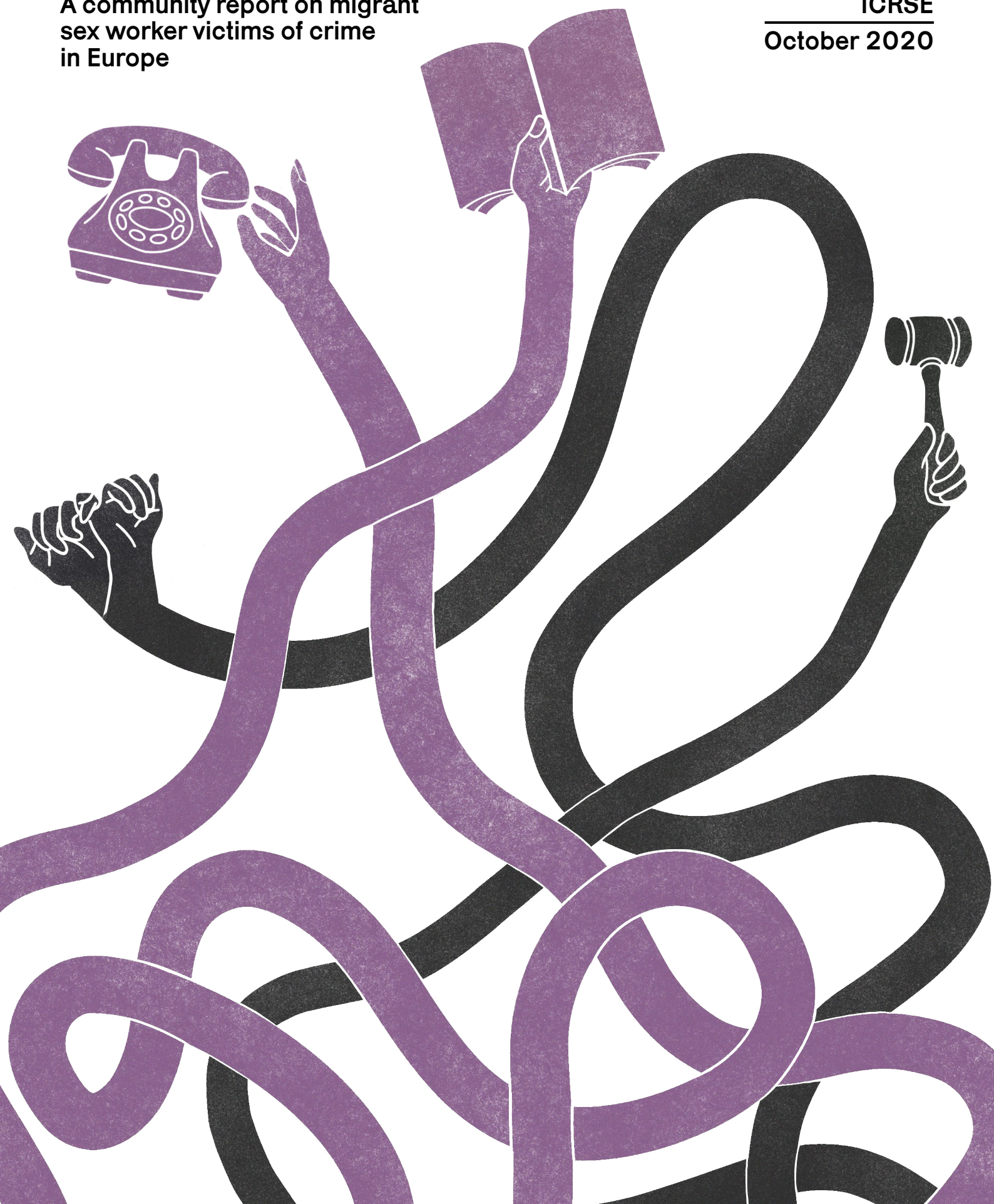


Undeserving victims?

A community report on migrant
sex worker victims of crime
in Europe

ICRSE
October 2020





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Introduction

“

I didn't report the case because as I explained, I don't believe in the police, and I'm not a native German speaker. Police always react differently when you are not a native German speaker. From the start, they see you as a migrant, and then they will ask for your ID, ask where you live, or where you work, etc. My fear is that from the victim, I am becoming an offender.

Sex worker, Austria

”

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) and Council of Europe (CoE) entities, researchers, and civil society, crimes against sex workers that occur within and outside the context of sex work are frequently overlooked at European and international levels. While an increasing volume of research has explored the prevalence, determinants, and correlates of violence against women and LGBT communities, comparable research and policy interventions specifically targeting sex workers are largely lacking in the region.

“Sex workers, whose line of work is criminalized as well as stigmatized, constitute another group of migrant women who face particular difficulties in gaining access to justice. Furthermore, laws and policies to combat trafficking in persons are often used to identify, detain and deport undocumented migrants without providing them with either assistance or compensation.”

The UN Special Rapporteur on the human rights of migrants, Felipe González Morales, 2018¹

1) F González Morales, *Report of the Special Rapporteur on the human rights of migrants*, Office of the High Commissioner for Human Rights (UNHCHR), 25 September 2018, par. 70, <https://undocs.org/A/73/178/Rev.1>.

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. Additionally, in recent years, sex work has also increasingly become an income-generating activity among asylum seekers and refugees fleeing to Europe. This resource focuses specifically on migrant sex workers communities, who face high levels of intersectional discrimination and violence due to their engagement in sex work, race & ethnicity, gender, and migration status, and provides insights into their victimisation and ability to access justice.

The core parts of this report capture the nature of enabling and disabling factors in accessing justice for migrant sex workers, building on the results of community-based evidence collection coordinated by the International Committee on the Rights of Sex Workers in Europe (ICRSE). The publication particularly explores the barriers faced in the reporting phase, the entry point to accessing justice. It also pays significant attention to the question of policing as the relationship with law enforcement can greatly influence sex workers' decision whether or not to report a crime.

The resource furthermore aims to highlight evidence collected by sex worker organisations that challenges the dominant discourse on sex work, regarding all prostitution as a form of male violence against women and consequently advocating for its abolition by criminalising sex workers' clients. This stance is uncritically accepted by a growing number of stakeholders, including governments, which has dire consequences for sex workers. Due to the blanket conflation of sex work with human trafficking and its equation with gender-based violence, the actual causes of violence against sex workers remain unrecognised in policy discussions. Hence, sex worker victims/survivors of crime are often not regarded as such, and their need of specialised services and protection remains ignored. This stands in stark contradiction to European policy frameworks, such as the European Union Victims' Rights Directive² and the Council of Europe Istanbul Convention on violence against women³, which the report aims to briefly introduce along with other policy instruments that can leverage protection for sex workers.

Whilst the scope of our inquiry is limited, we believe it is an important first attempt to collect systematic evidence from multiple European countries on the phenomenon of sex workers' victimisation and access to justice, having directly involved sex workers themselves in the design of the community-based research. We hope sex worker rights activists, civil society representatives, and policymakers will be able to rely on the report and use its findings and recommendations to improve policies in the fields of criminal justice and victim support for the benefit of migrant sex worker communities across Europe and beyond.

2) European Parliament, *Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime*, Official Journal of the European Union, 14 November 2012,

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=EN>

3) Council of Europe, *Convention on preventing and combating violence against women and domestic violence*, 12 April 2011, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168046031c>

Background of the study



Methodology of the community-based evidence collection

This report was prepared by the International Committee on the Rights of Sex Workers in Europe (ICRSE) in cooperation with 12 national partner organisations from 10 European countries⁴ within its ‘Rights not Rescue project: empowering migrant sex workers in tackling exploitation and trafficking in the sex industry’. Sex workers were involved in the design of the research methodology, including defining its aims, creating a semi-structured interview template, and collecting evidence as recruiters of respondents and in the role of interviewers. Moreover, they contributed to the interpretation of the report findings.

During a project meeting with partner organisation representatives in early 2019, the research objectives were collectively specified. Based on their previous experience in community outreach, legal aid, and research, partners agreed to focus on investigating the reasons why sex workers decide to report or not to report incidents and crimes against them and assess the consequences of reporting these to responsible authorities (most often first-responder law enforcement services). Secondly, they emphasised the importance of mapping the general experience of respondents with police and policing as this can be determinant in their decision whether or not to report crimes.

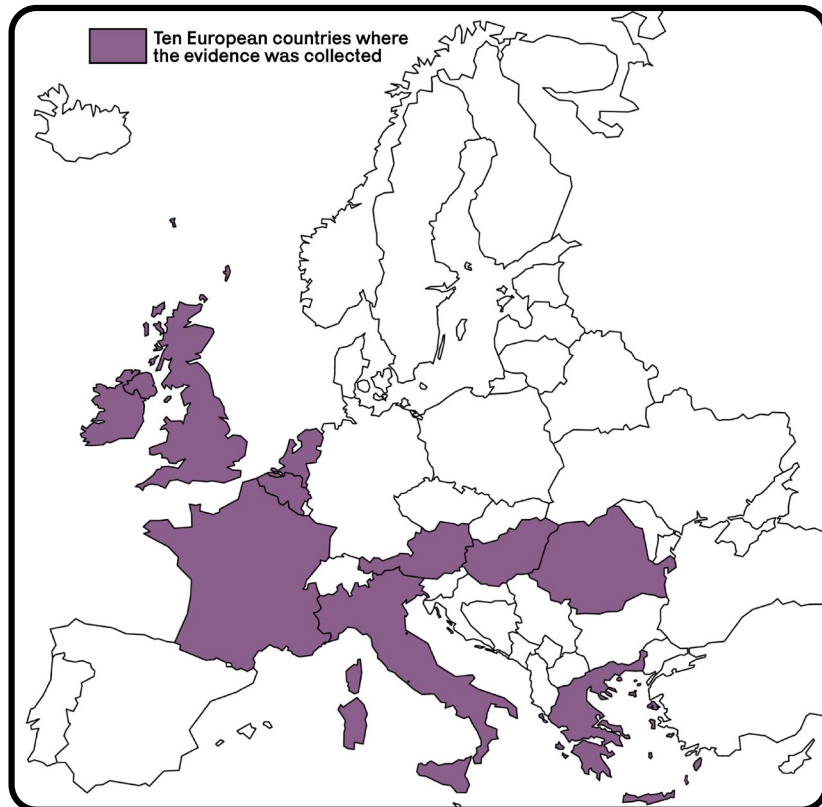
From June to December 2020, 49 semi-structured interviews were conducted in person, out of which 47 were analysed. Two interviews were withdrawn as they did not fit the purpose of the evidence collection to analyse cases concerning access to justice.

This research is based on testimonies of migrant sex workers who are already connected to sex worker organisations and therefore less isolated than many other community members. The significant limitation of this report is thus providing evidence from the migrant sex working population that is already in touch with organizations, whereas it is impossible to estimate the extent of underreported crimes committed against sex workers who are beyond the reach of sex worker groups that often serve as a ‘safety net’ to victims/survivors of violence.

4) Austria, Belgium, France, Greece, Hungary, Italy, Ireland, the Netherlands, Romania and United Kingdom.

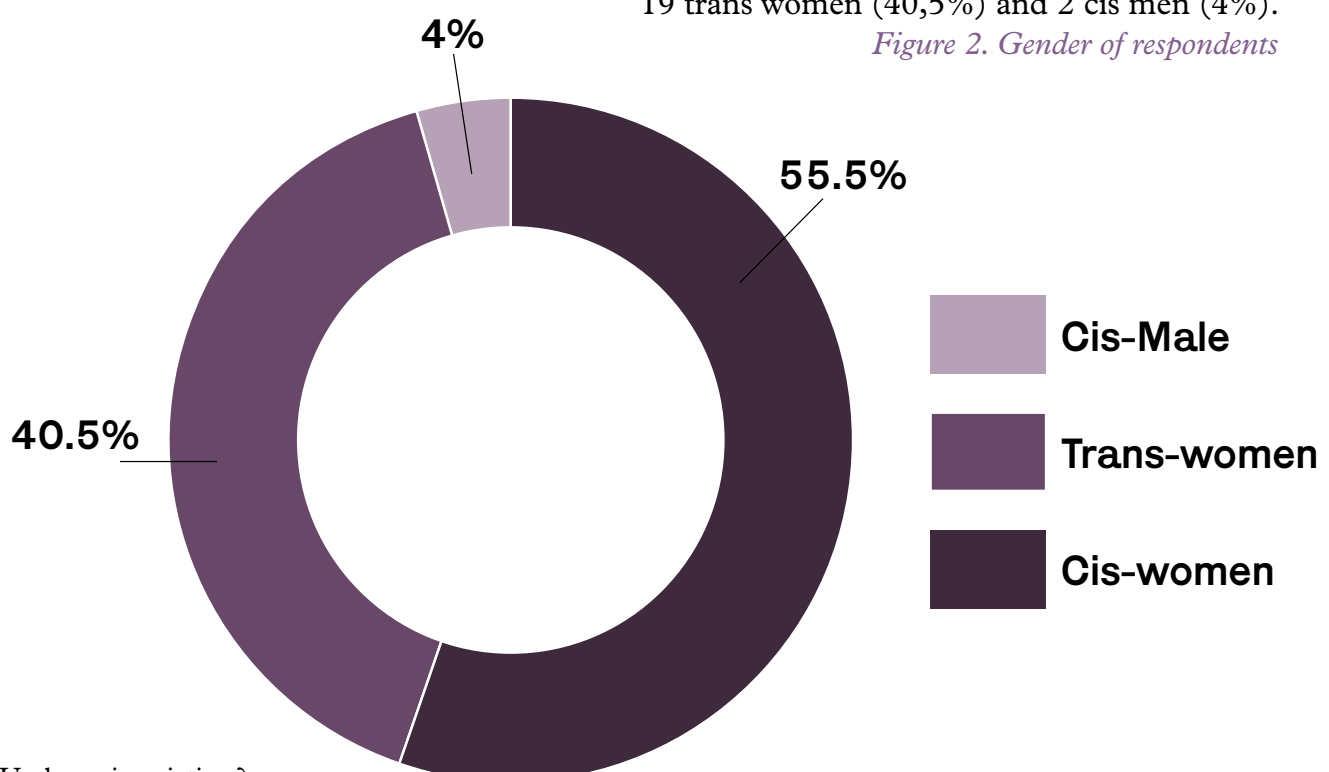
As shown in Figure 1, evidence was collected in Austria, Belgium, France, Greece, Hungary, Ireland, Italy, the Netherlands, Romania, and the United Kingdom. Hungary and Romania are primarily countries of origin of migrant sex workers, and the incidents recorded by sex worker organisations in these two locations occurred in different European countries and were collected upon the return of sex workers from abroad.

