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## FRAMING PROSTITUTION POLICIES. A COMPARISON OF SLOVENIA AND AUSTRIA

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### ABSTRACT

*In the article, the authors explore how prostitution policies as explicitly gendered policies are framed in two countries, Austria and Slovenia. These countries share many elements of historical, cultural and religious setting even if their political systems and cultures developed in different ways. The background of prostitution policies, policy environment and actors in both countries is outlined. The authors then present the frames found in the two countries and compare them. In the last part of the paper, first comparative explanations for differences and similarities in framing and policy outcome are given. The main argument is that frames on prostitution have undergone considerable changes in both countries, but conceptualisations of women as the «Other» and of «voluntary versus forced» prostitution are central to the debates in both countries.*

### 1. EXPLAINING DIFFERENCES AND SIMILARITIES IN PROSTITUTION POLICIES: A CRITICAL FRAME ANALYSIS APPROACH

Prostitution touches on one of the key issues of the prevalent unequal gender order in post-industrial societies – namely on sexuality (Outshoorn, 2004, p. 3). Prostitution can be defined as a social institution which «allows

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certain powers of command over one person's body to be exercised by another» through the medium of money (O'Connell Davidson, 1998, p. 9). Most of the time prostitution involves heterosexual exchange, «men buying sexual services on women» and prostitution is situated in social relations, which imply power between men and women (Outshoorn, 2004, p. 3).

Prostitution is a social institution, which states have tried and still try to control. States have developed different institutional and legal arrangements in regulating and controlling prostitution. The most frequent prostitution regimes can be labelled first as prohibitive regimes, which makes all prostitution illegal, including the prostitute, second as abolitionist, the attempt to eliminate prostitution by criminalizing third parties but not the prostitute, and third a reglementarist regime, in which states are organizing the prostitution business (Outshoorn, 2004, p. 8).

Since the breakdown of socialist states and the opening of east-west borders, the issue of trafficking in women became more and more intertwined in political discourses with the prostitution issue. Although trafficking in women does not only mean trafficking women into the sex business but also for instance in precarious work places like housework and home care or waiter jobs, these developments raised the issue of forced versus voluntary prostitution.

The perspectives on prostitution are very diverse in feminist social science. Prostitution seems to be a topic, which not only divides policy makers but also feminist activists and scientists (Overall, 1992, 706). A radical feminist approach sees prostitution as the worst form of male exploitation and oppression of women and therefore as the overall symbol for patriarchy (Pateman, 1988; Barry, 1995) and a form of violence against women (Overall, 1992). This branch does not conceptualize prostitution as deliberately chosen, but as «forced» prostitution. The «sex radical feminism» on the other hand sees prostitution as a form of deliberately chosen work with emancipatory potential, given good labour conditions and decriminalization (Vance, 1984; Califa, 1994). The liberal sex work approach (Pheterson, 1996; Alexander, Delacoste, 1998; Bell, 1994; Chapkis, 1997; Nagle, 1997) sees prostitution as a form of labour, which can be a way for women to economic independence if the work is clearly regulated in terms of waged labour. The latter concepts blame state regulation for violating women's rights: «From a sex workers' point of view, it is the laws against prostitution and the stigma imposed on sex work that provoke and permit violence against prostitutes» (Alexander, Delacoste, 1998, p. 185).

These different state approaches and feminist perspectives on prostitution prompted the idea of this article. It aims at explaining similarities and dif-

ferences in framing the prostitution issue in the two neighbouring countries Slovenia and Austria since the 1990s. The two countries have many elements of historical, cultural and religious traditions in common although their political systems and political cultures developed in rather different ways after the Second World War. In Slovenia and Austria prostitution has become not only a salient issue for gender equality and gender discourse since the 1990s but also a «hot» debated issue in the media as well as in policy making. Moreover, since the opening of the borders between western and east and central European countries the issue of trafficking in women and so-called organized crime has been put on the political agenda of the two countries. The debates about prostitution and trafficking have been mixed in the public debate and gave again rise to strengthening the perspective on prostitution as «forced» prostitution.

While in Austria due to the social democratic reforms of the penalty law in the 1970s prostitution has been decriminalized, the Slovenian parliament passed a law, which decriminalized prostitution due to the historic settings only in 2003. However, prostitution regimes –the methods of regulating and controlling prostitution– differ in the two countries. While Austria’s prostitution regime is a mixture of abolitionist and reglementarist, the Slovenian regime experienced the transition from a partly prohibitive regime with high tolerance to an abolitionist regime in the year 2003.

These differences are of course due to differences in institutional political settings of implementing prostitution policies (for instance state levels and actors) but also due to different strategies and traditions of women’s movements in the two countries. However, this paper claims that the framing of the issue of prostitution is one of the most important factors, which might explain differences and similarities in prostitution politics in the two countries. The main goal of this article therefore is to map out frames and strategies in framing prostitution in Slovenia and Austria since the mid 1990s.

The paper starts by outlining the background of politics on prostitution in Slovenia and Austria in a historical perspective – for instance the development of the legal situation, the policy environment and the main actors in the field of politics of prostitution. The policy environment and the actors involved in prostitution politics might be another explanatory factor to explain differences and similarities in policy outcome but also in framing the issue of prostitution. The next section presents the findings of the critical frame analysis of prostitution policies. According to the Mageeq methodology (see [www.mageeq.net](http://www.mageeq.net)) the paper describes the major frames in policy debates about prostitution in Slovenia and Austria since the 1990s.

The questions for depicting the frames are: How is prostitution presented by main actors in the policy debate? What is the problem? Who is responsible for the problem? Is the problem gendered? Which roles and norms are attributed in the problem definition? What is suggested as solution of the problem? Who can solve the problem?

Moreover, the critical frame analysis looks for gender images presented in these frames: How are men and women constructed in the debates? Are the debates gendered or is the issue of prostitution degendered? We also analyze the structure of frames – for instance the use of dichotomies and polarization, of contradicting or clashing frames within countries or actors' groups. Moreover the analysis has a specific view on the intertwindness of prostitution and trafficking in women and looks how these two issues are mixed in the frame as «crime» and if and how female victims are constructed.

The material for the analysis are policy documents such as party programs, minutes of parliamentary debates, laws on prostitution, media articles and documents by NGOs and women's groups concerned with the issues of prostitution and trafficking in women.<sup>1</sup> The last part of the paper compares the frames in the two countries and gives first comparative explanations for differences and similarities in framing and differences and similarities in policy outcome.

