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**COMITATO PER I DIRITTI CIVILI**

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## **Draft general recommendation on trafficking of women and girls in the context of global migration**

**Introduction**

The Committee for the Civil Rights of Prostitutes onlus (CDCP onlus) was founded in 1983 with the main goal to advocate for the recognition of the human, social and labour rights of sex workers at a local, national and international scale. It also advocates for the decriminalization of all forms of sex work as well as the elimination of mandatory health tests for sex workers. CDCP onlus also grants support to under-represented populations (migrants sex workers, LGBTQ, MSM, PLWH) in order to strengthen their social and legal position and seek to ensure equal access to health and social services.

Over the past years, CDCP Onlus has organized advocacy campaigns on sex workers rights. As a founding member of TAMPEP International Foundation, it disseminated material on the promotion of health and prevention of STI's, HIV/AIDS published by the TAMPEP International thanks to funding from the European Commission DG V.

The condition of migrant women forced into sex work prompted CDCP onlus together with other organizations in late 1990's to advocate for legislation that would guarantee assistance and protection to victims of trafficking and sexual exploitation. Prior to this specific legislation, The Committee for the Civil Rights of Prostitutes implemented a pilot project in Venice in 1995 whereby victims of trafficking were identified and sheltered conducted outreach projects not only to identify conditions of migrant women on the streets in Venice, Bologna, Modena, Rimini and Sanremo but also to disseminate information on health issues. This activities were then followed by the implementation of a social re-integration program for victims of trafficking and human exploitation in Trieste in 2000, in Turin until 2003 and in Sanremo until 2007.

Trieste represented one of the major routes for migrants and trafficked women and girls from Eastern Europe int the late 1990's. This was the driving reason to establish a social protection program in the North East of Italy while the cities of Turin and Sanremo represented the northwest outbound border to other western European countries.

The committee for Civil Rights of Prostitutes is the only sex-worker led organization in Italy that implements an anti-trafficking and assistance program for victims of trafficking and sexual exploitation. It firmly condemns trafficking of person for the purposes of sexual exploitation.

**Legislative framework**

The Italian Department for Gender Equality of the Council of Ministries of the Italian Government provides funding, with the bias of other local institutes for a period of 15 months to all anti-trafficking program. The following illustrate the legislative Framework within which assistance is provided to potential victims of trafficking.

a) In 1998, the Turco-Napolitano Law outlined specific measures to assist and protect victims of trafficking and sexual exploitation: Article 18 of Legislative Decree 25 July 1998, n. 286 *"... provisions on immigration regulations and rules on the condition of the foreigner and residence permit for social protection*";

b) “Measures against trafficking in persons" of Articles 12 and 13 of Law n. 228/2003, issued in order to guarantee the protection of victims of trafficking;

c) The Department for Gender Equality of the Council of Ministries of the Italian

Government re-organized the national anti-trafficking system following the adoption of the Directive 2011/36/EU of the European Parliamenton the prevention and repression of trafficking in human beings and the protection of victims, *that was transposed in the Italian legislative system in 2014 (*Legislative Decree 4 March 2014, n. 24).

**Article 18 of Legislative Decree 25 July 1998, n. 286**

Commonly known as Article 18, this article provides for a special residence permit for victims of trafficking in human beings who may have access to a judicial process (in the event the victim decides to cooperate with the judicial authorities and police in the course of investigations and criminal proceedings against traffickers) or a social program (thanks to the ascertainment of a situation of violence or exploitation and regardless of the victim's will to testify). The social protection protection program lasts for a total of 18 months during which a beneficiary of the program re-elaborates his/her trafficking experience with the help of professionals who may also assist her in pressing charges against her traffickers and exploiters. It is an important legislative tool that has permitted thousands of women to come out of the condition of victims of trafficking and re-gain hold of their lives and their migratory project. In 2017, 1.865 persons received protection and assistance[1](#sdfootnote1sym).

The Italian protection system for victims of trafficking still remains, to date, an unique model in the world. It introduced a comprehensive model of defense of rights and support for victims of trafficking by granting them a social protection program that goes beyond the investigative framework against criminal organizations in order to combat the phenomenon of trafficking of persons. As stated by the Special Rapporteur on trafficking in persons, especially women and children, dott.ssa Maria Grazia Giammarinaro, among the first policy-makers of the Italian social protection program for victims of trafficking, “ a human rights perspective is crucial”.[2](#sdfootnote2sym) Our experience, over the years, have proven how a human rights and multi agency approach has been a strong determinant to helping trafficked persons in accepting and receiving aid as well as pressing charges against their perpetrators.

