

STRASS is France sex workers’ trade union and defends the interest of all sex workers whatever our situation, including those who are or were victims of trafficking.

We are raising concerns about the fact that the struggle against trafficking is misused to criminalise all forms of sex work, including between consenting adults.

This is detrimental to all sex workers, including victims of trafficking, as it obscures the realities of sex work, making more difficult the identification of victims, hindering NGOs and police efforts, and reducing victims’ protections.

For instance, France conflates the offenses of “pimping” and trafficking even though legal definitions of these crimes are not the same. This is part of GRETA’s criticisms. Likewise, the criminalisation of sex workers’ clients targets all forms of sex work and renders sex workers more dependent on third parties to meet clients, so that we are more exposed to diverse forms of exploitation that can include forced sex work and human trafficking.

Because the conflation of sex work and trafficking is the main problem we suffer, in fighting trafficking within the sex industries, we recommend changing the terminology used in the whole document.

**Within the whole document:**

**Replace the expression “sexual exploitation” by “forced sex work” or “forced labour in the sex industry”**

The expression “sexual exploitation” is problematic because it is never defined. We understand the lack of definition results from a compromise between states that want to define sex work as trafficking and those that recognise sex work as work.

However, by using this expression, it allows many states, including France, to criminalise sex work by conflating sex work and “trafficking for sexual exploitation”, which renders sex workers even more vulnerable to human trafficking.

It is also problematic because it excludes sex workers from labour rights and social protections within a labour framework, which yet, would reduce the risk of being victim of trafficking as it is clearly stated and recommended in the chapter on trafficking for the purpose of labour exploitation.

Refusing to recognise sex work as work reduces victims’ protections as victims of trafficking for the purpose of labour exploitation can obtain specific indemnities such as the payment of unpaid worked hours.

Excluding sex workers from labour rights and protections is discriminatory.

**Replace the expression “prostitution” by “sex work”**

The expression “prostitution” is stigmatising. It prevents the recognition of many forms of sex work and excludes sex workers from a labour framework that allows us access to labour rights and protections necessary to protect ourselves against abuses and exploitation, such as trafficking.

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**III Legal Framework:**

**Add an article after number 11, clearly stating the need to fully decriminalise sex work**

As such as the criminalisation of migration, the criminalisation of sex work hinders efforts to combat trafficking. As stated in the document, many victims of trafficking are afraid of the police because of a lack of documentation. The criminalisation of sex work adds a fear of prosecution by the police and prevents any trust in authorities’ possible protection. It prevents any form of solidarity between sex workers, which yet is needed when a sex worker is victim of trafficking.

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**IV. Root causes and discouraging the demand that fosters exploitation through trafficking**

**e. Root causes of trafficking in women and girls and discouraging the demand that fosters their exploitation through trafficking**

In many countries, such as France, the concept of “the demand” for trafficking is used to criminalise sex workers’ clients, by conflating trafficking and sex work.

The “root causes” of trafficking is not defined, so some states consider that sex workers’ clients are the main cause of human trafficking for the purpose of forced labour in sex work.

By criminalising sex workers’ clients, France and other countries have worsen the problem of exploitation within the sex industry.

The “root cause” of trafficking is not the demand for sex work which has always existed, but the criminalisation of sex work and migration as well as discriminations that prevent access to rights and protections.

The “root cause” of trafficking has more to do with rich countries policies that allow the exploitation of migrant workers’ labour more than any individual creating a demand for a good or a service.

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**27 Discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to human trafficking by:[[1]](#footnote-1)**

**b) Where applicable, instituting penal legislation to sanction the users of goods and services that result from trafficking in persons;**

**and page 10,**

**d) Investigating, prosecuting and convicting all perpetrators involved in the trafficking of persons, including those on the demand side.**

These recommendations are used to promote the criminalisation of sex workers’ clients, regardless of sex workers being victims of trafficking or not. This further endangers sex workers and creates conditions more conducive to becoming a victim of trafficking.

These recommendations should either be removed or specify that it targets all economic sectors and not only the sex industry, so that people who buy food, clothes, or services from domestic workers are also criminalised… including politicians, ambassadors, and diplomats in UN agencies who rely on women’s domestic and care work and cleaning jobs in their offices, regardless of the fact that these workers are victims of trafficking or not, only based on the fact that it is widely assumed that there are victims of trafficking in these economic sectors. Thus, this recommendation would not discriminate against sex workers specifically but harm all workers in all economic sectors.

