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The perspective of a THB destination and transit
country within the context of sexual exploitation:
aligning national criminal law to better meet
current challenges

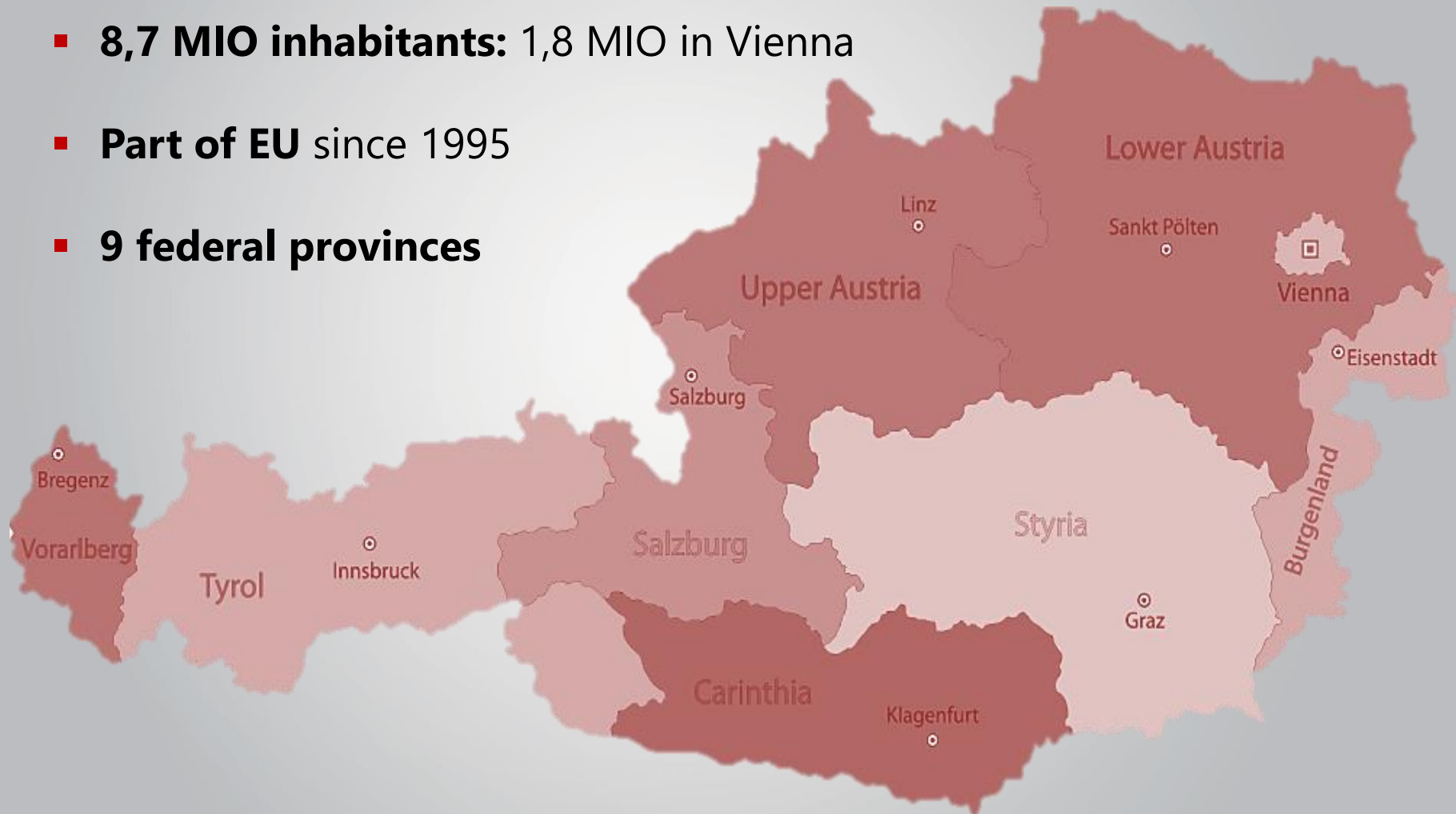
Ambassador Elisabeth Tichy-Fisslberger
National Co-ordinator on
Combating Human Trafficking

OVERVIEW

- Austria
- Legal Framework
- Prostitution: Facts & Figures
- Trafficking: Facts & Figures
- Task Force Trafficking in Human Beings
- Support System for Victims of Trafficking
- Why Regulation and Main Arguments
- **Questions**

FEDERAL REPUBLIC OF AUSTRIA

- **8,7 MIO inhabitants:** 1,8 MIO in Vienna
- **Part of EU** since 1995
- **9 federal provinces**



