

Policies on sex work and health (1999) European Network for HIV/STD Prevention in Prostitution (Europap/Tampep 4) ¹

POLICIES ON SEX WORK AND HEALTH

Why now?

Many European countries are currently changing their policies towards sex workers. Some of these developments are likely to have a negative impact on prostitutes' health.

For example, in the Netherlands a new law will soon be introduced to abolish the ban on brothels and legalise voluntary prostitution. Its main aim is to regulate prostitution in the same way as other businesses and remove the stigma of sex work. The new law is already being implemented in some cities, such as Amsterdam. Registration of sex work business has allowed some sex workers to acquire standard rights at the workplace (such as social benefits). However, this new law only legalises prostitution for sex workers from EU countries.

In Germany, too, significant steps are being taken to end discrimination against sex workers.

There are plans to amend the 1943 law governing infectious diseases and to abolish mandatory medical examinations for sex workers. But this is still under debate. The German prostitutes' movement has written to the new Minister for the Family calling for the recognition and acceptance of prostitution as legitimate work.

At the same time as some sex workers are gaining legal rights, others are being excluded and experiencing further repression. This particularly affects migrants who do not have the correct papers. Their living and working conditions are likely to worsen considerably as they are forced further underground. In Amsterdam, some project workers are finding it more difficult to deliver health services to migrant sex workers, including information on the prevention of AIDS and sexually transmitted infections. This is attributed to recent changes in business regulations for the sex industry.

An estimated 50% of sex workers in Germany are migrants and, at the 25th German Whores' Conference, there was a call for the immediate abolition of repressive measures towards these migrants – including raids, mandatory HIV testing, police interrogation without a translator, and deportation of aliens with no work permits.

In some countries, such as the UK, Ireland and Sweden, clients and businesses are being targeted. A new law criminalising the buying of sexual services was introduced in Sweden in 1999. Projects for sex workers have already noted a decrease in the number of women using their services, thereby reducing opportunities for health promotion.

We think these changes, along with the increased mobility of sex workers, will have a big impact on health. There is an opportunity at the pan-European level to make information available on the possible health impact of these new developments so as to minimise the

negative consequences and maximise the opportunities for effective health promotion, the prevention of infectious disease and the delivery of adequate services to sex workers.

We consider it vital that an assessment is made of the impact on health of *all* these new policies. Their potential health impact can be assessed in a preliminary way through the following brief review of a wide range of existing policies, laws and regulations.

HIV and other infectious diseases

It is often assumed that prostitutes are at increased risk of HIV and other sexually transmitted infections because they have many sexual partners. It is also commonly assumed that prostitutes will play a major role in transmitting the virus into the rest of the population. In most European countries this view continues to be widely held despite research showing that female prostitutes who do not inject drugs have a low prevalence of HIV and use condoms with most or all of their clients. Injecting drug users, women from endemic areas and male prostitutes tend to be at higher risk, but also use condoms effectively at work.

The ability to practise safer sex in prostitution is influenced by a range of factors, including the ability of clients to insist upon unprotected sex through greater force and/or purchasing power. Other factors include the need for money, dependency on alcohol or drugs, homelessness, ignorance, lack of resources, younger age and repressive control measures. As these factors change over time, it is not useful to label sex workers as 'high' or 'low' risk.

State systems of control often hinder health promotion and other service provision as well as making work conditions dangerous for sex workers. Prostitutes do not qualify for health services for various reasons in different European countries. Commonly, sex work is not officially recognised and so workers have restricted access to health care. Workers in some sectors of the industry lack legal papers altogether, for example, as aliens, and are therefore excluded from the entire welfare system. In addition, the health system is rarely appropriate.

Throughout the European Union, routine service providers are said to have a negative attitude towards sex work, which inhibits the use of services. Many prostitutes would prefer to have treatment anonymously, without having to provide official documentation, because they fear that doctors will inform other state agencies about their work. Further constraints include unsuitable opening hours, lack of health promotion, lack of knowledge about the sex industry, more emphasis on diagnosis and cure of sexually transmitted infection than on prevention.