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**31 Adopt, adequately finance, implement, and regularly review a comprehensive national plan of action to prevent and combat human trafficking, ensuring it is in line with this general recommendation and that it:**

**Is harmonized with the national action plans on gender equality, on combating violence against women, and on women, peace and security;**

In some countries, such as France, the national action plans on gender equality and on combatting violence against women, define sex work as violence against women, and therefore, recommend the criminalisation of sex work.

This recommendation should hence be removed or specify that sex work must not be defined as violence against women.

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**32 Ensure women’s meaningful participation in trafficking prevention efforts:**

**Allocate resources to ensure that human rights and women’s rights non-governmental organizations are well informed, adequately consulted and play an active role in the initial and subsequent development of anti-trafficking strategies[[2]](#footnote-2)and continuing implementation of the Convention[[3]](#footnote-3) and the UN Trafficking Protocol.**

Add “and sex workers’ rights non-governmental organisations” after women’s rights organisations.

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**g. Women and girl migrants’ increased risk of being trafficked**

1. **50 Sector-specific migration rules and policies perpetuate victimisation of women. A disproportionate number of migrant women are engaged in informal employment, particularly in the care and domestic sectors, the manufacturing and service sectors and in the male-centred entertainment sector.[[4]](#footnote-4) In addition to perpetuating traditional gender stereotypes about what constitutes “women’s work”, these gender-segregated labour markets offer no or few labour protections as they are either based on the unregulated informal economy or, where regulated, offer fewer protections than national standards.[[5]](#footnote-5) Women migrants may be subjected to restricted mobility and have little access to relevant information about their rights and entitlements.[[6]](#footnote-6) This heightens the exposure of migrant women to severe forms of human rights violations which often occur inside homes in the context of domestic work where victims are unseen and unprotected.[[7]](#footnote-7)**

Add “and sex work”

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**58 Employment and labour framework**

**b) Pay particular attention to monitoring sectors in which workers are at a high risk of being trafficked, such as domestic and care work, garment, construction, agriculture, food processing and fishing; [[8]](#footnote-8)**

Add “and sex work”

And after the

**c) Recognize in law the care sectors as legitimate areas of paid work by addressing gender segregated labour markets and human trafficking into the care economy;**

Add a d)

“Recognize in law the sex and adult entertainment sectors as legitimate areas of paid work by addressing gender segregated labour markets and human trafficking into the sex and adult entertainment economies;”

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**In V. Victim identification, assistance and protection**

**Early identification and protection of presumed victims of human trafficking:**

**k) Adopt a zero tolerance policy on trafficking and sexual exploitation and abuse, based on international human rights standards, which addresses such groups as national troops, peacekeeping forces, border police, immigration officials and humanitarian actors, and provide those groups with gender-sensitive training on how to identify and protect women and girls at risk and ways to report and sanction perpetrators.[[9]](#footnote-9)**

This recommendation is used to prohibit the buy of sexual services regardless of sex workers being victims of trafficking or not. National troops, peacekeeping forces, humanitarian actors, etc are often our best clients or our only clients, especially in poor areas. This is aimed at depriving sex workers our means of livelihood.

As already explained, given that the expression “sexual exploitation” is used as synonym for all forms of sex work, this expression should be removed.

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**b. Victim assistance and protection**

**72 Strengthen the unconditional assistance and protection provided to victims of trafficking:**

**g) In consultation with women civil society organizations, develop and implement standard operating procedures for these shelters which ensure consistent and high level service provision for victims;**

Add “and sex workers’ rights organisations” after “women civil society organisations”

**And in page 25**

**q) Adopt targeted laws, policies and programmes to ensure equal rights for women belonging to disadvantaged and marginalized groups, such as forcibly displaced women and migrant women, by ensuring that they receive adequate assistance, and that they benefit from integration policies as well as family reunification measures.[[10]](#footnote-10)**

Add “and sex workers”

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**VI. Victims’ access to justice**

**a. Investigations, prosecutions and punishment**

**92 Adverse collateral effects of anti-trafficking efforts**

**Ensure that anti-trafficking legislation and directives are not misused by authorities to impose increased restrictions on communities or falsely arrest and charge innocent people, particularly women from disadvantaged groups and women in prostitution;[[11]](#footnote-11)**

Replace “women in prostitution” by “female sex workers”

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**b. Remedies for victims of trafficking**

**Compensation and rehabilitation**

**e) Adopt legislation on the organization, allocation and functioning of a special compensation fund for victims of and witnesses to trafficking and allocate sufficient funds for them.[[12]](#footnote-12) Ensure that the conditions to access funding from the compensation fund are reasonable and swift and do not place undue burden on trafficked women, and are not made conditional on confiscation of assets from their traffickers;**

**f) De-link funding and support for female victims of trafficking from their participation in the criminal justice process.**

After e) and f) add:

De-link funding and support for female victims of trafficking from their non-participation in sex work. Funding to support victims should not be conditioned to the fact to quit sex work as it is the case in France through the so called “prostitution exiting path” as it excludes victims who were not sex workers and those who continue doing sex work.

