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TAMPEP was founded in 1993 in response to the needs of migrant sex workers across Europe. Since then, it has been observing the patterns and the changes within the sex industry in 28 countries in Europe and advocating for equal access to support and services for migrant sex workers and seeks to give voice to migrant sex workers.

Over the past 20 years, TAMPEP has been documenting violations against sex workers' human rights, and highlighting the issues affecting migrant sex workers across Europe.

**TAMPEP reaffirms its position and demands additional programmatic thinking on how to support sex workers in Europe, notably in face of growing anti-prostitution efforts and xenophobia.**

**It is a critical moment for sex worker-led advocacy, with support of civil society and strategic allies.**

**It's time for a Europe free from stigma and discrimination!**

# TAMPEP on the situation of national and migrant sex workers in Europe today

**National laws and policies play a key role in combatting violence, reducing vulnerability and ensuring universal access to rights and justice for sex workers. By decriminalising sex work, safer working conditions can be ensured, and sex workers can be empowered to fight against violence and demand their human rights.**

important feminist forums (AWID) and funders, like Open Society Foundations, Mama Cash and Red Umbrella Fund. The decriminalisation of sex work is also supported by sex work networks and regional, national and international sex worker led organisations, amongst them TAMPEP (European Network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers), NSWP (Global Network of Sex Work Projects), ICRSE (International Committee on the Rights of Sex Workers in Europe) and SWAN (Sex Workers' Rights Advocacy Network).

## Decriminalisation

If all demands of sex workers could be summarised in one word, it would be decriminalisation. Progressive governments in New Zealand and New South Wales in Australia adopted a decriminalisation model to improve the situation of sex workers. Recently, the New Zealand government and the *New Zealand Prostitutes Collective* evaluated this model positively<sup>5</sup>. **The results of this evaluation demonstrate a significant reduction in the vulnerability of sex workers and improved access to human rights.**

Decriminalisation is meant to be the removal of all punitive laws and regulations regarding and related to sex work and a way to ensure governments uphold the human rights of sex workers. That includes decriminalising third parties who operate within the sex industry,

This political position is supported by several United Nations agencies (UNFPA, UNAIDS and UNDP); relevant human rights organisations such as Human Rights Watch<sup>1</sup> and Amnesty International, which has been consulting on a draft policy proposing the decriminalisation of sex work<sup>2</sup>; anti-trafficking organisations GAATW<sup>3</sup> and La Strada International<sup>4</sup>; and

<sup>1</sup> Read: <http://www.hrw.org/reports/2012/07/19/sex-workers-risk>; <http://www.hrw.org/news/2014/06/18/canadas-prostitution-bill-step-wrong-direction>; and <http://www.hrw.org/news/2013/05/14/china-end-violence-against-sex-workers>.

<sup>2</sup> Read: <https://www.amnesty.se/upload/files/2014/04/02/Summary%20of%20proposed%20policy%20on%20sex%20work.pdf>.

<sup>3</sup> Read: <http://www.gaatw.org/resources/statements/754-gaatw-is-statement-on-attack-on-un-research-calling-for-the-decriminalisation-of-sex-work> and [http://www.gaatw.org/statements/GAATWStatement\\_05.2013.pdf](http://www.gaatw.org/statements/GAATWStatement_05.2013.pdf)

<sup>4</sup> <http://lastradainternational.org/>

<sup>5</sup> Read: <http://www.parliament.nz/en-nz/parliament/support/research-papers/00PLSocRP12051/prostitution-law-reform-in-new-zealand>.

but at the same time ensuring that sex workers are able to work independently and/or in co-operatives. **Self-determination and autonomy of sex workers are fundamental to understanding the decriminalisation model.**

Sex workers and advocates often call for **full decriminalisation** through a legal system that also dismantles the legal barriers that increase migrant sex workers' vulnerability to violence and human trafficking, and hamper equal enjoyment of their human rights. The rationale behind this approach is that to combat vulnerability within the sex industry, governments need to ensure full protection of sex workers' human rights regardless of their nationality and/or legal status in the host country. The rights that should be fully protected include, but are not limited to the **right to life, health, migration, work, privacy, association, equality before the law, and to be free from trafficking and slavery-like practices.**

