

*István KOVÁCS, PhD\**  
*National University of Public Service,*  
*in Hungary*  
*Assistant Professor*

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## **IKARUSZ THE NEW MODEL, WHICH IS ABLE TO HANDLE THE HUNGARIAN PHENOMENON OF PROSTITUTION**

*According to estimates, thousands of women and children in Hungary regularly become victims of sexual exploitation and prostitution year by year. Today, in Hungary, the practice of prostitution and its regulation are contrary to international law. This study - that provides a comprehensive overview of this problem based on material already published, which has been collected, analyzed and discussed in my dissertation - shows that there are solutions. One of my objectives aiming at resolving the above problem is to create a new regulatory model and a related institutionalized network system that will be suitable to attempt to eliminate the problems stemming from the current situation. Mapping up – with the combined use of qualitative and quantitative techniques, for example interviewing and making McNemar tests -, analysing – with SWOT - and assessing the components of the common system of relations between prostitution and the culture of police measures helped me to make the new model and regulation.*

**Keywords: prostitution, law enforcement, new model, police, constitutional and human rights**

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\* e-mail: kovacs.istvan@uni-nke.hu

## **1. Introduction and background**

Today, in Hungary, the practice of prostitution is not a solved activity. Prostitutes have limited access to justice and are unable to meet state obligations towards them. The primary reason for this is the disorganization of domestic and international regulation. The focus of the dispute are the recognition of the prostitute's victim character, the management of records, the persecution of girls' traffickers and the creation of legitimacy. While the New York Convention<sup>1</sup> deals with prostitutes as victims, provides for the prosecution of girls' traffickers by States Parties, and prohibits the establishment of brothels, in the meantime - even though Hungary is a part of the Convention – the system considers prostitutes to be criminals in the event of a misdemeanour, and keeps a record of them.

Since 1955, since Hungary ratified the New York City Convention the state sought to regulate prostitution, however, it has not been successful, and is still in violation of international law. The model of total prohibition – which also punishes a prostitute, a trafficker and a client - is inapplicable due to the human and constitutional rights (Dohy, 1976:73-74). The model of regulation, which makes the practice of prostitution subject to certain rules, but uses tools such as record keeping, state and medical surveillance, coercive healing and stigmatization, is also incompatible with the exercise of fundamental human rights. It testifies to the primitiveness of the system (Doros, 2010:183-185). The abolitionist model that recognizes the sacrificial nature of prostitutes, orders punishment of the traffickers, but does not treat the clients any differently, which is contrary to the practice of law, they are stigmatized too (Fehér, 1997:14-27). Today, in Hungary, the system governing the practice of prostitution is regarded as a system of semi-regulation model and semi-abolitionist model, which, for the reasons given above, is also not a solution to the prostitution phenomenon (Borai, 1997).

The scientific problem is also centred around this issue. However, scientific research can help to solve phenomena in a complex way, can help to suggest alternatives, and can help to develop good practice. However, research on Hungarian prostitution is almost 10-15 years old or older, which no longer reflects current actualities. Such is Borai's book on legal comparison (Borai, 2003), or Betlen's research based on interviewing and content analysis (Betlen, 2009), but there is also a dissertation based on Sárkány's statistical analysis (Sárkány, 2012) and Fehér's recent conference series featured domestic results (Fehér, 2011:1-39). These results point to flaws in any one treatment system, but none provide a complex solution.

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<sup>1</sup> Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 96 UNTS 271, 1949

In order to find a complex solution to the practice of prostitution in Hungary, a complex understanding of the phenomenon is needed. It is not enough to examine it one-sidedly - for example from the perspective of prostitutes or the authority - it has to be analyzed from several sides. For example, the police have a key role in the operation of the misdemeanour system (Endrődy, 2017). They have the biggest responsibility, because by law, they will be the first who arrange with the prostitute. If the measure is unprofessional and unlawful, there will be a breach of law, which is unacceptable within constitutional frameworks. A prostitute, on the other hand, must comply with the law. If she do not fulfil the obligations, she will not be entitled to practise her rights.

It is a fundamental scientific problem whether the Hungarian practice deriving from the national legislation is sustainable, whether it is valuable and useful from the perspective of law enforcement and/or the entire society. All of the above questions may be answered by way of an exact, falsifiable, empirical socio-psychological research conducted among police officers and prostitutes. All this was the subject of my doctoral research. The study presents a model for treatment of prostitution as a result and a suggestion, which is able to handle the phenomenon.

## **2. Objectives**

Regarding the models allowing for the control of prostitution, my objective was to apply an analytical approach (SWOT analysis) based on international standards, which helps identify the strengths, weaknesses, opportunities and threats of the existing models, and evaluate them in light of the global system. In addition to developing proof on a theoretical platform, one of my objectives is to scrutinize also empirically whether the followed facts:

- Mapping up, analysing and assessing the components of the common system of relations between prostitution and the culture of police measures, the subjective and objective reasons lying expressly behind those components, as well as the representations of motivational drives and goals.
- Mapping up the underlying reasons and goals is essential for me to be able to model the phenomenon of prostitution as part of a complex system, and to devise such a map of this secluded phenomenon, cut off from the outside world and hidden behind latency that is going to guide us through the components of the social reality of Hungarian prostitutes, and the social reality as perceived by the police about prostitution.

