

Law no. 2016-444 of April 13, 2016 aiming to strengthen the fight against the prostitution system and to support prostituted persons (1)

The National Assembly and the Senate have deliberated,
The National Assembly has adopted,
The President of the Republic enacts the law of which the content is as follows:

CHAPTER I

Reinforcement of the tools for fighting against pimping and the trafficking of human beings for sexual exploitation

Article 1

To the third paragraph of 7 of I of the sixth article of law no. 2004-575 of June 21st, 2004 on confidentiality in the digital economy, after the word “articles”, are inserted the references “225-4-1, 225-5, 225-6”.

Article 2

To the first paragraph of the article L. 451-1 of the Social Welfare and Families Code, after the word “maladjustments” are inserted the words “, in the prevention of prostitution and the identification of situations of prostitution, of pimping and the trafficking of human beings”.

Article 3

The title XVII of book IV of the penal procedure code is completed by article 706-40-1 thus written:

“*Art. 706-40-1.* – Persons who are victims of one of the offences mentioned in articles 225-4-1 to 225-4-6 and 225-5 to 225-10 of the Penal Code, having contributed by their testimony to the manifestation of the truth and of whom the life or physical integrity is placed in severe danger within the national territory, can be the object of protection aimed to assure their security as set out in article 706-63-1 of the present code.

“The first paragraph of the current article is also applicable to family members and close relatives of the persons thus protected.

“When the provisions of article 706-57 relative to the declaration of domicile are applied to these persons, they can also declare the address of their lawyer or of an association mentioned in article 2-22 as their domicile.

“Without prejudice to the current article, article 62 is applicable to the persons set out in the first paragraph of the current article.”

Article 4

To 1. of article L. 8112-2 of the Labour Code, after the words “222-33-2 of the same code”, are inserted the words “, the offence of trafficking in human beings set out in article 225-4-1 of that code”.

CHAPTER II

Protection of victims of prostitution and creation of a pathway to exit from prostitution and to social inclusion and employability

Section 1

Provisions relating to support for victims of prostitution

Article 5

I. – The Social Welfare and Families Code is thus modified:

1. Article L. 121-9 is thus written:

“*Art. L. 121-9. – I. –* In each region, the state ensures the protection of persons who are victims of prostitution, of pimping or of trafficking in human beings and provides them with the assistance that they need, notably through obtaining for them a place in one of the establishments mentioned in article L. 345-1.

“A body charged with organising and coordinating welfare for victims of prostitution, of pimping and of trafficking in human beings is created within each region. It enacts the current article. It is presided over by the state representative in the region. It is composed of state representatives, notably police and gendarme services, representatives of local authorities, a magistrate, health professionals and representatives of associations.

“II. – A pathway to exit from prostitution and to social inclusion and employability is proposed to each person who is a victim of prostitution, of pimping and of the trafficking in human beings for sexual exploitation. It is defined as a function of the evaluation of his or her health, employment and social needs, in order to permit him or her to access alternatives to prostitution. It is developed and put into practice, in agreement with the person who is being supported, by an association mentioned in the penultimate paragraph of the current II.

“The engagement of the person in the pathway to exit from prostitution and to social inclusion and employability is authorised by the representative of the state in the region, after receiving the judgement of the body mentioned in the second paragraph of I and of the association mentioned in the first paragraph of the current II.

“The person engaged in the pathway to exit from prostitution and to social inclusion and employability can be issued the provisional residency permit mentioned in article L. 316-1-1 of the Entry and Residency of Foreigners and the Right to Asylum Code. They are presumed to satisfy the conditions of financial difficulty or of indigence envisioned in 1. of the article L.247 of the Handbook of Fiscal Procedures. When they cannot claim the benefit of the allowances described in the articles L. 262-2 of the current code, L. 744-9 of the code of entry and residency of foreigners and of the right to asylum and L. 5423-8 of the Labour Code, a financial benefit aiding with social inclusion and employability is accorded to them.

“The benefit mentioned in the third paragraph of the current II is the responsibility of the state. It is financed by the credit from the fund for the prevention of prostitution and social and employment support for prostituted persons instituted in article 7 of law no. 2016-444 of April 13th, 2016 aiming to strengthen the fight against the prostitution system and to support prostituted persons. The amount of the benefit and the organism that will accord it on behalf of the state are determined by decree. The receiving of this benefit is granted by the decision of the representative of the State in the region after receiving the judgement of the body mentioned in the second paragraph of I. This benefit is to be re-examined as soon as new elements modify the situation of the beneficiary. The benefit is non-transferable and non-seizable.

