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DECRIMINALIZATION  
OF SEX WORK IN UKRAINE:  
public opinion analysis,  
estimation of difficulties  
and possibilities

#decriminalization **NOW** 



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This brochure includes main results of a sociological research on social and economical factors which can facilitate or hinder the processes of sex work decriminalization in Ukraine. This research was initiated and conducted in 2018 – 2019 by CO “Legalife-Ukraine” together with “Socioconsulting” Analytical Centre as part of the project «Bridging the Gaps – Sex Work programme» within the grant support of STOP AIDS NOW – Soa Aids Nederland.

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## GRATITUDE

This edition presents the results of the research “Analysis of attitude, advantages, possibilities and difficulties of sex work decriminalization in Ukraine”. It was conducted by Charitable Organization “Legalife-Ukraine” together with “Socioconsulting” Analytical Centre as part of the project “Bridging the Gaps – Sex Work programme” within the grant support of STOP AIDS NOW – Soa Aids Nederland.

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- **staff-members of research company “InMind”** – for organizing and conducting the online survey;
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## ABBREVIATION LIST

<b>AC</b>	Analytical Centre
<b>CO</b>	Charitable organization
<b>HIV</b>	Human immunodeficiency virus
<b>IDI</b>	In depth interview
<b>STDs</b>	Sexually Transmitted Diseases
<b>DVD</b>	Dermatovenerologic department
<b>CoAO</b>	Code on administrative offences
<b>LGBT</b>	Lesbian, gay, bisexual and trans-people community
<b>“Legalife-Ukraine”</b>	Charitable organization “Legalife-Ukraine”
<b>NGO</b>	Non-governmental organization
<b>AIDS</b>	Acquired immunodeficiency syndrome
<b>SW</b>	Sex workers
<b>AIDS Centre</b>	AIDS Prevention and Control Centre
<b>CCU</b>	Criminal Code of Ukraine
<b>FG</b>	Focus group

## INTRODUCTION

Today Ukraine is suffering from one of the most rapid growing and massive HIV epidemics in Europe, and 60% of new infection cases are sexually transmitted.

Despite the work of NGOs and governmental organisations as a part of National programmes which provide access to medical and social services, sex workers are underserved by HIV-service, including prevention, diagnostics and curing HIV and coexisting diseases.

Our previous research<sup>1</sup> shows, along with experience of practical social work and recording the cases of sex workers mistreatments, that the main problem in changing the situation to the better is the existing legislation, and, first of all, criminalization of sex work.

After the Ministry of Internal Affairs reform the law enforcements are still among the first to violate sex workers (including physical, economical and psychological violence). For law enforcement officials existence of administrative liability for prostitution and criminal penalty for sex trafficking and procurement is the main factor that makes violence and human rights infringement possible. The officials often use the threat of criminal charge for intended exposure to risk of STD and HIV infecting to manipulate sex workers, blackmail and/or frighten them. Sex workers avoid seeking assistance from police because of low credibility and high level of corruption among the officials.

Therefore, decriminalization can be considered as an effective strategy to reduce police abuse and improve access to high-quality HIV-service, social and medical services. Still it is important to study the situation fully, analyse the factors which can provide constant positive tendencies, and also estimate possible difficulties which the decriminalization might face. First of all, we are talking about objective analysis of social factors (opinion of sex workers themselves, their clients, managers, officials, medical workers and general public.

<sup>1</sup> Research “Finding the obstacles to access and estimating the quality of services for sex workers, studying their needs to improve the efficiency of harm reduction programmes, prevention and control of HIV/AIDS in Ukraine”. Conducted by CO «Legalife-Ukraine» together with AC «Socioconsulting» [Electronic source]. – URL: <https://bitly.su/ZAGHCT>



That was the last factor (negative public opinion) which some members of parliament referred to when they initiated legislation on decriminalization and then scrapped this bill. Strong economic arguments are also important to get support of decriminalization processes among the experts and the public.

## BASIC TERMS

Due attention should be given to conceptualization of the basic terms used in this research: “**sex work**” and “**decriminalization of sex work**”.

**Sex work** is an employment connected with transactional sex services; it is a work activity like any other job<sup>2</sup>.

**Sex workers** are full-aged people who provide voluntary transactional sex services.

**Decriminalization** is legal recharacterization of some penal actions and making them either administrative, disciplinary or other kind of legal offences or lawful actions. In fact, decriminalization means removing a socially dangerous act (action or inaction) from the criminal legislation<sup>3</sup>.

Voluntary transactional sex work is considered an administrative offence in Ukraine and is governed by the Code on administrative offences – CoAO, article 181/1 “Prostitution”<sup>4</sup>, which means, it is not actually a criminal offence. So technically, it is not right to apply the term “decriminalization” to abolition of penalty for voluntary sex work provided by a certain person.

But if we consider voluntary sex work not individual activities of a certain subject but a complex of organizing such activity, including places and conditions for it, we can use the term “decriminalization” for the organizational part of sex work. Organizing sex work and voluntary or forced enticement into sex work is considered a criminal offence in Ukraine and is governed by the Criminal code of Ukraine, article 302 “Establishment or maintenance of premises and procurement” and article 303 “Sex trafficking or enticement into prostitution”<sup>5</sup>.

<sup>2</sup> Gender studies terms thesaurus. – Moscow.: East-West: Female Innovative Projects. A. A. Denisova. 2003. [Electronic source]. – URL: <https://gender.academic.ru/518/%D0%A1%D0%B5%D0%BA%D1%81-D1%80%D0%B0%D0%B1%D0%BE%D1%82%D0%B0>

<sup>3</sup> Dictionary of criminal law. – [Electronic source]. – URL: <http://crimpravo.com/slovyk-kryminalne-pravo/dekriminalizatsiya.html>

<sup>4</sup> Legal counsel. National legal internet portal. – [Electronic source]. – URL: <http://legalexpert.in.ua/komkodeks/kuap/8328-181-1.html>

<sup>5</sup> CCU, April 5, 2001 № 2341-III (as amended and supplemented on 23.11.2018 r.). – [Electronic source]. – URL: [http://continent-online.com/Document/?doc\\_id=30418109#pos=1;-77](http://continent-online.com/Document/?doc_id=30418109#pos=1;-77)

To sum up everything mentioned above, in this research:

**Decriminalization of sex work** means abolition of administrative liability for voluntary sex work of adult people, and also abolition of criminal penalty for third parties helping to organize sex work, providing security etc. **Yet enticement into prostitution, trafficking in persons and exploitation (including crimes against children) will still be considered criminal offences<sup>2</sup>.**

**Prostitution.** In this research this term is applied to crimes involving sexual exploitation and trafficking in persons (enticement into prostitution, forced prostitution, including of minors).

## DETAILS OF THE RESEARCH

**The aim** of this complex research was the analysis of social factors which can facilitate or hinder the processes of sex work decriminalization in Ukraine. Until now no similar researches have been conducted in Ukraine.