Yet, considering the evolution of the phenomenon of trafficking in persons in recent years, “an innovative approach is needed, based on good practices of some UN Agencies, regarding **early screening and identification not only of victims of trafficking but also of people vulnerable to trafficking**among displaced populations, asylum seekers and in general terms people fleeing conflict, aimed to adopt tailored solutions to protect vulnerable people from trafficking and exploitation”[3](#sdfootnote3sym). This, at the moment, is a major problem at the Italian hubs where the early identification of potential victims of trafficking for the purposes of sexual exploitation is lacking. In addition to this, majority of victims of trafficking end up staying in detention centers where their traffickers and exploiters are present. Others are easily “taken away” from the detention centers and forced to prostitutes themselves on the streets in different Italian cities. We recommend the application of the UNHCR guide line for the identification of potential victims of trafficking in all hotspots and detention centers with qualified personnel from recognized anti trafficking organizations[4](#sdfootnote4sym).

As a consequence of the late identification of victims of human trafficking for the purpose of sexual exploitation, there has been a surge in the demand for international protection by potential victims of trafficking who have been instructed by their traffickers and exploiters to apply as asylum seekers. This has led to a conflation of the social protection program in the national scheme for asylum and refugee seekers where, in some cases, protection to the victim of trafficking is not ensured.

As stated in the Council of Europe's Group of Experts on Action Against Trafficking in Human Beings (GRETA) second Report in January 2019, we are yet to see the extent of the impact of the new migration-and-security decree on the identification of victims of trafficking, especially young girls and minors. [5](#sdfootnote5sym)

The Greta Report also urges the Italian authorities to take measures to ensure that human trafficking crimes are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions and facilitating access to compensation for victims of trafficking.[6](#sdfootnote6sym)

**The Regional Anti trafficking Network**

Since 2007, the assistance and social protection program became a regional program of the Friuli Venezia Gulia Region wherein organizations with specific authorization from the Department for Gender Equality could apply to assist victims of trafficking. Hence, the Committee is one of the three-partner organizations of the anti-trafficking network led by the Regione Friuli Venezia Giulia. '*Il Friuli Venezia Giulia in rete contro la tratta'* that implements a protection and assistance program for victims of trafficking in Trieste in the framework of the above-mentioned legislation. The Committee has 3 homes in Trieste *'Stella Polare'* where a dozen of beneficiaries of the social protection program are sheltered in safe homes. Over 250 women have been assisted in almost 20 years since the Committee inaugurated the anti-trafficking program in Trieste with the support of local authorities such as the Local Health Board – ASUITS, the Municipality of Trieste, the maternity hospital Burlo Garofolo and other social cooperatives. The social protection program is an 18-month program during which the following actions are implemented for every single beneficiary: collection of the beneficiary's memoir and support during judicial process, regularization of the beneficiary's legal status with the Italian police authorities; application for national passports, language courses at the International Women's House of Trieste, vocational training and job placement with the bias of the Municipality of Trieste and healthcare prevention program. Much focus is laid on empowering the beneficiary to be in charge of her life through the re-elaboration of her trafficking and exploitation experience, regain self-esteem and re-work on her migratory project.

**The National anti-trafficking Platform**

The Committee for the Civil Rights of Prostitutes is an active member of the national anti-trafficking platform. The anti-trafficking platform is a network of organizations that are either lay or faith-based organizations that provide shelter and implement integration programs as well as carry out outreach for sex workers, victims of trafficking/asylum seekers. Membership is open to organizations and experts on migration issues that adhere and share the intents of its Charter which is firmly against the criminalization of clients as a means to combat trafficking.[7](#sdfootnote7sym)

**The conflation of sex work and sexual exploitation**

As a signatory of the statement issued in Perugia in 2018 during the General Assembly of the Outreach Unit of the Italian Anti-trafficking Platform, the Committee for the Civil Rights of Prostitutes hereby presents essential points of the document on the conflation of prostitution and trafficking pf persons for the purposes of sexual exploitation.

The complete statement will be attached to this paper in French.

In November 2018, a general assembly of the outreach unit of the anti-trafficking platform was held in order to discuss the conflation of sex work and sexual exploitation. A 120 delegates from all over Italy attended the meeting and issued a final statement on the conflation of sex work and trafficking of migrants for sexual exploitation.

In the first place, it is critical of the current debate over the adoption of the "Nordic model" in Italy, which is centered on the "criminalization of the client". Although it recognizes that there is an inevitable physical overlap of the two distinct phenomena, it strongly retains that any legislative approach or intervention regarding trafficked persons for the purpose of sexual exploitation and sex work can not be based on simplistic theories but that a number of factors over the complexity of the phenomena and the specific needs of migrant women, men and transgender, be they voluntarily or involuntarily affected by the multiple forms of prostitution, must be taken into account.