“The body mentioned in the second paragraph of I of the current article ensures that the pathway to exit from prostitution and to social inclusion and employability is monitored. It ensures that the safety of the person being supported and his or her access to the rights mentioned in the third paragraph of the current II are guaranteed. It ensures that the person being supported respects his or her commitments.

“The renewal of the pathway to exit from prostitution and to social inclusion and employability is authorised by the regional state representative, after receiving the judgement of the body mentioned in the second paragraph of I and of the association mentioned in the first paragraph of the current II. The decision for renewal takes into

account the respecting of commitments by the person being supported, as well as the difficulties encountered.

“Every association chosen by the person concerned that helps and supports people in difficulty, in particular prostituted persons, can participate in the development and the initiation of the pathway to exit from prostitution and to social inclusion and employability, as long as it fulfils the conditions of accreditation determined by the decree of the State Council.

“The conditions of application of the current article are determined by the decree mentioned in the penultimate paragraph of the present II.” ;

2. Article L. 121-10 is revoked.

II. – Law no. 2003-239 of March 18th, 2003 for domestic security is thus modified:

1. Article 42 is revoked;

2. In the first sentence of article 121, the reference “42” is replaced by the reference “41”.

Article 6

I. Article L. 441-1 of the Construction and Housing Code is thus modified:

1. After *e* are inserted *f* and *g* thus written:

“f) Of persons engaged in the pathway to exit from prostitution and to social inclusion and employability set out in article L. 121-9 of the Social Welfare and Families Code;

“g) Of persons victims of the offence of trafficking in human beings or of pimping set out in articles 225-4-1 to 225-4-6 and 225-5 to 225-10 of the Penal Code.” ;

2. To the first sentence of the penultimate paragraph, the words: “tenth to twelfth” are replaced by the words “twelfth to fourteenth” and the word “thirteenth” is replaced by the word: “fifteenth”.

II. – To the third paragraph of article L. 441-2 of the same code, the word “seventh” is replaced by the word: “tenth”.

III. – To the first sentence of the first paragraph of II of article 4 of law no. 90-449 of May 31st, 1990 aiming to put the right to housing into practice, the references “from *a* to *e*” are replaced by the references: “from *a* to *g*”.

Article 7

I. – Within the State budget, a fund for the prevention of prostitution and social and employment assistance for prostituted persons is created. This fund contributes to the actions defined in the article L. 121-9 of the Social Welfare and Families Code. It supports all initiatives aiming to raise awareness about the effects of prostitution on health and the reduction of health risks, the prevention of entry into prostitution and the social integration of prostituted persons.

II. – The resources of the funds are constituted by:

1. Credits of the state assigned to this purpose and of which the amount is determined by the law of finances for that year ;

2. The income from the confiscation of goods and products set out in 1. of article 225-24 of the Penal Code.

III. – Article 225-24 of the penal code is thus modified:

1. In the first paragraph, after the word: “articles”, are inserted the words: “225-4-1 to 225-4-9 and”;

2. To 1., after the words: “the person”, are inserted the words: “victim of trafficking in human beings or”.

Article 8

The Entry and Residency of Foreigners and the Right to Asylum Code is thus modified:

1. In the first sentence of the first paragraph of article L. 316-1, the word: “maybe” is replaced by the word “is”;

2. After article L.316-1, article L.316-1-1 is inserted, thus written:

“*Art. L. 316-1-1.* – A provisional residency permit of six months minimum duration can be granted, except if the person’s presence constitutes a threat to public order, to a foreigner who is a victim of the offences set out in articles 225-4-1 to 225-4-6 and 225-5 to 225-10 of the Penal Code who, having ceased the activity of prostitution, is engaged in the pathway to exit from prostitution and to social inclusion and employability described in article L. 121-9 of the Social Welfare and Families Code. The condition set out in article L. 313-2 of the present code is not required. This provisional residency permit accords the right to exercise a professional activity. It is renewed throughout the duration of the exit pathway from prostitution and social inclusion and employability, provided that the conditions set out for its granting continue to be satisfied.”;

3. Article L. 316-2 is thus modified:

a) At the end of the first sentence, the reference: “from article L. 316-1” is replaced by the references: “from articles L. 316-1 and L. 316-1-1”;

b) After the reference: “L.316-1”, the end of the second sentence is thus written: “and of the provisional residency permit described in article L.316-1-1 as well as the modalities of protection, reception and housing of the foreigner to which this provisional residence card or permit is granted.”