Figure 1. Countries represented in the evidence collection



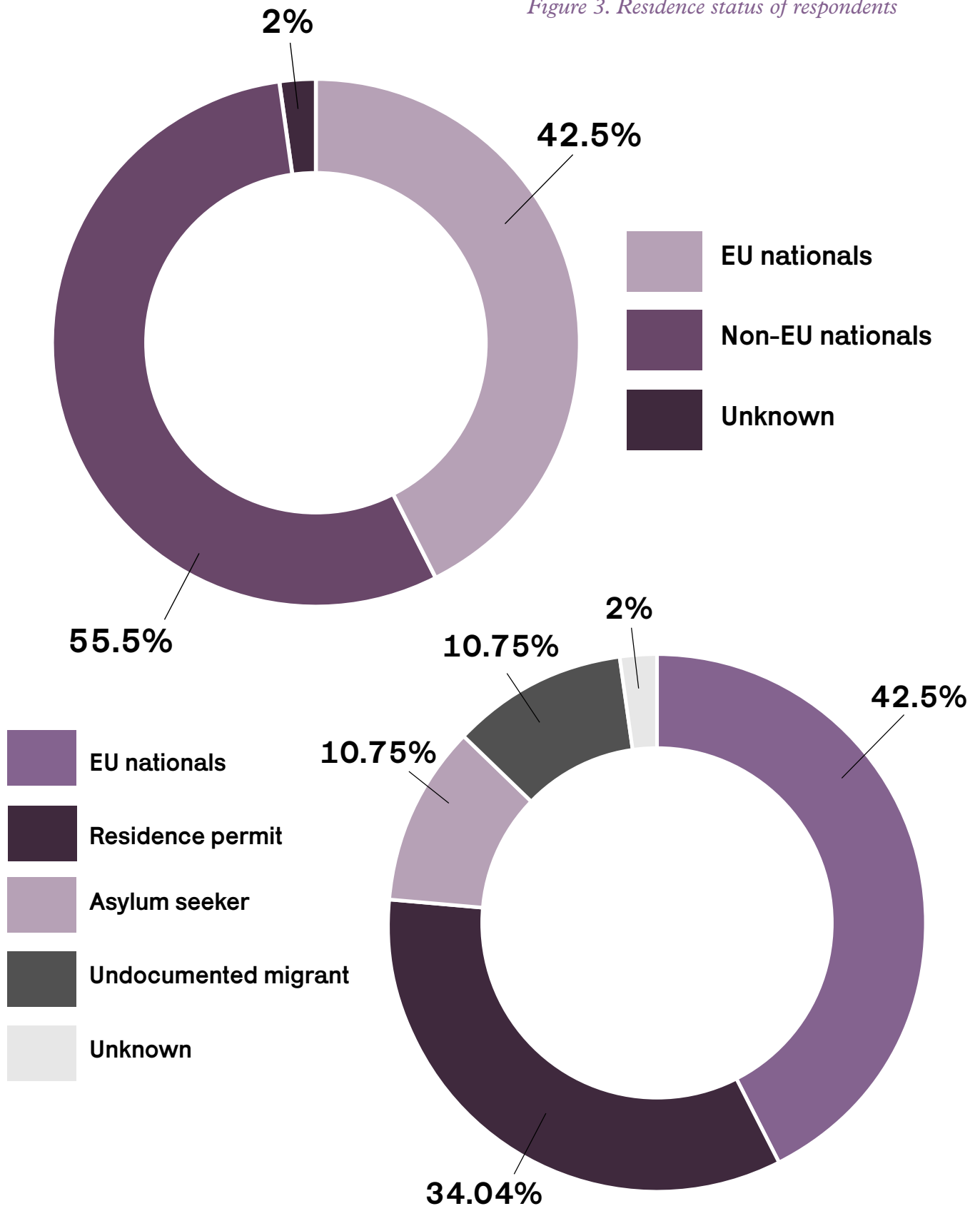
Research participants included 26 cis women (55,5%), 19 trans women (40,5%) and 2 cis men (4%).

Figure 2. Gender of respondents



26 of the interviewed sex workers were non-EU nationals, out of which the majority (14) had various kinds of residence permits (refugee status, humanitarian visa, green cards, or work permits), 5 were asylum-seekers, and 5 undocumented migrants. 2 persons had short-term business or tourist visas. 20 respondents were EU nationals working in different European countries. 1 respondent did not disclose their residence status.

Figure 3. Residence status of respondents



Sex work legal frameworks

The legal status of sex work can be a critical factor in shaping patterns of violence against sex workers and directly impact their vulnerabilities. Before the analysis of cases, we provide a brief overview of the legal frameworks that regulate sex industries in the countries covered by the project.

In **France** and **Ireland**, clients of sex workers have recently been criminalised as governments introduced the Swedish model, in 2016, and 2017, respectively. Their stated aim was to shift the criminality from the sellers (sex workers) to the buyers (clients) of sexual services in order to end demand and abolish prostitution altogether. However, sex workers continue to be penalized through municipal by-laws or for other offences such as brothel-keeping. Decades of evidence by national and international organisations and academic research have decisively proven that this approach only increases sex workers' vulnerability to violence.⁵ The cases from France and Ireland are situated in such legal context.

“ The situation of women who work in the woods is very difficult. In the last two or three months, the police have started to patrol the area and they are taking sex workers to the police station. They ask them for their papers, issue eviction notices, fine clients. Then, clients won't go there, fearing the police. So those who stay are drunk or aggressive people, only the bad people remain. *Sex worker, France* ”

In contrast, **Austria**, **Greece**, **Hungary**, and the **Netherlands** have a legalised and regulated approach to sex work, which is a recognised form of work in these countries. However, other associated activities such as soliciting can be fined and several restrictive criteria for legal sex work are in place. For instance, in Greece, sex work is only allowed in indoors, licenced establishments, while in Hungary, zoning ordinances determine legal outdoors working areas.

5) Amnesty International, *The Human Cost of Crushing the Market: Criminalization of work in Norway*, 26 May 2016, <https://www.amnesty.org/download/Documents/EUR3640342016ENGLISH.PDF>; H Le Bail and C Giametta, *What do sex workers think about the French Prostitution Act? A Study on the impact of the law from 13 April 2016 against the prostitution system in France*, Médecins du Monde, April 2018, <https://www.medecinsdumonde.org/sites/default/files/ENGLISH-Synth%C3%A8se-Rapport-prostitution-BD.PDF> [Noémie Rassouw co-authored the unpublished first version of the report in 2017.]; K McGarry and P Ryan, *Sex Worker Lives Under the Law: A community engaged study of access to health in Ireland*, HIV Ireland, 10 September 2020, https://iswrn.org/wp-content/uploads/2020/09/HIV-Ireland_SexWorkerLives_FINAL.pdf. Northern Ireland adopted a Swedish model-type law in 2015. See Department of Justice (Northern Ireland), *Assessment of Review of Operation of Article 64A of the Sexual Offences Order (Northern Ireland) 2008: Offence of Purchasing Sexual Services*, 17 September 2019, <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/assessment-of-impact-criminalisation-of-purchasing-sexual-services.pdf>.

In **Belgium**, selling sexual services is legal, but not recognised as work. Sex work is heavily regulated by municipal ordinances and by-laws. In **Italy** and the **UK**, selling sexual services is officially legal, but soliciting and brothel-keeping are illegal. In **Romania**, selling sex is penalised under administrative law.

Figure 4 provides an overview of the basic features of national sex work policies. These can be, however, further shaped by municipal by-laws and ordinances.

*Figure 4. Overview of sex work policies
(✗ = penalized, ✓ = legalized, R = regulated)*

	AT	BE	FR	GR	HU	IE	IT	NL	RO	UK
<i>Selling sexual services</i>	✓ _R	✓	✓	✓ _R	✓ _R	✓	✓	✓ _R	✗	✓
<i>Buying sexual services</i>	✓	✓ [★]	✗	✓	✓	✗	✓	✓	✓	✓
<i>Brothel-keeping</i>	✓ _R	✗ _{R^{★★}}	✗	✓ _R	✗	✗	✗	✓ _R	✗	✗
<i>Soliciting</i>	✓	✗	✓	✗	✓ _R	✗	✗	✓	✗	✗

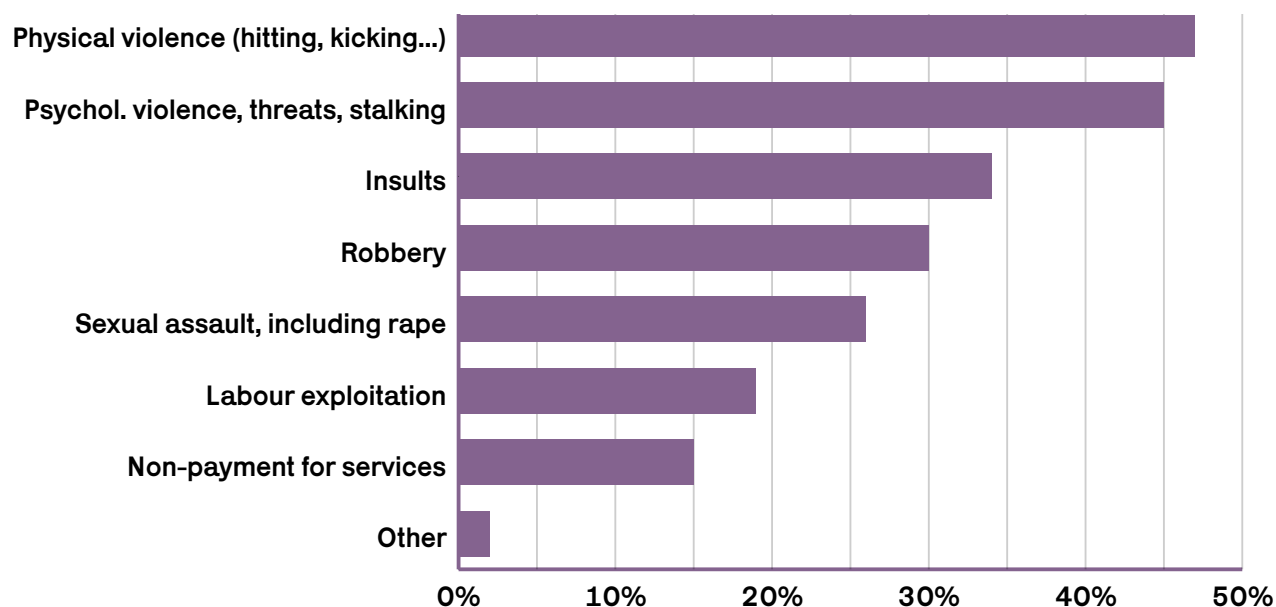
★ Some municipalities penalise buying sexual services.

★★ In contrast to national legislation however, many municipalities tolerate brothels and other prostitution businesses provided that they do not lead to public order disturbances and cause widespread indignation amongst residents.

Analysis of the recorded incidents

In the following chapter, we summarise the incidents recorded by sex worker organisations in the 10 countries during our evidence-collection project. In order to capture the variety of acts of injustice that were committed against sex workers, we use the term ‘incident’. Whereas most of the acts would fall under the definition of crime, some, such as non-payment for services or verbal insults, may not constitute criminal acts under current national legislations and might be matters of civil court disputes. In many cases, the incidents were committed concurrently, e.g. robbery accompanied acts of physical violence or insults, thus the number of incidents exceeds that of respondents.

Figure 5. Categories of incidents recorded during the project



Violence against sex workers occurs in both regulated and criminalised environments.

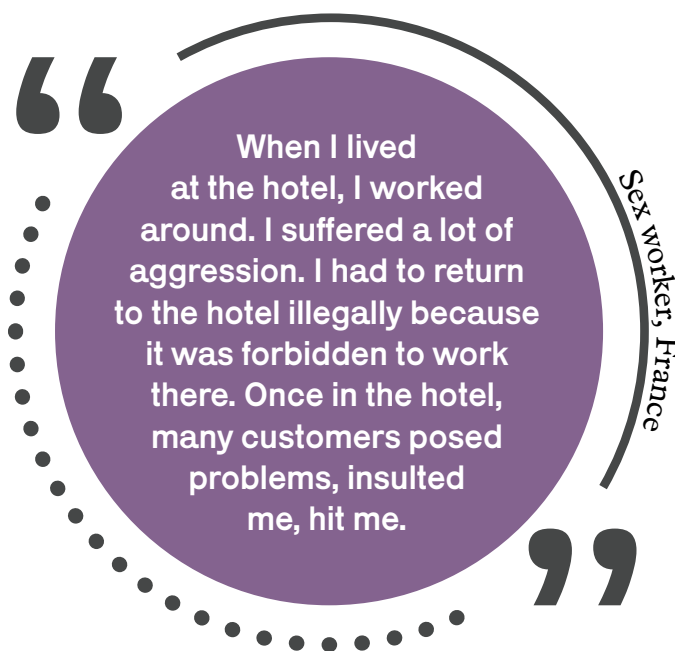
However, as highlighted by sex worker organisation representatives engaging in the analysis of the collected interviews, one of the key reasons for victimisation is the lack of safe working places, which is often the result of national sex work laws and municipal by-laws that criminalise or penalise sex work or certain aspects of it. Several testimonies in this chapter provide accounts of dangerous work environments that expose sex workers to abuse and violence.

“.....
The client entered the [prostitution] window for a session. When he came in, I asked him for the money, but he didn't have it. I wanted to send him out to withdraw the money, but then he grabbed me by the neck and began strangling me. Then we fought violently, and I managed to get him out without being raped. It was a few days before a second very violent assault, which led me to the hospital, but I don't want to talk about it, out of fear for my private life.
.....
Sex worker, Belgium
.....

The International Labour Organization's Violence and Harassment Convention, 2019 (No. 190)⁶ aims to address violence and harassment in the world of work. The Convention defines violence and harassment as “a range of unacceptable behaviours and practices” that “aim at, result in, or are likely to result in physical, psychological, sexual or economic harm”. The EU Gender Equality Strategy (2020-2025)⁷ states that the European Commission will continue to encourage members' states to ratify this convention that commits states to protect all workers, including informal economy workers and thus sex workers.

An increasing body of research also links physical and sexual violence that occurs in the context of sex work, namely as workplace harm and abuse, to contextual factors such as the legal status of sex work and the level of policing this entails. According to a systematic review of studies on the subject globally, 45% to 75% of sex workers are estimated to suffer violence in their lifetime, with a high level of policing practices contributing to increased levels of violence against sex workers.⁸ This correlation is confirmed by another systematic review that found that sex workers who had been exposed to repressive policing—such as recent arrest, prison, displacement from a workplace, and extortion or violence by officers—were three times more likely to experience sexual or physical violence by anyone, for example, by clients, partners, or people posing as clients.⁹

Sex workers, and (undocumented) migrant sex workers in particular, are prevented from working at safe workplaces in a myriad of ways through the legal contexts pertaining to sex work. In countries where selling sex is illegal, such as Romania, soliciting for selling sexual services is punishable by administrative fines. This type of legislation automatically blocks sex workers' access to legal workplaces with sufficient levels of safety, since it prohibits any engagement in sex work. In environments where certain forms of sex work are legal, the threshold of



6) International Labour Organization, *Convention Concerning the Elimination of Violence and Harassment in the World of Work* (No. 190), 21 Jun 2019,

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

7) European Commission, *A Union of Equality: Gender Equality Strategy 2020–2025*, 5 March 2020,

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0152&from=EN>

8) K N Deering *et al.*, “A Systematic Review of the Correlates of Violence Against Sex Workers,” *American Journal of Public Health* vol. 104, no. 5, 1 May 2014, pp. e42–e54, <https://doi.org/10.2105/AJPH.2014.301909>

9) L Platt *et al.*, “Associations Between Sex Work Laws and Sex Workers' Health: A systematic review and meta-analysis of quantitative and qualitative studies”, *PLoS medicine*, vol. 15 issue 12, 11 December 2018,

<https://doi.org/10.1371/journal.pmed.1002680>; Related press release: London School of Hygiene & Tropical Medicine, “Criminalisation and Repressive Policing of Sex Work Linked to Increased Risk of Violence, HIV and Sexually Transmitted Infections”, 11 December 2018, <https://www.lshtm.ac.uk/newsevents/news/2018/criminalisation-and-repressive-policing-sex-work-linked-increased-risk>

working legally is usually high, and thus many sex workers have no access to safe workplaces due to multiple exclusion mechanisms. They might, for instance, not be entitled as trans persons without legal gender recognition to work in licenced brothels (Greece); not have the means to afford obligatory medical checks (Hungary); or not possess necessary work permits to be self-employed or employed by sex work establishments, to name just a few of the barriers sex workers regularly face. All these factors push sex workers into clandestine working environments, and even working together with colleagues, often their only safety strategy, can be interpreted by authorities as illegal brothel-keeping (France, Ireland, UK), and consequently be punished as criminal offence.