## 2. THE POLITICS OF PROSTITUTION: LEGAL SITUATION AND POLICY ENVIRONMENTS IN SLOVENIA AND AUSTRIA

### **Slovenia**

#### *Prostitution policies in Ex-Yugoslavia and in Slovenia*

In Slovenia the issue of prostitution and human trafficking is not covered by a comprehensive law. Though not explicitly forbidden or seen as a criminal act prostitution was, from the mid 1970s until recently, treated as a lesser

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1. In the Slovenian case 17 texts have been analysed: 6 policy documents, 4 media texts taking 4 different perspectives and 2 expert texts, one presenting the findings of research on the legal framework of prostitution and the other representing the negative on decriminalisation (with some characteristic arguments). Due to the lack of relevant texts on prostitution (both policy documents and media texts), we added five texts on human trafficking in the final stage of the analysis. In the Austrian case 25 documents from 1995 to 2004 have been analysed: 6 parliamentary debates (upper and lower house from 1996 to 2002), 1 law, the Viennese prostitution law from 2003, 3 party documents from the social democrats and the green party (the only parties that put the prostitution issue on their agenda), 14 media articles from Austrian dailies (1995 to 2004) and 1 document by the feminist organisation LEFÖ.

offence against «public order». A person that was submitted to prostitution, took part in it, allowed or supported it might have been sentenced up to 2 months in prison.<sup>2</sup> In the year 2003 this provision was abolished and prostitution was decriminalized. According to the *Criminal Code* (articles 185, 186 and 387) pimping and serving as an agent of prostitution are still defined as criminal offences. For both offences a term of 3 to 5 years in prison is envisaged, or 5 to 10 years if the offence involves a minor. Although the organization of prostitution is a criminal offence, the law includes no provisions dealing with clients.

Opinions vary widely about the extent of prostitution in Slovenia. In 1996, the Criminal Service Administration of the Ministry of Internal Affairs recorded around 100 prostitutes, but the «grey area» according to some figures is very large in Slovenia (some estimates suggest 1,800 prostitutes). Though it is difficult to estimate the factual extent of prostitution in former Yugoslavia before 1990<sup>3</sup> it can be claimed that the phenomenon has grown particularly noticeably since 1991. This period has seen marked growth in the number of massage parlors, night bars and demand for certain vocational profiles (platform dancers, masseuses, hostesses, strippers). Notwithstanding, there is almost no street prostitution in Slovenia. The most widespread forms of prostitution are hotel and bar prostitution, while prostitutes from Slovenia for the most part operate by advertising and mobile telephones independently from pimps.

Prostitution has not been an issue on the political agenda of socialism. Within Yugoslavia, first demands for decriminalization were raised by some researchers (Radulovic, 1986, 194f.), and in Slovenia above all in the debates of civil society groups in the 1980s. Prostitution, however, was level considered to be both immoral and an obstacle to the real emancipation of women, and was not supposed to be visible in a society with the ideal of an emancipated and «honest» working women. According to the Marxist interpretation, prostitution was an expression of a female proletarian

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2. *The law on offences against public order and peace - Zakon o prekrških zoper javni red in mir*, Ul. SRS (Official Gazette of Republic of Slovenia), No. 16/74, item 5 of Article 10.

3. In Croatia, there were 1312 prostitutes registered in 1956. In the capital of Slovenia, Ljubljana, there were 206 prostitutes registered in the year 1965, and 360 new registered in 1964. In 1984, there were 607 women punished due to the offense against public order and peace – submitting to prostitution. There is an estimation that, at the end of sixties, there were around 7000 women involved in prostitution at the territory of socialist Yugoslavia (Radulovic, 1986, 40f.).

enslavement. Until 1947, prostitutes were, both due to the revolutionary asceticism and puritanism and as a consequence of Stalinist methods, subjected to the so-called re-education, e.g. they were sent to labour camps. Later on, tolerance towards prostitution increased but it was still seen as a crime and as a great social deviation up to the mid 1970s. Yet, it was widely rumoured that it was organized by either secret police or local powerful communist leaders.

The fact that the liberalizing seventies did not bring about the decriminalization shows that there existed a deep ambivalence regarding the issue. The move towards defining it as a «disturbance of public order» was an attempt to make it less visible since the remained repression mostly affected the existing street prostitution. The envisioned system of the preventive actions through the system of social work did only bring about a paradoxical result of repressive tolerance. Prostitution was widely tolerated by the police but not decriminalized and at the same time there was no public debate about it. The official women's organizations had neither data nor interest to touch the phenomenon. There was almost no research about prostitution outside of the repressive oriented criminology circles until the 1980s.<sup>4</sup> Even then, it was mostly tackled by some rare researchers (see Radulovic, 1986), some of them feminists as well. As a part of the «grey economy» prostitution represented an invisible practice which increased as tourism developed as an important branch of socialist economy and due to the liberalization of border regime and market in the 1970s.

Before 1996 and after independence of Slovenia, several individual statements of some younger male liberal political leaders announced (together with debating the decriminalization of pornography) the endeavour for decriminalization or even legalization of prostitution. In January 2000 two parliamentarians addressed the government, submitting a suggestion to establish a governmental expert group to design a law on prostitution. The group was confirmed within a few months and included experts from the Ministry of Work, Family and Social Affairs, Ministry of Interior, Ministry

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4. We should mention here that the research on prostitution in the Kingdom of Yugoslavia between the two wars of the 20th century was much more developed than later, in socialist Yugoslavia. It included a whole set of books and empirical studies (see Radulovic, 1986). At that time, prostitution was also considered an important political question, and nevertheless, seen as a class issue as well. In Slovenia, the issue was termed within the frame of social pathology (Kobal-Bavcon, pp. 158-174).

of Justice, Ministry of Health and the governmental Office for Women's Policy (currently Office for Equal Opportunities).

In December 2001 a group of parliamentarians (the proposer was a Liberal Democrat, the leading political party in Slovenia until 2004) submitted to parliament a bill of changes to the *Law on Public Order and Peace*. Submitters claimed that by introducing changes they are actually going to implement decriminalization of prostitution. They furthermore were arguing for an understanding of prostitution as an economic activity and refusing to understand prostitutes as victims but as businessman and businesswomen. After a year and a half, at the end of May 2003, the subject appeared on the agenda again. It was again suggested that the existing law should be changed, models adopted in Germany and the Netherlands were often cited. In the summer of 2003, decriminalization of prostitution in Slovenia was supported by all parliamentary parties.

