Written feedback on EU Strategy on victim’s rights (2020-2024) provided by
International Committee on the Rights of sex workers in Europe

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

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ICRSE welcomes the possibility to provide feedback to the European Commission on the development of the EU Strategy on victim’s rights for 2020-2024. We would like to take up this opportunity and provide recommendations based on our decade-long cooperation with sex worker-led organisations working on the ground.

ICRSE welcomes the proposed priorities that include empowerment of victims of crime, strengthening cooperation and coordination, improving protection and support of the most vulnerable victims, facilitating victim’s access to compensation and the international dimension of victim’s rights.

Access to justice for sex workers in Europe is a considerable challenge, therefore ICRSE decided to actively step in and currently works on a report that analyses 50 cases sex workers’ experience with policing, reporting a crime and access to justice. This report will be based on the evidence collected in 10 EU countries and is foreseen to be launched in June this year. Although not yet finalised, we would like to share some of our concerns related to sex workers access to justice.

Sex workers in Europe face an epidemic of violence across the region, from various parties, including third parties, people posing as clients and their immediate environment as well as police. Discrimination, stigmatisation of sex workers, profiling and surveillance by authorities manifest themselves in continuously enforced practices affecting diverse communities of sex workers in the region, especially endangering gender non-conforming people, racial and ethnic minorities, migrant sex workers, people who use drugs and those affected by poverty and homelessness.

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Members of these communities and those who face multiple or intersectional oppression and people who are on the margins of our society when seeking access to justice, face requirements and restrictions to which other victims are not subjected. Such a differentiation may run counter the non-discrimination principle of Article 1 of the Victim’s directive.

“First, I was scared because I don’t have any documents. I thought if I go to the police they would detain me. Lots of things were on my mind, so I didn’t know what to do. So, when I came back from the attack, I told someone that was close to me, here’s what happened. She told me I should not go to the police because I don’t have documents. So I should just go home and treat myself...” (France, migrant sex worker victim of crime)

“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. 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 documents, I couldn’t complain. They explained that if I went to the police station with them, they could have detained me for being an undocumented migrant.” (France, migrant sex worker victim of crime)

The above examples point to the fact that prioritisation of immigration enforcement can put undocumented victims of crime at the risk of detention and deportation and discourage them from reporting crime and accessing justice. In this regard, ICRSE supports the demands of the Platform for International Cooperation on Undocumented Migrants (PICUM) and calls for the establishment of a firewall between immigration enforcement and access to justice.

It has been made clear in several instances in EU policy-making that prostitution laws lie in the competence of the national governments within the EU. In many cases prostitution is regulated even at the municipal levels. Still, it is necessary to assess in which way such laws and ordinances empower or disempower victims of crime and in which way such laws may compromise the non-discrimination principle of the Victim’s directive. Throughout our evidence collection we have noticed some examples.

“I was in touch with a health worker because I used to go and get checked out at the clinic and I told her about what happened to me and I was encouraged to go to the police to report the crime. The police said they could arrest me for prostitution “if that’s what you are telling us you are doing”. I was very shocked and upset.” (United Kingdom, migrant sex worker victim of crime)

“As soon as the men left I called the police. When they arrived, officers asked questions about how many clients I 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.” (United Kingdom, migrant sex worker victim of crime)

“The police arrived when we have called them. They took us to the station for an interview, and as a result of reporting a crime the police wanted us to leave our apartment with the idea that we are victims of pimping. They consider it an offense committed by an owner to let us do sex work in her apartment. 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. Eviction from our apartment was a result of reporting crime.” (France, migrant sex worker victim of crime)

“I wanted to file a complaint, but I didn’t know how to do it, I was afraid of putting the owner of my apartment in trouble. I was 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 violence, assault and theft. I have heard an increase in violence against us women, sometimes we have the impression that they are targeting us.” (France, migrant sex worker victim of crime)
Due to stigma sex workers face the evidence collected revealed that the most vulnerable sex worker victims are dealt with indifference and their rights to information, right to victim support service, right to interpretation and translation are not respected.

“I called the police to report the events, but they didn’t come. Also, because I don’t speak really French, police officers don’t understand what I explained to them. When I moved there to report directly, they just took my name but didn’t do anything else, so it is not an official complaint in Belgian system.” (Belgium, sex worker a victim of crime)

“I have been physically assaulted and threatened with kidnapping by one man and another man put his hands around my throat. On one of these occasions I called the police but I was just 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.” (Belgium, sex worker a victim of crime)

“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. This is what usually happens... it didn’t lead to court proceedings, and it didn’t help either (the reporting).” (Italy, migrant sex worker victim of crime)

“The police insisted on asking me questions that had nothing to do with me reporting the crime. 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.” (Italy, migrant sex worker victim of crime)

Violence and crimes against sex workers can be framed as gender-based violence as they specifically target women and gender minorities, and in some of the cases can fall under the definition of hate crimes as perpetrators act with bias based on the victim being a sex worker and/or migrant, and/or belonging to a racial/ethnic minority. Furthermore, due to widespread criminalisation and precarious living conditions, sex workers face risks of exploitation and human trafficking and can be considered as one of the most vulnerable groups. The causes of the vulnerabilities are rooted in gender inequality, stigma, multiple discrimination and laws that instead of protecting sex workers put them even into greater risk. Laws that criminalize (any aspect of) sex work cause sex workers to feel unsafe reporting crimes because they fear prosecution, police surveillance, stigma, and discrimination. ICRSE calls for full decriminalisation of sex work by removing all criminal sanctions surrounding sex work as this is the only way to uphold sex workers’ human rights. Taking into account that it is not a mandate of the EU to regulate prostitution/sex work, we would like to suggest following recommendations for the upcoming EU Strategy on victim’s rights:

1) To conduct in-depth research on access to justice among the most marginalised sex workers in the EU and based on the research suggest recommendations to member states and propose measures that will enable sex workers to report crimes safely.

2) To recognise and promote implementation of a firewall between public immigration enforcement and service provision in the area of social services and access to justice system in order to adhere the non-discrimination principle of the directive.

3) To prioritize and promote safety for sex workers policies that would create a legal environment where people can come forward and report to law enforcement when they are a victim of or witness of crime while engaged in sex work, and not be arrested or prosecuted for their involvement in that behaviour or for any misdemeanour drug offences.
4) To promote meaningful inclusion of representatives of the most marginalised communities—sex workers and their organisations—into the cooperation and coordination mechanisms for victims of crime at national levels.

5) To promote better responses of law enforcement officers to the most marginalised crime victims including (migrant) sex workers in order to recognise and treat all victims in a respectful, sensitive and professional manner without discrimination of any kind.

6) Compensation claims by victims of crime, whose cases are prosecuted under the jurisdiction of a European state that recognises sex work as a legitimate form of work, fare significantly better than those of victims whose cases are prosecuted in jurisdictions where sex work is not recognised as work. The recognition of sex work as legitimate form of work is particularly important to successfully claim compensation for unpaid wages. It is therefore important to consider the best interest of the victim while deciding under which jurisdiction the case will be prosecuted (and under which jurisdiction the victim will be able to claim compensation) in cross border cases.

ICRSE will welcome the opportunity to share our upcoming report on access to justice that is expected to be launched in June 2020. We believe the report could still provide an input to the EU Strategy on victim’s rights and therefore we kindly ask you to consider this input in the formulation of this important strategy.