### **Stigma and Migration**

**Despite the calls for decriminalization, laws and policies regarding sex work have been increasingly more repressive and punitive across Europe. TAMPEP documented in several of its publications the negative impacts national laws and regulations have on sex workers.**

Sex work is rarely acknowledged as work by national governments and general society, and the most powerful weapon to deny sex work the status of work is that of stigma.<sup>6</sup> The reality is that instead of empowerment and support for the self-determination and autonomy of sex workers, and improvement of their working and living conditions, policy makers are developing and implementing new measures that undermine sex workers' human rights and dignity.

There are clear links between this repressive trend and the actual trafficking debate. Anti-prostitution groups utilise anti-trafficking rhetoric to end prostitution. The anti-immigration lobby uses the anti-trafficking discourse to increase immigration restrictions.<sup>7</sup>

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<sup>6</sup> Sujata Gothoskar, Apoorva Kaiwar (2014).

<sup>7</sup> NSWP briefing paper on Trafficking: <http://www.nswp.org/sites/nswp.org/files/SW%20is%20Not%20Trafficking.pdf>

### **Sex workers voices are often ignored or misused by policy makers and mass media.**

In this context of invisibility and isolation, migrant sex workers are particularly affected by repressive measures and growing xenophobia.

Criminalisation of sex work, sex workers and their clients, is commonly accompanied by anti-immigration laws, which are intended to arrest and forcibly deport undocumented migrants. As a result, migrant sex workers are driven underground to more hidden sex work settings to avoid persecution and the risk of expulsion. This trend exacerbates sex workers' vulnerability to human trafficking and reduces their ability to access support and health services, as well as justice and rights.

### **EU-specific Trends**

A marked and well-highlighted trend by several of TAMPEP's reports over the years is the increase of migration and mobility among sex workers globally and in particular, the migration of sex workers to and within Europe.<sup>8</sup> This is a direct consequence of globalisation, but can also be attributed to historic and socio-economic factors and the enlargement of the European Union.

**Migration is a fundamental aspect to be considered when analysing sex work in Europe.** Migrants remain by far the largest group of sex workers in the region. Migration and mobility of sex workers are strongly observed within the European Union as well.

The problem appears to be rooted in the racism and xenophobia that follows migration and mobility trends across Europe. Undocumented migrant sex workers are particularly vulnerable to law enforcement and experience high levels of violence and abuse.

This scenario is aggravated by the severe financial crisis affecting the EU and the rest of the world since 2008, governments' measures to counter terrorism through ad-hoc national security legislation, as well as public safety laws.

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<sup>8</sup> Read TAMPEP's last European mapping: <http://tampep.eu/documents/TAMPEP%202009%20European%20Mapping%20Report.pdf>

## Increasing Conservatism

**TAMPEP observes a growing political and social conservatism, which affects the human rights and civil liberties of vulnerable populations.**

Conservative pushbacks in relation to sex work, drug use, and migration are generated by the ignorance of evidence and human rights-based approaches in the legal arena.

Socio-economic policies together with a progressive trend of inequalities provoke profound social exclusion and discrimination of sex workers, especially the most vulnerable (migrants, transgender, drug users, etc.)

## Trafficking v. Sex Work

**To fight against violations and abuse within the sex industry, EU member states have been using anti-trafficking efforts to combat prostitution and migration instead of creating a safe and supportive environment for sex workers to work, self-organize and ensure good working conditions.**

Dismantling the sex industry disrupts sex workers' lives and work, and pushes them to illegality and isolation. At the same time, victims of human trafficking are rarely found and if they are, their needs are rarely addressed in an effective way. Policy makers conflate sex work and trafficking which results in ineffective policies aimed at all sex workers and a complete disregard for the needs of sex workers that do not experience trafficking.