The lack of safe workplaces is also a typical characteristic of countries that have adopted variants of the Swedish model. This legal framework of client criminalisation reality has been evidenced to further isolate sex workers. This has resulted in sex workers being rendered more vulnerable to violence and harassment and affected by increased stigmatisation and discrimination.¹⁰

“ Oppressing sex workers by laws like punishing clients makes our working conditions way more difficult. Because we do not have places to work in nightclubs like there are in other countries, we must always look for a way to get work. After there has been the law penalising customers, they now want to punish people who work on the internet by penalising web hosts and web pages that allow ads and sexual content. So the situation will become even more difficult because people are working on the internet and not on the street, they have their working methods. As a consequence, they will condemn people who have websites on which we can put our ads. We do not know yet what will happen, but the government is trying to get all sex work ads out of the internet. The situation in which we work becomes more difficult each day.

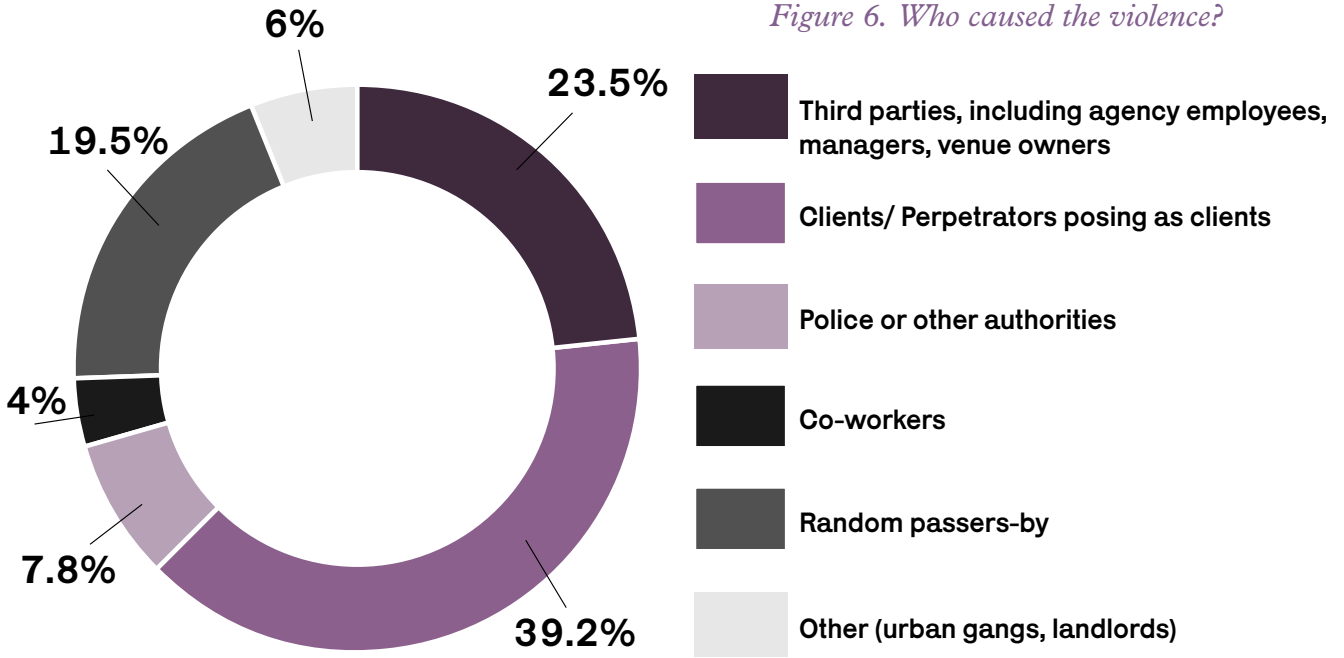
..... Sex worker, France

Physical violence

The most prevalent type of incident reported by our interviewees was physical assault (47%). Some participants even emphasised in their interviews that physical violence was not an isolated instance but a daily risk to their work. In 20 of the cases (40%), violence was perpetrated by clients or perpetrators posing as clients, followed by third parties in 12 of the cases (23%) and random by-passers in 10 of the cases (20%). The remaining cases including violence by police and authorities- 4 cases (8%), other sex workers- 2 cases (4%) and others such as gang and landlord.

10) See, for instance: A Jordan, “The Swedish Law to Criminalize Clients: A failed experiment in social engineering”, *Center for Human Rights & Humanitarian Law*, Issue Paper 4, 2012, https://www.nswp.org/sites/nswp.org/files/Issue-Paper-4%5B1%5D_0.pdf; and Fuckförbundet, *20 years of failing sex workers: A community report on the impact of the 1999 Swedish Sex Purchase Act*, 2019, https://www.nswp.org/sites/nswp.org/files/20_years_of_failing_sex_workers.pdf

Figure 6. Who caused the violence?



“ So many clients are violent with me, especially the fakers. A ‘client’ came to my window, had sex with me, but afterwards he wanted to have the money back because he was not ‘satisfied.’ ”

Sex worker, Belgium

“ It was the very first time that I tried to work as an outdoor sex worker in Athens. As soon as I arrived, my trans co-workers, who happened to come from the same country, chased me until they stopped, hit, and kicked me. I also received death threats, if I tried to work in the same area. They robbed me of my cell phone and left. ”

Sex worker, Greece

Intra-community violence, where a sex worker will attack or abuse another sex workers is rarely discussed and explored. Few factors can explain this violence such as competition for clients in precarious contexts.



.....

Many times you go with bad clients who abuse you and you can't fight back because it's difficult. Sometimes they attack you when you don't expect [it]. They don't give you the money, but they want you to give money to them and they want you to have sex with them. It happened several times. Sometimes we fight, the other time I broke my arm and my leg, it was difficult... I just went home and treated myself. I didn't go to the hospital, I went to my doctor. I told her I have pain and asked for drugs. She didn't know somebody beat me. A friend of mine helped me. Usually, what I do if I know a man is dangerous, I don't shout. Because before I used to shout at them. Now I stay calm, I say 'Just one minute, I need to ease myself'. When they finish, I would just calm down and say 'I want to pee' and I run away.

..... Sex worker, France

Homicides of sex workers

Whilst there is no official data on number of sex workers murdered annually accross Europe or globally, sex workers organisations collectively list and name their community members lost to violence every December 17th, on International Day to End Violence against Sex Workers.

Recent research show that 180 homicides of sex workers have been recorded in the UK between 1990-2016,¹¹ corresponding to approximately 7 homicides of sex workers yearly.

Recent alarming news from France point to a wave of attacks against the sex worker community after the adoption of a Swedish model in 2016. Between September 2019 and February 2020, at least 9 sex workers were murdered.¹²

11) T Sanders *et al.*, "Reviewing the Occupational Risks of Sex Workers in Comparison to Other 'Risky' Professions", Briefing paper, *Welcome Trust, University of Leicester & London School of Hygiene and Tropical Medicine*, July 2017,

<https://www2.le.ac.uk/departments/criminology/people/teela-sanders/sex-work-and-homicide>.

12) T Schaffauser and T Hell, "Déjà Plus de 10 Meurtres en 6 Mois, et Rien ne Change", *Liberation*, 22 February 2020, <http://ma.lumiere.rouge.blogs.liberation.fr/2020/02/22/deja-plus-de-10-meurtres-en-6-mois-et-rien-ne-change>. English version: "French Government Indifferent to Murdered Sex Workers", *Global Network of Sex Work Projects*, 25 February 2020,

<https://www.nswp.org/news/french-government-indifferent-murdered-sex-workers>; See also:

"France: Death of trans migrant sex worker Jessyca Sarmiento", *ICRSE*, 22 February 2020,

<http://www.sexworkeurope.org/news/news-region/france-death-trans-migrant-sex-worker-jessyca-sarmiento>.

Psychological violence

Acts of psychological violence may manifest in stalking, following, or lying in wait for the individual, making specific threats to them or their family, blackmailing, defamation, forced outing, and bullying.

The recorded cases illustrate how various parties use societal stigma sex workers face to inflict psychological violence on them, knowing that they are in vulnerable positions and unable to rely on help.



Women at the property where I work have received phone calls threatening [them] with acid attacks and other serious violence on a number of occasions. We are very worried for our safety. We think the threats of violence may be connected to a couple of hoax calls made to the police about the premises. Being the victim of a hoax call is distressing and dangerous as we don't trust the police when we are genuinely in trouble.

Sex worker, UK

Concrete blocks were placed in front of my door to [prevent me from] leaving or clients [from] coming in. They were placed in a way that allowed me to just make it out of the house when needed. I feel they were placed there as a warning and a threat. A few days before the occurrence someone tried to invade the house and broke the window.

Sex worker, Ireland

I was advertising services on an escort site. One day, 6 persons from the municipality came to my flat, 2 entered my house while 4 stayed outside in the balcony hallway. I asked the 4 persons outside to come in because by standing outside the neighbours would notice and I will be outed as a sex worker. To make things worse, my husband was in the house at the moment. The people from the municipality kept on asking what he was doing there, asking if he was my pimp. And also asking why he allowed me to work doing sex work. They made me feel like I was a victim.

Sex worker, The Netherlands

A local group of men were trying to force me to work for them. They said if I didn't work for them they would come and attack me. I said that night that I would go home instead. I stayed away from that area for a bit.

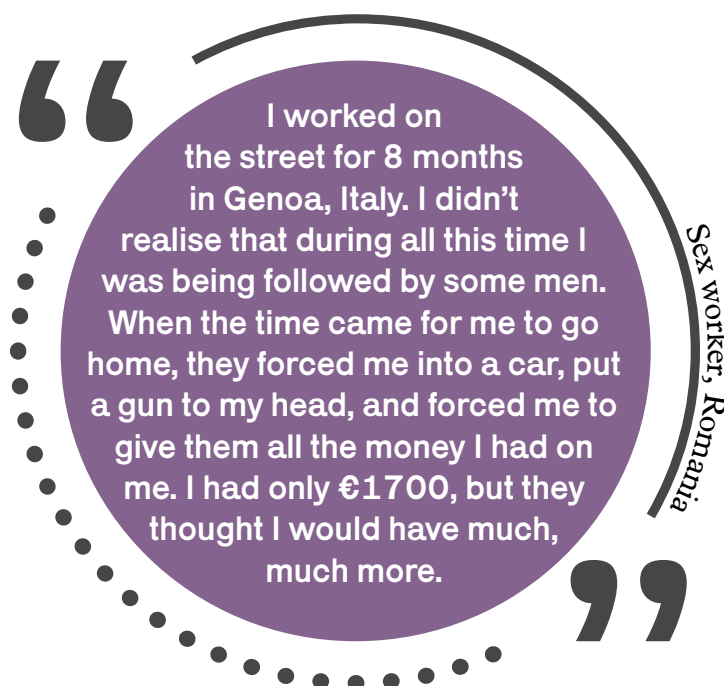
Sex worker, UK

I was on the way home late [at] night when a group of boys started to follow me and insult me with disgusting words, and intimidate me saying 'Now we will fuck you all without condom, to check if you are boy or girl... If you want to be a girl now you will suck our cocks.' In the end, I had to take a taxi to get away from them.

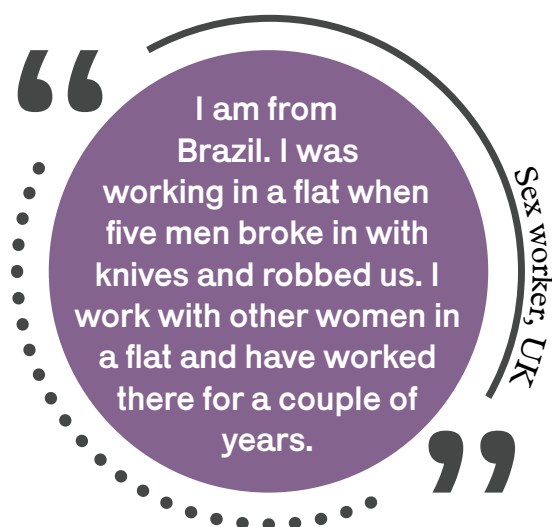
Sex worker, Austria

Robbery and violent thefts

Robberies and thefts were often committed concurrently with other incidents, usually with threats, insults, and, in some instances, physical or sexual assaults. Although robberies are not usually listed as typical acts of gender-based violence, our evidence indicates that sex workers are frequently targeted by offenders of this crime as they are seen as easy targets having a certain amount of cash in their possession.



Where sex workers advertising online are concerned, robberies in apartments where they work are often committed by people posing as clients. Findings of a study on the impact of client criminalisation in France have demonstrated that, compared to local nationals who are, by comparison, rarely affected, migrant sex workers are regularly targets of robberies and thefts.¹³



13) Le Bail and Giametta, p. 96

Sexual violence, including rape

“

.....
I was in Malakasa [migrant] camp. At night, three men knocked on my door. I opened it because I believed that the person knocking was my roommate. When I opened the door, one of the men hit me on my genitals and the other hit me on the head and knocked me out. I woke up a few hours later and had sperm all over my back. In addition, I felt pain in my anus. It's important to be noted that these men had been bullying me for a very long time and they called me a 'gay'.

Sex worker, Greece

.....

The issue of consent is crucial to sex workers. Consent means agreed-upon terms and conditions, under which sexual services are provided. If these terms and conditions are violated, the incident should be defined as rape or sexual assault. A common agreed-upon condition is condom use, which was breached in the following case.

“

.....
I met a guy on a website, he picked me up, the service was massage with happy ending and sex. When we got into sex, I took out a condom and said he has to put it on. He accepted but when we were having sex he said he didn't want to use [the] condom. I insisted, and he accepted. He was on top the whole time, I noticed he was moving his hands a lot but I didn't imagine he was taking off the condom. When he came, I noticed I was wet all over my pelvis. I asked what happened and he said 'I'm sorry, it just felt so good'. I got angry and asked him to drop me back home. I texted him again to say he needed to pay PEP (post-exposure prophylaxis). Maybe he deleted me or blocked me as I didn't hear from him again. I decided to go to the hospital and I was asking for PEP but they denied it because they consider straight sex low risk. I didn't tell them that I am an escort because I was afraid they would shame me and treat me differently.

Sex worker, Ireland

.....