My aim is to create a model and a system that, in accordance with the international legal commitments, will be able to establish cooperation between the member states within the area of law enforcement and social affairs, and whereby the legal regulatory environment shall ensure that this phenomenon be exercised within the set framework, and the fundamental constitutional and human rights be sustained and observed to a maximum extent possible.

### **3. Scientific method**

Since the study is one of the results of my dissertation, it is indispensable to describe the scientific method used in it. Considering the complexity of the problem, I thought it would be reasonable to apply several complex research methods. Taking advantage of the dialectical unity of analysis and synthesis, I analysed and assessed the national and international statistics. Based on international standards, I applied an analytical approach to the models meant for the control of prostitution. Using a SWOT analysis, I mapped up the strengths and weaknesses, opportunities and threats of the existing models, and used those to build further models in theory.

The study contain the results, together with their interpretations too, achieved through the combined use of qualitative and quantitative techniques exploring the social representations of the phenomena scrutinized in conjunction with prostitution, relating to the scientific domain of psychology, based on my empirical research efforts.

In this I conducted semi-structured interviews with the persons involved. I analysed the body of the text with the help of the sequential-transformative model of content analysis. (The essence of the model is that quantitative, ‘scalable’ variables are identified via encoding the components of topical texts carrying identical meanings.) The encoding also extended to specifying the logical relationships of “part of something” between each of the text components, on the basis of which I identified hierarchies of meanings.

With the help of a non-frequency analytical approach (a nonparametric procedure), mathematical and statistical processing was ensured through McNemar tests (relative significance of components conveying meanings within a group). By using chi-squared tests, I explored the significance of components conveying identical meanings between test groups.

#### **4. The concrete problems with the prostitution phenomena in Hungary**

My PhD results have shown that the former and present models in themselves cannot handle prostitution (Kovács, 2016). I verified that the latent phenomenon of prostitution may be mapped up by way of a combined use of qualitative and quantitative techniques unveiling social reality. In the course of interpreting reality by police officers and prostitutes, I managed to devise a map, which shows the system of relations between the culture of police measures and prostitution, casts light upon the underlying subjective and objective reasons, and describes the representations of motivational drives and goals. However, I could not verify that there is a correlation between the components identifiable on the micro and macro environmental levels, neither could I prove that the components of the social reality as perceived by the Hungarian prostitutes and the Hungarian police officers are in striking contrast to each other in every respect. With those, overall, the following results were obtained:

- I verified that in Hungary, the weaknesses and threats revealed by the SWOT analysis of the models created for the control of prostitution do exist in the current legislation and its implementation, but the strengths and opportunities remain unexploited. However, the models contain such weaknesses and threats, which render them unfit for controlling prostitution alone.
- I verified that of the models, the ‘prohibitionist’ approach prevails, which goes together with abuse of power by authorities, including law enforcement authorities as well; I also verified that police officers take prostitutes for criminal offenders, but not their pimps, against whom they do not take actions.
- I revealed that the Hungarian legal regulations do not ensure, or just partly guarantee the implementation of the provisions of the relevant ratified international convention. The international legislative obligations assumed under the Convention do not prevail within the Hungarian legislation and its implementation.

Regarding the fact that since the last regulation of the previous decade did not change anything, we should give a thought to what extent and quality would a regulation be able to handle the phenomenon. If we create a model that is based on the exercise and guarantee of fundamental human and constitutional rights, and its pillars are the strengths and opportunities of the old models, we could

ensure that the weaknesses and dangers of old models can be eliminated. In my opinion the basis of the new model could be the guarantee of the human and the constitutional rights, which will be constructed as a basic pillar by the legislation, the police work, the defence of the victims, and the resocialization. The legislature, and law enforcement are in a difficult situation too, because they have to comply not only to the citizens, and the prostitutes but also to the required task by the national law (Kovács, 2017a). Therefore we need to be careful, and doing things prudent, when we think of a new regulation. We have to create such a new regulation which guarantees the practice of the human and constitutional rights, does not disturb public health, and public order, and is able to execute the defined tasks of the national law (Kovács, 2017b: 41-58).

To solve those problems, it would be possible to devise a new model for the control of prostitution in Hungary, which would eliminate the weaknesses and threats, and utilize the strengths and opportunities identified via an analytical SWOT analysis. In the next part the created new model will be presented, as a solution.