One of the EU's five priorities in relation to trafficking is stepping up the prevention of trafficking in human beings<sup>9</sup>. Most policy makers have limited their interpretation of prevention as ending demand for and supply of services and goods by victims of trafficking in human beings. It is generally believed that ending demand for sexual services will lead to ending trafficking.

Despite the EU's strategic plan objectives that are based on a wider interpretation of demand,

the laws and policies that seek to criminalise clients of sex workers demonstrate that these objectives are exceptionally applied to the sex industry as a whole.

However, given the broad definition of trafficking, measures to discourage demand should reflect the breadth and seriousness of all purposes for which people are trafficked, including, for example, the construction industry, agriculture, food processing, domestic labour, and care work. Despite evidence that trafficking and forced labour are fuelled by the demand for cheap, low-skilled and easily disposable labour combined with increasingly restrictive immigration policies and lack of labour protections for migrant workers, policies are not seeking to tackle these structural determinants of trafficking and forced labour.

**From 2012-2016 there were no efforts from the EU to push decriminalisation laws as a strategy to tackle trafficking and better the situation of sex workers in Europe.**

TAMPEP also noticed an increase in funding initiatives from the EU and other donors to anti-trafficking and abolitionist efforts, yet rarely to sex worker-led groups or service providers with a human rights-based approach to the issue.

## Abolitionism and the Swedish Model

Abolitionist feminist lobby groups, like the European Women's Lobby and Equality Now, are getting stronger and more influential, and have been heavily funded in the wake of the current debates and political interests around trafficking in women for the purpose of sexual exploitation and prostitution. Abolitionist feminists and organisations often support the Swedish model, which has become a dangerous trend in Europe and the world.

**The Swedish Model – a legislative model created in Sweden in 1999 – is aimed at reducing the occurrence of prostitution, not at ensuring safe working conditions of sex workers. This legislative initiative criminalises clients of sex workers and regards all those in the sex trades as victims.**

<sup>9</sup> The EU [Directive 2011/36/EU](http://eur-lex.europa.eu/legalcontent/EN/TXT/PDF/?uri=CELEX:52012DC0286&from=EN), on preventing and combating trafficking in human beings and protecting its victims and The EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016, <http://eur-lex.europa.eu/legalcontent/EN/TXT/PDF/?uri=CELEX:52012DC0286&from=EN>

Across Europe several states have introduced (Norway, Iceland and Northern Ireland) or attempted to implement (France and Scotland) legal measures for implementing criminalisation of sex work or the purchase of sexual services, regardless of the negative impacts that client-criminalisation has on sex workers.<sup>10</sup>

**TAMPEP calls for a critical response to the challenges posed by (neo-) abolitionist approaches: The Swedish model that is highly controversial and damaging for migrant and national sex workers, as it criminalises their clients and drives the sex industry underground, has been ideologised and is falsely and dangerously promoted as a good policy-practice for states to adopt.**

Swedish sex workers observe that criminalisation has led to less time to negotiate working conditions and safe workspaces. Indoor sex workers can no longer demand client information such as name and phone number from their clients, and have no time to negotiate the services to be provided, which affects their safety.

Outdoor sex workers are affected most. They are pushed to work in the outskirts of cities, in less visible and accessible areas, where police cannot catch their clients. They are less likely to have contact with outreach services.

**The Swedish model is based on ideology and not evidence. When clients are at risk of being arrested, prostitution automatically is driven underground.**

As sex worker advocates and their allies point out, client-criminalisation undermines sex workers' self-determination, drives them underground and heightens the stigma and discrimination which already marginalises this population.

Additionally, the Swedish model and the anti-trafficking/prostitution crusades have put the Dutch and the German legislative models under scrutiny.

<sup>10</sup> See also: <http://www.nswp.org/sites/nswp.org/files/Criminalisation%20of%20Clients-c.pdf>

Although problems with the current regulative approaches in countries like the Netherlands and Germany do exist, the regulatory approach does not delegitimise sex work or aim to abolish it like the Swedish model.

