

General comment:

We emphasize the importance of differentiating between human trafficking for the purpose of sexual exploitation and sex work. While human trafficking for the purpose of sexual exploitation is a criminal offence and a severe violation of human rights, adult sex work in Switzerland is legal work. By no means all sex workers are affected by human trafficking or exploitation. “Women affected by prostitution” is not a clear legal term, it mixes the two phenomena and insinuates that prostitution in any case and per se means violence. Furthermore, it is important to distinguish between adults and minors. Our statements on sex work refer to adult women and not girls understood as minors. It is a criminal offense in Switzerland to perform sexual acts with a minor or to have such acts performed by a minor in return for payment or a promise of payment.

Our decades of grassroots work with sex workers make it clear that self-determined sex work is not a marginal phenomenon. Self-determined sex workers decide for themselves which services they offer, which clients they serve and how much and when they work. They are in control of their own earnings. Even in cases where sex work is chosen as a survival strategy due to a lack of alternatives, it can be practiced in a self-determined manner. It is not sex work per se that makes workers vulnerable, but poverty, discrimination, gender or racial hierarchies and economic inequality. For many, sex work is a way to counter this vulnerability and to be economically independent. Viewing all sex workers as victims and denying them their ability to make rational decisions demeans them. If no distinction is made between human trafficking and sex work, victims of human trafficking cannot be adequately protected, and perpetrators cannot be prosecuted. Human trafficking is thus trivialized, and self-determined sex work is condemned.

1. Provide examples of the hidden forms of prostitution, and explain to what extent they are recognized and dealt with as such?

Sex work in Switzerland is a legal form of employment and is subject to taxation. Nevertheless, there are hidden forms of sex work in Switzerland, for example when migrants from outside the EU/EFTA do not obtain a work permit or sex work is not reported and taxed.

Migrant sex workers from countries outside the EU/EFTA cannot obtain independent residence status under the current Foreign Nationals and Integration Act. Sex workers from EU/EFTA countries, on the other hand, can pursue self-employed or employed work in Switzerland in accordance with the Agreement on the Free Movement of Persons. However, the official requirements and procedures for the legal practice of sex work vary from canton to canton. The complex bureaucratic hurdles and divergent practices cause legal uncertainty, promote illegalization, and prevent the social protection of sex workers.

2. Describe the profile of women and girls affected by prostitution in your country, and provide disaggregated data, where possible.

Again, we would like to stress the importance of differentiating between sex work and human trafficking. “Women/girls affected by prostitution” is a problematic term that conflates the two phenomena.

Furthermore, sex workers are diverse and include women, cis and trans, in all their diversity, as well as cis and trans men and non-binary people.

Data on sex work: There are only rough and outdated estimates of the number of sex workers in Switzerland, e.g. [Bugnon/Chimienti/Chiquet \(2009\)](#), who assume that there are 13-20'000

sex workers in Switzerland. Another source of statistics on the profile of sex workers in Switzerland is the 2010 [Tampep National Mapping Report](#). However, TAMPEP writes that the official figures of sex workers in Switzerland are extremely partial.

Data on human trafficking: The Federal Council concluded in a [feasibility study](#) for the Federal Office of Police in 2015 that "it is impossible to make a reliable estimate of the general prevalence of human trafficking in its three forms given the current state of knowledge."

In a [2022 study](#), the Federal Council and the Federal Office of Police also concluded that it is not possible to quantify exploitation in prostitution and human trafficking. The following statement on page 11 is crucial: "The present study assumes that the size of the dark field of undetected cases also indicates the risk of human trafficking, while the number of detected cases provides information about the intensity of efforts to combat it and not about the actual prevalence." High numbers of human trafficking cases tend to indicate a high level of activity on the part of the police and victim protection, but no conclusions can be drawn about the extent of the problem.

3. Describe the profile of those who solicit women in prostitution and whether such relations are regulated, and provide supporting data, where possible.

Research, for example by Harriet Langanke, founder of the [Gemeinnützige Stiftung Sexualität und Gesundheit](#), shows that clients come from all income and social strata, from all age and occupational groups and they represent a cross-section of - male - society. It can be assumed that significantly more men seek sexual services than women.

4. What forms of violence are prostituted women and girls subjected to (physical, psychological, sexual, economic, administrative, or other)?
5. Who is responsible for the perpetration of violence against women and girls in prostitution?
6. Describe the linkages, if any, between prostitution and the violation of the human rights of women and girls.

Many sex workers in Europe experience high levels of physical, sexual and psychological violence. In addition, structural violence linked to stigma occurs in the everyday lives of sex workers. According to a 2020 [study by the European Sex Workers' Rights Alliance](#) (ESWA), almost 50% of the sex workers interviewed experienced physical violence, many of them on a daily basis (important: the study focused on migrant, often undocumented sex workers). There is therefore a strong correlation between sex work and violence. However, sex work is not the cause of the violence. Rather, the cause is that many sex workers belong to social groups that are already exposed to a high risk of violence from men, clients or police officers, including women, migrants, people without papers or trans people.

Criminalization of sex work is one of the causes of violence against sex workers and prevents access to justice. In practice, we see that sex workers who can work legally and do not have to hide are more likely to report violence to the police.

For more details to questions 4, 5, and 6, please refer to our magazine ["Travail du sexe et violence"](#) (in French).

- ~~7. What links are there between pornography and/or other forms of sexual exploitation and prostitution?~~

8. How is the issue of consent dealt with? Is it possible to speak about meaningful consent for prostituted women and girls?

