. Govers, G. Absil, [Prostitution, relations of oppression and agency. Exploratory survey on prostitution](#), Fédération Wallonie Bruxelles, Ministry of the French Community, Directorate for Equal Opportunities, March 2016.
9. Information reported by survivors of prostitution supported by isala.
10. This was also noted by the Belgian Council for Equal Opportunities between Men and Women in its [opinion 156 of 10 December 2020](#) on the social rights of prostituted people
11. [Vivre Ensemble](#), Analysis 2014 02, with the support of Fédération Wallonie-Bruxelles.
12. [German federal office fédéral of statistics](#).
13. Farley, M., Cotton, A., Lynne, J., Zumbek, S., Spiwak, F., Reyes, M. E., Sezgin, U. (2004). [Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder](#). *Journal of Trauma Practice*, 2(3-4), 33-74.
14. United Nations, [Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others](#), New York, 21 March 1950.
15. United Nations, [Convention on the Elimination of All Forms of Discrimination against Women](#), New York, 18 December 1979.
16. See Belgian Council for Equal Opportunities between Men and Women in its [opinion 156 of 10 December 2020](#) on the social rights of prostituted people