Article 9

I. – The Social Security Code is thus modified:

1. In the first sentence of the second paragraph of VII of article 542-2 and the first sentence of the second paragraph of article L. 831-4-1, after the word “disadvantaged”, are inserted the words: “or by an association authorised to apply article L. 121-9 of the Social Welfare and Families Code” and, after the reference: “L. 851-1”, are inserted the words: “of the present code”;

2. To the first sentence of the first paragraph of I of article L. 851-1, after the first occurrence of the word: “disadvantaged”, are inserted the words: “, the associations authorised to apply article L. 121-9 of the Social Welfare and Families Code”;

II. – To 3. of article L. 345-2-6 and to the first paragraph of article L. 345-2-7 of the Social Welfare and Families Code, after the word “disadvantaged” are inserted the words: “and the associations authorised to apply article L. 121-9 of the present code”;

III. – To the second sentence of the second paragraph of III of article L. 351-3-1 of the Construction and Housing Code, after the word “disadvantaged”, are inserted the words “or by an association authorised to apply article L. 121-9 of the Social Welfare and Families Code”.

Article 10

To the penultimate paragraph of article L. 345-1 of the Social Welfare and Families Code, after the word: “humans” are inserted the words: “, of pimping and of prostitution”.

Article 11

The Penal Code is thus modified:

1. After 5. *ter* of articles 222-3, 222-8, 222-10, 222-12 and 222-13, 5. *quater* is inserted thus written:

“5. *quater* About a person who engages in prostitution, including in an occasional manner, if the offences are committed in the exercising of this activity;”

2. Article 222-24 is completed by 13. thus written:

“13. When it is committed, in the exercising of this activity, upon a person who engages in prostitution, including in an occasional manner.”;

3. Article 222-28 is completed by 9. thus written:

“9. When it is committed, in the exercising of this activity, upon a person who engages in prostitution, including in an occasional manner.”

Article 12

To the last paragraph of 2. of article 706-3 of the Penal Procedure Code, after the reference: “225-4-5”, are inserted the references: “, 225-5 to 225-10”.

Article 13

I. – Article 2-22 of the Penal Procedure Code is thus written:

“Art. 2.22. – Any association properly declared for at least five years by the date of the offences of which the statutory object comprises the fight against slavery, the traffic in human beings, pimping or social welfare on behalf of prostituted persons can exercise the rights accorded to the plaintiff with respect to the offences referred to in the articles 224-1 A to 224-1 C, 225-4-1 to 225-4-9, 225-5 to 225-12-2, 225-14-1 and 225-14-2 of the Penal Code, when the prosecution has been initiated by the public prosecutor or the injured party. However, the association is only admissible in its prosecution if it provides evidence of having received the accord of the victim. If the victim is a minor or a protected adult, the accord is given by their legal representative.

“If the association mentioned in the first paragraph of the present article is recognised as working for the public interest, its prosecution is admissible even without the accord of the victim.”

II. – Law no. 75-229 of 9 April 1975 authorising associations constituted to fight against pimping to initiate civil proceedings is revoked.

Article 14

To the third paragraph of article 306 of the Penal Procedure Code, after the word: “sexual,”, are inserted the words: “of trafficking in human beings or of aggravated pimping, addressed in articles 225-7 to 225-9 of the Penal Code,”.

Section 2

Provisions adapting article 8 of the directive 2011/36/UE of the European Parliament and of the Council of April 5th, 2011 concerning the prevention of trafficking in human beings and the fight against this phenomenon as well as the protection of victims and replacing the framework decision 2002/629/JAI of the Council

Article 15

Article 225-10-1 of the Penal Code is revoked.

Article 16

I. – The Penal Code is thus modified:

1. In the first sentence of 2. of I of article 225-20, the reference: “225-10-1,” is deleted;

2. In article 225-25, the words: “, with the exception of that set out in article 225-10-1,” are deleted.

II. – In 5. of article 398-1 and 4. of I of article 837 of the Penal Procedure Code, the reference: “225-10-1,” is deleted.

