



**Written feedback on the implementation of the EU Directive on victims' rights provided by  
International Committee on the Rights of Sex Workers in Europe**

## About the contributor

The International Committee on the Rights of Sex Workers in Europe (ICRSE) is a sex worker-led network representing more than 100 organisations led by or providing services to sex workers in 31 countries in Europe and Central Asia, as well as 200 individuals including sex workers, academics, trade unionists, human rights advocates, and women's rights and LGBT rights activists. ICRSE opposes the criminalisation of sex work and calls for the removal of all punitive laws and regulations regarding and related to sex work as a necessary step to ensure that governments uphold the human rights of sex workers.

[www.sexworkeurope.org](http://www.sexworkeurope.org) Contact: [info@sexworkeurope.org](mailto:info@sexworkeurope.org)

ICRSE welcomes the possibility to provide feedback to the European Commission on the implementation of the Victims' Directive. We would like to take up this opportunity and provide recommendations based on our 15 years of experience and cooperation with sex worker-led organisations working at local and national levels.

Access to justice for sex workers in Europe is a considerable challenge and a key area of work for ICRSE. ICRSE published a report '[Undeserving victims? Community report on migrant sex workers victims of crime](#)' that analyses 49 cases- sex workers' testimonies regarding policing, reporting a crime and access to justice. This report has been based on the evidence collected in 10 EU countries. The report clearly reveals that there is still lack of implementation of the Directive in practice- mainly by the front-line police officers. It however, also points out, how specific prostitution laws and diverse municipal bylaws prevent sex workers victims of crime to enjoy protections and rights under the EU Victims' Directive and consequently make sex workers more vulnerable to crime.

Sex workers bear a high burden of violence in Europe, including physical, sexual, and psychological violence. However, despite increasing recognition of violence against women and other marginalised groups as a human rights and gender equality priority by European Union (EU), crimes against sex workers that occur within and outside the context of sex work are frequently overlooked. Migrant sex workers are estimated to comprise the majority of the sex worker population in Western Europe, and a significant segment of the community in Central-Eastern Europe.

ICRSE Headquarters, Van Diemenstraat 194, 1013 CP Amsterdam, Netherlands  
<http://www.sexworkeurope.org> [info@sexworkeurope.org](mailto:info@sexworkeurope.org)



## Implementation of Article 1 (1) of the Directive:

The directive should apply to victims in a non-discriminatory manner, including with respect to their residence status.

When seeking access to justice, communities that face multiple or intersectional oppression and discrimination such as sex workers, migrants or undocumented migrants, face requirements and restrictions to which other victims are not subjected. Although selling sex itself does not constitute a criminal offence in any of the EU countries, sex workers are fined through administrative and municipal laws and bylaws. Sex workers, who are exposed to high risk of violence seek strategies how to better protect themselves from violence as they for numerous reasons cannot rely on the help of police. For example, many sex workers decide to work together in order to increase their safety- e.g. by sharing a flat. Working together constitutes pimping crime in many EU jurisdictions and consequently sex workers working together are prosecuted- or threatened to be prosecuted for pimping as a result of reporting. The report found that fears of sex workers who decided not to report violence and crime were well founded. Among the disabling factors that prevented sex workers to report were:

- Fear of the consequences of reporting as an (undocumented) migrant: detention and deportation. Similarly migrants with regular status or EU citizens can lose their migration status and be deported from their residence country if their activity as sex worker is known by authorities.
- Fear of the consequences of reporting as a sex worker: fines and prosecution for sex work related offences (soliciting, brothel keeping), being outed, losing custody of one's child.
- Fear of being evicted from one's home or apartment where sex workers work/live. Landlords may face prosecution for profiting from renting flat to sex workers which also falls into 'third party criminalisation' (i.e. profiting from sex workers' income / pimping laws). Secondly, the EU facilitation directive may expose landlords that rent flats to undocumented migrants to be prosecuted for facilitating irregular migration.
- Fear of negative consequences of reporting for others: co-workers or apartment owners fined or prosecuted for third-party offenses. 'Third party offences' cover all offences within which third parties may profit from prostitution of others- including flatmates, flat owners, drivers....
- Previous negative experiences with and general distrust towards police

The evidence collected by the report also pointed out that, in some cases, police officers who expressed sympathy to sex workers victims of crime advised them not to fill a report due to the consequences of coming to light as an (undocumented) migrant and/or a sex worker and risking detention and deportation. In summary, (undocumented) migrant sex workers, due to the intersection of criminalisation of sex work and migration do not have the same rights as other victims under the EU Victims' Directive.

#### **Recommendations:**

- To introduce a mandatory firewall between access to the justice system and immigration enforcement. It is necessary to have same standard in all EU countries so that undocumented migrants can rely on the provisions of the Victims' Directive without discrimination.
- Similarly, in cases of sex workers victims of crime, sex workers who face high levels of gender based violence, biased motivated crimes and hate crimes are afraid to rely on the criminal justice system due to risk of being prosecuted or fined themselves. The directive should either introduce a non-punishment clause or insist on mandatory soft law measures that will enable highly criminalized communities to come forward and to report crime without fear or risk of negative repercussions.

- Set up national victims' rights strategies with the involvement of representatives of marginalized groups and communities with high prevalence of crime such as sex workers. Ensure that members of marginalized communities take part in the monitoring and evaluation of such strategies and policies.