Participants of the meeting that was held in Perugia, expressed their opposition to the so-called “Nordic model” and in particular the criminalization of clients, as they judged that it would not solve the problem pertaining to trafficking of persons for the purposes of sexual exploitation but simply deflects it. Pushing self-determined sex workers and/or victims of sexual exploitation to closed places or peripheral and degraded areas, reduces their chances of meeting local outreach services, hinders the opportunity to have access to health care and risk reduction programs and hands them directly to criminal organizations.

Secondly, the professional workers of the outreach units pointed out the abnormality of the current debate on prostitution, wherein, once again, the absence of the voices of those who know, operators and sex workers, this phenomenon and its dynamics better than anyone else. Working with and not for this category per persons by putting them at the center of all interventions id fundamental in order to promote and protect their rights and to avoid any judgmental approach.

Furthermore, the position of the anti-trafficking platform clearly and firmly condemns the involvement of minors in sexual services just at it condemns all necessary measures that are put in place against “clients” who buy sexual services from minors. It also recognizes the existence of gender violence in the case of persons who have been forced into prostitution as, given their condition, their will power has been reduced or is totally absent.

It is, however, insufficient and rather incorrect and harmful to consider only the aspect of gender violence with respect to the phenomenon of prostitution. By adopting such approach, the risk would be the suppression of meaningful actions, the exclusion of the needs of a category of persons and the promotion of the rights of sex workers who have conscientiously chosen to work in the sex industry.

However, although it is against the "criminalization of the client", this does not mean that the Platform underestimates the social, economic and cultural dimension of the "demand" in the sex industry. On the contrary, it believes that the issue should be at the center of the political agenda and is in favor of the introduction of sensitization campaigns on gender relationships, training sessions over a person's feelings and responsible sexuality in schools.

Moreover, it is ethically unacceptable that "municipal ordinances" against prostitution are issued thereby putting an attempt to protect a city's "urban décor" and the recognition of the rights and dignity of people who are more fragile and in difficulty at the same level.

In conclusion, the statement issued by the Outreach units of the National anti-trafficking Platform, calls out to all policymakers at international, national and local levels to listen to, discuss and involve sex workers and professional operators who have been working side by side with victims of trafficking for the purposes of sexual exploitation and with sex workers who are cognizant of the multiple forms of prostitution as well as with those who wish to engage in other professional activities. This approach will certainly produce a counter-effect on human trafficking and on the fight against criminal organizations. It is therefore necessary to have a policy that puts reality back at the center of discussions and not its own representation. The latter is often conditioned by questions of interest that end up depriving people of their humanity, thus making them more fragile and exposing them more to the risks of exploitation.

[1](#sdfootnote1anc)Vittime di tratta, piu’ di mille protetti ogni anno <http://www.pariopportunita.gov.it/faqs/mille-protetti-ogni-anno/>

[2](#sdfootnote2anc)Rapporto della Relatrice Speciale Maria Grazia Giammarinaro al Consiglio di Sicurezza <https://www.unric.org/it/attualita/32142-rapporto-della-relatrice-speciale-maria-grazia-giammarinaro-al-consiglio-di-sicurezza>

[3](#sdfootnote3anc)Rapporto della Relatrice Speciale Maria Grazia Giammarinaro al Consiglio di Sicurezza <https://www.unric.org/it/attualita/32142-rapporto-della-relatrice-speciale-maria-grazia-giammarinaro-al-consiglio-di-sicurezza>

[4](#sdfootnote4anc)https://www.unhcr.it/wp-content/uploads/2017/09/Vittime-di-tratta-Linee-guida-compresso.pdf

[5](#sdfootnote5anc)<http://www.ansa.it/english/news/2019/01/25/strasbourg-concerned-at-effects-of-salvini-decree_26a84daa-34a2-45de-82c5-6a2562bf98db.html>; <https://rm.coe.int/greta-2018-28-fgr-ita/168091f627>

[6](#sdfootnote6anc)<http://www.ontheroadonlus.it/risorse/report/rapporto-greta-2018-italia/>

[7](#sdfootnote7anc)<http://piattaformaantitratta.blogspot.com/>

**2° RENCONTRE NATIONALE DES BUS DE NUIT ET DE CONTACT**

**PEROUSE, 22 - 23 novembre 2018**

**MOTION APPROUVEE EN ASSEMBLEE PLENIERE**

Les opératrices et les opérateurs des Bus de nuit, se sont réunis à Pérouse à l’occasion de la “**2ème Rencontre Nationale des Bus de nuit et de Contact**” du réseau italien contre la traite des personnes, rencontre à laquelle ont participé 120 délégués de 65 organismes et associations.

