Reflection of the on-line event: Cross-Linkages between Human Trafficking and Pornography: Myth or Reality?

Dear Director of the OSCE Office for Democratic Institutions and Human Rights,

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 35 countries in Europe and Central Asia, including anti-trafficking organisations and platforms such as La Strada International as well as 200 individuals including sex workers, academics, trade unionists, human rights advocates, and women’s rights and LGBT rights activists. ICRSE is among others a member of the Platform for International Cooperation on Undocumented Migrants (PICUM), the Global Alliance against Trafficking in Women (GAATW) and the EU Civil Society Forum on HIV.

Hereby, with this letter we react on the online event Cross-Linkages between Human Trafficking and Pornography: Myth or Reality? which took place on May 4, 2020.

We are disappointed that the event organized by ODIHR which mission is to promote democracy, rule of law, human rights and tolerance and non-discrimination on any grounds provided only one-sided view on the issue of pornography and clearly conflated the porn industry with (“technically sophisticated form” of) human trafficking. There is no evidence that the majority, or even a significant minority, of people working in the porn industry are victims of human trafficking. ODIHR as a convener of voices of those affected by human rights violations should also take into account voices of sex workers. Whilst we appreciate OSCE/ODIHR efforts to open the discussion about porn industry as one of the sectors where people can be trafficked or fall prey to exploitation and abuse, we call for a more nuanced debate with representation of different views, including those of sex workers, in particular those working in the porn industry.
ICRSE strongly opposes the sexual exploitation of children, human trafficking and exploitation in the sex industry and advocate for laws, policies and practices that protect the human and labour rights of sex workers, irrespective of their reasons to work in the industry.

**Who are sex workers?**
Sex workers are heterogeneous groups of people of all genders, of adult age. Whenever there is an involvement of a minor, it is commercial sexual exploitation of children. Sex workers engage in sex work for many different reasons. Some might decide to work in the sex industry because it allows for more flexible working hours and gives them greater control over their working conditions than other jobs. Others choose sex work because they find it financially rewarding. For other sex workers again, it may be the most acceptable of very few options available to them which enables them to provide a living for themselves and their families. Sex work is mostly a typical informal economy job in that it does not usually benefit from legal protection through the state. It mainly employs women and people already facing intersectional discrimination such as (undocumented) migrants, trans people, Roma, people using drugs, homeless and other. Many sex workers enter the sex industry as they are excluded from the formal economy or state benefits to achieve a decent standard of living. Similarly to other sectors of the informal economy, most sex work is precarious employment, characterised by insecurity and exploitative conditions, and can include illegalised, seasonal, and temporary employment as well as homework, temp-work, sub-contracting and self-employment. Many sex workers work both in the ‘prostitution’ sector and porn industry with a growing number of sex workers selling images and videos through different websites and platforms. The porn industry is in many countries a legal form of employment. However, as in many other labour sectors (manufacturing, construction or agricultural sector), exploitation and/or trafficking can take place.

**Intersection of sex work and migration**
Repressive immigration policies and restrictive residency and employment regulations adopted in the vast majority of European countries often severely compromise or entirely block migrants’ access to formal labour markets and legitimate forms of employment. Similarly, in many European countries national laws directly prohibit refugees and asylum seekers to work legally or engage in any economic activities. For some refugees and asylum seekers sex work can be one of very few options to earn their living. While many refugees, asylum seekers and undocumented migrants might feel they have little choice but to sell sex due to repressive migration laws, lack of other
employment opportunities and poverty, large numbers of people migrate to and across Europe in order to find work in the sex industry. Their migratory projects might be driven by lack of social and economic opportunities in their home countries; pursuit of financial independence and improvement of their economic situation. As reported by the TAMPEP International Foundation, in 2008, migrant and mobile sex workers accounted for 65 percent of the sex worker population in Western Europe. Although the data on migrants in the sex industry in Europe is fragmentary and scarce, it is safe to assume that the number of migrant sex workers in the region is steadily growing. However, this growth hardly ever translates into legal changes facilitating migrants' access to legal and safe employment options in the sex work or other labour sectors.

COVID-19 impact on sex workers
ICRSE warns that, as evidenced by the post-2008 recession, the economic impact of the COVID-19 pandemic will increase the number of people selling sexual services to reimburse debts accrued during the crisis and replace loss or reduced employment income. Instead of addressing sex work through an ideological and punitive lens, European institutions and states must implement evidence and rights based policies. Ignoring the most marginalised communities could prove not only short-sighted but detrimental to European efforts to end the pandemic. ICRSE has published its demands to European institutions and national governments, including emergency income replacement, a moratorium on fines, arrests and prosecution related to sex work and immigration status, access to health care for all and regularisation of undocumented migrants. Meanwhile ICRSE members- sex workers and their organizations throughout Europe established hardship funds and reached out the most marginalized sex workers to provide them with basic needs and hygienic equipment. Those sex workers who have at least some resources and possibilities (similarly as many other workers after the lockdowns) displaced some of their work to online platforms.