## **5. IKARUSZ, the new model**

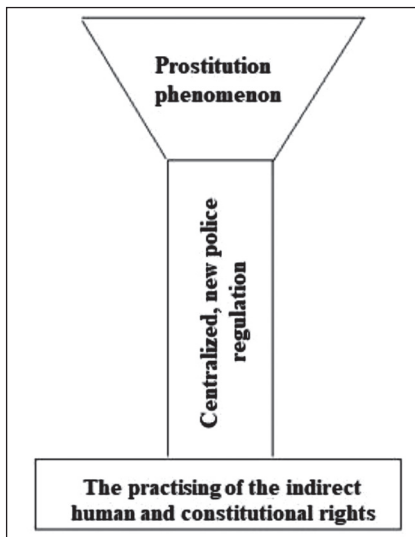
The name of the new model was inspired by an ancient Greek myth, Icarus, the son of Daedalus. Minos called on Daedalus to build the famous Labyrinth in order to imprison the dreaded Minotaur. Daedalus and Icarus were held in captivity, in order not to be able to tell the secret of the Labyrinth. Daedalus conceived to escape from the Labyrinth with Icarus by constructing wings and then flying to safety. He built the wings from feathers and wax, and before the two set off he warned Icarus not to fly too low lest his wings touch the waves and get wet, and not too high lest the sun melt the wax. But the young Icarus, overwhelmed by the thrill of flying high, did not heed his father's warning, and flew too close to the sun whereupon the wax in his wings melted and he fell into the sea. His body was carried ashore to an island now called Dilokhe, where Heraclitos found his body, and buried him (Pinsent, 1982).

The name IKARUSZ was given to the new model by me to remind us, that we always have to seek the golden middle way (IKARUSZ is an acronym. "I" means that the rights are indirect, they come from the law. "K" means that the regulation is centralized. "A" means the constitutional rights. "R" means the police work. "U" means the word "new". "SZ" means the word "regulation"). Despite all the warnings, if we fly too low, we can die in the water, and if we fly too high, too close to the Sun, we can burn out. The same is true with the regulation of the prostitution. If we want to meet only the requirements of the citizens, then the rights

of the participating parties of the prostitution could be eroded, inversely, if we serve only the claim of the prostitutes, then the public order, and the public health could be injured. If we chase the human traffickers, the pimps, then we do it so as the international legislation expects from us, but if we legalize the punishment of the prostitutes, we oppose international law to serve the claim of the citizens. If we punish the clients, then the phenomenon could be surrounded by a greater latency, because if we limit the steady factors - the demand, and the supply - then this could allow the phenomenon's irregular proliferation (Kovács, 2017c). The results of the scientific research evince too that we cannot accept any of these solutions. The myth of Ickarus can show us the right way: if we follow the thin path between two extremities, then we can reach by flying from rock to rock the neighbour's island's beach safely. The new model, IKARUSZ could take care of everything.

In this section I deal with the details of the new model, and I try to show the options of the new regulation. We have to imagine a column, which is standing on a safe base, and the pillar, which regulate the prostitution is able to withstand the legal violations. The model of IKARUSZ is shown on chart 1.

**Chart 1.** *The model of IKARUSZ*



Source: Author

According to the Basic Law of Hungary<sup>2</sup>, the fundamental and inalienable rights of a person must be respected, the protection of which is the primary duty

2 The Fundamental Law of Hungary, 25 April 2011

of the state. Our state acknowledges constitutional the public, and the individual human rights (Finszter, 2018). The basic constitutional rights can be limited by the state when the defence of another fundamental right in proportion to the objective pursued, with the respect to the essential content of fundamental rights (The absolute limit creates the rule, that the right to life cannot be limited by anyone). Prostitution can be regulated only if the state guarantees human and constitutional rights to the participating parties of the prostitution, and does not offend and/or risk any other basic rights. The new regulation would be based on a pedestal, which guarantees the human and constitutional rights, because this system is the base of the main regulation. This pedestal guarantees not only the practising of the rights, it guarantees the fulfilling of the obligations too, with this the system balances between the two categories. The most important rights and obligations that need to be respected when considering the alterations of the legislation regulation the issue of prostitution are enumerated in the following part of the paper.

### *5.1. The base of IKARUSZ:*

#### *The practice of the indirect human-, and constitutional rights*

5.1.1. All of us are born free and equal. All of us should be treated equally. There must be no discrimination.

This constitutional right warns us that there is no discrimination between people. None of us should be discriminated in positive or negative way by anyone. Given that there is no difference between people we are all equal. The practising and fulfilling this constitutional right can prohibit the discrimination, and stigmatization, which are the parties of the prohibitive model. Nobody can judge us because of the kind of activity we participate in. It is prohibited to judge someone due to his/her biological characteristics or occupation, i.e. because she or he is a prostitute. If we accept that all of us are free and equal, and all of us should be treated equally, than prostitutes cannot be discriminated either, they cannot be looked upon as „public shame” as „disease carriers” (Weininger, 2010). We have no right to judge anybody, we are not God. We are mortal, who are free and equal (Károli, 2010:867-868).