Abolitionists' campaigns<sup>11</sup> and political lobby has been receiving increasing media attention and political support, despite the mounting evidence that criminalisation of clients or sex workers only increases the vulnerability and does not tackle violence and abuse within the sex industry.

**Supporters of the criminalisation of clients or sex work as a whole are willing to disregard the views and opinions of those directly concerned: sex workers themselves, under the pretext of protecting women.**

Sex workers are notably absent from conferences organised to discuss criminalisation policies. Abolitionists in Europe today reject the term "sex work" as well as the idea of sex work as work and persistently ignore and exclude the voices of those who work in the sex trade.

**In 2014, 560 NGOs and 94 researches demanded that members of the European Parliament reject the so-called Honeyball Report (and the motion for a European Parliament resolution on sexual exploitation and prostitution and its impact on gender equality), which promotes the criminalisation of clients of sex workers.<sup>12</sup>**

**The resolution, that was eventually adopted (even though in a slightly amended version) calls for demand reduction and criminalisation of purchase of sexual services.<sup>13</sup>**

**This poses a serious threat to sex workers in Europe and represents a defeat to human rights, evidence-based policy and a dignified political debate.**

<sup>11</sup> See campaign "Europe Free from Prostitution" – EWL; Germany EMMA

<sup>12</sup> See: <http://www.sexworkeurope.org/news/general-news/560-ngos-and-94-researchers-demand-members-european-parliament-reject-ms-honeyball>.

<sup>13</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2014-0162&language=EN>

## Policing and Repression

Sex workers across Europe are commonly arrested in the streets, brothels, parks, and other working venues. Outdoor-based sex workers, however, are more frequently targeted by law enforcement measures. Indoor sex workers have also been targeted in crackdown operations and the closing of venues for investigation. These practices deprive sex workers from their earnings.

Traditionally, migrant sex workers, especially those who are undocumented or working in an irregular situation, experience the highest levels of violence and abuse from police and people posing as clients.

This sheds light on the fact that national laws have been conflating anti-migration with anti-prostitution policy for the purpose of arresting and deporting migrants (i.e. deportations of Chinese sex workers in Paris in 2014 and Sweden attempt to deport EU sex workers despite the illegality of this police practices<sup>14</sup>).

**The TAMPEP network has been reporting on and observing these violations against sex workers, mainly migrant sex workers, since its establishment, in 1993. TAMPEP believes that the greatest tool to challenge rights violations is advocacy for rights, and legal and policy reform.**

## Public Health

Sex workers face substantial barriers in accessing prevention, treatment, and care services largely because of stigma, discrimination, and criminalisation. **Escalating state repression and criminalisation of sex work has made sex workers more vulnerable to HIV/STIs.** It has forced them into working in clandestine spaces, reducing their access to health care and prevention measures, and undermines their dignity. These problems are usually heightened for migrant sex workers, particularly if they are undocumented. They avoid accessing social and health care services due to fears of registration and/or deportation.

**Mandatory sexual health testing** is still practiced and legally enforced by some European countries (i.e. Hungary, Latvia).

These procedures often breach the rights to confidentiality and privacy of sex workers. **Criminalisation of HIV transmission** also poses severe risks for vulnerable groups, as it discourages sex workers from testing and seeking health services.

Moreover, a large number of HIV and health organisations, including WHO and UNAIDS, have warned policy makers of the health-related dangers of criminalising either sex workers and/or their clients. We quote **UNAIDS Advisory Group on HIV and Sex Work** in their 2011 report to accompany the UNAIDS Guidance Note on HIV and Sex Work (2009):

*“States should move away from criminalising sex work or activities associated with it. Decriminalisation of sex work should include removing criminal penalties for purchase and sale of sex, management of sex workers and brothels, and other activities related to sex work.”*

Sex worker-led interventions must be central to scaling up the HIV response and listening to sex workers is crucial. Sex workers experience first-hand the effects of laws and harmful enforcement practices that violate their human rights and hamper progress on HIV. Yet, HIV prevention coverage is estimated to reach less than one third of all sex workers in the region. Funding for interventions on sex work and HIV is decreasing, despite evidence of their cost-effective impact.