**To achieve this aim we have put such tasks:**

- study the public opinion about sex work and the attitude towards adults who voluntarily choose it as a primary or additional source of income;
- define awareness and the attitude towards existing legislation in this sphere;
- define awareness and readiness to support sex work decriminalization processes;
- analyse public expenditure on the system fighting against sex industry, estimate its efficiency and the economical efficiency of sex work decriminalization.

**In the framework of the study, in 5 geographical regions of Ukraine:**

- **800** people aged 18–60 were surveyed;
- **200** sex workers (14 men and 186 women) were interviewed face-to-face;
- **100** clients of sex workers aged 18–60 (96 men and 4 women) participated in an online survey;
- **20** experts (lawyers, medical workers, police officials, sex work managers) participated in “in depth” interviews;
- more than **160** requests for information were sent to Ministry of Justice of Ukraine, National Police of Ukraine, State Judicial Administration of Ukraine, Excom administrative commissions of regional, city, district councils, the International Charitable Foundation “Alliance for Public Health”.



## RESEARCH METHODS

**Research type** This research combines two types of collecting and analysing data:

1. **Desk review** includes collection, study, systematization and analysis of data necessary to analyze the effectiveness of the mechanism of bringing to administrative liability for the provision of sex services and assess the cost-effectiveness of sex work decriminalization.
2. **Operational research.** Based on the obtained qualitative and quantitative sociological data, we analyzed the attitude and willingness of the public, sex workers and their clients to decriminalization processes, including the willingness of sex workers to officially register their activities and pay taxes.

### Methods of collecting sociological information

The study involved the use of quantitative and qualitative methods for collecting empirical information.

#### 1. Structured “face-to-face” interviews with the citizens

The sample was national, multi-stage, stratified, involving quota sampling for respondents selection on the final stage. Compliance with the quota was carried out according to two parameters: gender and age. The sample is representative of the general population.

General population: the population of all types of cities of Ukraine, as well as rural areas, aged 18 to 60 years.

Sample population: 800 people that were covered represented the population of the five main regions of Ukraine, in proportion to their specific weight of the general population.

The sample was implemented in Dnipro, Odessa, Kherson, Poltava, Ternopil, Volyn, Kyiv regions and the city of Kyiv.

#### 2. Face-to-face structured interviews with sex workers

Sample: national, representative. A survey of sex workers covers the following cities: Kryvyi Rig, Vinnytsa, Mykolaiv, Zhytomyr, Mariupol, Cherkasy, Zolotonosha, Kharkiv, Lviv, Chervonograd, Poltava, Kyiv.

Sample population: 200 respondents in this target group who have had experience of providing sex services in the past 12 months.

#### 3. Online survey for clients of sex workers

Recruitment of potential survey respondents was carried out through the InMind online panel, with more than 30,000 participants. After the screening selection, 100 respondents aged 18-60 who used transactional sex work over the past three years became participants in the online survey.

#### 4. In-depth interviews with experts:

- Human rights NGO staff;
- medical workers (medical specialists: dermatovenerologist, gynecologist, infectious diseases specialist);
- police officers (active and those who retired no more than three years ago);
- managers of sex workers (“moms”, pimps).

The expert survey was conducted in the cities of Kyiv, Bila Tserkva, Poltava, Mykolaiv, Lviv.

A total of 20 experts were surveyed.





## MAIN RESULTS OF THE RESEARCH

### 1. DEMOGRAPHIC PROFILE OF RESPONDENTS

**1.1. Population of Ukraine.** A total of 800 people aged 18 to 60 were interviewed.

Among the surveyed population, men accounted for 48%, women – 52%, which in general and in each of the age groups corresponds to the distribution of the Ukrainian population aged 18 to 60. The ratio between the urban (69%) and rural (31%) residents surveyed is proportional to the distribution of the population by type of settlement.

The age groups are statistically uniformly filled: 25–26% among respondents aged 18–19 and 30–39 years old, as well as 22% among 40–49 year olds and those who are 50 years old or more.

67% of respondents are married (56% – officially, 11% – have a common-law partnership), 16% of respondents have never been married, 13% – divorced (of which 10% – officially), 3% – widowers or widows, 1% – have regular partners (married or have a boyfriend/girlfriend), but live separately (Fig. 1.1.1).



**Fig. 1.1.1. Marital status of respondents, %**

Half of the respondents rated their financial situation as “average” – “they can afford basic goods and services, but they can’t put aside”

39% of respondents “only have enough for the most necessary things, they have to save”, 4% of the respondents have “not enough even for the first need” and only 5% of respondents indicated that they “can afford anything, have savings (Fig. 1.1.2).



**Fig. 1.1.2. Respondents' assessment of their own financial situation, %**

Thus, the sample population displays the object of study (the population of Ukraine) according to the main socio-demographic and territorial characteristics. This gives reason to consider the distribution of respondents' answers as a reliable reflection of public opinion.

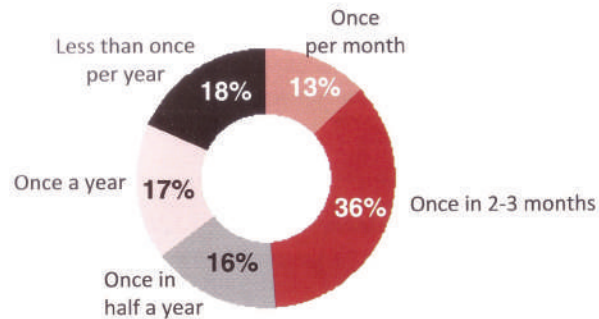
**1.2. Clients of sex workers.** A total of 100 respondents aged 18 to 60 were interviewed, including 96 men and 4 women.

Half of the respondents belong to the age group 26–35 years old, another quarter (24%) – 36–45 years. There were less youth under the age of 25 years and representatives of the older age group (46–60 years) among the respondents: 15% and 11%, respectively.

Half (49%) of the respondents use sex services quite regularly: once every 2-3 months or more, the rest – occasionally, incl. 35% – once a year or even less, 16% – about once every six months (Fig. 1.2.1). At the same time, women indicated that they contact sex workers every 2-3 months or even more often.

The distribution of answers to the question about the last case of using sex services also confirms the fairly regular nature of the appeal to sex workers for the majority of clients surveyed (Fig. 1.2.2).





**Fig. 1.2.1. Frequency of using sex services of interviewed clients, %**



**Fig. 1.2.2. Distribution of answers of sex worker clients to the question: "When was the last time you used transactional sex services?", %**

**1.3. Sex workers.** A total of 200 people were interviewed, 14 male and 186 female sex workers, mainly living in regional centers and other cities.

Among the sex workers surveyed, about a third are young people aged 19–29 years (27%), 36% are 30–35-year-olds, a quarter are 36–40-year-olds (21%), 16% are over 40 years old (Fig. 1.3.1).

Most of the sex workers interviewed have secondary (35%) and secondary special education (33%). One in four has incomplete higher education or graduated (10% and 11%, respectively), and another 11% of the sex workers surveyed have elementary (less than 9 classes) or incomplete secondary education (5% and 6%, respectively) (Fig. 1.3.2).