In 2019, a man in the UK was found guilty of rape after he removed a condom during sex without his partner's consent. The fact that a court convicted the perpetrator is even more significant because the woman he assaulted was a sex worker. The man was convicted of rape and two counts of sexual assault after it was established that the woman had consented to sexual intercourse only on the condition that condoms were used. A sex worker being able to win a rape case on grounds of conditional consent is an important moment in the fight for sex worker rights; it is also an important moment for our cultural understanding of consent.¹⁴

Non-payment for services also represents a violation of what has been consented to and is considered as rape by sex workers. Sex workers in Australia, where sex work is decriminalised in some states, have challenged the qualification of non-payment for services as fraud. They argue that the perpetrator fraudulently received consent from a sex worker and that such behaviour clearly constitutes rape.¹⁵

In our project, seven participants provided accounts of non-payment for services.

.....

“ I was raped once. It was in Paris. The man told me that he was going to pay me this amount of money, and that I should go with him to his house. When I got to his house, the first thing he gave me was fake money. So I told him, ‘No, this is fake. I know fake money, I know real money.’ He then started forcing me, he raped me. So when I wanted to go down, he pushed me down the stairs. Seeing this, the neighbours called the police. When the police arrived, the man told them that I stole his money. I said ‘I don’t steal, I don’t take money that is not mine’. They sent me home and let the man go. *Sex worker, France*

.....

“ One day a client took me to a place and as we reached there we had a sex together. Then he took out a gun. He stole all what I had in my purse and left me there alone. He did all this in order to not to pay for the service he had received. ” *Sex worker, Italy*

14) F Cookney, “Finally the Law Understands How Sexual Consent Works. When will the rest of us catch up?”, *The Independent*, May 1, 2019, <https://www.independent.co.uk/voices/rape-consent-sex-worker-lee-hogben-conviction-sexuality-a8894246.html>.

15) M McGowan and C Knaus, ‘It Absolutely Should Be Seen as Rape’: When sex workers are conned, *The Guardian*, 12 October 2018, <https://www.theguardian.com/australia-news/2018/oct/13/it-absolutely-should-be-seen-as-when-sex-workers-are-conned>.

“ The man robbed and raped me. It was very serious, he pretended to be a policeman. I was very stressed, really, very stressed. He’s about a hundred kilos, and he’s a very tall guy. He is obese, and therefore heavy, I could not fight when he was on me, and he put on a condom. I saw him later on the street, but since I don’t speak French, I couldn’t do anything.

Sex worker, France

During a session with a customer, he couldn’t have an orgasm. I told him it was over, but he then grabbed me and hit me (2-3 slaps). I offered to pay him off while he gets dressed, but then he re-undressed and assaulted me by saying ‘now you’re going to finish’. He then raped me until he ejaculated.

Sex worker, Belgium

Labour exploitation, forced labour, and human trafficking

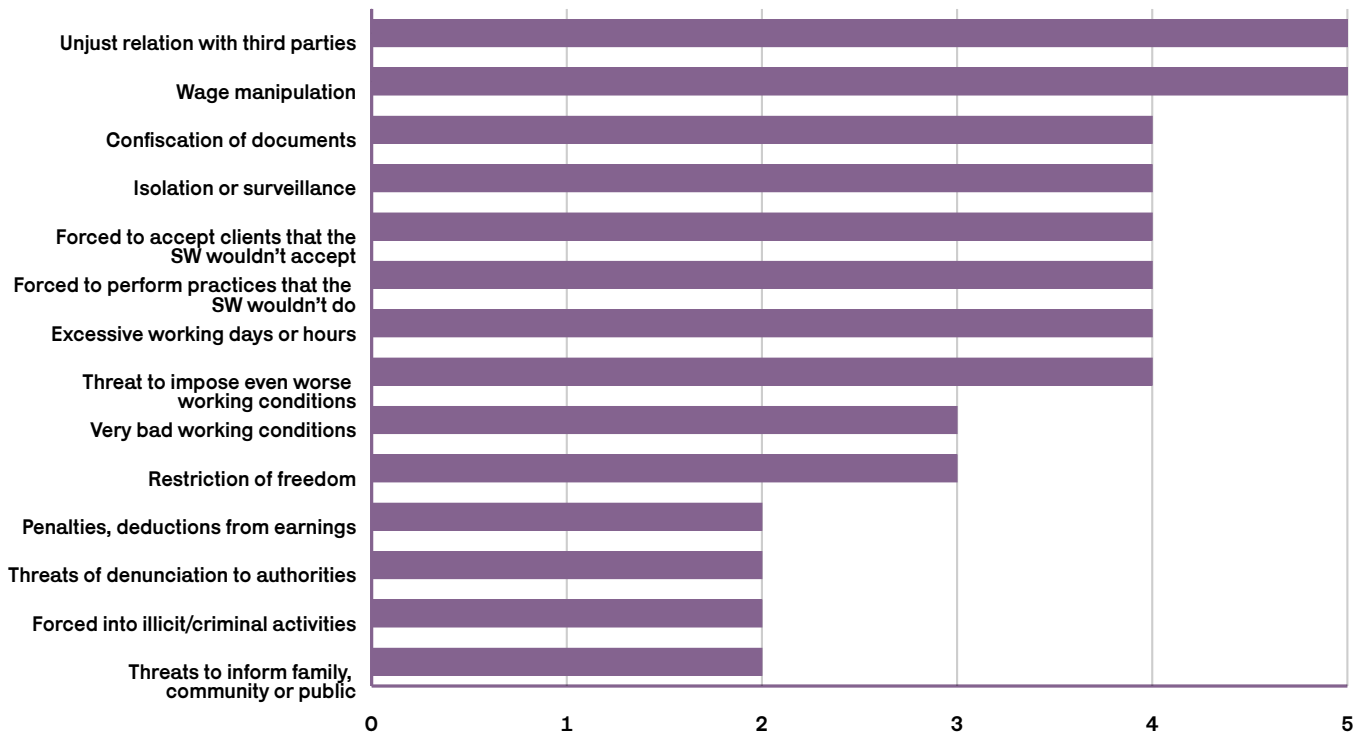
9 collected cases have been categorised as labour exploitation, forced labour, and human trafficking. Crimes in this category are committed by third parties in the sex industry—employers or managers.

In practice, labour exploitation in the sex industry is referred to as ‘sexual exploitation’. This simplified categorisation, however, does not serve sex workers’ interests and masks the complex realities of work relations in an often criminalised and not recognized industry. Thus, for the purpose of this report, we apply more nuanced subcategories of third-party misconduct that could be used to detect labour exploitation, forced labour, and human trafficking in any other sector as well. We understand exploitation as situations that deviate significantly from decent working conditions, particularly concerning remuneration, working hours, leave entitlements, health and safety standards, and decent treatment. Through this lens, forced sex work falls under forced labour.¹⁶

7 cases recounted in this report have likely amounted to human trafficking, as defined in the Palermo Protocols, the Council of Europe’s Anti-Trafficking Convention, and the EU’s Anti-Trafficking Directive (see more on these policy instruments in the ‘Policy context’ chapter).

16) The notion of “forced or compulsory labour” under Article 4 of the European Convention of Human Rights aims to protect against instances of serious exploitation, such as forced prostitution. See: European Court of Human Rights (ECtHR), “S.M. v. Croatia”, No. 60561/14, 19 July 2018, par. 300, <http://hudoc.echr.coe.int/eng/?i=001-184665>.

Figure 7. Labour exploitation/human trafficking indicators



“ I was working in Europe undocumented, I was brought in by a ‘friend’ who took my passport once I was in Europe. For years I was working for that person, who used to drug me, beat me, and take most of my money. I was terrified by this person, because he threatened me if I didn’t cooperate he was going to call immigration and get me deported. ”

Sex worker, The Netherlands

In addition to the categories listed in Figure 7, respondents frequently reported threats to harm one’s family in the country of origin. Some interviewees from West Africa also mentioned having experienced rituals that were used to control them and to force them to accept full subordination until they would have completely repaid the debts imposed on them.

“ After some time working in Russia, I went to meet my boss, because I wasn’t able to complete the amount of the money; she wanted me to go to any other European country. When I was forced in[to] prostitution in Nigeria, because of the security, I couldn’t run away, so I decided that I will go to any European country where I can work and pay for her. I need to take another oath, even stronger than the first one I took before going to Russia

Sex worker, France

• A former friend who sponsored my arrival in Italy gradually turned into a manager who demanded €800 per week from me. The agreement was that I would pay back travel costs. This ‘friend’ insulted me, controlled my movements, [and] threatened to report me to the police and harm my mother. Knowing I was an irregular migrant, this friend wanted to take advantage of my condition. This situation lasted 6 months. When I applied for asylum due to the critical political situation in my country, I briefly mentioned this incident but did not want to emphasise it. I really didn’t want to be identified as a victim of trafficking, nor was I willing to report my trafficker due to serious threats that he will harm my family back in my home country.

Sex worker, Italy

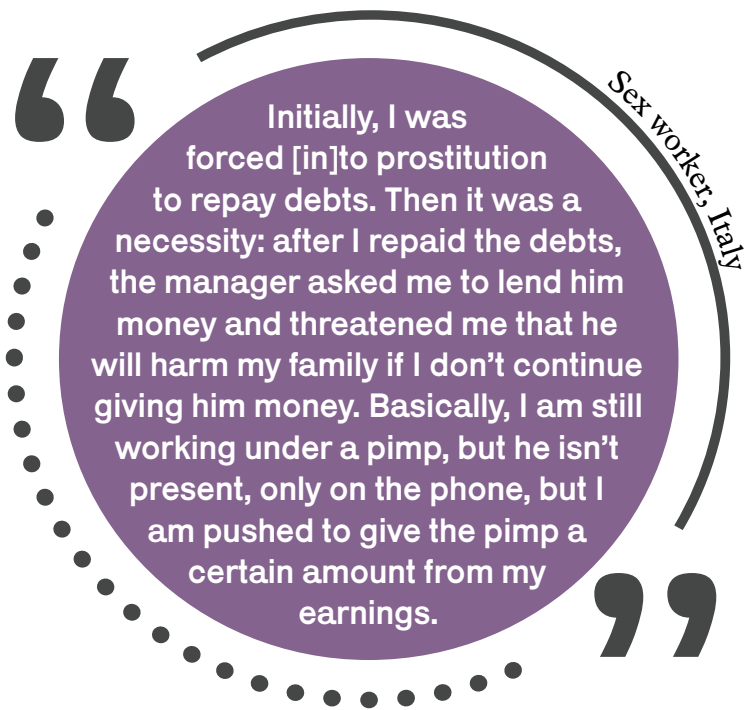
Debt bondage is when someone is forced to pay off a loan by working for an agreed-upon or unclear period of time for little or no salary. The work performed to pay off the debt greatly exceeds the amount of the initial loan.¹⁷ According to the ILO, half of all forced labour victims are affected by debt bondage.¹⁸ It is also one of the most common methods to exploit victims of human trafficking. Debt bondage, or bonded labour, is a form of coercion and psychological control.

The causes of coercive practices, such as debt bondage, are embedded in a context of restrictive migration and labour policies. In an environment with strict control of migration and work in a destination country, relying on the services of brokers and intermediaries who can facilitate irregular migration and work is often unavoidable for migrant sex workers. This dependence is one of the factors that increases their vulnerability to exploitation and human trafficking.

17) International Organization for Migration (IOM), *Fact Sheet on Debt Bondage in Human Trafficking*, 11 January 2017,

<https://iomx.iom.int/sites/default/files/resources/associated/debt-bondage-human-trafficking.pdf>.

18) International Labour Organization (ILO), *Global Estimates of Modern Slavery: Forced labour and forced marriage*, 19 September 2017, https://www.ilo.org/wcmsp5/groups/public/---dgreports/-dcomm/documents/publication/wcms_575479.pdf.



As evidenced in this section of the report, violence against migrant sex workers takes many forms and is highly impacted by various factors such as legal frameworks governing sex work and migration. Furthermore, contrary to the definition of prostitution as violence against women and its conflation with human trafficking, migrant sex workers of all genders can experience various forms of violence and exploitation. Human trafficking must be understood as part of this continuum of violence, wherein the prostitution and migration policies often compromise sex workers abilities to protect themselves from violence and contribute to increase their vulnerabilities to violence, exploitation and human trafficking.

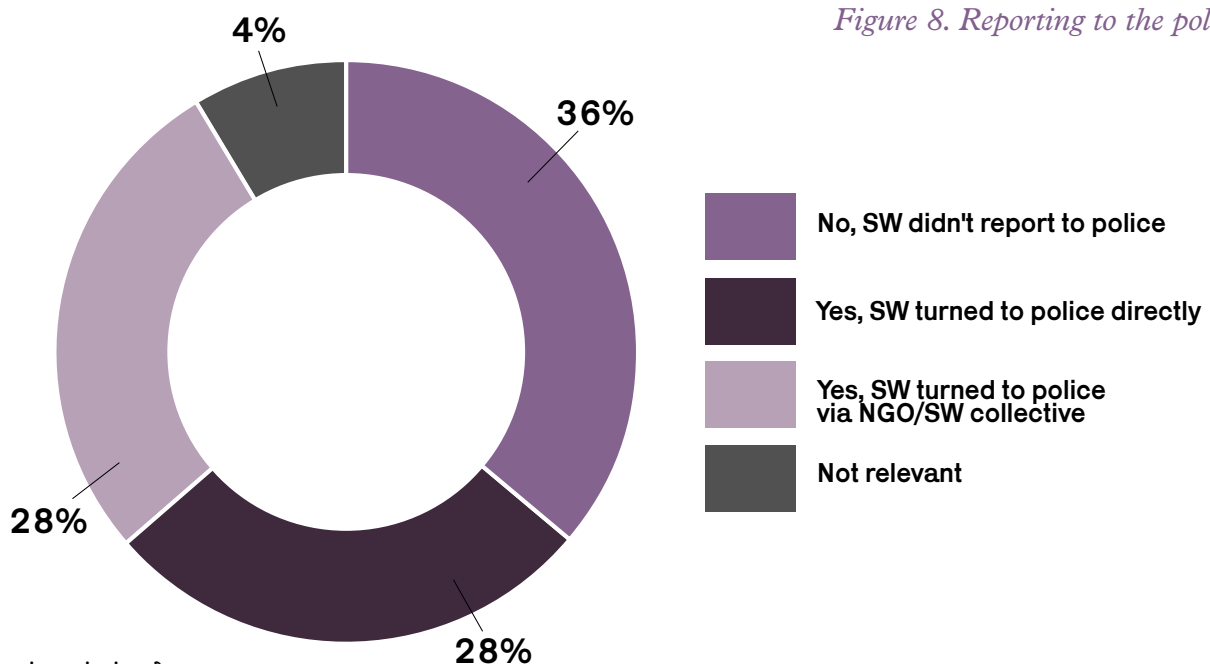
Reporting: the entry point to accessing justice

The evidence collection primarily focused on the initial stage of accessing justice, namely reporting crimes to authorities, with the aim of examining enabling and disabling factors in this process. Therefore, this report does not examine the various challenges surrounding victim involvement in trials and court proceedings. We acknowledge, however, that later stages of the criminal justice processes are equally important. Assessment of court proceedings could provide invaluable insight and findings that could lead to improving the criminal justice system for migrant sex workers.