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**97 Tracking proceeds of crime[[13]](#footnote-13):**

The conflation of trafficking and sex work often means that actions against “money laundering” result in discriminations against sex workers in the access of banks’ services. Many sex workers are refused the opening of a bank account because of that.

Also, sex workers’ goods and money are often confiscated in the name of “trafficking” during police raids and it is exceedingly difficult to get it back.

Most of this money never goes to victims of trafficking but to anti-sex work organisations that use it to pay their employees to promote the criminalisation of sex work, in communication and advocacy activities and not for victims of trafficking or sex workers.

For example, the official “prostitution exiting path” has “helped” only about 200 sex workers in 4 years while 5 million euros every year are planned for this action. Part of this funding is supposed to come from the “proceeds of crime” regarding trafficking and “pimping” legislations which in France are often conflated so that all sex work is considered as trafficking.

Most of this money is then never seen by sex workers, despite that it may be sex workers’ money as many sex workers are wrongly accused of being pimps or traffickers, especially when working together or acts of solidarity within the sex workers’ community because any “assistance to prostitution” or “providing a premise for prostitution” is a crime.

**Note:**

**As a separate remark from the document, more than 500 sex workers in France, in majority migrant sex workers, are currently leading an official challenge in front of the European Court of Human Rights attacking France and its law criminalising clients.**

**France highest court, the constitutional council, has approved in February 2019, the criminalisation of clients considering that policy makers could legitimately deprive sex workers from their individual freedoms and human rights in the name of fighting trafficking, clearly conflating trafficking and sex work without any proof to support this assumption.**

**They recognised the fact that the law criminalising clients was attacking sex workers rights and freedoms but considered that the concept of “public order” and “human dignity” were also part of the constitution and that sex work, linked to trafficking, could legitimately be limited in its exercise.**

**It is interesting to note that this court is not made of judges but mostly of old politicians who are rewarded a seat in the council after a long career. Therefore, their decision is highly political and does not reflect the views of many global law experts.**

1. Article 9(5), UN Trafficking Protocol; A/73/263 (2018), para. 18. [↑](#footnote-ref-1)
2. General recommendation No. 28 (2010) (CEDAW/C/GC/28), para. 27. [↑](#footnote-ref-2)
3. para. 18, CEDAW/C/NLD/CO/6 [↑](#footnote-ref-3)
4. General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 8. [↑](#footnote-ref-4)
5. General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 14-15. [↑](#footnote-ref-5)
6. General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 13. [↑](#footnote-ref-6)
7. General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 20; pp.1, Joint statement for International Migrants Day, 18 December, by the Chair of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, the Chair of the Committee on the Elimination of Discrimination against Women, and UN Women Friday, 15 December 2017. [↑](#footnote-ref-7)
8. para. 30(g), CEDAW/C/AND/CO/2-3; para. 44, CEDAW/C/JOR/CO/5; para. 24(e), CEDAW/C/MUS/CO/8; para. 40(a), CEDAW/C/ITA/CO/7; 35(a), para. CEDAW/C/SGP/CO/5. [↑](#footnote-ref-8)
9. General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 41(b). [↑](#footnote-ref-9)
10. para. 37(b), CEDAW/C/HUN/CO/7-8; para. 39(h), CEDAW/C/ALB/CO/4. [↑](#footnote-ref-10)
11. para. R, CEDAW/C/MMR/CO/3; para. 28(f), CEDAW/C/NGA/CO/7-8. [↑](#footnote-ref-11)
12. para. 25(a), CEDAW/C/NER/CO/3-4; para. 23(h), CEDAW/C/BLR/CO/8. [↑](#footnote-ref-12)
13. See also: OSCE/Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings, Following the Money: Compendium of Resources and Synthesized Step-by-Step Guide to Financial Investigations related to Trafficking in Human Beings (Vienna 2019). [↑](#footnote-ref-13)