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Answer given by Mr Brunner and Mr McGrath
on behalf of the European Commission
(25.6.2025)

The Commission would like to recall that legislation applicable to prostitution is a matter that remains within the competence of Member States, which have different approaches and legislations in this area.

1. Restrictions on the right to move and reside freely on grounds of public policy and public security are set in Chapter VI of Directive 2004/38/EC¹, Articles 27 to 33. Member States retain the freedom to determine the requirements of public policy and public security in accordance with their needs, but they must interpret those requirements strictly. Restrictive measures, including a detention measure or ending a right to reside in or enter a Member State, may be taken only on a case-by-case basis where the personal conduct of an individual represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of the society of the host Member State².

2. The Anti-Trafficking Directive (Directive 2011/36/EU)³ provides for minimum common rules for Member States to address the exploitation of the prostitution of others or other forms of sexual exploitation as a purpose of trafficking in human beings, in so far as the other elements of the offence (i.e. the intentional act and the means) are met. It is for Member States to assess if, in individual cases, these elements are fulfilled. The Directive is without prejudice to the way in which Member States deal with prostitution in their national law.

¹ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ L 158, 30.4.2004.

² C-331/16 and C-366/16, K and H.

³ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, OJ L 101, 15.4.2011.