### 5.1.2 The right to safe and free life

There is no place for restriction of the right to life in any democratic state (Finszter, 2007). Human dignity is inviolable. Every person has the right to life and to human dignity, from conception to death. To our knowledge, many prostitutes become victims of a crime that seriously harms and / or endangers their physical integrity and, in some cases, extinguishes their lives. In most of the cases these crimes are connected to the violence of the client, the pimp, and the police abuse. In order to be able to live safely, the state must undertake to guarantee that the life and physical integrity of a person will not be compromised. And if we were to become a victim of a crime, the state also has a warranty obligation to investigate and prosecute the perpetrators (Szikinger, 1998). In other words, it is the duty of the police to comply with the statutory provisions, and in particular to provide protection against acts that directly threaten or offend life, bodily integrity, property security. My results confirmed earlier that this section of the law is not fulfilled in the context of prostitution, in some cases there are police violence and police overpower (Kovács, 2015a). I think that if the most important basic constitutional right – the right to free, and safe living - would be fulfilled, then the rights of the prostitutes could be ensured, and the police work could be done. Therefore, the creation of a new type of top police organisation is suggested as one of possible solutions to the problem.

### 5.1.3. The prohibition of slavery

No one has the right to hold us in slavery. Crimes based on sexual vulnerability and exploitation, forced prostitution, matchmaking and forcing someone to be a kept woman are treated as synonymous with white slavery. Satisfying the financial needs of the pimps, the violence, the sexual vulnerability, and exploitation based crimes are the main tool of repression. These circumstances lead to the situation where pimps are kings, prostitutes are slaves, and their basic constitutional rights are violated by the pimps. Girls belong to them, they are owned by the pimps, the pimps decide on their destiny. They can't choose, they haven't got any alternatives, they don't get help, and aid from the police, their release isn't expected. The prostitutes work to create a luxurious world to the pimps, which is based on the sexual vulnerability, and exploitation (Kovács, 2015b). The results of my scientific research showed that the pimps keep prostitutes in slavery to fulfil their financial needs. If the pimp networks are liquidated, we can enforce this fundamental right.

#### 5.1.4. No one has the right to hurt, or torture us

Prostitutes are afraid of the violence and aggression of the client, the pimp and the police. It is our fundamental human right that no one has the right to violate or endanger our lives, our physical integrity. Torture, inhuman treatment destroys people physically and spiritually. It can lead to a traumatic chain-reaction with unforeseeable consequences. Special attention should be paid to the prevention of the above mentioned, and if we become the victim of such acts, we have to ask for help, which are given by experts. We have to try to help prostitutes out of the reach of the violence of pimps, of the pimp-network, and bring the crimesuspects to the justice. The ethical and lawful police work should be controlled by close surveillance to stop police abuses. The control of a supervisory body is indispensable. Victims should turn to the police if clients abuse them either psychically or mentally, so clients could be sanctioned according to the crime they committed. In general, this can be enforced against the subjects defined in the criminal, and infringement code and procedure, no specialization is required.

#### 5.1.5 We have equal right to use the law.

The law protects all of us.

Everyone has the right to exercise their legal rights and to fulfil their obligations. The result of the common social reality of prostitutes and the police proved that the discrimination of the prostitutes, the deficiencies in protection of the victims and in task completion laid down by the law makes impossible to exercise the rights also laid down by the law (Kovács, 2016). Ignorance is no excuse for breaking the law, but we have to create the opportunity for everyone to be able to know the law and act accordingly. As it is shown in my previous research prostitutes mostly do not know where to turn in case of violence and abuse (Kovács, 2016). Thus if because of the fear of rogue network or of the prosecution of official bodies crimes remain latent, the victim cannot receive the proper quality and amount of help. Exercise of the rights set out in the laws of Hungary and the fulfilment of obligations are intended to create the maximum enforceability of the fundamental and human rights of legal entities. If the police do what they have to do by the laws, then it defend the police against accusations, because if the enforcement is lawful there is nothing to fear of. If, for example a policeman is accused falsely, and he completed his task lawfully, according to the law, then he will be defended by the law, there is no place for prosecution. And if there something is missing, or something isn't going lawfully, the there is a room to

start disciplinary-, misdemeanour-, and/or criminal proceedings (Kovács, 2018). The laws are laws from back to forth, the equality should ensure this. Law protect the basic constitutional rights, and create the opportunity to fulfil obligations In my view, the provision of legal information and quality information could ensure the exercise of this fundamental right.