#### *Actors and non-actors in the process of decriminalization prostitution*

Thus the real discussion on prostitution entered the political agenda in 2001. The proposal for decriminalization and the records of the 2nd and 3rd discussion in Parliament, together with the opinion of the Parliamentary Committee for Home Affairs, are the documents that reveal the core of the structure of the policy arguments. It can be said that media and expert texts have not raised anything new, different or more illuminating than the above-mentioned policy papers. The only exceptions are perhaps the published interviews with two Slovenian prostitutes, since the opinions of prostitutes themselves were consistently and symptomatically not taken into account in the policy design process. This means that the decisive protagonists of the decriminalization of prostitution in Slovenia were political parties, the Committee for Home Affairs and parliament. The governmental expert group, involving experts from different governmental bodies, was established to design a law on prostitution, but it has produced no expertise. Academic research groups were not appointed to do research on prostitution in Slovenia; instead, all data available in debates were obtained from the Criminal Investigation Department.

As well, women's civil society organizations were not consulted. The Office for Equal Opportunities did not express its opinion apart from the standpoints in CEDAW reports, which reflect the governmental position. Perhaps worthy of mention are two additional participants as well: a Catholic group of citizens' initiative for a referendum against



decriminalization of prostitution that was submitted after decriminalization was adopted in parliament, and the Catholic Church which surprisingly did not openly stand against decriminalization. And finally, what is probably most surprising was the absence of feminist intervention in the discussion. In general terms, there exists no feminist reflection on the phenomenon of prostitution in Slovenia.

## **Austria**

### *Prostitution policies in Austria. Policy environment and policy process*

Austrian constitution law (Article 118.3) holds that prostitution is to be regulated by each of the nine provinces, whereas matters pertaining to the Penal Code, AIDS/HIV related laws, tax and social insurance laws are to be regulated by federal legislation. The legislation and policy-making on prostitution therefore are complex processes, as prostitution policy is often caught up in conflicts between the legislature and executive about which government level is responsible for such policies. Major impulses to change prostitution policy thus came from contradictory rulings by the legislature at different government levels (Sauer, 2004).

Due to this situation, laws and policies in the nine Austrian provinces do not comply to general guidelines and differ from province to province and even from one city to another. Thus, there are various and inhomogenous regulations concerning spatial restrictions (e.g. street prostitution, brothels) or daytime restrictions for prostitution. As there are such vast differences on the provincial level, this paper will first examine the general policy development on the national level and then focus on the policy making process in the province and city of Vienna.

Prostitution first appeared on Austria's political agenda in the 1970s through the comprehensive reform of the authoritarian Penal Code in 1975. The Penal Code, until then criminalizing prostitution, had to be altered as a consequence of a ruling made by the Constitutional Court<sup>5</sup> (Toth, 1997). The new Penal Code no longer considered prostitution in itself as criminal. Only «illicit sexual acts in public» (§ 218), «soliciting» (§ 219) and «pimping to exploit» (§ 216) remained included in the Penal Code.

In 1982, the Austrian High Court of Justice ruled that pimps should be prosecuted not only if they «exploit» prostitutes, but also if they utilise

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5. The Court ruled that it was unconstitutional to leave the punishment of prostitutes, pimps and johns at the discretion of the local authorities.

prostitutes' money for their own purposes. This decision spurred the legislature into action and the Penal Code was amended, with strong support by eight of nine provinces. The new restrictive amendment came into effect in 1984. It defined «exploitation»<sup>6</sup> as well as «earning a living from prostitute's money» as punishable criminal acts.

In 1983, the federal Administrative Court classified prostitution as a «commercial enterprise». Finance authorities now were able to tax prostitutes as well as pimps. This decision set off an ongoing debate about prostitution as profession. The taxation law, initiated by the Minister of Finance, the Social Democrat Herbert Salcher, came into effect in 1985. One of the objectives was to «urge prostitutes to receive a legal status» (Hapala, 1986, p. 3) and to prevent «secret prostitution».

Although prostitutes were forced to pay taxes, they were excluded from the state social security system. Prostitution was not recognised as a form of labour that could be included in the mandatory public insurance payment and benefits system. Prostitutes were not eligible for a «business licence» granting them access to the social security system as self-employed; they were also denied the right to participation in the social insurance system's division responsible for *employees*. Since the 1980s, they have had limited access to state health care, and have only had the option of insurance as «housewives» or for very high insurance rates. Still, unemployment and pension insurance remained unavailable to prostitutes, even after discussions in the late 1980s on expanding the retirement insurance for self-employed workers to include sex workers. This was partly due to strong institutional resistance – institutions in charge of commerce and social insurance collectively refused to accept prostitutes as members or beneficiaries up until the early 1990s.

After a period of inactivity on the issue, in 1997, an initiative by parliament members of the LIF (Liberal Forum Party) and Green Party led to an amendment of the social insurance law for private enterprises. The amended law, effective in January 1998, did not take prostitutes explicitly into consideration, but regulated «precarious» self-employed workers. Thus, the formerly limited definition of private enterprise was now to include prostitutes. In this way, the possibility for enrolment in the social insurance system was opened up for prostitutes.

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6. The legal interpretation of the term «exploitation» remained contested and difficult.

Despite these changes, only a small number of women in sex work were eligible for social insurance, as these regulations cover only registered prostitutes, most of them with Austrian citizenship. The largest number of women in the sex business, that is non-Austrian migrant women, has no social rights, because they lack permissions to stay or to work in the country. Since July 2001 foreign show dancers and sex workers in bars can get a temporary working permit.

More recent legal changes in regulations governing prostitution are linked to the issue of trafficking: since the mid-1990s the issue of trafficking in women was put on the Austrian political agenda – on the one hand by the EU and on the other hand by the counselling centre for migrant women in Vienna, LEFÖ (*Lateinamerikanische emigrierte Frauen in Österreich/Latin American Women Migrants in Austria*). In 1998, a law, which gives non-Austrian citizens working permits on humanitarian grounds, for instance victims of trafficking, came into effect. But by 2000, although this legislation had been in force for 2 years, not a single woman had been granted a work permit on these grounds.