Vu l’actuel débat sur le thème de la prostitution, plus précisément les propositions de lois suggérant de muter, en Italie aussi, le “modèle nordique” centré sur la “criminalisation du client” partant du travail quotidien avec les prostituées libres et les personnes forcées à la prostitution, l'assemblée a jugé que toute approche ou intervention, y compris le plan normatif, sur la traite des personnes finalisée à l'exploitation sexuelle et la prostitution ( deux phénomènes distincts mais qui se confondent et se superposent inévitablement et physiquement) ne peut se fonder sur des bases simplistes, mais devrait reconnaître et prendre en considération la complexité des ces phénomènes et des besoins spécifiques des femmes, des hommes et des personnes transsexuelles volontairement et involontairement concernées par les multiples formes et modalités de prostitution.

Au-delà de leurs spécificités, de leurs conditions et de leurs choix, ces personnes doivent être misent au centre des interventions avec pour finalité première la protection et la promotion de leur droit en évitant toute tentation de les juger ou de les criminaliser.

Ceci se ferait en travaillant “avec eux” et non pas “pour eux”, tout d’abord, en favorisant le protagonisme, la participation et l'autodétermination.

C’est dans cette lancée que les opérateurs et les opératrices ont voulu signaler l'anomalie de l'actuel débat sur la prostitution où résulte absente la voix de ceux et celles qui connaissent ce phénomène et ses dynamiques mieux que quiconque ; c'est à dire les opérateurs/opératrices, et les travailleurs/travailleuses du sexe. Au regard des propositions de lois orientées sur le « modèle nordique» les participants à la rencontre de Pérouse expriment leur fort désaccord étant donné qu'un pareil cadre, et en particulier la criminalisation des clients ne résout pas le problème, mais le dévie simplement en poussant les personnes qui se prostituent de leur gré et celles forcées à la prostitution vers des lieux renfermés ou du moins très périphériques, marginaux et dégradés. Ces lieux sont non seulement un terrain fertile pour la croissance des risques pour ces personnes, mais ils rendent par la même occasion difficile le contact avec les services de proximité avec pour conséquence la diminution de leur capacité de réduction des risques et la prise en charge. D’autre part cette vision des choses rend difficile la possibilité pour les personnes de ne serait ce que de «demander de l’aide».

Il s’agit d’une limitation des relations entre les services et les femmes, les hommes et les personnes transsexuelles qui se prostituent dans la rue; limitation qui a deux conséquences négatives immédiates. Premièrement elle occasionne une capacité réduite d’instauration des relations de confiance entre les personnes et les services qui représente, le plus souvent, le point de départ des parcours de sortie et d’émancipation ( l’émancipation qui, à son tour constitue souvent la condition indispensable qui pousse les victimes à dénoncer leur proxénète ). Deuxièmement la réduction de la possibilité de contact diminue la mise en œuvre des canaux d’information et de prévention sanitaire et de réduction de risques.

Si l’on considère le nombre élevé de clients qui continue de demander des rapports sexuels non protégés, ce dernier causé de grave conséquences ( directes et indirectes) sur la santé de la communauté et par ricochet une augmentation non négligeable des dépenses sanitaires.

Cet ensemble de conséquences négatives se révèle d’autant plus important et plus grave dans le cas des « personnes victimes de la traite des personnes » vu la quasi impossibilité pour ces dernières d’opérer un choix libre.

En somme, les opérateurs/opératrices des Bus de nuit et de Contact veulent signaler que des cadres normatifs centrés uniquement sur des axes répressifs qui ne résolvent pas le problème, mais bien au contraire augmentent les risques qui y sont liés vis à vis, en particulier, des victimes d’exploitation sexuelle et de traite des personnes et, en général, vis à vis des personnes plus fragiles. Ceci ayant pour conséquence le déclin du bien-être et de la sécurité de toute la communauté.

Les opérateurs/opératrices des Bus de nuit et de Contact affirment dans la même lancée, et ce avec fermeté, leur total accord en ce qui concerne le caractère répressif (déjà prévu dans l’actuel législation du secteur) vis à vis des « clients » qui achètent des prestations sexuelles auprès des mineurs.

En outre, ils affirment que être contraire à la « criminalisation du client » ne veut pas dire sous-estimer la dimension sociale, économique et culturelle de la « demande » de prostitution. Bien au contraire, ils affirment que cette question doit être mise au centre de l’agenda et des investissements de la politique en commençant par la mise sur pied dans les écoles d’une grande campagne nationale d’information sur les thèmes de relations de genre correcte et de l’éducation à des sentiments et à une sexualité responsable.