Aged 40 years and older 16

36–40 years 21

30–35 years 36

19–29 years 27

Graduate 10

Incomplete higher 11

Secondary special 33

Secondary (11 classes) 35

Incomplete secondary (9 classes) 6

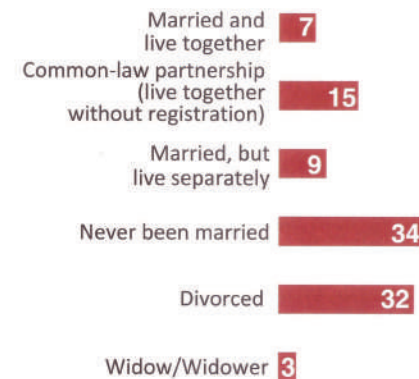
Elementary (less than 9 classes) 5

**Figure 1.3.1. Distribution of interviewed sex workers by age, %**

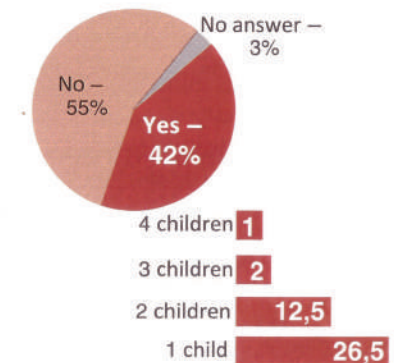
**Fig. 1.3.2. Distribution of interviewed sex workers by educational level, %**

Most sex workers (78%) are single people, incl. 34% have never been married, 32% are divorced. Only 22% of respondents live with a regular partner, being married officially (7%) or in a common-law partnership (15%). 9% of the respondents, while being married, live separately with their spouses, 3% of sex workers are widows (Fig. 1.3.3).

42% of the respondents have minor children: usually, one (26.5%) or two (12.5%), although 4 people have three children, and 2 have four children (Fig. 1.3.4).



**Fig. 1.3.3. Marital status of sex workers, %**

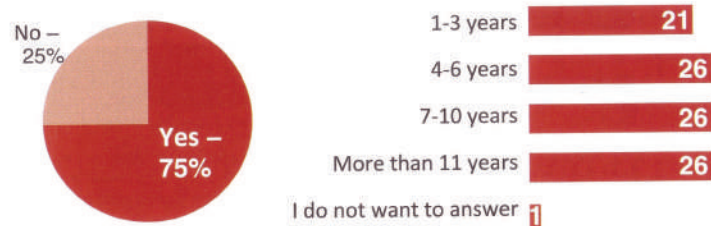


**Fig. 1.3.4. The presence of minor children in the families of sex workers, %**

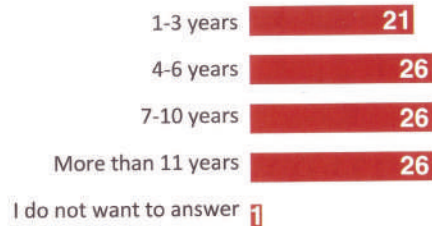


For 75% of women and men who provide transactional sexual services, this work is the main source of income (Fig. 1.3.5).

The experience of sex workers in this sphere varies from one year to eleven or more years (Fig. 1.3.6).



**Fig. 1.3.5. Sex work as the main source of respondents' income, %**



**Fig. 1.3.6. Experience of respondents sex work, %**

Over the past year, 30% of sex workers were brought to administrative liability for the provision of sexual services, mainly 1-2 times (21% of those who were involved). 13% of respondents have experience of criminal prosecution, of which 81% were involved only once.

## 2. PUBLIC AND CLIENTS' OPINION ABOUT SEX WORK AND SEX WORKERS

The study of public opinion began with determining the attitude of the population to the definitions of "sex work" and "sex workers". Respondents were asked if they agree with the following statement:

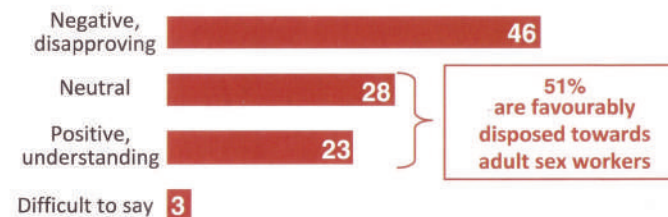
***"Voluntary provision of transactional sexual services by adults can be considered sex work, and people who provide such services can be considered sex workers."***

POPULATION: Two-thirds of the population (63%) agreed with this statement, 13% couldn't decide, choosing the answer "difficult to say," 24% did not agree.

Moreover, more than half of the total population surveyed (51%) are favourably disposed towards adult sex workers, as their attitude was "neutral" (28%) or "positive, with understanding" (23%).

46% of respondents disapprove people who provide sex for money.

CLIENTS. Among the sex worker clients surveyed, the proportion of those who agree with the statement is slightly higher than among the general population and amounted to 73%. Only 5% of clients answered negatively, substantiating their answer with the fact that the provision of sex services is not a job, but a lifestyle, enjoyment, and the fact that sex workers do not pay taxes (Fig. 2.1).



**Fig. 2.1. Distribution of respondents' answers to the question "How do you feel about adult people (regardless of gender) who voluntarily provide transactional sex services in Ukraine?", %**

At the same time, a negative attitude towards sex workers is more characteristic of women (57%) than men (34%), as well as people over 40 years old.

As for the attitude of the population to the voluntary and/or forced sex work of minors, regardless of gender and age of the respondents, Ukrainians consider any form of participation in the sex work of minors unacceptable: 91% of the respondents are negative about their voluntary provision of sex services and 95 % – about involving or forcing minors to have sex work.

The attitude to enticement or forced sex work of adults is also mainly negative (87%) regardless of gender and age of the respondents.



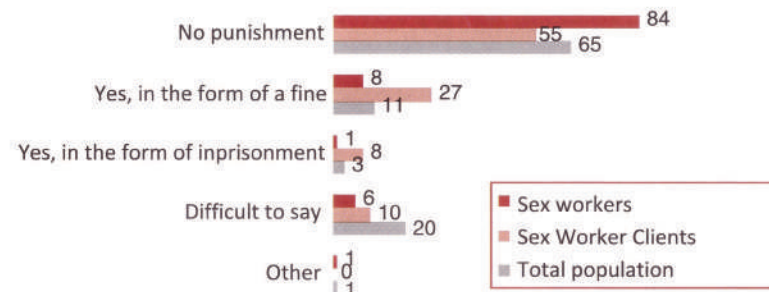
### 3. AWARENESS OF LAWFUL LIABILITY FOR ORGANIZING, PROVIDING AND USING SEX SERVICES

**Tab. 3.1. Respondents' awareness about existing legislation in the sphere of sex work and their attitude to existing regulations in this sphere, % of correct answers in each group**

Existing regulation within Ukrainian legislation		Population	Clients of sex workers	Sex workers
Punishment for using sex services (for clients)	No punishment	65	55	84
Punishment for adults doing voluntary transactional sex work	Yes, in the form of a fine	42	41	91
Punishment for organizing sex work (for pimps, brothel owners)	Yes, in the form of a fine	22	19	2
	Yes, in the form of imprisonment	52	65	90
Punishment for enticement or forcing into sex work	Yes, in the form of imprisonment	61	80	85

#### Using sex services

Most sex workers (84%) are aware of the absence of penalties for clients for using sex services. But among clients, 27% (almost a third of respondents) believe that using sex services can entail administrative liability in the form of a fine, and 8% – criminal liability in the form of imprisonment (Fig. 3.1).