### *Policy making in Vienna*

After the decriminalisation of prostitution, the first Viennese Prostitution Law of 1984 aimed at restricting street prostitution to areas outside the city centre. Prostitution in private flats and by married women became illegal. After the fall of the Iron Curtain, due to the ban on prostitution in flats, street prostitution was on the rise, and numerous sex bars and clubs were established. Attempts to limit street and bar prostitution, both of which were perceived as secret or clandestine prostitution, led to a parliamentary commission on the matter. Prostitution received public attention as the media jumped at the chance to report on the topic. The commission proposed a new bill, and the Council of Vienna passed the law that came into force on January 1, 1992.

The 1992 prostitution law no longer defined prostitution in moral terms as a «sexual offence», but as «professional sex acts». Apart from some exceptions, such as the prostitution of minors, prostitution was permitted. Zoning regulations were set up. Prostitution in bars and private apartments remained illegal, whereas prostitution in clients' apartments and brothels was legalised. Prostitutes were still obliged to register at the vice squad, a division of the federal police department, and notify the police when leaving the city, as they had been since 1968. Other obligations include that

registered prostitutes are fingerprinted and photographed and have to appear at weekly health check-ups performed by the municipal health department – not at a gynaecologist of their choice. In an effort to encourage registration, «secret prostitutes» were generally not fined for their first offence. Privacy rights for prostitutes were improved by the 1992 amendment, as it guaranteed that prostitution records must be destroyed within six months (instead of five years) after cancelling registration with the police.

In the mid 1990s, debates about «secret prostitution» in the context of trafficking in women urged to change the law. At the turn of the century the discourse on prostitution changed again towards making the law more prohibitive. It was suggested to fine clients like in the Swedish model. Citizens' activities in several Viennese districts with visible street prostitution pushed the legislation process towards tightening the law. But at that time the debates were leading to a non-decision. It was only in summer 2003 that a new prostitution law was being evaluated. The new law has now been in force since April 2004; a major change with respect to the previous law is that «obtrusive initiation of prostitution» is now punished. For the first time, clients will be fined for initiating prostitution in an offensive way to third parties (i.e. women passing by). The law also implemented a new zoning system (zones around schools, stations and religious places for instance). Fines will be donated to counselling centres for prostitutes.

In October 2000, 513 prostitutes were registered as working in Vienna, 20 percent of whom were without Austrian citizenship. Today, prostitution in Vienna is mostly performed by migrant women. It is estimated that less than 10 percent of all Viennese prostitutes are registered; this means that 85 percent of 5,000 to 7,000 prostitutes working in the city are migrant women, most of whom come from the former socialist countries (Ukraine, Moldavia) and have no legal status in Austria.

#### *Actors in the policy field prostitution and trafficking in women*

On the federal level, various ministries are responsible for policies on prostitution, such as the minister of the interior (alien law) and the minister of justice (penal code), the minister of social affairs (social insurance), the minister of finance (taxation). In addition to ministerial bureaucracy, parliamentary commissions are charged with preparing federal laws. The federal ministry for women's issues Johanna Dohnal (Social democrat) since the late 1980s actively introduced topics such as social insurance, health care, worker's rights and counselling for prostitutes into the public agenda,

the agenda of the other relevant ministries and provincial governments in order to open up the social insurance system to prostitutes. Helga Konrad (women's minister from 1995-1997) was exceptionally committed to the prostitution and trafficking issue and later became OSCE spokeswoman against trafficking in women for the Balkans.<sup>7</sup>

Provincial and municipal levels, as outlined above, are also involved in major prostitution policy decisions. In Vienna, legislation on prostitution is developed within the local government of the city of Vienna.

The Austrian women's movement neglected the prostitution issue until the 1980s. Major women's movement actors in the policy field appear only in the mid-1980s. LEFÖ, a feminist group counselling migrant women from Latin America, was founded in 1985. Their focus is on counselling and de-linking trafficking in women and prostitution. The «Austrian Organisation of Prostitutes», was founded in 1986. They moved public discourse on prostitution towards prostitutes' rights such as recognition of prostitution as a legal trade or registration with the health department instead of the police (Brezany, 1987, pp. 22-23). It became defunct in 1992. The «Forum for the Rights of Prostitutes», was also a major actor in putting prostitute's social situation on the political agenda.

Since the second half of the 1990s, women's organisations, such as LEFÖ «Lilith» and Sila in Vienna, MAIZ and LENA in Linz and «Women's Service» in Graz are offering street work and counselling for sex workers.

### 3. FRAMES IN DEBATES ON PROSTITUTION SINCE THE 1990s

#### **Slovenia**

##### *The structure of the policy debate – An alliance between Liberals and Social Democrats*

The analysis of policy documents shows that the positions of the Liberal Democracy of Slovenia and the United List of Social Democrats of Slovenia were the most noticeable and conceptualized frames, which defined the course of the discussion on prostitution. The Liberals pointed out that prostitution was mainly a voluntary activity and in this they referred to both human rights and the prostitute's freedom to choose her or his way of making a living. They stressed the definition of prostitution as an equal

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7. Research funded include a report on «Social security of prostitutes» (Soziale Absicherung 1996) as well as a report on trafficking in women (Frauenhandel, 1996).

economic activity and as the opportunity for extra earnings. A strong political argument for this was the definition of prostitution by the European Court of Justice.

Even though Slovenia has no existing studies on the quantity and quality of prostitution, the Liberals argued for decriminalization by pointing out the high level of prostitution in Slovenia and the abundance of new forms of prostitution, such as mobile-phone prostitution, prostitution for improving an already comfortable living standard, week-end prostitution or student prostitution. These «new» forms of prostitution were supposedly not problematic from the point of view of «offences against public order and peace». Above all, they were presumed to be a consequence of an individual's free will decision. But in the proposal for decriminalization submitters put forward the argument that prostitution should be decriminalized because criminalization puts prostitutes in even worse position. With this they contradicted themselves – if prostitutes were in a hard socioeconomic position then also the voluntary prostitution should be seen as a problem as well since its voluntariness is questionable, namely prostitutes are forced into prostitution by their hard socioeconomic situation.

In contrast, those who expressed hesitations regarding decriminalization of prostitution in Slovenia (the United List of Social Democrats and to a lesser extent Pensioners' Party that have developed the conceptual argumentation) claimed that prostitution was above all an involuntary activity. They connected prostitution with human trafficking, enslavement of persons, criminal offences and illegal immigration. Thus they envisioned it more within the legacy of Marxist and some of the feminist views. They could not agree with the EU Court's definition of prostitution as an equal economic activity, but instead saw it as sexual and economic exploitation of (mainly) women. Hence for them prostitution was a highly gendered topic since it arises from a difficult social and economic situation in which women may find themselves more easily than men.