As indicated in the title of this chapter, reporting can be seen as an entry point to the actual realisation of victims' rights as enshrined in the EU Victims' Rights Directive or the Istanbul Convention on violence against women (see more on these instruments in the 'Policy context' chapter). The sex workers interviewed for this report fell into two categories: those who turned to authorities and reported crimes to the police and those who did not report incidents. Where the first group was concerned, we sought to examine their experience in reporting the incident, i.e. the results of their reporting and their overall impression of the process. Where the second group of interviewees was concerned, the main goal was to analyse the reasons, or disabling factors, that led sex workers to decide not to report incidents to the police.

Figure 8 presents the numbers of cases where sex workers have been willing to report the incident they experienced and the ways they approached authorities (directly or via intermediary organisations). The "not relevant" category represents cases where incidents were related to behaviour that does not constitute a crime.

Figure 8. Reporting to the police



Experience of reporting crimes to the police

Project respondents' experiences of reporting—either directly or via NGOs or sex worker collectives—were very diverse. It is important to note that in half of all cases included in this report for which a report was filed, sex worker groups facilitated access to police and assisted sex worker victims with reporting. Several interviewees highlight the general indifference of the police towards sex workers at the time of reporting. In most cases, no attempt was made to refer victims to adequate services. Both the Istanbul Convention as well as the Victims' Rights Directive (see the 'Policy context' chapter) stipulate the obligation that authorities, upon receiving complaints, must facilitate referrals to victim support agencies, and that the provision of support should not be dependent on the victims' willingness to make an official complaint.

Even sex workers who had had positive experiences with the police emphasised the structural barriers to filing complaints because of their residence status.

“.....
I managed to escape outside, met people who knew me, and called the police. They arrived, spoke to me, and defended me. They respected me, asked me where I came from, I said Venezuela. They asked me if I had any papers, I said no, where I lived, and if I work. They told me to be very careful because it was very dangerous, they understood the situation but they could not do more because as I had no papers, I couldn't file a complaint. Because I didn't have paper, if I had gone to the police station, they would have arrested me. Most of the time, the police intervene only to separate, and often, the time when they intervene, the aggressor runs away. That's why I always work near my home, I'll never work in the 'bois' (woods). Where I work, the police go around, and when there is a problem, I call them. Whenever I had a problem, the police helped me. But if they catch the person, they don't do anything to them, they let them go; they talk to them saying 'go ahead, leave her alone, let her work, if you come back we'll take you to the police station'. But in fact, it is not effective, the person is never arrested or prosecuted.

Sex worker, France
.....

Evidence also shows that sex workers' fear of receiving punishment instead of support from authorities is well-founded. Sex workers are often not viewed as 'ideal or deserving victims' but to the contrary: as 'deserving' violence for the line of work they are engaging in. The below examples illustrate the lack of respectful, sensitive, and non-discriminatory treatment.

“ I have been physically assaulted and threatened with kidnap[ping] by one man, and another man put his hands around my throat. On one of these occasions I called the police but again I was just told to go home. Hours before I was threatened, two plain clothes officers tried to arrest me for prostitution. When I told them about the threats I was told to go home. I was terrified to go back onto the streets where the men are but I have to work. I had the name, license plate, and photos of all three men. I was put off from giving this information to the police because they aren't interested in pursuing these violent men and instead have threatened me with arrest. With the ECP [English Collective of Prostitutes] I reported the violence to the police via a Member of Parliament.

Sex worker, UK

Well, first their car comes. And they ask you to go to the station the next day to testify. The next day at the police station, the officers looked bored of me. They told me these things happen regularly and they cannot solve them all. They said that they would do all they can, but I could read from their body language the indifference, not being interested at all in my case. They called me they said they would contact me to go and testify if I recognise the suspect, in case they catch him. But of course they didn't find him, I think they simply closed the case and that's it. This is what usually happens... it didn't lead to court proceedings, and it didn't help either (reporting).”

Sex worker, Romania

.....

As soon as the men left I called the police. When they arrived, officers asked questions about how many clients we had. A few days later I received a letter threatening me with prosecution for brothel-keeping. I tried to give a formal statement about the attack lots of times but was ignored by police until a journalist, organised by the English Collective of Prostitutes, started asking questions. Police have refused to take photographic and other evidence. Five weeks after the attack I received a deportation letter on the grounds that I was 'not a genuine visitor to the UK'. My deportation order was only stopped after the ECP campaigned with me.

Sex worker, UK

I called the police to report the events, but they didn't come. Also, because I don't really speak French, police officers don't understand what I explained. When I came to the police station to report directly, they just took my name but didn't do anything else, so it was not an official complaint in [the] Belgian system.

Sex worker, Belgium

The police thought that the client was right. It resulted in a criminal case but against me. I was in jail for 6 months for physical injury for hitting the client with my heels when I was defending myself.

Sex worker, Romania

Reporting of the alleged trafficking cases were evaluated positively by the interviewees. Our assumption is that law enforcement officers are better aware of protocols on assisting trafficked persons than victims of gender-based violence or other crimes. A report from the Fundamental Rights Agency also suggests, that among the few drivers that led exploited migrant workers to report crimes was the possibility of being recognised as a victim of human trafficking.¹⁹ Generally, the legal position of victims of human trafficking is relatively stronger than the one of other crime victims. Recognition as a victim of human trafficking provides one with somewhat better chances to be heard, treated professionally, referred to specialised services, have access to legal assistance, and, in some cases, to be issued a residence permit. Again, it is clear from the evidence collected that the help of NGOs who are trusted by the trafficked persons plays a crucial role.



.....

In 2017 I was on the verge of a nervous breakdown, I confided to another sex worker colleague what was going on. My friend took me to P&G292 (Centre for Prostitution and Health in Amsterdam), where I was reluctant to tell my story. I was offered by the social workers at P&G292 to find me a shelter but I was in so much fear I couldn't do it. I went back to the place where I was living/working and stayed there for a few days. Finally, one night, I contacted the social worker, stating I couldn't stand being there anymore. The social worker waited for me in a place where we both agreed upon, from there I was taken to a shelter. Next day, we went to the police to file a report. The police unit was very understanding of my case. Later, I was transferred to a safe house in the country, where I stayed for a few months. I was given protection by the Dutch state, and now I live in a safe place.

Sex worker, The Netherlands

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I contacted an NGO who did outreach work in order to escape from dire labour exploitation. I met them during the health outreach, but then the outreach got my trust and I revealed my story. The NGO referred me to the emergency shelter of an anti-trafficking NGO out of the Milan region. When I moved to another region, the specialised NGO helped me to press charges against my pimp.

Sex worker, Italy

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When we arrived in Greece, the human traffickers released me. Then, without knowing Greek language or Greek laws, I submitted a complaint against my trafficker about drug dealing. Finally, police arrested the criminal for drug dealing and the judge sentenced him to 18 years in prison.

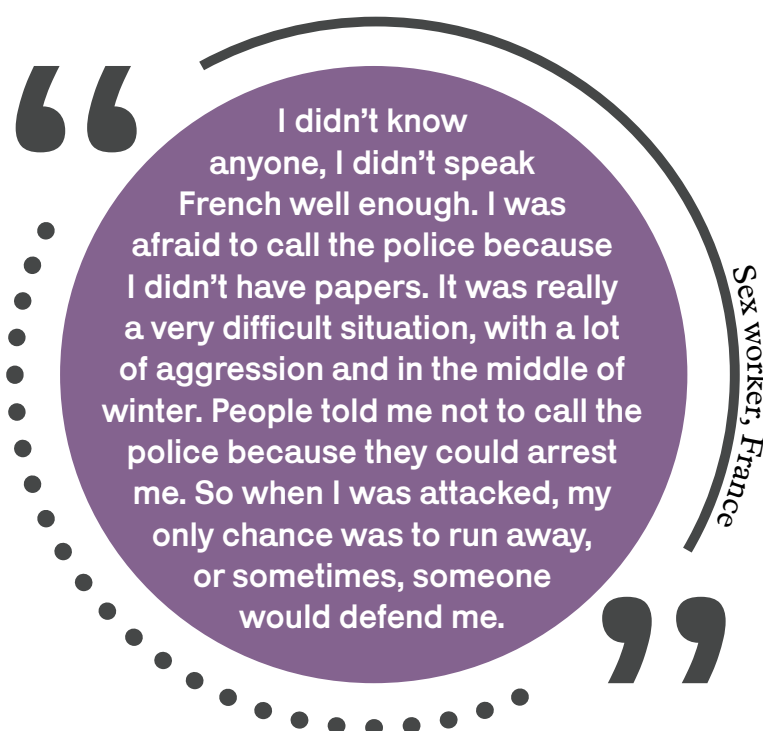
Sex worker, Greece

19) European Union Agency for Fundamental Rights (FRA), *Protecting Migrant Workers from Exploitation in the EU: Workers' perspectives*, 25 June 2019, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-severe-labour-exploitation-workers-perspectives_en.pdf.

Decisions not to report crimes to authorities

Undocumented migrants face various obstacles in reporting crimes as they often refrain from approaching police out of fear of being detained and deported due to their residence status. Undocumented migrant sex workers face additional barriers to reporting given that they are working as sex workers, for which they could be further penalised or criminalised.²⁰

Perpetrators targeting migrant sex workers are often aware of their vulnerability. According to a 2017 study from the UK, the proportion of migrants among murdered sex workers is on the rise, suggesting that offenders specifically target this group “because of their potentially increased vulnerability”.²¹



In addition to migrant sex workers' migration status preventing them from reporting crimes committed against them, the fact that sex work remains criminalised or penalised represents another key disabling factor. Victim support and reporting policies need to be designed in ways that allow sex workers to file reports and seek help without the risk of receiving fines, evictions from their homes and working areas, or prosecution for brothel-keeping while working together for their safety. Sex workers who are victims of crime usually consider all these circumstances and their possible consequences of their reporting, as our evidence suggests.

20) Platform for International Cooperation on Undocumented Migrants (PICUM), *Safeguarding the Human Rights and Dignity of Undocumented Migrant Sex Workers*, September 2019, <https://picum.org/wp-content/uploads/2019/09/Safeguarding-the-human-rights-and-dignity-of-undocumented-migrant-sex-workers.pdf>.

21) T Sanders *et al.*

“

I wanted to file a complaint, but I didn't know how to do it. I'm afraid of putting the owner of my apartment in trouble. I'm afraid of losing my apartment. That's it, you see, there are a lot of things to watch out for, and now many women who work on the internet in cities outside of Paris are often victims of assault and theft. I have heard an increase in violence against us women, sometimes we have the impression that they are targeting us.

Sex worker, France

”

“

I was afraid and ashamed of going to the police about the situation because I don't know if it's okay legally to be an escort.

Sex worker, Ireland

”

Among the cases of alleged human trafficking, testimonies of victims confirm how threats from the offender prevent trafficked persons from reporting crimes. In contrast to many other crimes, the cases of human trafficking involve continual relationships with offenders that deter victims from approaching authorities.

“

In Russia, you can't even report the client to the police, because the company you work for, they pay the police not to arrest them... And the Madam said that they can kill you, nobody would ask [any questions]. I was afraid of the police, because of the oath I took in Nigeria. I can't do anything, I can't even speak about my situation to anybody, because I made an oath that I don't reveal any secrets about that situation. Because this was my first trip (to Russia), I didn't report. I was able to run away from Paris with the help of a client.

Sex worker, France

”

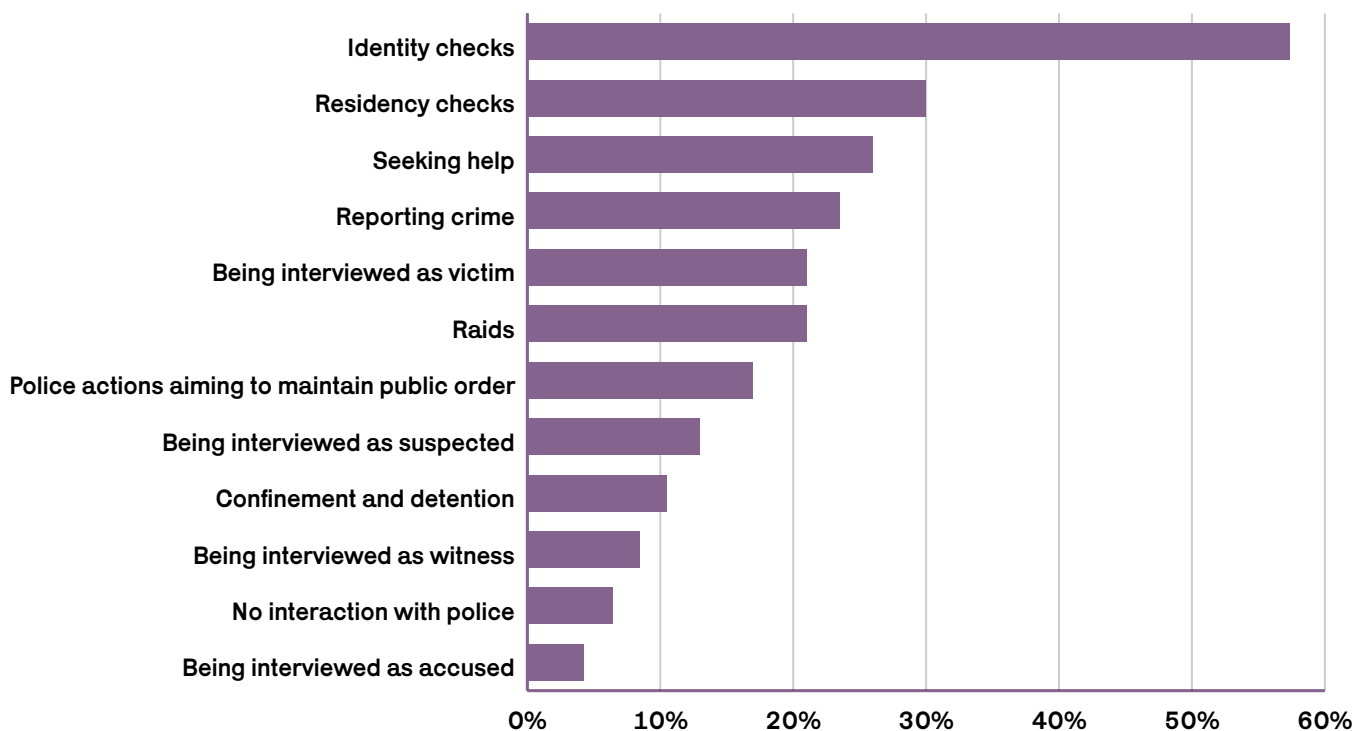


Enabling factors of reporting to the police	Disabling factors of reporting to the police
<ul style="list-style-type: none"> ■ Involvement of sex worker collective or trusted NGO that encouraged or facilitated reporting ■ Trust and knowledge of and good experience with police officers; police committed to protecting sex working communities ■ Knowledge that revealing one’s sex worker status would not be used against them ■ Situations in which the fear of offenders became greater than the fear of negative consequences of calling the police 	<ul style="list-style-type: none"> ■ Fear of the consequences of reporting as an (undocumented) migrant: detention and deportation ■ 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 ■ Fear of negative consequences of reporting for others: co-workers or apartment owners fined or prosecuted for third-party offenses ■ Previous negative experiences with and general distrust towards police

Interactions with the police

Police surveillance as well as gender and racial profiling are daily realities for many sex workers, especially for migrant, trans, and street-based sex workers as well as sex workers of colour. The majority of sex worker interviewees interacted with police during identity checks (57%), followed by residency checks (30%), which indicates high levels of surveillance and profiling impacting the community. The targeting of sex workers not only occurs at their workplaces, but also outside of them, as illustrated by several cases collected. As a result, many migrant sex workers are afraid to leave their homes and workplaces. Such police harassment usually leads to a complete loss of trust towards the institution of the police.