**TAMPEP continues to highlight the needs of sex workers in several EU forums to ensure that their needs, including those of migrant sex workers, are considered within programmes relating to HIV prevention, care and treatment.**

## Homo- and Transphobia

Other laws have also worsened the situation for male and transgender sex workers, particularly in Central and Eastern Europe, including CIS countries. Anti-homosexuality bills in countries like Russia and Ukraine provoke more societal homo- and transphobia and less social acceptance of LGBTI people, which specifically affects male and trans sex workers. Dealing with multiple forms of stigmatisation and discrimination often deprives these groups from their fundamental human rights.

<sup>14</sup> <http://rt.com/news/sweden-eu-sex-europe-719/>

**Societal homophobia, laws against homosexuality and the absence of legal protection from discrimination are serious barriers for transgender and male sex workers in accessing sexual health services and information.**

### **TAMPEP Comments on Prostitution Policies in Europe Today**

**TAMPEP is concerned that actions against sex workers, in particular migrants, are legitimised through framing sex work as a problem involving organised criminals and 'sex slaves'.**

The structural determinants and the laws that negatively impact domestic and migrant sex workers and the sex industry as a whole are not being considered as central when addressing the vulnerabilities of sex workers (including sexual exploitation and trafficking).

TAMPEP reinforces that measures taken by EU member states in their efforts against trafficking often result in anti-prostitution (e.g. crackdown operations) and anti-immigration strategies (e.g. stricter border controls).

Migrant sex workers, especially those without papers, are under constant threat of being arrested and deported. Violence towards this population has also been evidenced by several EU-funded reports.<sup>15</sup>

**The harder it becomes to travel and work legally, the more sex workers need assistance from brokers and agents. Dependency on brokers raises the cost of migration and may expose sex workers to fraud, thus increasing sex workers' vulnerability to exploitation.<sup>16</sup>**

*The Global Network of Sex Work Projects*

This approach to trafficking, which has influenced EU policy, obscures both the relationship between migration policy and 'trafficking', and that between prostitution policy and forced labour in the sex industry.<sup>17</sup>

<sup>15</sup> <http://www.indoors-project.eu>

<sup>16</sup> <http://www.nswp.org/resource/sex-work-not-trafficking>

<sup>17</sup> [http://tampep.eu/documents/positionpaper\\_migrationsexworkers\\_en.pdf](http://tampep.eu/documents/positionpaper_migrationsexworkers_en.pdf) and

There is an ongoing need to clarify to policy makers and politicians the differences between trafficking and sex work, both in law and in practice. Although the negative impacts of anti-trafficking efforts on sex workers are not politically interesting for some MEPs, the inefficiency on tackling the problem and addressing victims' rights can be a strategy to be pursued.

The conflation between sex work and trafficking has reached disproportionate levels in the political debate and in the media. TAMPEP consistently promotes the visibility of sex workers as a way to dismantle victimisation theories and raise awareness on the situation of sex workers in Europe. Moreover, TAMPEP believes that sex workers can be great allies in the fight against trafficking as they could refer real victims if they weren't so often criminalised and undermined.

### **The TAMPEP Position**

Highlighting and detailing the human rights violations that sex workers experience, seems to not have been enough to impede conservative ways of understanding the sex industry and its workers.

In light of continued abusive sex work regulations and a climate of repressive social policies, feminist and migrant networks, political partners, allies and other stakeholders urge for integrated action by civil society in supporting sex workers by ensuring the recognition and protection of their rights, and addressing discriminatory laws and practices.

**We reaffirm our commitment to fight the criminalisation of sex work and the Swedish model, and invite partners and allies across Europe to join us in the effort to ensure all sex workers enjoyment of their human rights in Europe.**



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[http://tampep.eu/documents/positionpaper\\_traffickinginwomen.pdf](http://tampep.eu/documents/positionpaper_traffickinginwomen.pdf)