In spite of those very fundamental differences in their points of departure, the discussion did not continue further or deeper either in parliament or elsewhere. The main protagonists terminated it and made merely a joint agreement that, for the time being, prostitution should be decriminalized. However, in the (near) future the governmental expert group (the same one that produced nothing during the two years of its mandate) must develop an expert platform for the further regulation of (voluntary) prostitution which will concern mainly health and social security, as well as labour and tax legislation.

The dominant frame in this whole debate on decriminalization of prostitution in Slovenia was a neo-liberal one and it was expressed in the conceptualization of prostitution as a voluntary economic activity aimed at earning extra-profits, seen mainly as a matter of human rights and freedom of choice. The problematic dimensions of prostitution and the reasons for it were, even if they seem voluntary, practically reduced and swept under the carpet. There were no words regarding social position of women, e.g. of single mothers, employment opportunities for women, wage disparity and the global dimension of migration involving women. And what is perhaps most important for our analysis – the issue was framed as non-gendered.

From the proposal for decriminalization and parliamentary debates, one could see that the main arguments for (and against) decriminalization were built on the conceptual difference between voluntary and involuntary prostitution, although this difference was not openly exposed by either side. On the one side, the Liberals emphasized mostly prostitution as a voluntary decision for the improvement of an individual's living standard, while on the other hand, the Social Democrats pointed out the dark side of prostitution, namely that it is forced upon mostly women by organized crime dealing with human trafficking. Somewhere between these extremes, however, lies a substantial truth about the prostitution, which, admittedly, though not a consequence of organized crime and extreme coercion, is nevertheless not voluntary. This form of prostitution, for which could be stated that is a consequence of discrimination and unequal opportunities of women in contemporary societies, and that it is a gendered issue, did not come to the fore in any of the dominant frames. Perhaps the main reasons for this lie in the socialist and Marxist feminist legacy of the argument, in the absence of feminist debate, and in the pre-dominant neo-liberal frame of the post-socialist transitional situation. We are speaking, for instance, of women who, out of «free will», decide to prostitute themselves because they are single parents and cannot support themselves and their children on a worker's salary.

*Framing trafficking: Voluntary prostitution versus involuntary prostitution = prostitution versus trafficking*

Beside above mentioned dominant frames on prostitution occurring in the debate on decriminalization of prostitution in Slovenia which might be labelled as «pro» and «contra» frames and which perfectly fit into the feminist disputes on prostitution, the issue of trafficking in human beings influenced the discussion too. It is not negligible that in Slovenia the issue of trafficking in human beings is not treated together with the issue of prostitution but

separately. It is none the less well known that a substantial number of prostitutes working in Slovenia got here by trafficking. By considering trafficking as an issue separated from the issue of prostitution the dark sides of prostitution are being reduced and concealed. Of course the opposite trend to replace the issue of prostitution with that of trafficking, which is recently the case in Austria might lead into the demonization of prostitution.

In Slovenian proposal for decriminalization of prostitution framing of trafficking sprung up implicitly in a way that looks suspicious and influences and simplifies the whole issue of prostitution. Trafficking has been framed as involuntary prostitution meanwhile prostitution in general has been framed as something voluntary. Accordingly, we are faced with the following equation: voluntary prostitution vs. involuntary prostitution = prostitution vs. trafficking.

Positioning involuntary prostitution in such restricted and narrow sense blurs the whole problem of prostitution. Considering this equation, prostitution is not a problem any more and instead, trafficking becomes problematic. Or speaking more precisely: The aspect of prostitution, which is problematic from the point of view of gender equality, is erased. Although in Slovenia we do not have any empirical surveys of prostitution, we can feel quite confident of the existence of the involuntary prostitution which does not result only from the trafficking but from a hard socio-economic position of some groups of women in temporary societies as well: for example single mothers, unemployed women, women with low salaries, immigrant women or women victims of violence in a family.

The other way how framing of trafficking issue influences the discussion on prostitution in Slovenia could be found in the externalization of involuntary prostitution. In analyses of texts that treat or just slightly mention trafficking we came across statements that trafficking is a consequence of poverty. The argument is entirely degendered in two ways: first, it addresses not the people, but the states, and not all states, but only Southern and Eastern European countries, thus producing the effect of externalization of the issue; and second, there is no recognition of the feminization of poverty. The fact that if the country is poor, that some groups of female citizens are the poorest among citizens and thus more vulnerable for the promises given by seducers is not addressed.

The argument of poverty does not mean only degendering the issue of trafficking but it also frames trafficking as the issue of the Other and as the issue of the problematic, degenerated Other. In Europe this Other are South Eastern European countries. And since Slovenia wants to see itself more as a



part of West than of East Europe it is of particular importance to stress that Slovenian prostitutes are of high rank prostitutes, offering sexual services voluntary for the purpose of extra earning, usually not having pimps who would exploit them. «Slovenian» prostitution is not the consequence of poverty of Slovenian women and do not cause any other problems. On the other hand, the situation with the foreign prostitutes (trafficked from Southern Eastern European countries) is completely opposite to that of Slovenian one. Again, we can present these arguments with a set of equations: Slovenian prostitutes vs. foreign prostitutes is equated with prostitution vs. trafficking, voluntary vs. involuntary prostitution, high rank vs. low rank prostitution, extra earnings vs. earning for a living, new types of prostitution vs. classical prostitution, unproblematic vs. problematic and legal vs. criminalized.

Apart from the clear intersectionality, e.g. framing the issues of trafficking and prostitution in such a xenophobic manner, there is another disturbing element in framing of prostitution above all as a poverty issue. It is not addressing the countries of destination. In policy speeches trafficking in human beings has been considered a problem of post-socialist situation of Eastern European Countries facing hard economic and social situation in their processes of transition into the system of Western democracies with a capitalist system and with the aureola of human rights. Although these democratic countries are the main destination for victims of trafficking in human beings, although they are the main countries of the demand for sexual services offering by victims of trafficking in the conditions of extreme violations of human rights, they are not considered as a part of a problem. Rather, the unstable political, social and economic situation of post-socialist countries is diagnosed as the reason for trafficking in human beings and as the reason on which policy prognosis should stay focused; for example by amending immigration policies and thus making them more restrictive.