#### **Articles 8 and 9.**

Right to access victim support services. The testimonies collected in our afore mentioned report revealed that, unless the report was filled with the help of a sex worker service provider, NGO or collective, victims were rarely referred to appropriate victim support services by the competent authorities. In contrast, many of the cases were taken with indifference or discriminatory behaviours. The report reveals that police often adopt rigid standards about what they consider as appropriate behaviour for women, and that they treat those who do not conform to mainstream gender norms such as sex workers in degrading and humiliating ways.

Community based organizations and sex workers collectives are important players in crime prevention and are often the only entities that can facilitate access to justice for sex workers victims of crime and victims facing intersectional discrimination (migrants, LGBTI, Roma, drug user...) as they have their trust and can reach out the most marginalized populations.

#### **Recommendations:**

- Include and recognize the role of sex workers and their organizations/ community-based organizations in the integrated and targeted specialist support referral and cooperation mechanism.
- Include sex worker-led organizations into national, local, and municipal interdisciplinary working groups on crime prevention, victim support, gender-based violence, and trafficking in human beings
- Take actions to involve sex working, migrant, LGBT, Roma, and other populations facing intersectional discrimination in crime prevention policies at national, local, and municipal levels. Roll out regional, local, and municipal policies and protocols that allow sex worker organisations to participate in designing specific anti-violence programs that benefit their communities, e.g. community liaison officers.

*Managed Approach (MA) is the term used to describe the partnership approach addressing the issues related to street based sex work in Leeds (UK). The MA was set up in response to long-standing issues of street sex work impacting Holbeck and the surrounding area for over a decade. Along with concerns about the vulnerability and safety of women selling sex on the street, it resulted in the introduction of the Managed Approach in 2014. After five years, in 2019, the University of Huddersfield team was tasked with evaluating how effective the city's Managed Approach was. The review found that sex workers, allied professionals, and police "unequivocally" viewed the scheme as having improved the health and safety of sex workers. Years of mistrust of authorities has been replaced with a new willingness among street sex workers in Holbeck to report crimes committed against them. Data from the Leeds City Council shows the reporting of crimes involving violence towards street sex workers had more than doubled since the approach was adopted.*

#### **Article 22 (3)**

Individual assessment of victims to identify specific protection needs regards victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related

to their personal characteristics and regards victims of gender-based violence, sexual violence, and exploitation or hate crime.

Sex workers are over-represented in other marginalised communities such as migrants, people of colour, Roma, or LGBTQ people. Due to being trapped in a web of anti-sex work, anti-immigration, and misguided anti-trafficking policies, migrant sex workers represent one of the most precarious communities and are exposed to high levels of exploitation and violence.

The evidence collected for the above mentioned report was gathered predominantly from migrants selling sex, with a relatively high representation of women of colour and trans workers.

In most cases, their status as sex workers and migrants were decisive factors motivating the perpetrator of crime. However, other characteristics such as sex, gender, sexual orientation, and gender identity bias also very likely have motivated the respective perpetrators. Crimes against sex workers fall clearly under the definition of gender-based violence and hate crime. However, none of the victims interviewed was treated as a victim with specific protection needs. Again, sex workers were not taken seriously. In many cases, authorities implied that sex workers deserved violence or that violence was a 'part of the job'. The report points out that in particular the provision of Article 22 (3) that aims at protecting victims of gender based violence, hate crime and/or bias motivated crimes lacks its proper implementation due to discriminatory attitudes towards sex working victims of crimes, in particular migrant, LGBTI, Roma sex workers who face intersectional discriminations.

#### **Recommendations:**

- Train professionals (victim support providers, police officers, judicial officers, NGO staff, healthcare workers, teachers, etc.) on preventing and responding to discrimination and violence against sex workers and other groups facing intersectional discrimination and violence, and providing sensitive and appropriate support.
- Recognize that crimes against communities facing intersectional discriminations are often bias motivated and such a group of victims should be considered as victims in need of individual assessment and specific protection needs.
- Develop measures to enhance police accountability and transparency, and work with marginalised groups disproportionately policed to monitor their implementation.

*There is only limited experience with the introduction and acceptance of crimes against sex workers as hate crimes. Since 2006, female sex workers have been treated as hate crime victims in Merseyside (England, UK) as a result of culminated victimisation of sex workers, including murders. Merseyside Police recognised these homicides as hate crimes in this geographical area, which resulted in an unprecedented increase in reporting, prosecution, and conviction of crimes against sex workers in Merseyside. The overall effect was that being recognised as hate crime victim significantly improved the legal position of sex workers as victims and increased their chances to access justice.*

#### **General recommendations:**

- Call on governments to collect and report data on gender-based violence and bias motivated crimes including against sex workers by meaningful participation of sex workers' organisations. Analyse critically such data in order to review policies that are ineffective or have significant negative effects on the ability to access justice.
- Promote a rights-based approach to sex work by calling for the decriminalisation of sex work and the elimination of all discriminatory and repressive laws and regulations contributing to sex workers' vulnerability to violence, abuse, discrimination and exploitation.

- Provide funding for sex worker-led organisations and rights-based service providers who are best able to reach out and provide services to sex workers.