

Shadow Report for the Review of France at the 86th CEDAW Session

submitted by STRASS, Syndicat du Travail Sexuel, in September 2023

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Executive Summary

This shadow report presents the perspectives of sex workers in France, who are affected by measures taken by the French government in response to the CEDAW Concluding Observations, in particular actions taken by France pertaining to **Article 6 of the CEDAW Convention**:

“States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”

In the List of Issues (CEDAW/C/FRA/Q/9), CEDAW specifically calls upon France to answer key questions regarding its legislation on trafficking and exploitation of prostitution. This shadow report will address the French government’s response to these questions as well as to measures reported by the government in the State Party report (2021) in response to the CEDAW concluding observations for France (2016).

Background

The French union of sex workers (STRASS) was founded by sex workers in France in 2009. STRASS represents all sex workers whatever their gender or the type of sex work they do and is particularly attentive to women – by adopting a feminist perspective based on the right of every woman to bodily autonomy – and to migrants – by adopting a critical perspective towards immigration policies that put them in danger.

Since 2016, France has implemented a sex purchase ban. Instead of protecting women in the sex industry, the criminalisation of clients has exposed them to increased precariousness, a loss of bargaining power, more risk-taking, and danger when it comes to their health and safety.¹ This is the reason why 261 sex workers filed a case against the French government with the European Human Rights Court (EHRC) in December 2019, on the basis that the criminalisation of clients breaches their human rights to life, health & security, and privacy (articles 2, 3, and 8 of EHRC). On August 31st, 2023, the EHRC declared admissible their application because they could consider themselves victims of the Act. No. 2016-44 due to increased isolation and clandestinity. Previously, in a judgment of 7 June 2019, France Conseil d’État had dismissed sex workers’ application to lodge a case to EHRC, claiming that “...prostitution is incompatible with human rights and dignity. The decision to outlaw demand for paid sexual relations, through the creation of the criminal offence introduced by the impugned provisions of the Law of 13 April 2016, is based on the finding ... that, in the vast majority of cases, persons who engage in prostitution are victims of procuring and human trafficking, which are made possible by the existence of this demand.”² The France Conseil d’État’s decision was based on the assumption that only a minority of sex workers are not victims of human trafficking, and therefore, their human rights can be sacrificed to protect the “vast majority” and the “general interest”. It believes that by criminalising the demand for sexual services, the number of sex workers would be reduced, hence reducing the occurrences of human trafficking within the sex industry.

¹ Médecins Du Monde evaluation report : What sex workers think about the French prostitution Act ? Avril 2018 https://nswp.org/sites/default/files/web_en_rapport-prostitution-finale.pdf

² <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000038566449>

What are the consequences of Act No. 2016-44 for female sex workers, particularly in terms of exposure to all forms of violence, including exploitation?

The premise of the law was that more than 90% of sex workers in France were considered victims of human trafficking (despite the lack of any evidence supporting this claim) and therefore to fight prostitution was the best way to combat human trafficking by reducing the demand for sexual services.

The Council of Europe's Group of Experts against Trafficking in Human Beings (GRETA) questioned France's lack of data to support its claim and highlighted the risks associated with this measure:

“According to some NGOs, criminalising clients of prostitutes is counterproductive for the fight against trafficking in human beings (THB), as clients become more reluctant to report situations of exploitation that they may observe, and persons engaged in prostitution become more dependent on intermediaries to find clients over the Internet, which exposes them to risks of exploitation. Some civil society actors have also noted that the legislation has encouraged a move away from prostitution on the streets to prostitution in hotels and flats, which hinders the detection of victims of trafficking not only by law enforcement agencies but also by NGOs, which are often the first means of exit from exploitation (see also paragraph 208).”³

In practice, the criminalisation of clients occurs almost exclusively outdoors and with great disparity within France, with half of verbalisations and fines occurring in Paris alone. As a result, many sex workers have had to change their working arrangements and move to more isolated areas. This has resulted in an increase in violence against sex workers, such as the murder of Peruvian sex worker Vanesa Campos in August 2018 because she was forced to work in a remote part of the Bois de Boulogne Forest with poor lighting at night.

In Belleville neighbourhood in Paris, Chinese sex workers also had to adapt due to higher police presence as explained by **Aying, leader of the Roses of Steel**, a Chinese sex worker-led organisation:

“Most Chinese women don't speak French nor English. Before the law, we could take time with the client to make him understand with a few words and body language. Now they are afraid of the police who stay the whole day in the middle of the place just for us. They even learned to say “whore” in Chinese to insult us. The clients are afraid to come so many women have preferred going to other places, but they must work for bosses now”.