CHAPTER III

Prevention and assistance in accessing treatment for prostituted persons within a system of holistic care

Article 17

Book 1 of the part 1 of the Public Health Code is completed by a title VIII thus written:

“TITLE VIII

“REDUCTION OF RISKS RELATING TO PROSTITUTION

“Art. L. 1181-1. – The approach to reducing risks towards prostituted persons consists of preventing sexually transmitted infections as well as other health, social and psychological risks linked to prostitution.

“The actions for reducing risks are carried out according to the directions defined by a national reference document approved by decree.”

CHAPTER IV

Prevention of the practice of prostitution and of recourse to prostitution

Article 18

After article L. 312-17-1 of the Education Code, article L. 312-17-1-1 is inserted thus written:

“Art. L. 312-17-1-1. – Information on the reality of prostitution and the dangers of the commercialisation of the body is provided in secondary schools, according to age group. The second sentence of article L. 312-17-1 of the present code is applicable.

Article 19

The first paragraph of article L. 312-16 of the Education Code is thus modified:

1. After the first sentence, two sentences thus written are inserted:

“These sessions present an egalitarian vision of relations between women and men. They contribute to learning respect for the human body.”;

2. To the beginning of the second sentence, the words: *“These sessions will be able to”* are replaced with the words: *“they can”*;

3. To the last sentence, the words *“will be able to”* are replaced by the word: *“can”*.

CHAPTER V

Prohibition of the purchasing of sexual acts

Article 20

I. To book VI of the Penal Code, a single title thus written is inserted:

“SINGLE TITLE

“OF RECOURSE TO PROSTITUTION

“Art. 611-1. – The act of soliciting, accepting or obtaining relations of a sexual nature from a person who engages in prostitution, including in an occasional way, in exchange for remuneration, the promise of remuneration, the provision of an advantage in kind or the promise of such an advantage is punishable by the fine set out for class five contraventions.

“Natural or legal persons guilty of the contravention set out in the present article also incur one or more of the complementary penalties mentioned in article 131-16 and in the second paragraph of article 131-17.”

II. – Section 2. *bis* of chapter V, title II, book II of the same code is thus modified:

1. After the word *“prostitution”*, the end of the title is deleted;

2. Article 225-12-1 is thus written:

“Art. 225-12-1. – When the act of soliciting, accepting or obtaining relations of a sexual nature from a person who engages in prostitution, including in an occasional

way, in exchange for remuneration, the promise of remuneration, the provision of an advantage in kind or the promise of such an advantage, is committed repeatedly under the conditions set out in the second paragraph of article 132-11, it is punishable by a fine of €3,750.

“The act of soliciting, accepting or obtaining relations of a sexual nature from a person who engages in prostitution, including in an occasional way, in exchange for remuneration, the promise of remuneration, the provision of an advantage in kind or the promise of such an advantage is punishable by three years of imprisonment and by a fine of €45,000 when the person is a minor or has a particular vulnerability, apparent or known to the perpetrator, due to an illness, infirmity, disability or state of pregnancy.” ;

3. In the first and last paragraphs of article 225-12-2, after the word “penalties”, are inserted the words: “set out in the second paragraph of article 225-12-1” ;

4. To article 225-12-3, the reference: “by articles 225-12-1 and” is replaced by the words: “to the second paragraph of article 225-12-1 and to article”;

III. – To the third sentence of the sixth paragraph of article L. 421-3 of the Social Welfare and Families Code, the reference “225-12-1” is replaced by the references: “to the second paragraph of article 225-12-1 and to articles 225-12-2”.

Article 21

I. – The Penal Code is thus modified:

1. After 9. of article 131-16 is inserted 9. *bis* thus written:

“9. *bis* The requirement to undertake, where appropriate at their own cost, awareness training about the fight against the purchasing of sexual acts;”

2. To the first paragraph of article 131-35-1, after the word: “narcotics”, are inserted the words: “, awareness training about the fight against the purchasing of sexual acts”;

3. I of article 225-20 is completed by 9. thus written:

“9. The requirement to undertake, where appropriate at their own cost, awareness training about the fight against the purchasing of sexual acts, according to the methods set out in article 131-35-1.”

II. – The Penal Procedure Code is thus modified:

1. In 2. of article 41-1, after the word “parental”, are inserted the words: “, of awareness training about the fight against the purchasing of sexual acts”;

2. After 17. of article 41-2 is inserted 17. *bis* thus written:

“17. *bis* Undertake, where appropriate at their own cost, awareness training about the fight against the purchasing of sexual acts ;”.