Call for meaningful inclusion of sex workers in policy making
Sex workers and their organization all across Europe are systematically excluded from participation on policy making. As a result, measures and services established around anti-trafficking policies very often do not serve the needs of the most vulnerable (migrant, drug-using, low income, survival-based) sex workers that are at risk of

2 To list few see: https://swai-hardship-fund.causevox.com/, Red Edition Austria, Acceptess-T France, PION Norway, STAR-STAR Macedonia, UTSOPI Belgium, SWARM UK or Sex Work Polska.
exploitation, forced-labour practices and trafficking. Unlike the UN agencies working on the issues of health and HIV/AIDS, international and intergovernmental organizations working towards combating human trafficking do not yet recognize the role of community based organizations in prevention of trafficking, identification and referral of trafficked persons and their contribution to policy-making. UNAIDS recognises in their Guidance Note on HIV and Sex Work that sex worker organisations are best positioned to refer women and children who are victims of trafficking to appropriate services. The WHO, UNFPA, UNAIDS or the World Bank also acknowledge that besides health and HIV interventions most successful interventions combating violence against sex workers to date have been those that are peer-led, relying on individual and collective empowerment to improve sex workers’ working and living conditions. Similarly the 2017 comparative European research DemandAT which explores the concept of demand in anti-trafficking policies recommends that the sex workers’ community is empowered to address structural factors that negatively impact their safety as well as improving their access to services and measures that will reduce their vulnerability to crimes such as exploitation and trafficking in human beings. ICRSE calls for sex workers inclusive anti-trafficking policies to limit the negative collateral damages experienced by most marginalised sex workers, including migrant sex workers.

We urge OSCE/ODIHR to take an evidence based and labour right-approach to the issues of exploitation and human trafficking in the porn industry. The sex work sector, including the porn industry have and continue to change rapidly due to the progress of digitalisation and new technologies. Concerns about commercial sexual exploitation of children or exploitation and trafficking of adults are shared by sex workers and their organisations. Measures to end these crimes must take into account their impact on the living and working conditions of those working in the porn industry, whether by choice or circumstances. Abolition or prohibition of sex work, including porn industry, through criminal law leads to further marginalisation and exploitation of workers, greater reliance on third parties, inability to self-organise and defend their rights. Those

3 UNAIDS, Guidance Note on HIV and Sex Work
working in the porn industry should be considered central actors to be consulted in the development of policies that affect them.

We understand that OSCE/ODIHR will continue to engage in cross-linkages of trafficking in human beings and pornography. In doing so, we urge OSCE/ODIHR in adherence to its values and mission to take into account our recommendations:

- Avoid conflation of sex work/prostitution/pornography and human trafficking. Conflating sex work and trafficking in human beings leads to inappropriate responses that fail to assist sex workers as well as trafficked persons in realising their rights. Such conflation is failing to distinguish between these groups and as a consequence infringes on sex workers’ right to health, right to safety and self-determination and can impede efforts to prevent and prosecute trafficking.

- Recognise the nuanced realities of people that have decided for various reasons to work in sex work. Many of them face stigma, discrimination and being infantilised and are excluded from policy making mechanisms. Sex workers bear the consequences of any policy measure related to sex work that is often placed in a broader anti-trafficking policy framework. In line with ODIHR’s role as a convener of voices of those affected by human rights violations, while discussing human trafficking, ODIHR should be including sex workers’ voices in their anti-trafficking work. Including sex workers does not imply taking a position either way on the debate on criminalisation and trafficking, but simply providing a platform for people affected by those issues to also raise their voice and be part of the debate.

- Facilitate access to policy making for those who are concerned in the debates related to sex work, pornography and human trafficking and belong to marginalized communities. We urge you to meaningfully include sex workers into the discussion about cross linkages of pornography and human trafficking, and in line with the democratic principles avoid one-sided discussions of speakers striving to abolish sex work / porn industry. With respect to OSCE/ODIHR mandate make well informed conclusions that are evidence and human rights based and that do not cause collateral damage to most vulnerable groups of people.

We suggest a meeting with the management of ODIHR in the near future to further discuss these issues. We strive to improve the impact of anti-trafficking policies on the wellbeing and rights of sex workers as well as to address cross linkages of sex work and migration policies. We believe that voices of communities that are directly affected by the policies should be heard.

Kind regards,

Luca Stevenson
Coordinator, International Committee on the Rights of Sex Workers in Europe