Indeed, instead of soliciting clients on the streets directly without any intermediaries, many women from the Chinese community had to accept paying people who can write adverts in French and answer the phone for them to arrange the meetings with the clients. This has contributed to *more exposure to exploitation*. If sex work is less visible in city centres, it doesn't mean that the number of sex workers has decreased due to the law.

³ EVALUATION REPORT FRANCE GRETA (2022)01 Published on 18 February 2022 This document is a translation of the original French version. Third evaluation round p54 <https://rm.coe.int/evaluation-report-france-third-evaluation-round/1680a5b6cb>

To understand where sex workers had gone, **Anaïs, spokesperson for STRASS**, offers the following perspective:

“I can say that at the moment, there are 42,000 connected sex workers on sexmodel website where most female sex workers advertise in France. We used to be a maximum of 14,000 sex workers connected at the same time in 2016 when the law was voted, which is proof that the number of sex workers has not been reduced, but on the contrary dramatically increased. The government claims that there are only 40,000 sex workers in France compared to Germany, but just from a single website we are more. Male sex workers use an equivalent website where they are more than 15,000 adverts but of course they are never counted. We were supposed to be 30,000 in 2016 so even according to their own numbers it doesn't represent a reduction”.

(Interview, 28th June 2023)

She adds that clients' criminalisation also had extremely harmful consequences on sex workers:

“The penalization has had extremely deleterious effects on our living conditions since its objective is above all to deprive us of income in order to discourage the maintenance of activity. Without customers, there will be no more prostitution, we were told! This is precisely what happened during the lockdowns and curfews because of the coronavirus pandemic. This period was the worst, finding us without any income, without social protection, with the sole device of an “exit route” unsuited to the situation. A wave of suicides followed as well as even greater risk-taking in terms of health or security.”

Monsieur Jean Paul Mégret, head of the anti-pimping brigade (BRP) also complained in the press that the number of underground brothels has exploded in Paris' suburbs where migrant sex workers work in small houses. In January 2023, he claimed that there had been three times more of them in the last two years,⁴ indicating a potential increase rather than a decrease in the number of sex workers and therefore no real effect of the law in terms of reducing the demand for sexual services.

In 2018 already, he warned in a news article interview: *“this law favoured the development of prostitution on the Internet with rates equivalent to those practiced in the street [...] This law has not had the expected effects, he continues. It mostly chased girls off the street to put them in hotels or apartments, and everything now happens through cyberprostitution”*⁵

⁴ <https://www.leparisien.fr/faits-divers/prostitution-linquietante-multiplication-des-maisons-closes-en-ile-de-france-03-01-2023-EK4WNG7JVZHYBL4U4SA6L4ULXE.php>

⁵ https://www.lepoint.fr/justice/prostitution-enquete-sur-les-nouveaux-visages-du-proxenetisme-en-france-06-09-2018-2249103_2386.php

Has the criminalisation of clients (since 2016) helped to reduce the levels of human trafficking in the sex industry and improved the care of victims of pimping or trafficking in human beings for the purpose of sexual exploitation?

One of France's ongoing problems with methods of counting trafficking victims is the conflation of human trafficking and procurement cases, when procurement offenses don't need to specify any constraint on sex workers. For example, when sex workers rent and share a flat together, this is considered « pimping », even without any coercion. In its third report on France, the Council of Europe's Group of Experts against Trafficking in Human Beings (GRETA) explained the numbers and came to the conclusion:⁶

« These figures do not reveal the real scale of the phenomenon of trafficking in human beings in France for two main reasons: firstly, although a circular dating from 2015 urges prosecutors to make greater use of the classification of THB, the different forms of exploitation are often qualified as other offences linked to one of the purposes of trafficking. Secondly, the vast majority of victims, who are mostly illegally present on the national territory, do not report acts of THB to the competent authorities, chiefly because they fear reprisals by the traffickers or being expelled from France. »

GRETA's observation is congruent with the testimonies of sex workers who have been victims of human trafficking and were supported by STRASS. One of them explained why she never thought about contacting the police :

“The police? No. When we arrive, we don't know that we have rights. All we know is that we risk being deported. Too many girls were deported so we are too scared to talk to the police. My idea was to ask my regular client to help me and he offered me to stay to his place instead of staying at the madam's apartment.”