CHAPTER VI

Final provisions

Article 22

The government submits a report to the parliament about the application of the present law two years after its enactment. This report assesses the progress of:

1. The fight against trafficking in human beings and pimping and European and international cooperative action engaged in by France in this domain;

2. The creation of the offence of recourse to the purchasing of sexual acts set out in the first paragraph of articles 225-12-1 and 611-1 of the Penal Code;

3. The putting into practice of article L. 121-9 of the Social Welfare and Families Code;

4. The information measure set out in article L. 312-17-1-1 of the Education Code;

5. The protection measure set out in article 706-40-1 of the Penal Procedure Code.

It presents the progress of:

- a) Prostitution, particularly via the internet and in cross-border zones
- b) The health and social status of prostituted persons;
- c) The status, locating of and taking care of minors who are victims of prostitution;
- d) The status, locating of and taking care of students engaging in prostitution;
- e) The number of convictions for pimping and trafficking in human beings.

Article 23

The present law is applicable in Wallis and Futuna, French Polynesia and New Caledonia.

The present law will be executed as state law.

Paris, April 13th, 2016.

By the President of the Republic:

FRANCOIS HOLLANDE

The Prime Minister

MANUEL VALLS

The Minister for national education, tertiary education and research,
NAJAT VALLAUD-BELKACEM

The Minister for finance and public accounts

MICHEL SAPIN

The Minister for social affairs and health
MARISOL TOURAINE

The keeper of the seals, Minister for justice,

JEAN-JACQUES URVOAS

Minister for the interior,
BERNARD CAZENEUVE

Minister for culture and communication,

AUDREY AZOULAY

Minister for families, children and women's rights,
LAURENCE ROSSIGNOL

Minister for overseas territories,

GEORGE PAU-LANGEVIN

(1) *Preparatory works*: law no. 2016-444.

National Assembly:

Draft legislation no.1437

Report from Ms. Maud Olivier, on behalf of the special commission, no. 1558;

Discussion of November 29th, 2013 and adoption December 4th, 2013 (TA no. 252).

Senate:

Draft legislation, adopted by the National Assembly, no. 207 (2013-2014);

Report from Ms. Michelle Meunier, on behalf of the special commission, no. 697 (2013-2014);
 Informational report from Ms. Brigitte Gonthier-Maurin, on behalf of the women's rights delegation, no. 590 (2013-2014);
 Text of commission no. 698 (2013-2014)
 Discussion and adoption on March 30th, 2015 (TA no. 85, 2014-2015).

National Assembly:
 Draft legislation, modified by the Senate, no. 2690;
 Report from Ms. Maud Olivier, on behalf of the special commission, no. 2832 rect.;
 Discussion and adoption on June 12th, 2015 (TA no. 533).

Senate:
 Draft legislation, adopted with modifications by the National Assembly on the second reading, no. 519 (2014-2015);
 Report from Ms. Michelle Meunier, on behalf of the special commission, no. 37 (2015-2016);
 Text of commission no. 38 (2015-2016);
 Discussion and adoption on October 14th, 2015 (TA no. 14, 2015-2016).

National Assembly:
 Draft legislation, modified by the Senate on the second reading, no. 3149;
 Report from Ms. Maud Olivier, on behalf of the joint committee, no. 3230.

Senate:
 Report from Ms. Michelle Meunier, on behalf of the joint committee, no. 171 (2015-2016);
 Results of the work of commission no. 172 (2015-2016).

National Assembly:
 Draft legislation, modified by the Senate on the second reading, no. 3149;
 Report from Ms. Maud Olivier, on behalf of the special commission, no. 3350;
 Discussion and adoption on February 3rd, 2016 (TA no. 673).

Senate:
 Draft legislation, adopted with modifications by the National Assembly on the new reading, no. 372 (2014-2015);
 Report from Ms. Michelle Meunier, on behalf of the special commission, no. 406 (2015-2016);
 Text of commission no. 407 (2015-2016);
 Discussion and adoption on March 10th, 2016 (TA no. 106, 2015-2016).

National Assembly:
 Draft legislation, modified by the Senate on the new reading, no. 3565;
 Report from Ms. Maud Olivier, on behalf of the special commission, no. 3616;
 Discussion and adoption, on the definitive reading, on April 6th, 2016 (TA no. 716).

Translation by Catherine Weiss