Figure 9. Circumstances in which a sex worker encountered police.



“ Once I went to buy food items in Chateau Rouge. When I was coming out from the store, the police came, they said ‘Madame, papiers’. I told them I had no documents. Once inside the police van, they went right to the police station, then they took me to Cité [Paris Police Prefecture] and they put me in [a] detention camp. I was like, ‘This is quick’. That’s why I don’t want to go to the police station, no matter what. I took a private lawyer. I paid a lawyer. I just stayed four days. Mind the police. Especially in Paris, because they harassed me. They are so difficult.

Sex worker, France

I undergo identity checks regularly. This interferes with my work, as I have to stop working and follow policemen to the police station several times a day. This puts both a great psychological and financial pressure on me, since I can work less days and I feel like I’m being treated like a criminal.

Sex worker, Greece

.....

Policing affects me immensely, because once they know me, everywhere I would go they would follow me, stop me without reason, check my ID. Simply because they know I am a sex worker and I have been in the police station before. I don’t feel safe to walk on the street with my family, my mother, because at any given time, the police could stop me and ask for my ID and out me as a whore, and many more things. For instance, I don’t have any protection. I am afraid to go to the police station and report an incident because I know that by default the officers will use male pronouns, invalidate my gender identity, will not take me seriously, will treat me with indifference. This is a vicious circle that affects my personal life daily.

Sex worker, Romania

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The other most prevalent circumstances of encountering police are related to seeking help (24%), reporting crimes (22,5%), being interviewed as a victim (21%), police raids (21%), and police actions aiming to maintain public order (16%).

“ The experience from the police who raided the premises in response to two hoax calls was not good. The police were rude and asked us questions about how many clients we see and how much we charge. They also threatened us with closure even though they say they are concerned about underage and trafficked women, and none were found. ”

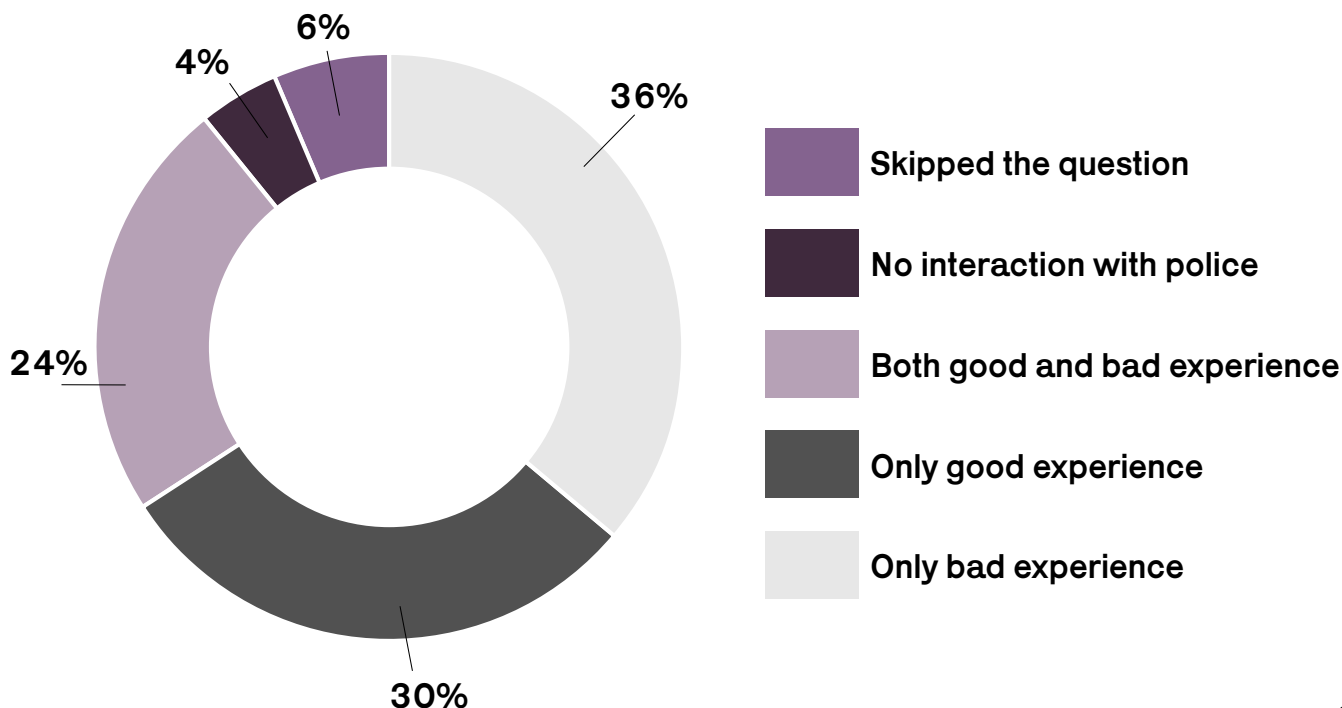
Sex worker, UK

Police raids in the context of anti-trafficking measures—as illustrated in the above example—may result in sex workers being evicted from their homes or workplaces onto the streets where their exposure to violence may be even greater. Nine out of ten countries in our evidence collection do not penalise selling sexual services, but criminalise, to different degrees, soliciting, brothel-keeping and/or the purchase of sexual services. Non-sex work laws, such as traffic regulations, regulations related to public morality and public order, or petty offenses are also evidenced to be routinely used against sex workers.

“ The same police officer, who knew me by name, arrested me each time. I have been stopped by the police on many other occasions. The first time I was arrested I pleaded guilty, desperate to get out of the police station because I was due to go back to Romania the next day to see my child. After the second time, with help from the ECP, I fought and won against a charge of loitering and soliciting. I was arrested while walking down the road with a friend and the police used the fact that my friend had condoms on her as a reason. The police asked me if I take drugs, drink, or if I have mental health problems. I was advised that the arrest may not be legal because the police had not issued two prostitute cautions as required and the ECP organised a lawyer for me. *Sex worker, UK* ”

Figure 10 presents sex workers’ perceptions of their experiences with police. Whereas 17 respondents (36%) report only negative experiences, 14 respondents (29%) claimed to have only positive experience, with 11 respondents (23%) reporting both positive and negative experiences.

Figure 10. Evaluation of experiences with police



In most cases, when sex workers evaluated their experience with police as “positive”, they highlighted the sympathy and understanding of an individual police officer and the accompaniment of NGOs when approaching authorities and reporting crimes.

“ I believe I was treated better than I would be, because the police came with persons from [Dutch Union for Sex Workers] PROUD. That’s why they approached me more respectfully. ”

Sex worker, The Netherlands

Some respondents expressed their concerns with the way they were treated and infantilised by authorities. The following two examples from the Netherlands, where sex work is regulated, points to the fact that sex workers remain stigmatised due to their work, which impacts their treatment by the police.

“ Treated like a victim. I was made to feel as if I was a victim, especially when persons from the police kept asking my husband why he allowed me to do sex work as if I was a property of him. ”

Sex worker, The Netherlands

“ The police made me feel like a victim. When police checks the venue, it gives me the feeling that they perceive me like a child. ”

Sex worker, The Netherlands

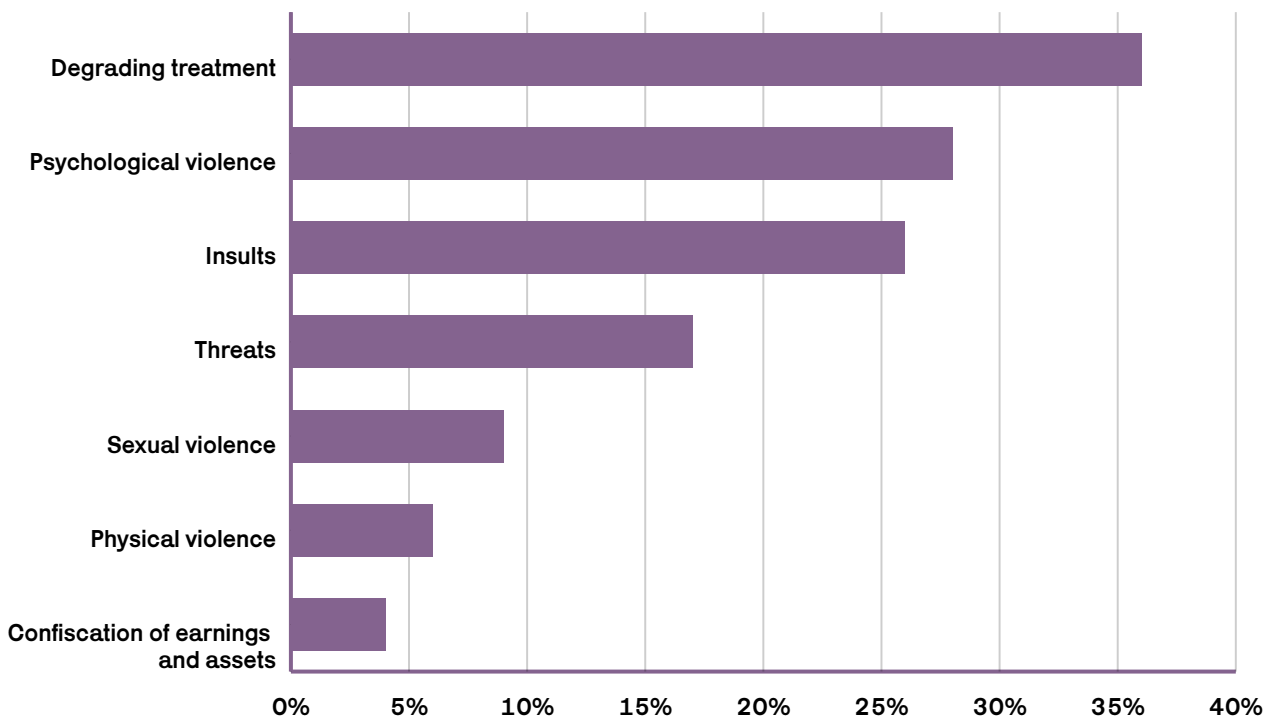
The following case illustrates how sex work laws that criminalise clients and brothel-keeping are used to produce ‘victims’ and prosecute owners of properties if these are leased to sex workers. Such criminal charges can then later be reflected in statistics and presented as ‘success stories’ of fighting violence against women. These laws adversely affect sex workers by exacerbating their vulnerabilities to homelessness through evictions from their homes and pushing them onto the streets from their established workplaces.

“

The police arrived with the idea that we are victims of pimping. They took us to the station for an interview, and the police want[ed] us to leave the apartment. For them it is an offense for an owner to let us do sex work in her apartment. ... They blackmail the person who rented us the apartment, because if she does not ask us to leave the place they will prosecute her for pimping charges. But those who are harmed are us. Because the landlord will be able to rent to someone else with a normal contract, and the police will have done their job. They use us to bring the charge of pimping. Which is not true because we have never experienced any abuse from the owner. The only thing is that she rented us the house but without a rental agreement. So they think that the owner exploits us and takes our money.

..... *Sex worker, France*

Figure 11 below details various types of sex workers' negative experiences with the police.



Stereotyping, stigma, and gender bias have far-reaching consequences on sex workers' access to justice and can discourage sex workers from approaching the police while seeking help. The below cases show 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 in degrading and humiliating ways. It is also evident from the interviews that sexism, anti-sex workers bias, racism, and transphobia are still integral attitudes of many police officers who migrant sex workers interact with.

“

When they took me to the police station they were saying ‘Whore! Whore! Whore!’. I was kind of like ‘What?!’ They would say ‘Oh, you are a prostitute, you work in Chateau Rouge, I know you, I know you!’. I was like ‘Jesus!’. They were like shouting. When I asked them [if I could] go to the toilet, they said there is no toilet, I have to wait until getting to immigration detention. I said ‘Ok, no problem, I need my phone’, they said ‘For what?’. I didn’t have my phone to call my family and tell them that I was arrested. I told the lawyer that it’s really bad that when they detain you, they don’t give you your phone. They were so rude to us.

Sex worker, France

Overall, I had negative experiences with the police: they kept invalidating my gender identity, kept having a degrading tone and behaviour towards me. The police insisted on asking me questions that had nothing to do with me reporting the theft incident. The questions were invasive, related to my gender identity, what kind of services I offer, if my clients are active or passive, and so on.

Sex worker, Romania

In another incident, a police officer confiscated condoms, a practice which has been condemned by numerous human rights groups.²²

“

Addressing me with male pronouns, asking me if there is a dick between my legs, and so on. When they take you to the station for fingerprints, they just take you off the street, take your purse, your phone, everything, and lock you up in a cell with regular inmates. They confiscated all my condoms. My money, no. Usually they seize condoms in order to make you stop working. But anyway, I would immediately go and buy new ones. But they kept doing that anyway, more as a sign of disdain and disrespect. And they were very disrespectful towards me for also being a Romanian, and a ‘Gypsy’. The police are the same everywhere, they are not better in Romania either.

Sex worker, Romania in Italy

In the sample of our evidence collection, four respondents reported having experienced sexual assault by police officers. However, these respondents did not provide further details on these instances of violence, therefore further research should focus on sexual violence committed by police against sex workers.

22) See, for instance: M McLemore *et al.*, *Sex Workers at Risk: Condoms as evidence of prostitution in four US cities*, Human Rights Watch, 19 July 2012, https://www.hrw.org/sites/default/files/reports/us0712ForUpload_1.pdf; A Shields, *Criminalizing Condoms: How policing practices put sex workers and HIV services at risk in Kenya, Namibia, Russia, South Africa, the United States, and Zimbabwe*, Open Society Foundations, July 2012, <https://www.opensocietyfoundations.org/uploads/77d576b0-41b0-45d8-ba72-afae15438e50/criminalizing-condoms-20120717.pdf>.

Sex workers' views of policing

Sex workers face violence because of the stigma associated with sex work, widespread criminalisation of their work, poverty, and/or due to discrimination based on gender, race, HIV status, drug use, or other factors. Data is however very scarce on specific patterns of this intersectional violence targeting sex working communities in Europe, and is even more sporadic on migrant sex workers' experiences of seeking justice and support.

As this report illustrates, a crucial factor in accessing justice is the relationship with police. For (undocumented) migrant sex workers, this relation is often conflicting as they are seen as criminals violating immigration and sex work laws instead of being perceived as victims when suffering incidents of violence and abuse. Even though individual police officers can leverage some support for those who suffered crimes, as exemplified by several sex worker testimonies in this report, they cannot compensate for the failures of criminal justice systems that are generally biased against women, trans and gender-nonconforming people, migrants, people living with disabilities, poor and working class people, and Black people and people of colour.

In the present study, sex worker interviewees gave very diverse answers in relation to their experiences with police and how policing affects their life, depending on various factors, in particular legal frameworks pertaining to sex work and migration in their respective countries. Responses indicate a common agreement that police needs to be more responsive to sex workers' reporting and more accountable to protect sex workers from violence and crime.