Blessing, interview, July 2023

Since the 2016 Act, do all victims of trafficking obtain effective protection and redress, including rehabilitation and compensation?

In all available reports, there is evidence that victims of trafficking are not sufficiently protected regarding housing and legal residency status. According to the Commission Nationale Consultative aux Droits de l'Homme (CNCDH), about 100 accommodation centres only exist in France for victims of trafficking in 2023. They also deplore the lack of documentation for foreign victims:

“We note a low number of residence permits being issued for victims of trafficking. It should be noted that the statistics communicated by the Ministry of the Interior for the year 2021 mix, for the first time the grounds for issuance, namely foreign persons who are victims of human trafficking (under its different forms) and people who have suffered domestic violence. The Commission deplores this

⁶ <https://rm.coe.int/evaluation-report-france-third-evaluation-round/1680a5b6cb> page 9

confusion and, as a result, the impossibility to know the number of titles issued only for victims of trafficking in human beings in 2021.”⁷

In 2021, 428 temporary residency permits (valid for one year) have been issued. Given that 1811 victims (of trafficking and other forms of exploitation such as “pimping”) were identified by the police and justice, this represents only 23,6% of the total of identified victims.⁸ The documents issued usually only last for the time of the investigation and trial. It is therefore common that victims of trafficking lose their permits once the case ends, especially if it did not result in a conviction.

According to paragraph 27 of the France State party report to CEDAW:

“Within two months of filing their asylum application or if new circumstances arise, a victim of trafficking who has been formally identified by the police and has agreed to cooperate with them may apply for a residence permit under article L.316-1 of the French Code on the Entry and Residence of Foreigners and the Right to Asylum or embark on a pathway out of prostitution.” (paragraph 27, CEDAW/C/FRA/9)

Although French authorities may deny any obligation to cooperate, in practice, victims will not receive unconditional protection and are expected to appear as good victims, which means cooperating with law enforcement and committing to quit sex work.

Joy testimony:

« The police told me I had to denounce my madam otherwise I couldn't file a complaint and without it, I couldn't be recognised as a victim».

(Interview in July 2023, Nantes)

GRETA's interviews have shown that some police investigators are afraid of being taken advantage of by individuals claiming to be trafficking victims, especially Nigerians, who are suspected of lodging false complaints in order to have access to rights ensuing from the victim status, such as a residence permit, access to accommodation, an allowance under the programme for exiting prostitution or under the asylum procedure⁹

“The NGOs stressed that in many other cases where they did not manage to act in time, victims were deported even if they had lodged complaints against the traffickers.”¹⁰

⁷ CNCDH, page 33 <https://www.cncdh.fr/sites/default/files/2023-03/CNCDH%20Evaluation%20du%20e%20PAN%20TEH.pdf>

⁸ <https://www.interieur.gouv.fr/Interstats/Actualites/La-traite-et-l-exploitation-des-etres-humains-depuis-2016-une-approche-par-les-donnees-administratives-Interstats-Analyse-N-49>

⁹ GRETA, page 56

¹⁰ GRETA page 55

The CNCDH added:

“In a decision of 16 October 2019, the State Council (Conseil d’État) confirmed the case-law existing since March 2015, according to which Nigerian women from the state of Edo who were victims of trafficking for the purpose of sexual exploitation were a “social group” within the meaning of the Geneva Convention. However, it made the applicability of “social group” conditional upon the requirement that these women had to have removed themselves from the forced prostitution network, going back on the case-law that had prevailed since the CNDA’s decision of principle of 30 March 2017. This restrictive interpretation of the definition of “social group” considerably reduces the opportunity for victims to legalise their presence in the country through the asylum process without co-operating with the judicial authorities, because filing a complaint or giving evidence against exploiters is regarded by the authorities as important in proving distancing from the network.”¹¹

Data from the Interior Ministry¹² indicates that the “prostitution exit program” is a way for victims of trafficking to obtain protection with regard to a residence permit. However, the so called “exiting path” was supposed to help people who want to quit sex work and was not thought as a tool to protect victims of trafficking. Furthermore, the exit programmes are only open to victims of trafficking within the sex industry. Not only are victims of trafficking required to file a complaint and provide testimonies, but increasingly, they are expected to quit sex work to appear as serious enough in their commitment to sever all ties with their perpetrators. From STRASS observations, many former victims of trafficking, however, continue to do sex work because it is only source of income available to them as migrant women.

Are exit programmes effective for helping sex workers wanting to leave sex work?