#### 5.1.6. Fair treatment, fair courts.

##### Prohibition of unlawful arrest. Public trial and presumption of innocence

The practising of those basic constitutional rights will be ensured by non-discriminative, impartial justice. Nowadays prostitutes can be punished, and can be taken to court by the current laws. We need to stay alert, because the court has to get all possible means of proof in the scope of the discretion, before it judges someone. The police enforcements have to explore all circumstances of the act, because those could extent and/or discharge the suspect. As long as the court does not declare the guilt of the person, he or she has the presumption of innocence. In my research I found that the practising of this basic fundamental right was denied by the police discrimination. The police discrimination a priori rules out, the fair procedure against prostitutes. There is an interference with the right to be presumed innocent. If there are proceedings against prostitutes, the police collect only discharged proofs, which is one sided. The reason of the crime committed is not known (for example, how serious was a threat against which she acted). The court's objectivity will be injured, because not all of the proofs will be there to be judged, it can judge only from the specified circumstances. That is true in case of restricting personal freedom too. In my scientific research I proved that the police arrest and take prostitutes into custody in order to improve statistical data (Kovács, 2016). The practising of this basic constitutional right is blocked by the police's unlawful work, and the unlawful restricting of the personal freedom, and taking into custody. Such measures are in correlation with the fundamental right that prohibits slavery. The police work in accordance with the international law should focus on detecting pimps and rouge networks. The solution could be only a new regulation, which could guarantee practising of fundamental rights and fulfilling of the obligation.

### 5.1.7. The prohibition of restricting free movement

We know many ways of pimp-violence. Careless or unguarded girls are lured abroad by false, fuzzy job offerings, their personal papers are taken away, and they are forced into prostitution. In this way the free movement of these girls are restricted within the EU or anywhere else. Even in the Schengen territories they have to identify themselves, and they cannot move outside the Schengen area. They can't leave the state where they were lured, and their staying can also be against the law (that is, without official papers) (Montanes, Moyano, 2006). Taking of evidence and procedures may last for a long time, not to mention that in a foreign country orientation is not easy either. If pimp-network would be persecuted, and job agencies would give fair information to the prostitutes, then they could practice this fundamental right.

### 5.1.8. Freedom of thought, speech, and religion.

#### The right of assembly

This fundamental right is explained here just theoretically. Since my scientific research did not deal with civil agencies, so the work of the charity organizations, trade unions won't be dealt with. This right shall include the freedom to choose or change one's religion or other belief, and the freedom of everyone to manifest, abstain from manifesting, practise or teach his or her religion or other belief through religious acts, rites or otherwise, either individually or jointly with others, either in public or in private life. Everyone shall have the right to peaceful assembly. Everyone shall have the right to freedom of speech.

### 5.1.9. Right to social security and learning.

Many sociological studies were analysed in my scientific research, they all said that most prostitutes are of lower education. My scientific results are correlated with this (Kovács, 2016). The police-reality also confirmed that prostitutes are of lower education. It is possible that this is due to some objective reasons besides subjective reasons. Education, self training is connected with creating social safety, which everyone needs. Most of the prostitutes working in the street grew up under difficult circumstances, they were institutionalized, and when they left the institution, they hadn't got opportunity to study in a high school, or at a university. They were seized by the „street”. Those girls are easily captured by fake emotional relationship with pimps. Light, shine glamour – tools of the pimp,

that is what they see and get from the pimps, can turn soon into darkness, and into hell. They have to experience on their skin that not all is gold which is shining, and they can get to the streets in minutes without qualification, and without the opportunity of social security. We need to introduce actions that follow prostitutes from resocialization to public reintegration, with this the socially marginalized groups could be useful members of the community. We have to prevent girls from getting into the streets, and getting into prostitution, we have to ensure their education. This would be a great task to the institutions. Those taking part in reintegration programs later can take part in adult education.

#### 5.1.10. Ensuring medical care is connected with social security

I proved that prostitutes do their best to prevent spreading venereal diseases, and if it is needed, they visit doctors (Kovács, 2016). However, tests cost money, and most of the girls – due to their exploited situation - cannot afford it. Although the right to health is a fundamental right, the state doesn't guarantee free medical care in this sphere. However, if prostitutes have valid social security card, than like all other citizens, they have the right to use free medical treatment. Therefore if prostitutes pay tax, and have social security card, all the preventive medical care can be free for them, depending on the state's economical situation.

#### 5.1.11. Right to work and rest

According to the regulation (36/2011. (XII 23.)) KIM decree on the introduction and application of the list of activities of self - employed persons in force today in Hungary prostitution is a service regarded as a job. In 2007, the uniform sectoral classification system for economic activities, is “TEÁOR”, registered prostitution with code 96 as for other personal services, within this category it has number 9604, indicating improving physical well-being. Thus, after the replacement of an individual business card and registration of a tax number, the tax authority is obliged to grant the license to continue the service. Tax authorities allow prostitution services if entrepreneur card is given to the prostitute and tax number is registered. So we can see that the state supports prostitution as registered work, it let space to practise the basic constitutional right. The problem is the pimp networks. It is proven that pimps exploit prostitutes, so there is no respectful wage and work. The state cannot ensure this fundamental right as long as the prostitutes

are guided, forced, and exploited by pimp networks. These conditions can be considered relevant in practising the right to rest, too. The state has to provide a reasonable amount of time and quality for rest in accordance with the work done. Pimps exploit prostitutes so that they have to work almost 24 hours of the day, under inhuman conditions, without rest.