## **Austria**

### *Threat to morals and to public health*

Overall, a «moral threat» and a «public health frame» dominate the debates on prostitution since the 1970s. While the public health frame is relatively constant in its appearance in policy debates, laws and the media until 2004, the moral threat frame is more underlying the debate. The health threat frame that considers mainly «secret prostitution» as a threat to public health has mostly been promoted by the Christian conservative party ÖVP and the

right-wing party FPÖ, but is also present in more technocratic debates in the SPÖ at the end of the 1990s. The moral threat frame is constantly there insofar as Austrian law has been considering selling sex as «immoral» contract between prostitute and client for decades and still does. Reference to the moral threat frame since 1995 can be found in some parliamentary statements by FPÖ deputies, some media articles and in the explanation to the 2004 Viennese prostitution law amendment. The public health and moral threat frames degender the policy process on prostitution, because the problem is not the working conditions of women, but in a more technical sense the security and health of the Austrian people.

Although the prostitution issue generally has not been located in obviously gendered frames, the policy discourse has a gendered bias in the moral threat frame and the public health frame: It is the female prostitute who is responsible for the «immoral act» of «taking advantage of the client's sexual impulses». It is the female prostitute whose body may be a «deadly weapon» if she does not register and submit to regular health check-ups. She is threat to the client's health and to public health. This gendered bias has not changed since the prostitution came onto the agenda in the 1970s. Polarisation in these frames occurs in the gendered separation of «good» registered prostitutes from the «bad» non-registered (and therefore secret and illegal) prostitutes. This polarisation has mainly been applied by the conservative party ÖVP and the right-wing FPÖ when they talk about prostitution in the context of public health (such as the AIDS-discussion). This polarisation also has a moral dimension to it; unregistered prostitutes are a threat to public health and therefore an even greater moral threat than registered ones.

### *Sex work and social rights*

In the very beginning of the 1990s, the process of redefining the prostitution issue in non-moral terms has begun. Green Party feminists framed prostitution as a matter of female inequality based on unequal gender relations and prostitution regimes. Together with SPÖ feminists and the Federal Ministry of Women's Affairs they enable the feminist gendering of state regulation of prostitution. Johanna Dohnal, the first Austrian minister for women's affairs (1990-1995) addresses the problem of taxing prostitutes while preventing them from social citizenship rights. Johanna Dohnal framed the issue in terms of the discrimination of women's work, poor working conditions, the right to work and to social citizenship rights connected to this work. In the second half of the 1990s, the subsequent ministers of women's affairs, Helga Konrad (1995-1997) and Barbara Prammer (1997-2000) also framed prostitution in

the sense of social injustice of paying taxes while being excluded from the social security system. They claimed that social insurance, street work, and counselling were political means for achieving social security benefits and equality for prostitutes. The LIF, the Green Party and the «Forum for the Rights of Prostitutes» also framed the issue in terms of the normalisation of sex work and as a human and women's rights issue, demanding the destruction of police files on prostitutes. All moral laws should be abolished and prostitution be further regulated in terms of labour, contract, social security and trade laws and as a social citizenship right.

But the governing Social Democratic SPÖ was not united in framing the issue. Even if the focus of this frame was on presenting prostitution as work and demanding social rights connected to this work, one strand of the policy discourse within the SPÖ frames prostitution as a «social problem». Within this «social work discourse» female prostitutes were seen as victims of social conditions, intimidated and exploited by pimps and organised crime. Some members of the SPÖ discussed prostitution as labour, but the focus was clearly on forced labour, not on voluntarily chosen work. The main task was to assist women in getting out of prostitution.

The frame of «sex work» was absent in Austria up to the mid 1990s. The focus on voluntary chosen work had been introduced by feminist activists of the autonomous women's movement, who claimed that prostitutes are not simply victims of patriarchal structures and men, but that they voluntarily chose the work. They discussed the issue in terms of prostitution as a freely chosen profession connected, if it is to improved working conditions, health care, and social insurance. They were successful in putting this frame on the Green Party's agenda. While the frame that considers prostitution as sex work connected to social rights gained some importance in the period up to the partial inclusion of prostitutes into the social security system in 1997, it was never particularly strong and has been rather de-articulated since then. Apart from the Green Party program this frame lacking after 2000. Also, the part of the frame stressing voluntary, free choice of prostitution as profession has become completely marginalised. With some exceptions, prostitutes' rights, especially their economic and social rights, generally have been and still are negated in policy debates and the media.

### *Trafficking female victims into prostitution*

Since the mid 1990s the dominant frame on prostitution gradually shifted towards the issue of trafficking in women (explicitly gendered) or trafficking in human beings (implicitly gendered). Virtually all statements of

parliamentary deputies since 1995 located prostitution in the context of either trafficking and organized crime or public security. The mixture of trafficking in women and prostitution frames the issue in terms of «forced labour» and slavery as well as in the context of crime. Only LEFÖ and Sila, a counselling centre for prostitutes, continuously tried to disconnect the issues of prostitution and trafficking and to bring the frame of prostitution as sex work on the agenda again, but they had only limited success. Since the late 1990s, in policy debates and the media, prostitutes have increasingly been seen as victims and as weak. In this frame, naive young women from Eastern Europe dreaming of a Golden West are seen as victims of foreign male traffickers who force them into prostitution in Austria. The policy aim shifted from granting social rights to freeing women from slavery. Empowering prostitutes in sex work was no longer the aim. The discourse on prostitution as a profession that had some importance in the mid 1990s is marginalized, even in the SPÖ. By the beginning of the new century the frames of the women in the SPÖ changed dramatically towards violence against women and female oppression through prostitution and trafficking.

#### *Threat to public security*

At the beginning of the new century, the issue of public security and neighbourhood safety that was one of the main concerns already in the early 1980s becomes strengthened again. Prostitutes and johns are seen as a threat to public security and to people living in special areas of street prostitution, for instance in Vienna. The Vienna prostitution law of 2004 claims to protect «uninvolved women» against johns, pimps and prostitutes. By criminalizing «offensive initiation» of prostitution, clients come into the picture for the first time since decriminalization in the mid 1970s. Not every client is criminalised, but only those «initiating sexual acts in an offensive way to third parties». While this frame is degendered with respect to «third parties», it is clear that «third parties» are women passing by. This frame expresses the need for protection of «innocent» women passing by. Prostitutes are not seen as in need of protection from clients. Also, in a sense this frame sees invisible initiation of sexual acts as unproblematic; sexual acts can be bought from prostitutes as long as no one (women) passing by takes notice of this and feels offended.