“ Although it is hard for a sex worker to trust the police, policing is important and necessary as law enforcement may protect sex workers and eventually identify victims of trafficking. ”

Sex worker, Italy

“ The cops don't come quickly because they are saying 'we are not enough'. Also, I think, they are scared about urban gangs. One of their first question when sex workers call them is whether the assailant is Moroccan or African. ”

Sex worker, Belgium

“

.....
In Belgium, on my first day, I stood in the [prostitution] window for one and a half hours when the owner told us to go out, the police is here. But the policemen didn't communicate a thing with us, they only talked to the owner in French or Flemish. It wasn't even the policeman who asked for my ID and documents, I had to give them to the owner, and he has shown my papers to the policeman. They had told us before that the police can check the rooms and places anytime, but they cannot look into our purses, so they asked us very strictly to keep the condoms and all there... so they knew the loopholes and all. It was quite [a] frightening thought. I didn't have any chance to talk to the police but through the owner of the place. If there would have been any serious problems, I couldn't have asked for help, I couldn't have stayed in private with the police.

..... *Sex worker, Hungary*

Managed Approach in Leeds (UK)

Managed Approach (MA) is the term used to describe the partnership approach addressing the issues related to street-based sex work in Leeds. 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. It was this, along with concerns about the vulnerability and safety of women selling sex on the street, that led to the introduction of the Managed Approach in 2014.²³ Five years later, in 2019, the University of Huddersfield team was tasked with investigating 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.²⁴

23) Safer Leeds, *Managed Approach in Leeds*, Leeds City Council, n.d., <https://www.leeds.gov.uk/saferleeds/managed-approach>.

24) G Morris, "Positive Leeds Red Light Zone Review Says Managed Approach Should Continue", *Yorkshire Evening Post*, 10 July 2020, <https://www.yorkshireeveningpost.co.uk/news/politics/positive-leeds-red-light-zone-review-says-managed-approach-should-continue-2909540>.

Many answers from our respondents reflect that sex workers purposely avoid contact with police. Policies that lead sex workers to hide from police exacerbate their vulnerabilities to violence, as it pushes them out of sight of the public, prevents them from screening clients, leads them to hurried negotiations, and does not allow them to work together for their safety. The following examples point to the harmful effects of the overpolicing of sex work and the inherent lack of police accountability to (sex working) communities.

“

I had to move where I worked many times because of the police arresting and harassing me. I tried to work with my friend on the street but we were targeted by the police. I couldn't get justice for threats of violence so I had to deal with the situation myself and move to an area I didn't know so well. I know a lot of women who have been threatened with deportation because of this work. I have helped translate for women who want to appeal their deportation letters and make the case that sex work is work.

Sex worker, UK

”

“

I had no support from the police. Was not taken seriously. I felt that was nothing but a play. I felt they were corrupt. It affects so much my life that I can't even measure. My whole life is affected by policing and how absolutely horrible their treatment towards prostitutes is. Police does nothing but make me unsafe and afraid. Speaking about how this affects me seems like a joke when my whole life is permeated by bad policing.

Sex worker, Ireland

”



The National Police Chiefs' Council's 'Sex Work Guidance',²⁵ introduced in the UK, offers practical advice to those front line police officers dealing with sex work-related issues. The guidance recognises the complex nature of sex work and prostitution and aims to prioritise safety and address vulnerabilities of sex workers. It also encourages police officers to build relationships and understanding with sex working communities. As such, the Guidance can serve as a good example of formal policy that governs policing in the relation to sex work. However, as the testimonies from the UK show, the introduction of the Guidance was not properly implemented. This confirms once again the need to not only introduce internal policies, but to also hold police officers accountable for any misconduct and unfair treatment of individuals. The lack of accountability is disrupting the community trust to police and fosters resentment. Trainings to sensitize front line police officers and raising awareness about sex workers' rights and violence against sex workers as gender-based violence could complement policies that prioritize sex workers' safety, but can do little if there is a lack of accountability of police to the very communities they aim to serve.

The following testimonies reflect migrant sex workers' perceptions of policing. For many migrant sex workers, policing constitutes a high risk of being detained and deported and is almost always perceived as negative.

25) ACC D Vajzovic, *National Policing Sex Work and Prostitution Guidelines*, National Police Chiefs' Council (NPPC), January 2019, <http://library.college.police.uk/docs/appref/Sex-Work-and-Prostitution-Guidance-Jan-2019.pdf>.

“

Policing is no way good whatever the reason. The police never believe sex workers, no matter what, even when a sex worker has their papers. It's even more difficult if the sex worker has no papers as they get discriminated. Even in cases where the sex worker is the victim of an aggressive client, the police hardly believe the sex worker. Although in my country of origin corruption and insecurity is rampant, in Italy, migrant sex workers are discriminated. I feel much safer since I have been living in Italy but I am aware of the fact that there's much discrimination.

Sex worker, Italy

[Policing is] negative for migrant sex workers who are in an irregular situation. This condition leads them not to go out and to live with the fear of being deported. The most affected is the transgender population who are easily identifiable. In big cities the police stop them to check their papers. Migrant sex workers who are in an irregular position do not report because they fear deportation. This leads them not to report robbery or any aggression.

Sex worker, Italy

The Dutch 'Free In, Free Out' policy

This policy allows migrants with irregular status to enter into a police station to report a crime, whether as victim or witness, and be guaranteed to be allowed to leave freely without being arrested or held in custody. This policy first began as part of a local pilot project initiated by the police of Amsterdam Zuidoost, in collaboration with local migrant support organisations; later, it was also implemented in other Dutch municipalities. Finally, the practice was formally recognised as part of the official implementation of the EU Victims' Directive in the Netherlands and introduced as national policy in 2015. However, this policy is still not formally codified in national legislation—it was only mentioned in an official “explanatory memorandum”—and in practice, it is often merely referred to as a “gentlemen's agreement”.²⁶

Sex worker groups across the continent pursue a myriad of strategies to prevent and respond to gender-based violence against their communities, including for some of them working with the police. Some organisations, such as SZEXE (Association of Hungarian Sex Workers), have developed trainings and information materials for police officers to be better aware of the legal

26) RTimmerman, A Leerkes, and R Staring, *Safe Reporting of Crime for Migrants with Irregular Status in the Netherlands*, COMPAS and University of Oxford, September 2019, <https://www.compas.ox.ac.uk/wp-content/uploads/SR19-Netherlands-country-report.pdf>.

framework and its ambiguities when enforcing laws, while others, such as the sex worker union STRASS hold protests to emphasise the radical reforms that are needed to centre the safety of sex workers and migrants in policing and immigration procedures. Discrepancies between formal policies and their actual implementation has been also identified by UK-based NGO National Ugly Mugs, which works towards improving the safety of sex workers and facilitates the sex working population's access to justice. Developing learning exchanges where both police officers and sex workers can come together to discuss the impacts of policy and practice is the best way forward, as identified by National Ugly Mugs.²⁷

A collaboration between sex workers and police in New Zealand has resulted in a guide to help sex industry workers navigate the aftermath of sexual assault. What To Do: A guide for sex workers who have experienced sexual assault is believed to be the first pamphlet of its kind globally. The pamphlet provides advice on what sex workers could do immediately after an assault, how to support other people who have been assaulted, and tips on preserving evidence for forensic examination. It also includes a guide about the rights of victims of crime, what police could do to help, and what rights of sex workers are set out in the Prostitution Reform Act of 2003²⁸.

As this section of the report demonstrates, migrant sex workers face many obstacles when reporting crimes committed against them, such as the lack of trust in authorities and police and the fear “that from the victim, they will become an offender”.

This report, based on a small sample of interviews does not have the ambition to offer definite answers to the complex issue of policing and sex work. Whilst some sex workers and their organisations wishes to see better trained police that would respond professionally to their needs, others demand less or no police presence in their work places.

27) National Ugly Mugs (NUM), “Follow the Money”, n.d., <https://uglymugs.org/um/follow-the-money>.

28) New Zealand Prostitutes' Collective and New Zealand Police, What to Do: A guide for sex workers who have experienced sexual assault, December 2018, <https://www.nzpc.org.nz/pdfs/WHAT-TO-DO-A-guide-for-sex-workers-who-have-experienced-sexual-assault.pdf>; See also F Desmarais, “Police and Sex Workers Collaborate on Guide for Assault Survivors”, Stuff, 17 December 2018, <https://www.stuff.co.nz/national/crime/109401349/police-and-sex-workers-collaborate-on-guide-for-assault-survivors>.

Relations between the police and oppressed and criminalised communities, in particular working class people, people living in poverty, black people and people of color and migrants has been a crucial political debate for centuries and this issue has gained wider recognition in recent years thanks to the work of activists such as the Black Lives Matter movement. ICRSE will continue to engage with its members and other stakeholders to develop nuanced policy demands regarding policing and sex work.

- Stereotyping, stigma, and gender bias have far-reaching consequences on sex workers' access to justice and can discourage sex workers from approaching the police while seeking help.
- 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 in degrading and humiliating ways.
- Prior negative experience with police and lack of trust is often determinant in decisions whether or not to report crimes.
- Many answers from our respondents reflect that sex workers purposely avoid contact with police due to potentially being punished under prostitution policies and municipal by-laws.
- Responses also indicate that sex workers fear to be perceived as offenders deserving penalty by police, not as victims (of gender-based violence) in need of help.
- Policies that lead sex workers to hide from police exacerbate their vulnerabilities to violence, as it pushes them out of sight of the public, prevents them from screening clients, leads them to hurried negotiations, and does not allow them to work together for their safety.
- For migrant sex workers, policing constitutes a high risk of being detained and deported. Absence of a firewall between immigration enforcement and access to justice compromise the non-discrimination principle for undocumented migrant crime victims.
- Responses indicate a common agreement that policing needs to be more responsive to sex workers and more accountable to protect sex workers from violence and crimes.

Policy context

Despite policymakers' increasing recognition of violence against women and violence and harassment in the world of work as human rights issues, violence against migrant sex workers is frequently disregarded. Similarly, little attention is paid to what recourse is available for those who have fallen victim of crimes, and what role police play in ensuring the (at risk of crime) community's safety.

Sex workers form heterogeneous communities, in most European countries with an overrepresentation of 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 exposed to high levels of exploitation and violence.

In order to specifically address the situation of migrant sex workers, the evidence collected for this report was gathered predominantly from migrants selling sex, with a relatively high representation of women of colour and trans workers. As evidenced by testimonies in this report, the majority of crimes recorded were targeted at sex worker interviewees based on their sex worker and migrant status, but analysing the cases we also find that sex, gender, sexual orientation, and gender identity bias are also very likely to have motivated the respective perpetrators. Therefore, crimes against sex workers can be situated in various policy frameworks, such as through the lens of victims' rights, gender-based violence, and hate crime legislation.

Victim's rights policy frameworks

The majority of international and intergovernmental bodies are inconsistent in their recommendations on how sex work should be governed. However, an increasing number of mechanisms do address sex workers' victimisation from a human rights perspective. In its General Recommendation 19, the **United Nations Committee on the Elimination of all Discrimination Against Women (CEDAW)** called on states to report on their efforts to prevent violence against women who sell sex and to ensure they enjoy equal protection under the law against rape and other forms of violence.²⁹ Furthermore, in its General Recommendation 33 on women's access to justice, the CEDAW calls for states to abolish "discriminatory criminalization, and review and monitor all criminal procedures to ensure that they do not directly or indirectly discriminate against women", having expressed their concern that "women are also disproportionately criminalized due to their situation or status, for instance women in prostitution."³⁰

29) CEDAW, General Recommendation 19 (Violence against women), UN Doc. A/47/38, 1992, <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>.

30) CEDAW, General Recommendation 33 (Women's access to justice), UN Doc. CEDAW/C/GC/33, 2015, <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>.

At the regional level, the Council of Europe as well as the European Union have introduced legally binding frameworks to protect victims of crime, having defined specific provisions to protect victims of human trafficking and victims of gender-based violence/violence against women.

The **EU Victims' Rights Directive**³¹ established the minimum standards on the rights, support, and protection of victims of crime in the EU that apply to all victims in a non-discriminatory manner, regardless of their residence status. The EU Victims' Rights Directive includes the rights to access information, the right to support and protection in accordance with the victim's individual needs, and a set of procedural rights. For details on some key provisions of the Victim's Directive see ANNEX 1.

The Victims' Rights Directive is a key document covering all victims of crime in the EU that is accompanied by the **EU Victims' Rights Strategy (2020-2025)**.³² This instrument points to the shortcomings of the implementation of the EU Victims' Rights Directive by acknowledging that victims of crime still cannot fully rely on their rights in the EU. To address this problem, the strategy highlights—among its five priorities—the issue of effective communication with victims and a safe environment for victims to report crimes, and improving the protection of and support for the most vulnerable victims. The strategy also acknowledges the need to establish trust of disadvantaged and vulnerable communities towards public authorities and lists victims of gender-based violence and victims of hate crime, including Roma people, migrants, and the LGBTIQ communities among those vulnerable groups. It also explicitly acknowledges irregular migrant victims as a vulnerable category.

In addition to the EU Victims' Rights Directive, the EU has further adopted instruments that should respond to the needs of victims of particular crimes. In the context of this report, the 2011/36/EU **Anti-Trafficking Directive** complementing the Directive 2004/81 on residence permits for victims of trafficking, are relevant.³³ The Anti-Trafficking Directive considers it necessary for victims of human trafficking to be able to exercise their rights effectively and therefore establishes specific provisions regarding assistance, support, legal aid, non-prosecution, and non-application of penalties to the victims or access to compensation. The Directive 2004/81 on residence permits identified for the first time that undocumented migrants are often unwilling to report crimes out of fear of arrest and deportation. The Directive therefore introduced the

31) See Footnote 2

32) European Commission, *EU Strategy on Victims' Rights (2020-2025)*, 24 June 2020, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0258&from=EN>.

33) European Parliament, Directive 2011/36/EU on Preventing and Combating Trafficking in Human Beings and Protecting its Victims, 5 April 2011, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0036&from=en>; Council of Europe, Directive 2004/81/EC on the Residence Permit Issued to Third-Country Nationals Who Are Victims of Trafficking in Human Beings or Who Have Been the Subject of an Action to Facilitate Illegal Immigration, Who Cooperate With the Competent Authorities, 29 April 2004, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004L0081&from=EN>.

requirement of issuing residence permits for third country national victims of human trafficking.³⁴

The Council of Europe has also introduced an anti-trafficking convention: the 2005 **Council of Europe Convention on Action Against Trafficking in Human Beings** includes very similar provisions to the EU Anti-Trafficking Directive. An expert group was also established to monitor regularly how state parties of the Convention comply with its provisions, with consultation of civil society in respective countries.³⁵

Gender-based violence framework

The 2011 **Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, known as Istanbul Convention**, establishes standards on preventing and combating gender-based violence.³⁶ The legally binding instrument is based on the understanding that violence against women is a form of gender-based violence that is committed against women because of their gender or that affects women disproportionately. It is the obligation of the state to fully address it in all its forms and to take measures to prevent violence against women, protect its victims, and prosecute the perpetrators. For more details about some specific provisions of the Istanbul Convention, see ANNEX 2.