**Fig. 3.1. Distribution of respondents' answers to the question "Is there punishment for using sex services in Ukrainian legislation (punishment for a client) currently?", %**

#### Adult voluntary transactional sex work

The most aware about administrative liability for adult sex workers are sex workers themselves: 91% gave the correct answer.

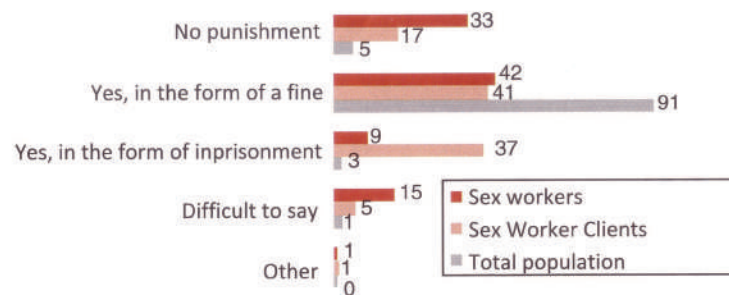
The proportion of sex workers clients' correct answers to the question of whether there is a penalty for providing paid sex services coincides with the indicator for the general population (41% and 42%, respectively).

At the same time, respondents from the general population are more likely than others to think that there is no punishment for this type of activity (33% versus 17% among users of sex services and 5% among sex workers) (Fig. 3.2).

Thus, the highest degree of awareness of the types of responsibility for organizing, providing and using commercial sex services is observed among sex workers, among which the share of correct answers is 84–92% depending on a particular legal norm.

The level of awareness of current legislation of the general population and users of sex services ranges from medium to above average (among the population, the share of correct answers is 42–74%; among users of sex services – 41–84%, depending on a particular legal norm).





**Fig. 3.2.** Distribution of respondents' answers to the question "Is there currently a punishment in Ukrainian legislation for providing sex services for adults who voluntarily provide such services?", %

At the same time, both the population and clients of sex workers turned out to be the least informed about the liability stipulated by the current legislation for adults who voluntarily provide sex services (41 and 42%, respectively).

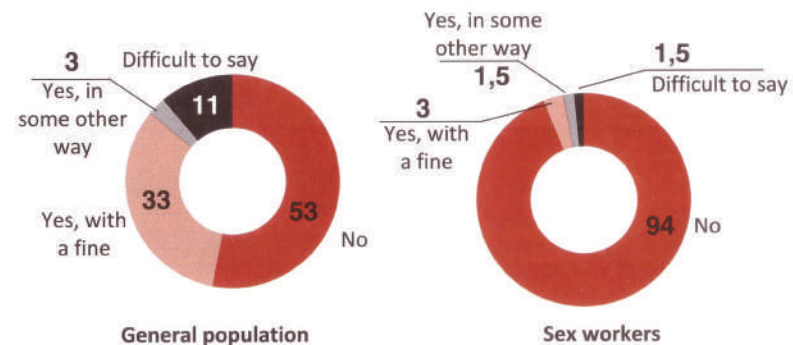
#### 4. ATTITUDE TOWARDS STATUTORY TYPES OF LIABILITY FOR ORGANIZING, PROVIDING AND USING SEX SERVICES

The attitude to the statutory types of liability for one or another activity related to sex work is evidenced by the respondents' answers regarding the possibility of changing it – enhancing or mitigation.

**Half of the respondents from the general population (53%) are satisfied with the legal norm, according to which there is no punishment for clients (Fig. 4.1).**

This point of view is more popular among men (61%) than women (46%) and among respondents who are favourably disposed towards sex work (72% versus 43% among disapproving ones). Also, the younger the respondents are, the more they support this norm: from 59% among 18–29 year olds to 44% among those who are 50 years old or more.

**The vast majority of sex workers (94%) oppose the legal liability of clients for using sex services (Fig. 4.1).**



**Fig. 4.1.** Distribution of answers of respondents depending on their category to the question "In your opinion, should the client be punished for using sex services?", %

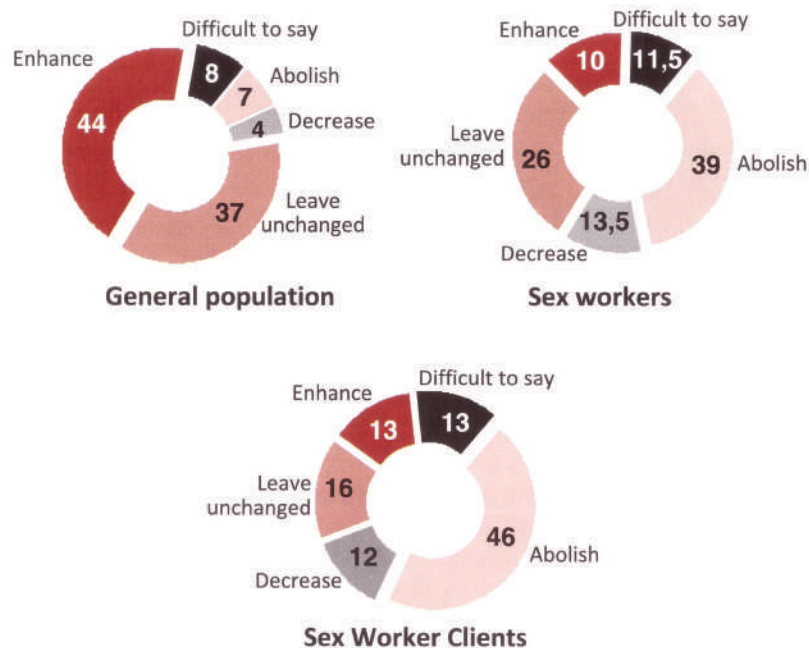
As for the punishment for organizing sex work, the overwhelming majority of the population (81%) welcome the existing punishment for pimps and owners of brothels for organizing the provision of sex services. At the same time, 44% of respondents believe that criminal liability for such acts should be strengthened, and 37% that it should be left in the existing form (Fig. 4.2). More active support of increasing responsibility for organizing sex services comes from respondents who negatively relate to sex work – 53% (among those who are positive, it is only 36%).

Only 11% of respondents spoke out for abolishing or reducing the punishment for pimps and owners of brothels for organizing sex work. Among those who are "for" the abolition of this responsibility, the prevailing respondents are loyally related to sex work – 13% (among disapproving ones, it is 1%).