According to the France State party report:

“Since 2017, 1,242 people have followed or are currently following a path to exit prostitution. As of January 1, 2023, 121 associations are approved for the implementation of the prostitution exit pathway and 643 current prostitution exit pathways have been authorized by prefectural decision, an increase of more than 30% compared to 2022. These pathways are monitored by departmental commissions working to combat prostitution, procurement and sexual exploitation, led by departmental women’s rights representatives. As of 1 March 2020, a total of 300 people were benefiting from this scheme.”

A lot has been said about the ineffectiveness of exit programmes, including by those supporting the law. Many French départements do not hold regular meetings of their executive commission deciding on the exiting programme, and 14 of them (out of 101 départements) never had a meeting¹³.

Sex workers criticise the exit programmes for not providing sufficient alternative income. The allowance called Aide Financière à l’Insertion Sociale (AFIS) is 343 € a month for a single person without children, and about 100€ more per additional child. The law does not allow the AFIS

¹¹ <https://www.cncdh.fr/sites/default/files/2023-03/CNCDH%20Evaluation%20du%20e%20PAN%20TEH.pdf>

¹² <https://www.interieur.gouv.fr/Interstats/Actualites/La-traite-et-l-exploitation-des-etres-humains-depuis-2016-une-approche-par-les-donnees-administratives-Interstats-Analyse-N-49>

¹³ <https://www.mediapart.fr/journal/france/160423/sortir-de-la-prostitution-une-hypocrisie-francaise>

allowance to be combined with the Revenu de Solidarité Active (RSA) or any other social welfare benefit and condemns people to surviving in an unworthy manner.

Access to the programme is difficult. According to the IGAS/IGAJ/IGA evaluation¹⁴, there is a 20% refusal of the cases presented, while more than half of the requests are never presented by the approved associations. Overall, only a minority of people benefit from the programme. The Mouvement du Nid association, that is a leader in the implementation, admitted in the Médiapart interview in April 2023¹⁵ that it must sort the requests upstream before presenting only the cases most likely to be accepted.

Many sex workers were refused because they previously received an obligation to leave the French territory, or because they don't have a proficient level of French. Each prefecture is autonomous and strong disparities exist in the acceptance rate of the exit programmes. Most prefectures invent their own rules independently of what the law says. Most sex workers cannot access professional training through the exit programme because the residence permit allowed is only valid for 6 months, meaning that jobcentres cannot provide any support and most employers prefer not to hire for such a limited period. Many sex workers who complete the exit programme become cleaners, many working part-time and precariously, a situation that many sex workers have already experienced before choosing to do sex work.

Sex workers' rights organisations conclude that the exit programmes do not help sex workers¹⁶. Instead, they make it possible to justify the refusal to regularise all undocumented migrants, creating a case-by-case situation instead of approving unconditional protection, in particular for victims of trafficking. The exit programme creates the conditions to discriminate against sex workers in terms of access to social protection and welfare, as sex workers are told that they can only benefit from a specific programme. The exit path is not necessary since the associations provide better support without the conditions imposed by the path. It maintains an entire system of control, surveillance and sorting between people. The only interest is for undocumented people who have no right to anything. It would be more judicious to regularize them unconditionally rather than force them into a stigmatizing and exceptional path outside of common law.

Recommendations:

- **Repeal Act No. 2016-44 that criminalises the purchase of sexual services and penalises clients.**
- **Decriminalise all aspects of sex work, including sex workers, clients and third parties. Criminalisation is a major barrier that excludes sex workers from attaining labour rights, healthcare and creates economic insecurity.**

¹⁴ <https://www.igas.gouv.fr/IMG/pdf/2019-032r-prostitution-d.pdf>

¹⁵ <https://www.mediapart.fr/journal/france/160423/sortir-de-la-prostitution-une-hypocrisie-francaise>

¹⁶ NSWP, 2015, "[When Economic Empowerment Programmes Fail Sex Workers.](#)"

- **Provide residency permits for all undocumented sex workers, in particular victims of trafficking, violence, and exploitation and ensure that these permits are not dependent on cooperation with law enforcement or on exiting sex work.**
- **Replace exit programmes with social welfare programmes open to all sex workers without the requirement to undergo rehabilitation or to leave sex work.**
- **Increase funding for sex worker-led economic empowerment programmes and community-led health programmes.**
- **Support the creation of sex worker-led community health centres that prioritise the healthcare needs of sex workers.**