#### 5.1.12. A free and fair world in which our rights can be exercised our responsibilities can be fulfilled

Human -, constitutional-, and freedom rights can only be practiced in a democratic society that is based on law. Legislation is the task of the state, it has to do everything to ensure, and fulfil the conditions. The state has to be able to create the order, we have to fulfil our obligation towards our fellow citizens, and we have to respect, and defend each others' rights, and freedom. No one can take away those rights and freedom from us.

In general, human and constitutional rights require not only the exercise of the above mentioned eleven entitlements, but from the point of view of prostitution, these are the most important. When I was mapping up, analysing and assessing the components of the common system of relations between prostitution and the culture of police measures, the subjective and objective reasons lying expressly behind those components, as well as the representations of motivational drives and goals those were the most important rights, which get hurt (Kovács, 2016). In this fact, the enforcement of these rights by the state is an indispensable task of laying the strategic foundation of the new model, and that the support pillar should not sway.

#### 5.2. *Centralised new police service regulations. The body of IKARUSZ: SZEXBEK, the centre against the sexual crimes*

In this chapter the details of the new regulation, the pillar of the new, centralised police service regulation is presented. Not only my scientific research proved that the police work concerning prostitution is unlawful and unfit (Kovács, 2016). There are examples of corruption and police bribes (Forrai, 1998), violence against women (Forrai, 2007:65-87), and discrimination and exclusion of prostitutes from society too (Déri, 1957:72-75). Police abuse and violence are mixed with incomplete police work, with the lack of protection of victims, and with

the statistical view the service. Two decades after the last regulation proved that new regulations, norms and task-systems need to be built. We have to realize that there are threats all over the Earth that finally will destroy all of us. Terrorism, cyber-crime is our menace, just like prostitution and sexual exploitation that threatens mostly females and kids. Organised crime settled itself on sexual crimes, this is a central problem that can be solved only by well centralized regulations (Kovács, 2017d). To solve the problem I suggest that a top organisation with nationwide competence should be organized, which stands up to international comparison worldwide. Because sexual crimes need special process, the work of the present investigator teams and special forces are not satisfying any longer. Prostitution is a complex phenomenon, which needs complex involvement and action series of doctors, psychologists, lawyers, the intelligence, the police, they can't reach results separately (Segura, 2011)

The new centralised top agency is created by me is named SZEXBEK (Centre Against Sexual Crimes). An independent budgetary agency, which is controlled directly (without centre manager) by the Ministry of Interior, de budget is also controlled by the Ministry of Interior, according to the operating order of public finances rules. Due to the above mentioned government decree of the police agencies are not applicable, a new government decree should be created concerning this top agency. It can be established by the Government of the Hungarian Republic.

#### 5.2.1. The SZEXBEK's law based basic activity consist of the following rules:

- a) The agency investigates crimes which are specified in the laws, especially to the crimes in the chapter XIX of the Hungarian Criminal Code (Act C of 2012 on the Criminal Code). When investigating a crime it uses open, and secret human resources and tools which help to prevent, to stop, and to hinder crimes, and to recognize the suspects, and to catch them.
- b) It has to give specific order to do a task or/and to replace an omission to the central-, or placed police agencies, connected with the crimes which are being in their basic activities purview, it can oblige the agencies to give a report, or/and an account.
- c) The circumstances of sexual offences, threats are analysed and valued, data processing is made, and quarterly, semi-annual and full annual reports are arranged by the centre. The reports are sent to the Ministry of Interior, which help to create national strategies, and programs against such crimes. Threats action plans are created, the defend of the appointed



prostitution facilities, and the facilities' leaders connected with specially laws are supplied by the centre.

- d) In the official licensing procedures related to the facilities it participates as an expert, it performs tasks of a specialist authority.
- e) In connection with its tasks a special register is kept, the purchased and owned information (from the suspects, from the situations, from the victims) are sorted under the criminal proceedings, the register's continuous using of the criminal data treating (informative, registered) are taken care by the centre. It keeps a special register, it sorts out information, takes care of the criminal data keeping.
- f) The activities of the central administration and its departments connected with warding off, and prevention against sexual offences are coordinated, and organized by the centre. The doing, and the preparing of the tasks are organized in performing their basic activities by the centre, the special police tasks are supplied in cooperation with another police agencies. Its basic task is to guide the preparation and implementation of the special police tasks in cooperation with other police agencies.
- g) It cooperates with other police agencies at an international level too. It coordinates the investigator units dispatched abroad (experts, home liaison officers, in operation involved officers). Besides according to the specified national laws (law from the international cooperation of law enforcement agencies, and law from the international cooperation of law enforcement agencies in the European Union) it completes special missions, detects and prevents crimes, helps in criminal procedures.
- h) Organizes quarterly, semi-annual and full annual workshops, where representatives of other states are invited, it ensures continuous work and consultation.
- i) On international level it represents the Hungarian national interests against sexual offences shares information with foreign agencies, and uses them on regional national and international level.
- j) The development of the police action culture will be supported by education, the fulfilling of the lawful actions will be helped by training. Training, and education strategy will be created that inspires normative enforcement, personnel is motivated to investigate, prevent crime, and arrest the offender.