**Unlike public opinion, sex workers (53%) and their clients (58%) are more likely to abolish or reduce the punishment for organizers of sex services (versus 11% among the general population).**

At the same time, 26% of the sex workers interviewed and 16% of their clients do not see the necessity for any changes to current legislative norms, considering it appropriate to leave it as it is, and 12-13% chose the answer "Difficult to say". A small part of sex workers (10%) and their clients (13%) supported the proposal to increase responsibility for organizing sex work (Fig. 4.2).

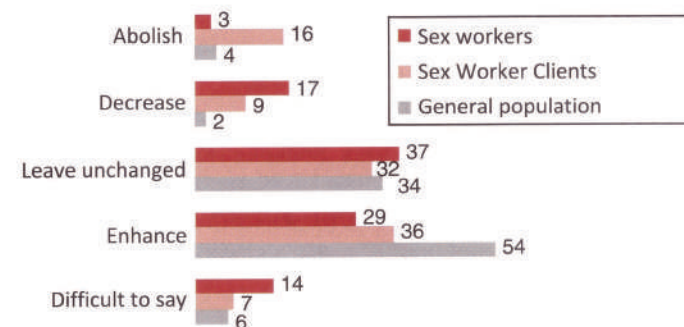




**Fig. 4.2. Distribution of answers of respondents depending on their category to the question "In your opinion, what should be done to punishment for organizing sex work?", %**

Regarding the punishment for involving a person or forcing one to provide sexual services, we recall that today criminal liability is imposed with imprisonment from three to fifteen years according to the parts of art. 303 of the CCU<sup>6</sup>. The vast majority (88%) of the general population support punishment for enticement or forcing into sex work. Moreover, every second respondent (54%) believes that this norm should be strengthened (Fig. 4.3).

<sup>6</sup> Criminal Code of Ukraine, April 5, 2001 № 2341-III (as amended and supplemented on 23.11.2018 r.). – [Electronic source]. – URL: [http://continent-online.com/Document/?doc\\_id=30418109#pos=1;-77](http://continent-online.com/Document/?doc_id=30418109#pos=1;-77)



**Fig. 4.3. Distribution of respondents' answers to the question "In your opinion, what should be done to punishment for enticement or forcing into sex work?", %**

### EXPERT ATTITUDE TO CURRENT LEGISLATION

The attitude of experts to the current legislation related to sex work directly depends on their type of activity and awareness of it. After conducting in depth interviews, it turned out that doctors were less aware of the legislation in this area. However, despite this, almost all experts consider the administrative punishment for providing sex services stipulated by the current legislation (article 181) to be ineffective. According to experts, this happens for a number of reasons, the main of which are:

- corruption in law enforcement:

*"No efficiency can be discussed, when a certain amount of money and connections with certain authorities can do everything in our country. Talking about enticement and forcing, I'm against such things. As for me, this sphere needs only people who come voluntarily and knowingly" (sex work manager);*

*"I think it's not very effective because everything is solved for money. The prostitute is caught, then she just pays the fine and carries on with her job – because it's only administrative offence" (police official, c. Kyiv).*

Experts notice that in most cases the managers "settle" all problems with police, before it all gets to court:





*"... luckily, nobody bothers my girls, because some money can settle all questions, and it's only me who settles them" (sex work manager);*

- inadequate (outdated) legal framework. NGO representatives spoke about this more often than others because of the specifics of their activities (human rights). Due to the fact that Ukrainian legislation is based on the old Soviet approaches to prostitution as a negative social phenomenon that is dangerous for society, with punitive and discriminatory measures, it is impossible to consider it effective today, according to experts:

*"I consider the current legislation discriminatory and ineffective. Instead of providing assistance and equal rights and opportunities for all, we have what we have... Practically, this legislation is most often used by law enforcement agencies simply for some stigmatization of this category, when, under the threat of punishment, law enforcement officers get some kind of benefit themselves" (NGO representative);*

- lack of effective measures. The administrative penalty – a fine of 85 to 175 UAH, according to the current legislation, – is not a serious barrier for sex workers to continue their work.

Almost all experts are convinced that the current legislation regarding the voluntary provision of sex services needs to be changed, but not with "forbidding methods". At the same time, sex work managers and NGO representatives more often than other experts believe that the punishment for the voluntary provision of sex services should be abolished, leaving the person the right to choose whether to do it or not.

When it comes to enticement or forcing people, especially minors, into sex work, sexual slavery, the experts believe that current legislation can be even stricter:

*"If sexual slavery is proved, the punishment must be stricter. The problem should be considered widely, we should pay attention to responsibility for infecting, forcing into sex work and involving minors" (police official, c. Lviv).*

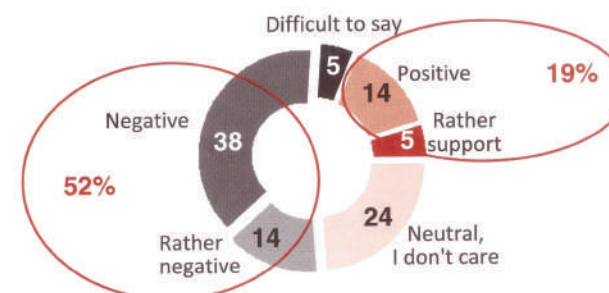
## 5. ATTITUDE TOWARDS SEX WORK DECRIMINALIZATION IN UKRAINE: REQUIRED CONDITIONS AND EXPECTED CHANGES

### 5.1. ATTITUDE TOWARDS DECRIMINALIZATION AMONG GENERAL POPULATION, SEX WORKERS AND THEIR CLIENTS

**72% OF CLIENTS** approved the chance of sex work decriminalization.

**93% OF SEX WORKERS** are interested in abolishing the penalty for voluntary sex work.

On the contrary, the attitude of the population of Ukraine towards decriminalization of sex work is mostly negative, as stated by 52% of respondents. A quarter of the respondents have a neutral position on this issue (24%) and only one in five (19%) is positive about the idea of decriminalization (Fig. 5.1.1).



**Fig. 5.1.1. The attitude of the population to the abolition of punishment for the voluntary transactional sex work of adults, %**

Among the supporters of sex work decriminalization (the answers "rather support", "positive"), men predominate (36% versus 14% among women) and those who are favourably disposed towards sex work (33% versus 5% among negative).

Opponents of decriminalization ("rather negative", "negative" answers) are more often women (58% versus 44% among men), as well as people aged 30 years and older (47–56% versus 40% among 18–29 year olds).



It is noteworthy that among the respondents who initially declared their attitude to sex work as loyal (that is, they chose the answer options "positive" or "neutral", answering the question about the attitude towards the voluntary transactional sex work of adults) there is no single opinions on the relatively hypothetical decriminalization of sex work in Ukraine. The opinion of respondents in this category was divided into three equal groups: positive, neutral, and negative within 30–33%. At the same time the vast majority of respondents who disapproved sex work (74%) spoke out against its decriminalization (18% - "Neutral", 5% - "for").