LEGAL FRAME CONCERNING PROSTITUTION

Prostitution in Austria is legal and regulated

- **Regional Law** (differing province by province)
 - ✓ prostitution specific regulations as to who, where, when
- **Federal Law**
 - ✓ general regulations: immigration law, tax law, social security law,...
 - ✓ special regulations in criminal law and health law;

REGIONAL LAW

- **9 Prostitution Laws – all different in detail**
- ✓ **Who:** age limit 18 or 19 years and mentally healthy; registration: directly with the police (Vienna) or municipality or via brothel-owner;
- ✓ **Where:** licensed brothels; some allow also visits at the home of the customer; (very) restricted street prostitution only in Vienna
- ✓ **When:** regulated individually
- **Implementation**
- ✓ **From liberal to restrictive:** Vienna - Vorarlberg

REGIONAL LAW – VIENNA I

- **Definition of Prostitution:** commercial sexual acts involving body-contact
- **Where:** licenced brothels; at the clients place; soliciting in denominated streets (allowance zone)
- **Brothel-licensing** - with involvement of police
 - ✓ **reliability check:** brothel owner, responsible persons
 - ✓ **safety regulations:** e.g. emergency button
 - ✓ **hygienic standards:** toilets, showers, ...
 - ✓ **commodities:** lockers for SW, cooking facilities, ...

REGIONAL LAW – VIENNA II

- **Sexworkers:** registration with the police and counselling by NGO
- **Clients:** fined if they approach SW in an unlicensed brothel or outside an allowance zone
- **Police Control**
 - ✓ **check any place**, if justified suspicion that illegal prostitution
 - ✓ **check undercover**, if justified suspicion
 - ✓ **check compliance** any time
 - ✓ **close down on the spot**, if severe violation

FEDERAL LAW: CRIMINAL LAW

- **Trafficking in human beings (Section 104a CC):**
 - ✓ Recruitment, harbouring or reception, transportation, transfer of control or offering of an **adult person** by use of unfair means with the purpose of exploitation is punishable by a **prison sentence from 6 months to 5 years.**
 - ✓ **Unfair means:** use of force or severe threat, deception, abuse of power, of mental illness or of a position of vulnerability, intimidation, giving or receiving payments or benefits for the transfer of control over a person.
 - ✓ **Exploitation includes** sexual exploitation, exploitation of the removal of organs, of forced labour, begging or punishable acts.
 - ✓ **Aggravating circumstances:** trafficking in the framework of a criminal association, by using severe violence, by deliberately or grossly negligently putting the life of a person at risk is punishable by a prison sentence from **1 to 10 years.**
 - ✓ **Trafficking in children** (under the age of 18) is punishable by a sentence from **1 to 10 years.** Unfair means are not elements of the offence in case of child trafficking.
- Acc. to **Section 12 CC** a **person directing or contributing** in any other way to the commission of a crime will be treated as equally guilty as the immediate perpetrator.

FEDERAL LAW: CRIMINAL LAW

New Provision under the Criminal Amendment Act 2015:

- **Violation of the right to sexual self-determination** (Section 205a CC)
 - ✓ Engaging in sexual intercourse by taking advantage of a predicament
 - ✓ When customer **knows** that a sex worker is **a victim of trafficking in human beings** and **despite this knowledge** sexual interference still happens
 - ✓ Sentence: up to 2 years

FEDERAL LAW: CRIMINAL LAW

- **Transnational trade of prostitution (Section 217 CC)**
 - ✓ Transnational recruitment or transfer of prostitutes punishable by sentence from 6 months to 5 years.
 - ✓ aggravating circumstances:
 - ✓ professional business: 1 to 10 years.
 - ✓ deception, use of force or severe threat, abuse of misapprehension: 1 to 10 years
- **Pimping:** intention to gain an income and exploit: up to 2 years or up to 3 years in more severe cases; aggravating circumstances (a.c.)
- **Sexual Violence against Minors (under 18)**
 - ✓ customer: up to 3 years of imprisonment
 - ✓ Procurement: 6 months to 5 years

DATA ON PROSTITUTION – LEGAL MARKET

- About **50%** in **Vienna**
- **Registered Sexworkers:**
 - ✓ **8.000**, only 2% male
 - ✓ **95% migrant Sexworkers**, mostly from Eastern European countries (mainly Romania, Hungary, Bulgaria)
- **Licensed Brothels:**
 - ✓ 800
 - ✓ Trend goes from Sexclub with bar to Apartmenthouses without bar

DATA ON PROSTITUTION – ILLEGAL MARKET

■ **Non-registered Sexworkers:**

- ✓ 3.000-4.000
- ✓ higher amount of Austrians

■ **Main locations:**

- ✓ Go-Go-Bars (Vorarlberg), massage salons
- ✓ private flats, hotels: contact via escort-services and internet

■ **Reasons:** anonymity, avoidance of health checks, taxation,..