This frame is linked to the moral threat frame: it considers prostitution that is not only visible but «obtrusive» as threat to the «public sense of decency» and thus to morals. Although the issue is presented in a degendered language, it contains a gendered frame of polarizing «uninvolved women» (passing by) and prostitutes.

#### 4. COMPARISON AND CONCLUSION

For the period before 1996, in both countries the frames of prostitution as something immoral and something that threatens public order can be found. For the period from 1995 to 2004, framing prostitution as sex work occurs in both countries; but to a different extent and at a different point of time. In this period, both countries show an externalisation of prostitutes as coming from somewhere else: The geographical mapping in the frames show that in Austria, prostitution is linked to trafficking of young, naive women from Eastern European countries, lured to the Golden West by false promises. This is similar to the frame on trafficking found in Slovenian media – with one striking difference: In Slovenia, it's women from *South* Eastern European countries. We can thus identify an externalisation: Prostitutes, in both countries, are seen as coming from abroad, from far away – in Austria, prostitutes may even come from Slovenia, whereas in Slovenia, prostitutes come from more South Eastern European countries.

Another similarity is the mentioning of poverty in countries of origin as a cause for trafficking. Yet, in both countries poverty is a degendered issue and there is no reference to feminisation of poverty. A slightly different accent is made in Slovenia when differentiating prostitutes and victims of human trafficking. In Austria, this differentiation is usually not made, and in most cases, prostitutes are perceived as victims of human trafficking. Both countries also share a non-conceptualisation of demand for prostitution in countries of destination of trafficking.

Degendered language in the Slovenian decriminalisation law is paralleled in Austria with the Viennese prostitution law. While both laws are completely degendered, the proposals or explaining materials make it clear that prostitution is mainly associated with sexual services rendered by women to men as clients. Also, a general degendering of policy debates on prostitution in parliament is quite common in both countries. Gendered biases and dichotomies are nevertheless frequent despite the general consensus to talk about prostitution in a degendered way.

The absence of opinions of the Slovenian Catholic Church on prostitution is somewhat paralleled in Austria. Official opinions of the Austrian Catholic church seemingly do not exist; reference to what could be called a «catholic frame», namely prostitution as issue of moral failure, extra-marital sexual intercourse, and thus: sin and shame was only found in one newspaper article of 1997.

Also, in both countries, framing prostitution as a matter of equal opportunities for men and women or as equality issue or as an issue relevant to Gender Mainstreaming did not occur in parliamentary debate after 1995, while an appeal to human rights can be found in both countries. In Austria, some elements of an equality frame can be found, but they are rare and restricted to a few media articles and a Green party statement.

Prostitution openly entered the political debate much earlier in Austria than in Slovenia. In Austria, prostitution came to the agenda in the 1970s, while in Slovenia only in 2001. Regarding actors, there has been neither feminist intervention nor inclusion of prostitutes themselves in discussions on prostitution in Slovenia. In Austria, in contrast to Slovenia, prostitutes managed to become visible and heard as actors in the debates surrounding the social security and tax law status of prostitutes. From the mid 1980s until their (partial) inclusion into social security law in 1997, due to the continuous support by the Women's Ministry, the «Forum for the Rights of Prostitutes» offered at least a temporary stage for articulation for prostitute's demands and interests. Feminist counselling groups such as LEFÖ, Sila, MAIZ and LENA and the Women's Service have continuously been visible feminist actors on the issue in Austria.

In Slovenia, political parties (Liberal Democracy of Slovenia and of the United List of Social Democrats) were dominant in shaping the course of the discussion on prostitution while in Austria, the course of the discussion between 1995 and 2003 was less defined by political parties. Only the Green party and the LIF actively politicised the issue. This may partly be attributed to the visibility of the above mentioned feminist actors in the mid 1990s, and partly to a seemingly all-party-consensus about framing prostitution in the context of trafficking in women and public security from the late 1990s onwards.

While the debate on decriminalisation in Slovenia was built on the conceptual difference between voluntary and involuntary prostitution such a conceptual difference does hardly exist in the Austrian debate. In Slovenia, the dominant frame in the period studied is a neo-liberal frame of prostitution as voluntary economic activity, as a matter of human rights and free choice. A prominent argument in the Slovenian debate, namely voluntary prostitution as improvement of individual standards of living by mobile-phone prostitution or week-end prostitution, is completely absent in the Austrian debate, as is reference to the definition of prostitution as equal economic activity by the European Court of Justice.

In Austria, prostitution in most cases is perceived as involuntary, forced activity and very frequently is linked to trafficking. The frame of voluntary economic activity existed in the 1990's, but the focus was not so much on free choice of profession by women, but rather denial of social rights by the state. Ever since, prostitution has more and more been perceived as involuntary activity and is placed firmly in the context of trafficking and public security.

The frame of prostitutes as female victims of human trafficking is articulated very differently in Austria and Slovenia. While it has been a major frame in Austria in the period studied and seems to have gained even more importance lately, in Slovenian debates on decriminalisation of prostitution the trafficking frame has not occurred as a dominant frame but as an issue which is not really linked to prostitution, because the latter is seen more as a voluntary activity of native women. While in Austria, prostitution and trafficking are linked and mixed to a very strong extent, in Slovenia both issues are dealt with clearly separately. In Slovenia the trafficking debate does not replace the prostitution debate but is separated from it – there are, for instance, two inter-ministerial working groups, one dealing with the issue of prostitution and the other dealing with the issue of trafficking.

The decriminalising frame, which is found in Slovenia is contrasted with elements of an illegalising abolitionist frame in Austria. The illegalising frame is used in parliamentary statements in the late 1990s. Another version of a criminalizing frame is used in 2003 by criminalising clients for initiation of sexual acts that is obtrusive to women passing by. The criminalisation of clients frame is not to be found in Slovenia. While the moral threat frame has constantly been underlying the debates in Austria since decriminalisation in the 1970s by considering the contract between prostitute and client as illegal because «against morals» (as it takes advantage of a client's sexual impulses), the frame of prostitution as something immoral existed in Slovenia as an important frame only as part of the former Yugoslavian socialist legacy. Moreover, the public health frame is found frequently in Austria, but is not occurred as an important frame in Slovenia.