Tab 5.1.1

#### Expert attitude towards the chance of sex work decriminalization in Ukraine

Expert category	Positive	Negative
Human rights NGO staff	5	—
Sex work managers	3	2
DVD medical workers	2	3
Police officials	3	2
<b>Total</b>	<b>13</b>	<b>7</b>

Supporters of decriminalization think that it should influence not only sex workers, but also those who organize this activities (managers/"moms", pimps etc).

Opponents of decriminalization have the following reasons for taking such position:

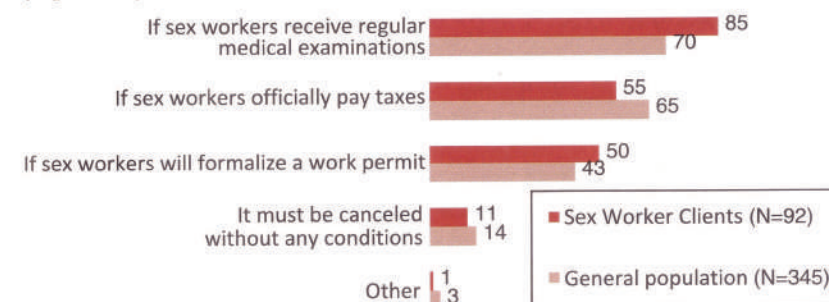
- the managers (pimps and "moms") first of all, are afraid of being left without work and the main source of income;
- Doctors are worried about the uncontrolled growth of STIs;
- Police officers fear that the abolition of punishment for pimping will facilitate enticement in sex work (including minors) and human trafficking, which will make it even more criminal.

## 5.2. CONDITIONS REQUIRED FOR DECRIMINALIZATION

To the question "In your opinion, under what conditions is it necessary to abolish the punishment for voluntary transactional sex work of adults?" 41% of the total population categorically opposed, choosing "can not be canceled under any circumstances" and so did only 3% of clients.

**For the abolition of punishment without any conditions, 6% of the respondents from the general population and 10% of clients spoke in favor.**

Some respondents from the general population and clients (respectively about 40% and about 80%) are ready to support the decriminalization of sex work in Ukraine under certain conditions (Fig. 5.2.1).



**Fig. 5.2.1. Distribution of respondents' answers to the question "In your opinion, under what conditions is it necessary to abolish the punishment for voluntary transactional sex work of adults?", % (The sum of answers exceeds 100%, because the respondent could choose several answer options)**

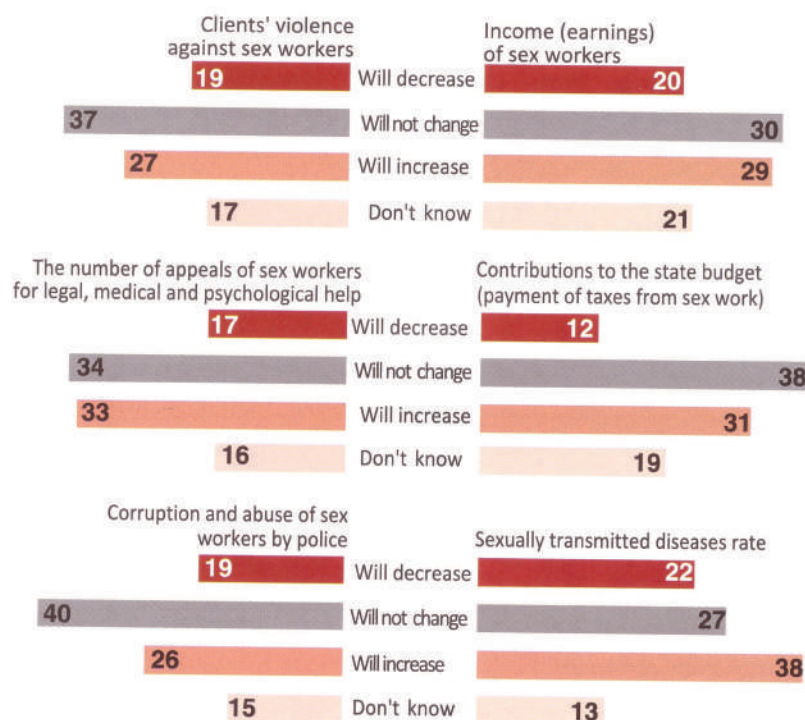
Among experts opinions were divided:

- Human rights activists and sex work managers advocate decriminalization without government intervention in this process;
- Doctors and police officials believe that the state should play an active role in regulating sex work.



### 5.3. POSSIBLE CHANGES AND EXPECTATIONS FROM DECRIMINALIZATION

According to the data, public opinion about possible changes in the provision of sexual services as a result of decriminalization of sex work is ambiguous. A rather large percentage (within 13–21% depending on the evaluation criterion) of those who could not decide (the answer option is "Don't know") (Fig. 5.3.1).



**Fig. 5.3.1. Opinion of the population on possible changes in the field of sex work, subject to the abolition of punishment for the voluntary provision of adult transactional sexual services, %**

Among the clients surveyed, 70% indicated at least one of the positive possible changes as a result of decriminalization of sex work. According to them, as a result of decriminalization of sex work, "the health risk will decrease" and "the safety of using sex services will increase".

93% of sex workers have high expectations for decriminalization (only 1% of respondents in this target group believe that decriminalizing sex work "will not change anything"). For the majority of sex workers interviewed, the conditional rating of expected changes in case of decriminalization of sex work is as follows:

- safer working conditions and lower risk of violence (74%);
- legal protection from the police (67%), as well as the court and prosecutors (64%);
- decrease in the level of stigmatization and self-stigmatization (58% – "I will stop worrying about the possible disclosure of employment in sex work", 53% – "I will become more confident in myself, self-esteem will increase");
- reduction of health risks, including HIV/STI infection (49%);
- the ability to determine the conditions for communicating with clients (44%) and the ability to "consult a doctor for treatment/consultation without fear" (44%).

77% of sex workers after decriminalization are ready, if necessary, to seek help from services such as:

- medical facilities (76%);
- law enforcement agencies (70%);
- public organizations (63%);
- social services (60%).

**Today, in the context of criminalization, 52% of sex workers when they encounter any problems do not turn to anyone for help, citing the following reasons:**

- fear of disclosing the nature of their work;
- confidence that no one will help them;
- belief that sex workers themselves are to blame for the problems.