DATA ON TRAFFICKING (2015)

Police

- 98 investigations on trafficking (§ 104a: 62; § 217: 57)
- 132 suspects (§ 104a: 74; § 217: 58)
- 119 Victims (§ 104a: 62; § 217: 57), 87 from EU countries;
- **73% of all investigation cases on sexual exploitation**

Intervention Center for Trafficked Women (LEFÖ-IBF)

- 226 women (**sexual exploitation 146**, household 44, marriage 3, others 33)
- Main nationalities: Romania, Hungary, Philippines

TASK FORCE ON COMBATING HUMAN TRAFFICKING

- **Chair:** Federal Ministry for Europe, Integration and Foreign Affairs (since 2004)
- **Members:** relevant ministries (10), federal provinces (9), NGOs (4), social partners
- **Tasks:**
 - ✓ Structured cooperation and dialogue
 - ✓ National Action Plan on Combating Human Trafficking (Nr.4: 2015-2017)
 - ✓ Support of implementation of NAP

SUPPORT SYSTEM

- Intervention Center for Trafficked Women (LEFÖ-IBF): http://www.lefoe.at/index.php/News_en.html
- Center for Male Victims (MEN-VIA): <http://www.men-center.at/projekte/men-via/flyer.html>

WHY REGULATION?

- Criminalisation of clients hits sexworkers most
- Sexual exploitation vs. legal prostitution
- Criminalisation of clients does not result in sympathy for sexworkers
- Economic concept of supply and demand not adequate to prevent THB and protect victims: **Demand reduction does not mean trafficking reduction**

CRIMINALISATION OF CLIENTS HITS SEX WORKERS MOST

- Sex workers go underground – do they? (next slide)
- Higher dependence of sex workers on middlemen
- No state influence on working conditions
- Police: loss in control, insight and trust (Vienna)
- NGOs: loss in counselling abilities (contact, budget, task)

Ungefähr 814 000 Ergebnisse (0,33 Sekunden)

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(Norway and Sweden) They claim we sell illegal services, RealEscort is an advertising website, we sell advertising only!. High Court of Norway has already ...

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Europe biggest escort directory of independent escorts, escort agencies and strip clubs in Sweden. You find here the best female and male escorts providing ...

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REN α

Club Haren
STOCKHOLMS MOST SINFUL GENTLEMENS CLUB
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BUB 358

STOCKHOLMS MOST SINFUL
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SEXUAL EXPLOITATION VS. LEGAL PROSTITUTION

- **Convention on Action Against Trafficking in Human Beings**
 - ✓ **Article 19** – *Criminalisation of the use of services of a victim*
 - ✓ discouragement of sexual exploitation **in the context of human trafficking**
 - ✓ Use of **services of prostitution are not concerned** as such
 - ✓ no effect on domestic law dealing with prostitution

Prostitution ≠ sexual exploitation

-> not every sex worker is a victim

CRIMINALISATION DOES NOT RESULT IN SYMPATHY FOR SEX WORKERS

- **Victim-Concept = Minority Concept in Austria**
- **Studies on Sweden:**
 - ✓ indicate grown support for criminalisation of clients
 - ✓ but also indicate grown support for criminalising sexworkers!

CONCEPT OF SUPPLY AND DEMAND

- **Supply and demand** constitute the **economical market**
- With the sexual exploitation “market”, it’s more **complicated**:
- it **exists regardless of prohibition** by the state -> prohibition will make the market illegal, but not necessarily disappear
- sex workers are exploited by traffickers, not by market pressure
- the force/compulsion used against victims cannot simply be described by the concept of supply and demand

DEMAND REDUCTION = TRAFFICKING REDUCTION?

- Criminalisation **might** result in a smaller prostitution market

BUT

- Criminalisation **results in a bigger hidden market :**
 - ✓ less insight, control and contact
- low numbers of identification **don't mean low numbers in trafficking** – necessity for careful interpretation of existing data

NO CLEAR ANSWER POSSIBLE!

A world map composed of small grey dots on a light grey background. The map is centered and occupies most of the frame. The word "QUESTIONS?" is written in red, bold, sans-serif capital letters across the middle of the map.

QUESTIONS?

Danke
Merci
Thank You
Grazie
Gracias
Hvala
Djekuju
Shukran
Xie Xie



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