### 5.2.2. The SZEXBEK's law based special activity consists of the rules bellow:

- a) It helps to assert interest which contributes to the appropriated mode and level of public information, legal advice, and other assistance. In addition to give general information, the centre supports opportunities for re-starting, and/or the lawful process of reintegration. Legal advice helps prostitutes to understand what rights and obligations they have. Those consist of their rights and obligations in criminal and misdemeanour proceedings, the types of the available assistance, the conditions of the requests. It helps to find other support and assistance besides insurance possibilities, other available requests, which are besides from the insured requests (for example victim protection support, victim shelters, etc.), payments, opportunities of the interests redounding, availability of the state-organizations, local government organizations, civil organizations and religious communities, which take part in the protection of victims and in crime prevention.
- b) Emotional and medical assistance means that a team of psychologists and doctors helps to deal with traumas and psychical injuries.
- c) If the status of victim protection is needed, it is the Centre's responsibility to provide an official certificate to supporting agencies, organizations, either because the victim asks for it, or because the agencies ask for it.
- d) The legal effect can provide the victim's defence status
- e) Witness protection also victim protection, which means of the guarantees of the victim's caring's police tasks. Ensuring continuous control.
- f) Facility management, which consists of the tasks of social reintegration and the maintenance tasks related to protected accommodation. This has got double aim: actions in education, and in rehabilitation. All of these ensure the process of social reintegration.
- g) The advantage of the new system is it complexity, and because of the budget of the organization, it is cost efficient or in some cases it is free for the victims.
- h) Compensation can be given to those who are victims of violent intentional crime and therefore their physical and mental health is seriously impaired.
- i) Assisting international police agencies to give adequate support to Hungarian citizens who are victims of a crime in abroad. Cooperation and dialogue.
- j) Supporting the activities of the victim protection back offices, agencies, ensuring the endeavour of the cooperation.

- k) Keeping a special register, continuously refreshing it, and controlling it. The register contains results of resocialization and reintegration, with which we can model the performance of the new system.
- l) The personnel of SZEXBEK consists of official police officers, civil servants, government officials, public servants, and employees as of the Work Code. It acts as a budgetary entity, its financial-economical tasks are fixed in an agreement approved by the governing body, supplied by the Ministry of Interior. It is a hierarchical agency, a director on top, who is to be appointed and/or released by the minister. The agency consists of directorates, of departments, and of subclasses. Operational arrangements and connections could be defined by their organizational and operational rules. In the next chapter the elements of the new regulation will be shown.

### *5.3. The top of IKARUSZ: the regulation, and handling of the prostitution phenomenon in Hungary*

The main problem concerning the regulation of prostitution in Hungary is its ambivalent relation to international regulations. For 30 years there has been debates for and against new regulations, modifying the old one absorbing international regulations as a whole, ignoring international laws and regulations, staying in leaving it is the solution. In my opinion Hungary used all of the 3+2 models of prostitution, and by themselves they proved to be inefficient, so we need to rethink the project, if they are useful or not.

In my scientific research I proved not only theoretically but also practically what are the dangers and threats of the earlier and the present regulations, how idle their strengths and opportunities are, and to what extent they can be executed (Kovács, 2016). With the scientific research, methods and results I suggested a way to solve the prostitution problem in Hungary: I created a new model, named IKARUSZ, and worked out a new regulation of the phenomena.

With the use of IKARUSZ there will not be no need to sanction prostitutes with criminal- or/and misdemeanour behaviour. IKARUSZ creates the place where prostitution can be practised and controlled, the practise is economically solved. It's evident that their entity can be the subject of criminal or misdemeanour proceedings, but those do not have to be connected to prostitution. Given that prostitution is a registered economic activity, any sanction can only be economic sanction. For example: if someone doesn't pay taxes the competent authority will impose punishment. The punishment may be enforced by execution. This is different from penalties executed by the police, like a spot fine, which the prostitute

cannot pay, since there is no place where she can practice her job, because the local government does not designate a lawful place, and on top of it her pimp takes the money. IKARUSZ can establish the place, and if the work isn't legal there is indeed a room for an economic punishment, and there is objective possibility for the prostitute to earn the money that she has to pay as a fine. Many people think that dismissing the New York Convention will lead to chaotic state (Borai, 2003). But it is unnecessary to totally dismiss the New York Convention. In my opinion introducing of the institutional system would be able to stop pimps and pimp network exploiting prostitutes, it would help to form prostitution as a service, and it would solve the problem that is between international and national legislation. National legislation should be changed only partly.