Tab. 5.3.1

*Readiness of sex workers in case of abolition of the penalty for providing paid sex services to implement the practices of countries with legalized sex work*

	Respondents	%
<b>Register as a solopreneur and pay taxes in accordance with labor and tax laws with social guarantees</b>		
Yes	117	59
No	56	28
Difficult to say	27	13
<b>Work for hire on conditions agreed with the employer and with a work schedule</b>		
	Respondents	%
Yes	85	43
No	75	38
Difficult to say	40	19
<b>Undergo a compulsory medical examination regularly</b>		
	Respondents	%
Yes	182	91
No	15	8
Difficult to say	3	1
<b>Be a member of a trade union committee of sex workers</b>		
	Respondents	%
Yes	126	63
No	46	23
Difficult to say	28	14

In the case of abolition of the punishment for sex work and the possible introduction of certain conditions by the state to regulate the sphere of sex services, 91% of sex workers expressed their readiness to undergo a "regular compulsory medical examination". 59% are ready to register as a solopreneur and pay taxes in accordance with labor and tax laws with the receipt of social guarantees. 63% are ready to become a member of the trade union committee of sex workers. But less than half agree to work for hire on the terms and schedule agreed with the employer — 43% (Table 5.3.1).

## 6. ANALYSIS OF BRINGING TO ADMINISTRATIVE LIABILITY MECHANISM EFFICIENCY

The current legislation of Ukraine provides administrative or criminal liability for people involved in the field of sex services.

In accordance with art. 181.1 of CoAO persons engaged in prostitution are brought to administrative liability.

**The mechanisms for bringing to administrative liability for prostitution are as follows:**

1. Police authorities identify and record the fact of prostitution. Then:

a) the police issue a decision on bringing to administrative responsibility with the issuance of a warning or a fine at the place of the offense;

b) the protocol, together with all the materials of the case on an administrative offense, is sent to the administrative commission for consideration and decision.

2. The administrative commission considers the case of an administrative offense and makes a decision on bringing to administrative liability with the issuance of a warning or a fine or makes a decision to close the proceedings. If the offender does not voluntarily pay the fine, the fine is sent to the state executive service.

3. The state executive service initiates the execution of the decision on the collection of fines and forcibly collects fines.

**Criminal liability** is provided for the establishment or maintenance of places of depravity, procuration (article 302 of the Criminal Code of Ukraine) and pimping or involving a person in prostitution (article 303 of the CCU). Moreover, the mechanism of criminal prosecution is much broader and more complex compared to the mechanism of bringing to administrative responsibility.



**6.1. To assess the effectiveness of the mechanism of bringing sex workers to administrative liability, we analyzed the relevant results of the activities of the police, administrative commissions and the state executive service. For this, information requests were sent to the relevant government bodies**

It should be noted that not all administrative commissions answered our requests. So, for 155 requests we received 114 responses (73.5%). The reasons for the local authorities to ignore the requirements of the Law of Ukraine "On Access to Public Information" are unknown to us. They can testify either to low executive discipline of local authorities, or to poor-quality conduct, or general absence of appropriate records.

In addition, the responses of local authorities contain information indicating the low competence and lack of professionalism of both police officers and officials authorized to organize the work of administrative commissions at executive committees of local governments, as well as make decisions as part of these commissions and keep track of the results of their activities.

*For example, the response of the head of the legal department of the Kherson city council indicated that in 2016-2018, 24 protocols were submitted to the administration of the same city council for consideration. All of them were examined and penalties were imposed in the form of fines, of which one was paid. At the same time, 24 decisions were sent to enforce the collection of fines. That is, even a voluntarily paid fine is sent for enforcement.*

The situation is not clear with estimating administrative offenses by the bodies of the National Police of Ukraine. So, according to the Department of Combating Crimes Related to Trafficking in Persons, the National Police of Ukraine between the beginning of 2016 and November 2018, detected **4480 administrative offenses** under art. 181.1 of the Code of Administrative Offenses (prostitution), **2267** such offenses were considered, of which **1079 were considered by the police** and **453 by the Administrative Commissions**.

From this, several questions arise:

1. Why is the difference between the number of detected (**4480**) and considered offenses (**2267**) **2213** or **50.6%** of the detected?
2. Have all these 2213 offenses not been considered under Art. 247 CoAO, which contains a list of circumstances that exclude proceedings on administrative offenses?
3. CoAO provides that cases of administrative offenses provided by article 181.1 CoAO (prostitution) may be considered exclusively by the Administrative Commissions of the executive committees of local authorities (article 218 of the CoAO) or by the National Police (article 222 of the CoAO). Who examined **735** cases (**32.4%** of the total number of cases considered) of offenses under art. 181.1 CoAO (prostitution), if their total number was 2267, the police examined **1079**, and the administrative commissions – 453?  $2267$  (total number of cases) –  $(1079+453)$  (the sum of cases considered by the police and administrative boards) = **735** (the rest of unresolved cases).
4. Could this difference in indicators be indirect evidence of corruption in the activities of the police?

While comparing information on the number of administrative offenses under art. 181.1 of the Code of Administrative Offenses (prostitution), a significant discrepancy was found between the data of the National Police and the data provided by the Administrative commissions. The data from these sources differ significantly. So, the information of the administrative commissions of Vinnitsa, Donetsk, Zhytomyr, Transcarpathian, Odessa, Rivne, Sumy, Kherson regions and the city of Kyiv indicates that in 2016 these authorities levied more penalties (warnings and fines combined) than the total number of considered administrative materials (this data was provided by the National Police).

In 2017, a similar discrepancy was noted in the Vinnitsa, Odessa, Rivne, Sumy, Ternopil and Kharkiv regions. In 2018 – in Odessa, Poltava, Sumy and Kharkiv regions.



## 6.2. ESTIMATION OF THE RESOURCES

As can be seen from the above, in Ukraine there is no centralized and clear system of accounting and control over the organization and effectiveness of work to counter and bring to administrative responsibility for prostitution.

The following resources are involved:

1. Department of combating crimes related to trafficking in persons, and its territorial units. The total number of employees in these units, according to the National Police, is 372.

The size of their salary was not disclosed in response to our request. It cannot be determined independently either, due to the fact that, in addition to clearly defined by the Decree of the Cabinet of Ministers of Ukraine dated November 11, 2015 No. 988 "On the maintenance of police officers of the National Police" title supplements, fixed official salaries and seniority supplements, there are more supplements, surcharges and bonuses established by the leadership of the National Police.

According to media reports, taxpayer expenses are:

372 POLICE OFFICIALS

from UAH 27.6 million in 2015  
to UAH 42 million in 2019  
salary without supplements and bonuses

2. Administrative commissions, each of which on average includes 10 people.

According to information received from Administrative Commissions:

155  
ADMINISTRATIVE  
COMMISSIONS  
ABOUT 1500-1600 PEOPLE

Over 220 thousand UAH per year  
to support activities

3. State executive service. No response has been received to our request for the resources involved. The task of the state executive service is to enforce the collection of fines.

34,1%

of fines are paid voluntarily

THIS MAKES: 0.3% of the costs required to maintain and ensure the activities of the bodies, which are responsible for bringing to the administrative responsibility for prostitution

The impressive amount of costs for the maintenance and organization of work to combat prostitution are not justified and significantly exceed the significance of the results

DECriminalization can provide the state  
with additional stable income from taxation:

89 million UAH  
per month

1 billion UAH per year

- So, given the amount of taxes in 2019, the registration of sex workers as solopreneurs (group 1) can theoretically provide a budget replenishment of about 89 million UAH per month, or more than 1 billion UAH per year.