It is striking that frames on prostitution have undergone considerable changes in both countries. In Slovenia, in the decades before the issue openly entered political debate in 2001, prostitution was mainly framed as crime in the sense of offence against public order and social deviation, as immoral activity and as activity that is an obstacle to real emancipation of women. These frames were part of the socialist legacy of Ex-Yugoslavia. The

dominant frame in Slovenia since 2001 has been a neo-liberal frame of free choice of prostitution as voluntary activity, conceptualised as clearly differentiated from forced prostitution due to trafficking. Trafficking and prostitution are separate discourses in Slovenia.

In Austria in the early 1980s the issue was discussed mainly as a public security issue and as a public health issue. In the 1990s, the discourse also started to frame prostitution as sex work connected to social rights and citizenship issues (mandatory taxation for prostitutes but exclusion from public social security system). While this frame was never particularly strong in Austria, from the mid 1990s until 2004, it was marginalized and superseded by strongly linking prostitution to trafficking in women and, yet again, by framing it as a public security issue.

The idea of Women/Prostitutes as the «Other» can be found in frames that exist in both countries. A common conceptualisation of «the Other» is the framing of prostitutes as victims of trafficking, as the ones coming from abroad, from another country or region. This externalisation can be linked to the idea of (involuntary) prostitution as something that should be done or is done by women of other countries, in any case not women from the country in question or from close by. Women in the neighbourhood are seen as «uninvolved»; while the majority of (clandestine) prostitutes is seen as foreign women trafficked from far away countries. While in Austria, prostitution in general seems more and more framed as involuntary and forced activity by mostly foreign prostitutes, voluntary prostitution in Slovenia is perceived as «high-level» activity by mainly Slovenian women.

This racist-nationalist dichotomy of «high-level» and thus unproblematic prostitution by women citizens and «low-level» illegal prostitution by foreign women who are primarily victims of trafficking can be found in both countries. While this dichotomy is clear in Slovenia, it appears somewhat more hidden in Austria in the framing of «good» registered, healthy prostitute and «bad» unregistered illegal prostitute. The «good» prostitute is not defined in terms of citizenship or origin, whereas the «bad» illegal and unregistered prostitute is clearly defined as migrant woman or victim of trafficking. Prostitutes are also framed as the «Other» in another sense (but in Austria only) in the dichotomy of women who are not «involved» with men buying sexual services and prostitutes engaged in initiation of sexual acts.

Visibility of prostitution and of prostitutes is conceptualised in an ambiguous way: Visible street prostitution in Austria is perceived as highly problematic in itself and especially if initiation of prostitution is a breach of the public sense of decency. On the other hand, secret and thus invisible



prostitution is conceptualized as highly problematic as well. For Slovenia, it can be argued that the depiction of «high-level» prostitution mainly exercised by Slovenian women as unproblematic may also be due to its low visibility in the public.

The conceptualisation of voluntary versus forced prostitution is central to debates but very different in both countries. The nationalist version in Austria depicts only foreign or migrant women as forced into prostitution by hard socio-economic circumstances. Austrian women, in contrast to Slovenian women, are not seen as being forced into prostitution by hard socio-economic circumstances. On the other hand, Austrian women are not really seen as voluntarily choosing prostitution as profession either, a notion that is very present in Slovenia. The nationalist neo-liberal Slovenian version of the «voluntary» conceptualisation has a very clear picture of high-level Slovenian prostitutes choosing prostitution to raise their already high standard of living. The picture of the Austrian prostitute is somehow much more blurred. Prostitutes are rarely framed as explicitly Austrian prostitutes, it is simply stated that there are prostitutes or that there are women working as prostitutes, and the question of whether they do this voluntarily or not is not raised. The idea that Austrian women choose prostitution to raise an already comfortable standard of living is absent, as is the idea that Austrian women are forced into prostitution by poverty. This blurred picture of the Austrian prostitute is contrasted with the clear picture of the naïve migrant victim of trafficking forced into prostitution by poverty.

Despite these differences, the demand for prostitution is not addressed as part of the problem in either of the two countries. Frames on prostitution clearly focus on prostitutes, hardly ever on clients. Prostitutes' behaviour is for example depicted as unproblematic, free choice in a neo-liberal market situation (Slovenia) but also as risky and potentially harmful behaviour to both the client and to the public health (Austria). Responsibility lies with the prostitute, not only for her own standard of living and working conditions (Slovenia) and her own health, but also the health of the client and the public (Austria). In some cases, the prostitute is also seen responsible to some extent for violence and bad working conditions that she is exposed to as victim of trafficking – had she not been so naïve and gullible, she would not have been lured to the West. If she were not so weak, she could free herself from forced prostitution (Austria).

In both countries men seem not to be very important in the discourses on prostitution and trafficking. They are sometimes addressed in Austrian media by externalising them as male foreign traffickers or, in both countries,

by addressing them as pimps. Clients usually stay out of the picture in both countries as well: if the client comes into the picture, it is because his interaction with the prostitute is framed as potentially harming the public sense of morality or uninvolved women (Vienna). Clients' behaviour is very rarely addressed as being harmful to prostitutes' health (except for rare media articles on severe violence against illegal prostitutes) and is never addressed as being harmful to public health, for example by demanding sex without condoms.

In the conclusion one might ask what kind of prostitution has been discussed above. Considering prostitution an implicit concept of a heterosexual prostitution by women occupies our mind as a paradigm. However, prostitution is a many-sided phenomenon. It is symptomatically that there is on one hand a lot of representing, talking, keeping a record of, controlling, regulating and surveying of female prostitution and on the other hand there is a complete absence of evidence and knowledge on male prostitution in both countries. In everyday knowledge a questionable estimation exists that male prostitution is first of all homosexual. Here again we run into a simplifying equation: female prostitution vs. male prostitution means heterosexual prostitution vs. homosexual prostitution. So we are faced with an intersection of the prostitution issue and the issue of different sexual styles. It is astonishing that this intersection is highly gendered and, for a matter of truth, it is not gendered in favour of men.

However, there is another side of prostitution that is not yet scrutinized neither in Slovenia nor in Austria, but which should be put forward – a female demand for sexual services. To analyse female consumption of sexual offer might considerably influence the frames on prostitution as well as the feminist conceptualisations of prostitution.

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