The key factor in distinguishing between sex work and human trafficking, sexual exploitation and sexual and gender-based violence is consent. According to [Amnesty International](#), consent in the context of sex work means voluntary and ongoing consent to sexual activity. Consent to sex does not mean consent to violence. And: sex workers can change or withdraw their consent to sexual activity at any time. The decision to engage in sex work can be influenced by situations of poverty, discrimination, and marginalization. These factors do not automatically negate a person's consent. The situation is different when there is coercion, threats, violence, or abuse of authority. A person who decides to engage in sex work in the context of poverty, flight, displacement, etc. may be at increased risk of exploitation.

9. How effective have legislative frameworks and policies been in preventing and responding to violence against women and girls in prostitution?

Sex work is considered legal work in Switzerland, protected under constitutional economic freedom and allowed within the limits of criminal law. We welcome the repeated refusal of the Swiss Federal Council to ban prostitution/sex purchase. Like numerous human rights organizations and ourselves, the federal government is convinced that criminalization of the clients or a ban on prostitution, such as in Sweden, would drive the sex industry underground. This would result in sex workers having to work in secret and being less protected against exploitation and violence.¹

In 2021, there was an important guiding court decision of the Federal Court of Switzerland, that allows sex workers from now on to sue clients and employers for unpaid wages (decision of the federal court [6B 572/2020](#)). Sex workers previously had the obligation to pay taxes and obtain permits to legally work in the sex industry, but they did not have the right to sue for lost wages. This legal improvement means a strengthening of the negotiating power of sex workers vis-à-vis their clients and salon/brothel operators.

According to estimates, an overwhelming majority of sex workers in Switzerland are migrants. The conditions under which sex workers work therefore depend not only on the regulation of sex work, but also to a large extent on the current migration regime. Therefore, ProCoRe supports the concept of firewall - a clear separation between immigration enforcement and the provision of essential services. Putting the enforcement of immigration rules ahead of people's fundamental rights prevents sex workers without regular status from accessing services, reporting crimes and getting protection.

10. What measures are in place to collect and analyze data at the national level with a view to better understanding the impact that prostitution has on the rights of women and girls?

Comments about data collection, see question 2.

¹ A study by the ZHAW and an expert report by ProCoRe found that during the first COVID 19 lockdown in Switzerland and the ban on sex work at that time, the situation of sex workers became much more precarious. Cf. ZHAW study here: https://digitalcollection.zhaw.ch/bitstream/11475/23652/3/2021_ZHAW_Schlussbericht-Sexwork-und-Corona.pdf [Status: 27.12.2021] and ProCoRe expert report here: https://procore-info.ch/wp-content/uploads/2021/06/ProCoRe_Expertinnenbericht_Covid19_Sexarbeit-1.pdf [Status: 27.12.2021]

11. What measures are in place to assist and support women and girls who wish to leave prostitution?

Sex work in Switzerland is often precarious work. Individual, low-threshold support is key for those sex workers who wish to change jobs. Our member organizations have been offering this support to sex workers for many years. However, long-term support for professional reorientation is resource-intensive and our organisations lack sufficient funding. In addition, as most sex workers are migrants - often with a precarious residence status, lack of language skills and financial difficulties - they fall through the cracks. Only if exit offers are linked to legal/regulated residence, training and good career prospects are they attractive to migrants. Alternative jobs are not attractive or possible for everyone. Therefore, support services for professional reorientation AND good working conditions in sex work are needed at the same time.

12. What are the obstacles faced by organizations and frontline service providers in their mission to support victims and survivors of prostitution?

Our answer here refers to sex workers, not to victims of human trafficking: Some of our 28 member organizations have been working in outreach work for over 40 years and offer comprehensive social, legal and health advice and support for sex workers on a daily basis. Almost all these organizations are NGOs and rely on public funding and private donations. The basic prerequisite for reaching sex workers in the field is, on the one hand, sufficient resources on the part of the counselling centers and, on the other hand, that sex work can be carried out without criminalization. We have identified the following obstacles to support sex workers: Illegalization or precarious residence status, digitalization, high mobility, isolation, language barriers, existing dependencies.

13. What are some of the lessons learned about what works and what does not when it comes to stemming any negative human rights consequences from the prostitution of women and girls?

Legal work and good working conditions provide the best protection. Prohibitions neither prevent prostitution nor curb its negative effects. Where coercion and violence actually play a role, bans offer no protection.

For many sex workers, the greatest risks are not related to exploitation by clients or pimps, but to repressive migration policies and police controls and repression.

Most recently, in June 2023, the renowned medical journal [The Lancet](#) pointed out that a ban on buying sex increases the risk of violence against sex workers. In [France](#), for example, violence against sex workers increased sharply after the introduction of the criminalization of clients in 2016. This was partly due to the new law and partly due to the associated stigmatization of sex workers, which justifies violence against them. In September 2023, the European Court of Human Rights admitted a [complaint by 261 sex workers](#) against the criminalization of clients in France. The applicants claim, among other things, that the ban on buying sex exposes them to a greater risk of injury to their physical integrity.

14. Are frontline organizations and survivors' organizations sufficiently included in policymaking at the national and international level?

No. Far too often, decisions are made over the heads of sex workers. It is essential that the voices of sex workers/front line organizations are taken seriously and are included in political decision-making.

15. What recommendations do you have to prevent and end violence associated with the prostitution for women and girls?

The best protection against violence and exploitation is legal migration and work opportunities. Criminalization of sex workers, including through a sex purchase ban, worsens the situation of sex workers and weakens their rights. The Swedish Model has a negative impact on the health of sex workers and on the prevention of violence in the sex industry. For this reason, major UN- and human rights organizations oppose this model. States must ensure that sex workers can carry out their work safely and without stigmatization, criminalization, and discrimination. We advocate for a society in which poverty, gender inequality and racism are combated, and migration is legalized. A society in which the fundamental rights of sex workers are respected. The complete decriminalization of sex work offers the best conditions for achieving this.