

English summary

Prohibition of the purchase of sexual services

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The Act (1998:408) prohibiting the purchase of sexual services came into effect on January 1st 1999, criminalising anyone who purchases or attempts to purchase a casual sexual relation. Persons committing such acts may be penalised by means of fines or a maximum of six months imprisonment.

The aim of this study is to chart the way this new law has been implemented.

Ensuring that the law is followed

In 1999, the Government allotted seven million Swedish crowns (SEK) to the National Police Board in connection with the criminalisation of the purchase of sexual services. These funds have been distributed among the police authorities in Skåne, Stockholm County, Västra Götaland, and Östergötland County. In addition, the police bureau at the National Police Board, and the National Crime Investigation Department have also received some of these funds. In Malmö, Gothenburg and Stockholm these special funds have gone towards the appointment of additional police officers in order to actively combat prostitution. In Norrköping it was felt that no such new appointments were necessary.

Efforts to ensure that the law is followed have been focused on the surveillance of unconcealed street-prostitution and on attempts to disrupt this form of prostitution. In Gothenburg, Norrköping and Stockholm, increased resources have been directed at car drivers breaking through-traffic regulations in areas where street prostitutes are known to operate. In connection with the new law taking effect, a fall in the level of prostitution and in the recruitment of new prostitutes in these areas has been noted. Whether or not the new law has thereby led to the visible prostitution going underground has not been studied. Nor is it known whether the new law, by means of the risk of discovery and conviction it entails, has deterred purchasers of concealed prostitution, thus being effective against these forms of prostitution too. According to the police who have been interviewed, some information is available as to where this concealed prostitution takes place, but the phenomenon is regarded as a difficult one to get to grips with.

Offences registered by the police and convictions

During 1999, 91 police offence reports were filed in connection with the new law. The majority of these were connected with incidents of street prostitution discovered in the course of surveillance in Gothenburg, Malmö and Stockholm. Police surveillance efforts focused on concealed prostitution have resulted in the registration of two offence reports by the police, but both these investigations were later discontinued since the evidence was felt insufficient to establish that an offence had been committed. Ensuring that the law is followed, and attempting to apprehend the purchasers of concealed prostitution by means of surveillance efforts has thus proved difficult. Dealing with concealed criminality often requires the use of intrusive measures such as police raids and telephone taps. The purchase of sexual services, however, is an offence which cannot be deemed likely to lead to a more serious penalty than fines. The possibility of using such intrusive measures is therefore limited both by law and by the proportionality principle, as outlined for example in chapter 28 paragraph 3 of the Code of Judicial Procedure, which is to be applied where coercive interventions are made against private persons. The proportionality principle means that intrusive surveillance measures can only be approved if the reasons for employing such measures compensate for any infringements or harm entailed.

The majority of the investigations have yet to be concluded and are either with the police or the public prosecutor awaiting a decision on whether or not charges will be brought. A large proportion of the investigations were discontinued on the grounds that there was not sufficient evidence to establish that an offence had been committed. Seven court adjudications – six convictions and

one not guilty verdict – have been registered under the new law during the course of 1999. In addition, fines have been awarded in five cases without the cases being brought before the courts. In the case of four of the court convictions the perpetrator had confessed. Two persons have been convicted despite denying the charges brought against them. The penalties awarded for these offences have all been fines of varying sizes.

All the individuals suspected of offences against the new law are men. Two of those named in the police reports as prostitutes are men. The remainder are women. Just over half the suspects are in employment, a lower proportion than that found in society at large. The average income of these men is not significantly different from that of the population as a whole. Their educational qualifications are somewhat below the average.

Application of the new law

On the basis of the contents of the police offence reports, deciding which acts ought to be considered offences does not seem to have presented any major difficulties. Prosecutors and police officers processing such cases have however expressed uncertainty regarding what is meant by purchasing a sexual relation, for example, when such a relation is to be considered of a casual nature, and also which forms of services are covered by the sexual relation concept. Above all, clarity is sought from legislators regarding questions relating to whether or not the purchase of sexual relations by individuals who are regular clients of a certain prostitute are to be considered offences, and how to deal with cases where one person pays for another's casual sexual relation. Cases where the interpretation of the various legal prerequisites has been in some doubt have yet to be brought before the courts. There is also concern that the legislators have not made clear the point at which an attempt to purchase sexual services becomes an offence.

Evidential difficulties are the most common reason for the discontinuation of police investigations into suspected offences of this type. The most difficult thing to prove has been that the parties have entered into an agreement that sexual services will be provided in exchange for payment. It is an offence without a complainant and even though the prostitutes are obliged to give evidence, this obligation is limited since they are not obliged to reveal that they have themselves participated in an act of prostitution. Even if the prostitutes might consider giving evidence about the incident, it has been deemed difficult to reach them to obtain their co-operation in investigations since they often have no fixed address or telephone number. The need to secure a court conviction against the denial of a sex purchaser has made certain demands on the practise of police surveillance methods in these cases. In those cases where charges have been brought, or convictions secured, the police have waited to intervene

until after the sexual relation has been started or completed. In a large majority of cases, the investigation has also been helped by the suspect's confession.

The police who were interviewed have expressed the need for more clarification from prosecutors as to the reasons why certain cases are not taken further. The level of co-operation between police and prosecutors has varied between different regions. In Malmo, all cases are by law dealt with by the same prosecutor. In other areas these cases are distributed among a number of different prosecutors.

Concluding discussion

In summary, it has been difficult to ensure that the law is followed with regard to concealed prostitution, there is a need for clarification regarding the situations and types of relation to which the law applies, and evidentiary problems tend to arise when the suspect denies having committed the offence. The law is still relatively new, however, and it is reasonable to assume that the surveillance and arrest procedures employed by the police will be further developed and refined, and that the definition of the offence will become clearer as more cases reach the courts. Prosecutors seem to have taken a cautious stance and in principal have only taken more or less clear-cut cases before the courts in order to at least shed some light on the penalty question.