The operation of a central, state law enforcement agency that deals exclusively with prostitution would be the rule. This is what the SZEXBEK institution serves. For example: assisting prostitution is a crime prohibited the institutional system. At the same time if we give the „state” word to the institutional system, only assisting prostitution outside institutions that jurisdiction would sanction. So we can ensure that there are no loopholes for pimps and pimp networks, we can take the actions to catch pimps, and we can make a room to practise the prostitution. The criminal sanctions will remain, chasing exploited activities won't change, it isn't necessary to dismiss the Convention's further points. The problem of the register will be solved, because there won't be registers like the Misdemeanour Register System, which threatens the basic constitutional rights. So the state could take action parallel to the international legislation. With the institutional system there will not be any opportunities like in Germany, that the underworld exploits prostitution, because the institutes could be operated only by the state, it couldn't be issued to private individuals and/or legal persons. The chasing of pimps is ensured by the SZEXBEK's social purpose, so criminal laws would be implemented against them.

IKARUSZ makes Misdemeanour Law<sup>3</sup> useless. If we look closer at the situation of prostitution in the capital, and we take into consideration that local governments are obliged to designate a place where the prostitution can be practiced, there is only one place in Budapest which fits in the conditions, complies to present misdemeanour regulation, and it is the Óbudai or another name the Hajógyári-Island. It is shown on the chart 2.

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3 Act II of 2012 on the Misdemeanor, the Misdemeanor Process, and the Misdemeanor Register System

Chart 2. The Hajógyári Island



Source: Author

The island with the norm of the demeanour regulation. There we have an opportunity to create a place which is far from defended places, which lies 100 meter outside from the motorway, from the residential area, from the one or two-digit main roads, which lies 50 meter outside from the living area's main road, which lies 300 meter outside from the public courts, from the attorney's offices, from the diplomatic, and consular services, from the buildings for affiliated international organizations and their members, from the buildings for public, and higher educations, from the buildings for child defend, from the buildings for social, and public educations, from the terminals for passenger traffics (airport, train station, ship station), from the registered buildings for religion's institutes, from the bases of the military forces, from the places for funeral and other places of worships. Such a place where there are no sidewalks, there are no buildings in which under aged pupils are educated, cured or otherwise treated, and there are no child care institutions.

If the realization of an institutional system is considered there is no objective danger of disturbing public peace. The institutional seat of the SZEXBEK would lie here too. The Hajógyári-Island has given place to music clubs and events, but

now, without those activities, it stands empty and idle. It's worth to think, that how we could regulate prostitution with the termination of the systems that do not work, with introducing a new system, and with the small changing of the law. During pre- and after effect surveys weaknesses and threats of the system could be eliminated. The application of IKARUSZ, and SZEXBEK can open new dimensions, and gates in the regulation of the prostitution. It depends on us whether we make room for the new, or we live in the abused, violent and exploited world forth.

## **6. Recommendations and Applicability of the Results in Practice**

In my research I showed the components of the system of relations between prostitution and the culture of police measures in relation to that, with particular attention to the representations of motivational drives and goals of the examined groups, as well as the underlying subjective and objective reasons (Kovács, 2016).

In those I proved that the weaknesses and threats of the models meant to control prostitution do prevail in the current legal regulations and their implementation. The weaknesses and the dangers of the prohibition model revealed by the SWOT analysis, which was supported by the empirical research without an exception. Like the prohibition model, the weaknesses and the dangers of the abolition, and reglementation model were supported by the research. Considering that the strengths and opportunities of the models are unutilized, the regulations and their implementation alone are not suitable for controlling prostitution. I showed that the approach taken by the Hungarian police is predominantly 'prohibitionist', and is also characterized by abuse of power, in particular, stigmatization, aggression, misuse of authority, corruption and a lack of victim protection. I verified that the vast majority of Hungarian police officers take prostitutes for criminal offenders despite the international regulations, and do not take actions against pimps, and the unlawful conduct of pimps does not constitute a component of the social reality perceived about prostitution. I confirmed that the effective legislation, as well as its implementation by the police ignore certain provisions of the New York City Convention, in relation to victim protection and sanctioning of pimps in particular, and therefore the exercise of constitutional and human rights by prostitutes is jeopardized. I proved that thus, the withdrawal from the Convention, a new regulation, or cancellation of certain Articles may eliminate the above-mentioned problem. Based on these, I introduced a new regulation and model that can handle this phenomenon.

On the basis of the results generated, it has been confirmed that the models meant for the control of prostitution alone are not suitable to deal with the phenomenon. However, considering the fact that the decade having elapsed since the adoption of the latest regulation has not resulted in any significant change, it would seem reasonable to reflect upon how and to what extent a new regulation could change the way this phenomenon is controlled. If some space were provided for the development of a new model based on the provision and exercise of human and constitutional rights with pillars being the strengths and opportunities of the previous models, it would become possible to eliminate the weaknesses and threats of the previous models. In my opinion, the basis for the new model would be the exercise of human and constitutional rights, and the pillars would be made of victim protection, legal regulations, law enforcement efforts and a series of re-socialisation measures.

The results may contribute to the consistent interpretation of the phenomenon of prostitution, and further, may provide a basis for the harmonization of the regulations related to misdemeanours, as well as penal and international laws. They may support the implementation of victim protection and re-socialisation measures by the police, and may promote urgent actions against the abuse of power. They may also create a possibility to ensure that the exercise of prostitutes' rights is not harmed.

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