80100 people (estimated number of sex workers according to the ICF Alliance for Public Health) times the amount (192.1 UAH/month + 918.06 UAH/month, single tax and single social contribution<sup>7</sup>) = 88.9 million UAH/month, or 1.07 billion UAH/year.

<sup>7</sup> <https://www.buh24.com.ua/yediniy-podatok-ta-yesv-dlya-fop-ta-stroki-yih-splati-u-2019-rotsi/>





## CONCLUSIONS

A negative social convention still exists in post-Soviet Ukrainian society stigmatizing sex work and sex workers. This attitude has been formed for decades in the absence of sexual education, the criminalization of all forms of sex work and the public censure of people working in this field. In the process of studying public opinion, we faced the fact that the concept of "sex work" is not generally accepted and understandable for the majority, in the public mind there is no clear distinction between "sex work" and trafficking in persons or "prostitution". Moreover, the subject of this study was not completely clear to the respondents: what is decriminalization, who can benefit from it, what are the prerequisites, expectations and possible consequences, etc.

**Based on the results of this study, the following conclusions can be drawn:**

1. There is no single position in public opinion regarding sex work and sex workers. Despite the fact that two-thirds of the population agreed that the provision of sex services can be considered as work, in assessing their personal attitude to sex workers, Ukrainians were divided into two groups approximately equal in number:

- the first consists of those who are tolerant of adults who voluntarily provide paid sex services (51%);
- the second unites people who are negatively inclined towards sex workers (46%).

These groups are united by their implacable position regarding any form of involvement in prostitution (87%), as well as forcing of minors in prostitution (95%).

2. The most informed about the types of responsibility stipulated by law for one or another activity in the field of sex services turned out to be sex workers. The share of correct answers among representatives of this target group is 84–92% depending on a particular legal norm.

The level of awareness of current legal norms among the general population and clients ranges from medium to above average (41–84%). At the same time, less than half of them are aware of the existence of punishment for adults for the voluntary provision of sex services (article 181.1 of the Code of Administrative Offenses "prostitution").

3. Relation to existing legal norms provided by current legislation:

- Almost all experts consider the current legal standards regarding the organization and provision of sex services ineffective and morally obsolete. Whereas the current legislation regarding the involvement or forcing individuals to provide sex services, including minors, according to experts, is more or less effective, but can be strengthened;
- 81% of the population support the punishment prescribed by law for pimps, brothel owners, and even advocate increased responsibility for such acts (44% of them). Only 11% of respondents expressed the need to mitigate the punishment for organizing the provision of sex services (mainly from among those who are favourably disposed towards sex work and sex workers);
- Sex workers and clients spoke positive about the possibility of easing/abolishing punishment for organizing sex services (53–58%, respectively, versus 11% among the population);
- 94% of sex workers and 53% of the surveyed population support the absence of punishment for clients. Men (61%) more often than women (46%), respondents under the age of 30, and those who are favourably disposed towards sex work are advocates of absence of punishment for sex worker clients (72% versus 43% among negative people).

4. In assessing the likelihood of decriminalization of sex work in Ukraine, the population was divided:

- 52% of respondents are against decriminalization of sex work; women, as well as people over the age of 30, are also more likely to oppose decriminalization;



- 43% of respondents were favourably disposed towards such an opportunity;

- about 40% of respondents from the general population are ready to support the decriminalization of sex work in Ukraine, but provided that sex workers undergo regular medical examinations, pay taxes, etc.

The attitude towards the possible decriminalization of sex services among sex workers and clients is fundamentally different from the general population:

- 72% of clients approve this idea;

- 93% of sex workers surveyed are personally interested in abolishing the punishment for voluntary sex work and hope for further positive changes.

Thus, 97% of the sex workers surveyed are confident that as a result of amendments to the legislation regarding sex work:

- working conditions will become safe, so the risk of violence will be reduced (74%);

- legal protection will be available from the police (67%), as well as the court and prosecutors (64%);

- the level of stigma and self-stigmatization will decrease (58% – “I will stop worrying about the possible disclosure of employment in sex work”, 53% – “I will become more confident in myself, self-esteem will increase”);

- reduced health risks, including HIV/STI infection (49%);

- there will be an opportunity to determine the conditions for communicating with clients (44%) and the opportunity to “consult a doctor for treatment/consultation without fear” (44%)

In turn, in the case of the abolition of punishment for sex work and the possible introduction of certain conditions by the state to regulate the sphere of sex services: 91% of sex workers expressed their readiness to undergo a “regular compulsory medical examination”, 59% are ready to register as a solopreneur and pay taxes in accordance with labor and tax laws with the receipt of social guarantees, 43% – work for hire, on the terms and conditions agreed upon with the employer.

Opponents of the changes are convinced of the opposite: in their opinion, the level of violence against sex workers, the level of corruption and abuse among police officers in relation to sex workers will remain the same, and the spread of sexually transmitted diseases will only increase.

The attitude of experts towards the decriminalization of sex work in Ukraine is ambiguous. Representatives of human rights NGOs most actively support the decriminalization of sex work in Ukraine. However, only representatives of human rights NGOs and sex work administrators advocate decriminalization without government intervention in this process. Doctors and police representatives believe that the state is obliged to regulate sex work, in particular such government structures as the Ministry of Justice, the Ministry of Social Policy, the Ministry of Health, the National Police, and other departments. Key decisions must be made by Parliament. In addition to the state and the community of sex workers, other NGOs should be included in this process.

5. The law enforcement system of Ukraine is focused on minor administrative offenses in the field of sex services, and not on serious criminal offenses related to human trafficking, forced prostitution and sexual exploitation, including of minors. At the same time, the quality of accounting for such activities by the police and administrative commissions may indicate a poor organization of such activities, the absence of effective control over these activities, and the possibility of corruption.

Decriminalization of sex work can be a solution to the issue of reorienting the police from identifying minor administrative offenses, namely the voluntary provision of sex services by adults to countering criminal offenses.

6. The sanctions provided for by the CoAO for prostitution have no signs of the effectiveness of punishment, as well as educational or preventive effects.

7. The impressive amount of costs for the maintenance and organization of activities to combat sex work are not justified and estimably exceed the significance of the results.





8. Decriminalization can become a source of stable filling of the state budget. So, given the amount of taxes in 2019, registering sex workers as solopreneurs (group 1) can theoretically provide a budget replenishment of **about 89 million UAH per month, or more than 1 billion UAH per year.**

9. In general, experts consider the process of decriminalization of sex work to be positive, but subject to an integrated approach to solving this issue, which is as follows:

- changes in legislation (revision of administrative and criminal codes; labor legislation; legislation on compulsory state insurance; tax legislation; legislation on health protection, etc.);
- training/retraining of law enforcement officials;
- a large-scale public awareness campaign on the dangers of latent sex work and the benefits of decriminalizing it.