Enfin, bien que conscient du fait que dans les situations d’exploitation grave et de traite des personnes, la forte réduction ou absence de la possibilité de choisir des personnes forcées à la prostitution, il existe un agrégat de la dimension du rapport sexuel payant avec celle de la violence de genre. Les opérateurs/opératrices des Bus de nuit et de Contact estiment qu’il est incorrect et néfaste de lire et d’interpréter le phénomène de la « prostitution » sur ce seul paramètre. Ceci conduirait non seulement au risque de décliner les interventions de façon incorrecte, mais aussi risquerait d’exclure de l’attention la finalité de répondre aux besoins et de promouvoir les droits des travailleurs/travailleuses du sexe qui, bien que conscients que la prostitution n’est pas une fin en soi, mais plutôt un moyen, font le choix volontaire de s’insérer dans les circuits de prostitution.

Pour toutes ces raisons, les opérateurs et opératrices des Bus de nuit réunis à Pérouse demandent au Gouvernement (Italien), aux décideurs locaux et nationaux et à la politique d’écouter, de discuter et de prendre en considération le point de vue de ceux et celles qui travaillent avec professionnalisme, au delà du simple bénévolat, depuis des années aux cotés des victimes de la traite des personnes et de celles concernées par les multiples modèles de prostitution en protégeant leurs droits et, dans de nombreux cas, en promouvant leur parcours de sortie de ce cette condition. Cet engagement a d’importantes retombées aussi bien dans le cas de la traite des personnes que sur l’axe de la lutte contre les organisations criminelles.

Il faut donc une politique qui remette la réalité au centre des discussions et non pas la propre représentation de celle-ci. Cette dernière est souvent conditionnée par des questions d’intérêts qui finissent par priver les personnes de leur humanité, les rendant ainsi plus fragiles et les exposant davantage aux risques d’exploitation. Plus grave encore comme dans le cas des « ordonnances municipales » où le « décor urbain » et la reconnaissance des droits et de la dignité des personnes plus fragiles et en difficulté sont mis au même niveau. Une confusion que nous, opérateurs et opératrices considérons simplement inacceptable sur le plan de l’étique.

# Signataires

Bus de nuit Cabiria ( Arcisolidarietà Ora d’Aria- Perugia).

Bus de nuit du projet Fuori Tratta – Naples, Caserta et Salerno ( Coopérative sociale Dedalus, Arci Caserta e Salerno)

Bus de nuit et de Contact de Vénise ( Municipalité de Vénise)

Bus de nuit Marche Centre-Nord ( Free Women Onlus, Ancona)

Bus de nuit et de Contact Asti ( PIAM onlus Asti)

Bus de nuit et de Contact Abbiategrasso et Milano ( Association Lule)

Bus de nuit Modène (Caleidos Cooperativa Sociale Onlus)

Bus de nuit de Gènes ( Afet Aquilone, Communauté de San Benedetto al Porto)

Bus de nuit de Bologne ( MIT- Mouvement Identité Transsexuelle)

Bus de nuit et de Contact de Padoue, Vicenza et Trévise ( Equality Coop. Sociale)

Bus de nuit de Pise ( Cooperative Arnera)

Bus de nuit de Ferrara (Luna Blu et Centro Donna Giustizia)

Bus de nuit de Milan ( UDS Segnavia de la Fondation Somaschi)

Bus de nuit et de Contact de Verone ( Coopérative Azalea)

Bus de nuit de Florence ( Coopérative Sociale SAT)

Bus de nuit et de Contact de Sardègne ( Projet Elen Joy)

Projet Potenza ( Ass. Ce.St.Ri.M Onlus)

Organisation anti-traite Cooperative Proxima Ragusa-Sicile

Bus de nuit et de Contact Monza, Como et Milan ( Coop. Lotta contro l’Emarginazione)

Bus de nuit et de Contact Udine ( Centro Caritas Arcidiocesi di Udine)

Comitato per i Diritti civili delle Prostitute Onlus, Trieste

Casa dei Giovani Onlus Palermo – Projet Maddalena

Nuovi vicini- Area Donne- Pordenone

Bus de nuit Trento (Cooperative Punto d’Approdo)

Bus de nuit Rome (Cooperative Parsec)

Bus de nuit Piémont (Gruppo Abele)

Rete Tampep Piemonte

Bus de nuit Projet Alba Bolzano ( Volontarius)

Bus de nuit de Foggia (Via del Campo)