The EU signed the Istanbul Convention in 2017, concluding that the EU's accession of the Istanbul Convention is a key priority for the European Commission. The European Union's Gender Equality Strategy (2020-2025)³⁷ introduced strong references to the Istanbul Convention, and should the EU's accession to the Istanbul Convention remain blocked, the European Commission intends to propose measures to achieve the same objectives as the Istanbul Convention by including categories of gender-based violence among so-called "Eurocrimes".³⁸

34) Regarding the issue of residence permits for undocumented victims of crime, please see Alyna C. Smith and M LeVoy, *Insecure justice? Residence permits for victims of crime in Europe*, PICUM, 2020, <https://picum.org/wp-content/uploads/2020/06/Residence-permits-victims-of-Crime-FULL-REPORT.pdf>

35) Council of Europe, *Convention on Action Against Trafficking in Human Beings*, 16 May 2005, <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008371d>.

36) See Footnote 3

37) See Footnote 7

38) By extending the areas of crime where harmonisation is possible in accordance with Article 83(1) TFEU. See *Consolidated Version of the Treaty on the Functioning of the European Union, Part Three: Union policies and internal actions, Title V: Area of freedom, security and justice, Chapter 4: Judicial cooperation in criminal matters, Article 83 (ex Article 31 TEU)*, Official Journal 115, 9 May 2008, p. 80-81, https://eur-lex.europa.eu/eli/treaty/tfeu_2008/art_83/oj.

Violence against women as defined by Article 3 of the Istanbul Convention is a violation of human rights and a form of discrimination against women and means all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life.

Gender-based violence and violence against women are still often used interchangeably to denote types of violence where victims are targeted because of their gender or, in other words, because they belong to a certain social group specified on the basis of their gender, gender identity, or gender expression. Following from this definition, gender-based violence is often understood to bear many similarities with hate crimes. Some scholars argue that gender-based violence should be considered a form of hate crime.³⁹ The hate crime reporting website of the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) lists eight bias motivations, including sex-based bias, sexual orientation and gender identity bias.⁴⁰

Hate crime framework

Hate crime is a crime in which the victim is specifically targeted because of their characteristics, ascribed attributes, ascribed beliefs, or values such as race, religion, ethnic origin, sexual orientation and disability, amongst others.⁴¹

The EU Framework Decision on Racism and Xenophobia obliges member states' authorities to take into consideration any racist or xenophobic motivations underlying a criminal offence.⁴² Unlike the Framework Decision, which is restricted to racism and xenophobia, the Victims' Rights Directive refers to all victims of hate crime on an equal footing,

39) See A K Gill, H Mason-Bish, "Addressing Violence Against Women as a Form of Hate Crime: Limitations and possibilities", *Feminist Review*, vol. 105, issue 1, 1 November 2013, <https://doi.org/10.1057/fr.2013.17>;

See also E Pendo, "Recognizing Violence Against Women: Gender and the Hate Crimes Statistics Act", *Harvard Women's Law Journal*, Vol. 17, August 1994, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=556828.

40) OSCE/ODIHR, "Hate Crime Reporting", n.d., <https://hatecrime.osce.org>.

41) *Ibid.*

42) Council of Europe, *Council Framework Decision 2008/913/JHA on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law*, 28 November 2008, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A133178>.

regardless of the attribute invoked by offenders. The Victims' Rights Directive uses the terms "crime committed with a discriminatory motive" (Recital 56), "bias crime" (Recital 56), "hate crime" (Recitals 56 and 57), and "crime committed with a discriminatory or bias motive" (Article 22[3]).

The European Court of Human Rights (ECtHR) has indicated in its case law that hate crime differs from other crime in that it entails additional duties for the state related to unmasking the bias motivation of a crime. In this particular context, Article 14 of the European Convention on Human Rights (ECHR) is read as obliging states to render bias motives underlying criminal offences visible.⁴³ Hate crimes target people for who they are or are perceived to be. At the same time, hate crimes are message crimes, and the message of rejection and exclusion in each attack resonates throughout the community, from family members and those sharing an identity of the victim to neighbours, co-workers, and the public.⁴⁴

The Council of Europe's European Commission against Racism and Intolerance (ECRI),⁴⁵ and the aforementioned Office for Democratic Institutions and Human Rights (ODIHR)⁴⁶ monitor hate crimes and report regularly on gaps and improvements related to hate crime recording and data collection in Europe. These intergovernmental organisations' recommendations reflect a growing focus on a broader concept of hate crime, moving beyond racist, xenophobic, and religious bias motivation.

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.⁴⁷ 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.

43) See, for instance: European Court of Human Rights (ECtHR), "Nachova and Others v. Bulgaria", Nos. 43577/98 and 43579/98, 6 July 2005, <http://hudoc.echr.coe.int/tur?i=001-69630>; and "Stoica v. Romania", no. 42722/02, 4 March 2008,

<http://hudoc.echr.coe.int/eng-press?i=003-2279964-2451145>. See also: European Council, *Council Conclusions on Combating Hate Crime in the European Union*, 5-6 December 2013, https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/139949.pdf.

44) ODIHR, "ODIHR's Impact in 2019: Understanding gender, intersectionality and hate crime", 22 April 2020, <https://hatecrime.osce.org/infocus/2019-gender-intersectionality-and-hate-crime>.

45) Council of Europe, "European Commission against Racism and Intolerance (ECRI)", n.d., <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance>.

46) ODIHR, "Tolerance and Non-Discrimination Information System (TANDIS)", n.d., <https://tandis.odihr.pl>.

47) K Corteen Karen, "New Victimisations: Female sex worker hate crime and the 'ideal victim'", in M Duggan, *Revisiting the 'Ideal Victim': Developments in critical victimology*, Policy Press, Bristol, UK, 2018.



Conclusions and recommendations

The evidence collected for this community report demonstrates that respect, social inclusion, and protection from violence are still not a reality for a large number of sex workers in Europe, particularly when it comes to sex worker victims of crime. Although the report is of a limited scope and could only include responses from sex worker interviewees who were already in touch with civil society organisations, it provides clear evidence that sex workers are unable to fully enjoy the protection, assistance, and rights enshrined in the EU Victims Directive and the Istanbul Convention. States are failing to protect the most vulnerable members of society who, for various reasons, work as sex workers and became victims of crime. A tremendous silence about sex worker victims of gender-based violence and hate crimes at the international level, the exclusion of sex workers and their organizations at the national levels, and the avoidance of discussions about sex work as a politically inconvenient issue are all contributing factors that make it possible to ignore the amount of violent crimes perpetrated against sex workers in the region.

We call on all relevant representatives of international, intergovernmental organizations, especially the European Union and the Council of Europe, to firmly include the issue of gender-based violence and hate crimes against sex workers on their agendas by putting discussions about the morality of prostitution aside. We reject the intentional infantilisation and criminalization of sex workers (and their clients) and call for respect, responsiveness, acceptance, and inclusion. These can be only ensured by engaging in constructive discussions with sex workers to explore policies that better serve both native and migrant sex workers in Europe, help destigmatise sex work, and prevent discrimination and violence.

European Commission

ICRSE welcomes both the Gender Equality Strategy 2020-2025 and Victims' Rights Strategy 2020-2025 that have been launched in 2020 in order to navigate the European Commission's work. In line with the priorities, amplified by both Strategies, we recommend the following:

- Ensure that the EU Victims' Rights Platform serves as an inclusive platform where human rights defenders addressing violence against marginalized and vulnerable groups will be represented.

- Ensure that the EU network on the prevention of gender-based violence and domestic violence gives a voice to those facing intersectional discrimination, such as sex workers, ethnic minority women, trans women, and other groups who have been left out of the majority of European and member state-level policy initiatives.
- Promote and encourage EU member states to adopt the ILO Convention on combating violence and harassment in the world of work as this convention covers workers in all sectors, including informal sector workers, and can help to address the violence and harassment in the world of sex work.
- Pay particular attention to collateral damages of policies that address trafficking in human beings and to encourage member states to address the negative and/or unintended effects of anti-trafficking policies and laws on vulnerable groups such as (undocumented) migrant sex workers.⁴⁸
- Conduct in-depth research on violence against sex workers and access to justice in the EU with the meaningful involvement of sex worker communities and their organisations, and based on the research formulate recommendations to member states and propose measures that will enable sex workers to live free from violence.
- Recognise and promote implementation of a firewall between public immigration enforcement and service provision in the area of social services and access to justice systems in order to adhere to the non-discrimination principle of the Victims Rights Directive.
- Through EU funding, promote meaningful inclusion of representatives of the most marginalised communities and their organizations—sex workers and their organisations, trans women, LGBT people, and (undocumented) migrants and their unions and organizations—into the cooperation and coordination mechanisms for victims of crime at national levels.
- Through EU awareness campaign promote integrated and targeted support to victims that face multiple and intersectional discrimination such as (undocumented) migrants, LGBT people, homeless, the drug-using population, and sex workers.
- Promote police accountability to protect marginalized communities and people facing intersectional discrimination against crime and promote the implementation of all provisions introduced by Victim’s Rights Directive in relation to marginalized communities.
- Ensure that gender mainstreaming is at the centre of the development of all policies, particularly in the context of the care economy, climate change, digitalisation, and migration. Sex workers and their communities must be part of consultations that strengthen the European response against right-wing radicalisation, increasing xenophobia, and the backlash against women and minority rights.

48) ICRSE, *A Brief Guide on Collateral Damages of Anti-Trafficking Laws and Measures on Sex Workers*, 18 October 2019, <https://www.sexworkeurope.org/sites/default/files/userfiles/files/Collateral%20Damage%20-%20INTERACTIVE.pdf>.

Council of Europe

- Pay particular attention to women facing intersectional discrimination, including sex workers, (undocumented) migrants, ethnic minority women, trans women, and other such groups in the work of The group of experts monitoring the implementation of the Istanbul Convention (GREVIO).
- Dedicate sufficient attention to policies, laws and/or (municipal) by-laws that discourage women victims from reporting crimes committed against them in both the group of experts monitoring the implementation of the Istanbul Convention (GREVIO) as well as the group of experts monitoring the Anti-Trafficking Convention (GRETA). Similarly, both expert groups should pay particular attention to negative (unintended) effects of policies, laws and/or by-laws that exacerbate vulnerabilities and prevent women from accessing justice.
- Involve sex worker groups actively in the GREVIO country monitoring mechanism and provide them with opportunities for participation in the civil society input collection. Sex workers and their organizations do not always have sufficient capacities to monitor the work of GREVIO or other treaty monitoring bodies and may not be aware of how these monitoring mechanisms function. GREVIO's report can significantly benefit from the voices from the margins if the monitoring process will be sufficiently inclusive.
- Address the wave of 'whorephobia', or hatred directed against sex workers in the work of the European Commission against Racism and Intolerance (ECRI) as women who do not fit the expected gender roles are often targeted by bias motivated crimes.

National stakeholders

- Ratify and implement the Istanbul Convention and the ILO Convention to combat violence and harassment in the world of work.
- Ensure that all victims, including migrant, sex working, homeless, and drug using people, have access to justice independently of their residence status by establishing a "firewall" that legally, technically, and organisationally separates immigration enforcement and service provision in the areas of health care, social services, education, and access to justice.
- Take actions to protect and support the most marginalized communities against crime and hold all relevant state actors accountable for facilitating access to justice for marginalized communities such as migrant sex workers.
- 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.

- 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, gender-based violence, and trafficking in human beings.
- 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.
- Collect and report data on gender-based violence. Analyse critically such data in order to review policies that are ineffective or have significant negative effects on the ability to access justice and in order to identify groups and communities in need of better protection against crime and violence.
- Develop measures to enhance police accountability and transparency, and work with marginalised groups disproportionately policed to monitor their implementation.
- Review vague public morality, nuisance, loitering, and decency laws, and take steps to eliminate their disproportionate and subjective application against trans people, including sex workers and other marginalised groups, e.g. racial/ ethnic minorities.
- Train professionals (victim support providers, police officers, judicial officers, NGO staff, healthcare workers, teachers, etc.) on preventing and responding to discrimination and violence against trans people, sex workers, and other groups facing intersectional discrimination and violence, and providing sensitive and appropriate support.
- Promote a rights-based approach to sex work by calling for the decriminalisation of all aspects of consensual adult sex work and the elimination of all discriminatory and repressive laws and regulations contributing to sex workers' vulnerability to violence, abuse, discrimination and exploitation.

ANNEX 1

EU Directive 2012/29/EU Victims Directive, in force since November 2015⁴⁹

- The rights set out in this Directive shall apply to victims in a non-discriminatory manner, including with respect to their residence status. (A key feature of this directive!) (Art.1)
- States shall ensure that victims are recognised and treated in a respectful, sensitive, tailored, professional and non-discriminatory manner (Art.1)
- States shall take appropriate measures to assist victims to understand and to be understood from the first contact (Art.3)
- States shall ensure the right to receive information from the first contact with a competent authority (Art.4)
- States shall ensure that victims receive written acknowledgement of their formal complaint and receive translation, free of charge, of the written acknowledgement of their complaint if they don't speak the language (Art.5)
- States shall enable victims to make the complaint in a language that they understand or by receiving the necessary linguistic assistance (Art.5)
- Right to receive information about their case (Art.6)
- Right to interpretation and translation free of charge (Art.7)
- States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings (Art.8)
- States shall facilitate the referral of victims, by the competent authority that received the complaint and by other relevant entities, to victim support services (Art.8)
- Access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority. (Art.8)
- Defines the minimum extent of the support from victim support services (Art.9)
- States shall ensure attention to assess individually specific protection needs of victims who suffered crime with a bias or discriminatory motive which could, in particular, be related to their personal characteristics. Namely victims of gender-based violence, sexual violence, exploitation, hate crime or human trafficking shall be duly considered. (Art.22)
- Training of police officers and court staff to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner. (Art. 25)

49) See Footnote 2

ANNEX 2

Council of Europe convention on preventing and combating violence against women and domestic violence- Istanbul Convention.⁵⁰
(Entered in force in 2014 applicable in countries of Council of Europe who ratified⁵¹ it)

- The state has a responsibility to prevent all forms of violence against women, protect those who experience it and prosecute perpetrators.
- The state must promote equality between women and men and prevent violence against women by encouraging mutual respect.
- The measures to protect the rights of victims under this Convention, shall be secured without discrimination on any ground.
- The state must investigate allegations of violence and prosecute perpetrators.
- The state must protect and support those who experience violence.
- The state must include a gender perspective in the implementation and evaluation of the impact of the provisions of this Convention.
- The state must ensure a coordinated approach among all relevant agencies, civil society organisations and other stakeholders to support those who experience violence and protect them from further violence.
- Those who experience violence should have information and access to support services.
- Civil society plays an important role in providing essential services to those who experience violence, raising awareness and helping to change attitudes to create a culture of zero tolerance.
- Police and justice system professionals should be trained on victims' rights and how to prevent further harm, so that they are able to respond to calls for assistance
- States shall collect disaggregated data and undertake research regarding violence covered by the scope of this Convention
- Recognizes that female migrants and asylum seekers are particularly vulnerable to gender-based violence
- Requires the issuing of a renewable permit to victims where it is considered necessary due to their “personal situation” or for the “purpose of their cooperation with competent authorities in investigation or criminal proceedings.”

50) See Footnote 3

51) The UK and Hungary have not yet ratified the convention. See Chart of Signatures and Ratifications: Council of Europe, Convention on Preventing and Combating Violence Against Women and Domestic Violence, Status as of 23 September 2020, <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures>

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