Since existing health services do not fully meet the needs of all sex workers in any European country, some specific services are necessary. The European Network has identified central requirements for successful services and produced a handbook, *Hustling for Health: Developing Services for Sex Workers in Europe*, which sets out models of good practice and examples from a wide range of prostitutes' services across Europe.

Law and policy

Existing laws, policies and regulations create major obstacles to the prevention of HIV and other sexually transmitted infections. In most European countries sex work itself is not illegal; however, the practice of prostitution is effectively rendered illegal through restrictions on organising, advertising and living off the proceeds of sex work.

Mandatory testing and registration

Mandatory testing for sexually transmitted infections produces a two tier system of registered and non-registered prostitutes; the latter having limited access to health care.

Greece has very strict regulations about the mandatory medical screening of registered prostitutes, which leads most sex workers to avoid registration, which then makes them liable to prosecution. Health care facilities and HIV prevention activities for sex workers are provided largely for the small registered sector (although EUROPAP Greece has developed services and prevention activities for non-registered sex workers). In Greece, it is estimated in May 1999 that approximately 600 women are registered, while an estimated 10,000 are not. 6,000 of these women are believed to be migrants.

In Germany, approximately 50,000 sex workers are registered and seen regularly by the health services, as required by law. However, according to recent estimates, a further 150,000 people work in prostitution. Registered sex workers often complain about the impersonal attitude and approach of health care workers, which undermines confidence and, with it, good medical care. Previous experience in the fight against other sexually transmitted infections has adequately illustrated the limits of compulsory health screening.

HIV infected sex workers

Legal measures have been introduced in some countries to prevent HIV infected people from working in the sex industry. In the same way as mandatory testing, these measures can create problems by encouraging sex workers to hide from the authorities if they think they may be infected. If HIV infected sex workers continue to work, there is only a small risk of transmission to a client providing a condom is used. This highlights the importance of health promotion: HIV prevention projects advocate a non-judgemental approach in which sex workers who continue to work can discuss openly safety at work, including alternatives to prostitution that may be preferable for health reasons. Health promotion with clients is also important so that they too take responsibility for risk reduction.

Soliciting and safety

In most European countries, soliciting (publicly attracting the clients' attention) is not allowed even though the enforcement of the law varies widely. In many cases, this situation leads to unsafe working conditions. In Ireland, for example, since 1993 the

police have been able to force a person suspected of loitering in a street to leave (whether a client or a sex worker). This has had the effect of reducing negotiation time. If a woman is charged with an offence, she may incur heavy fines that force her to work extra hours to earn money to pay the fine. The role of intermediaries thus becomes more important in providing protection and paying bail. The situation is similar in England and Wales, where a law against "kerbcrawling" (where clients solicit sex workers from cars) by prospective clients has reduced the time prostitutes have to assess clients and negotiate safer sex.

In some countries, such as Germany and the Netherlands, soliciting is allowed in specific areas but the location of these areas reflects pressure from residents and politicians and may take no account of the safety of sex workers themselves. In some countries, the possession of condoms is used as evidence of soliciting.

Earnings from sex workers

Another common feature in European law concerns the control of procuring, and it is often an offence to "live off prostitutes' earnings". Enforcement of this law has made it more difficult for prostitutes to work safely, as in Paris, where the law was used to close down apartments and hotels in a traditional prostitution district around rue St. Denis. Sex workers were forced to move to the outskirts where they were more isolated and where working conditions were more dangerous.

These laws necessarily criminalise the relationship between a prostitute and a brothel owner. Workers' rights are ignored and, in Germany for example, this means that some sex workers have no right of access to social and medical services because they cannot be legally employed.

These laws also reinforce the social isolation of prostitutes, making it difficult for them to live with another adult as s/he may be charged with living off the earnings of a prostitute.

Access to health care

All European countries have strict immigration regulations for non-Europeans. Many people, however, enter these countries illegally. With no work permit and facing the constant risk of arrest and expulsion, some migrants become sex workers, usually in the worst conditions.

Projects for sex workers should be able to contact these people, and to ensure their access to health care, without any interference by the police.

Injecting drug use

Many injecting drug users, male and female, fund their habit through sex work. Health programmes need to provide clean injecting equipment and drug treatment, including substitute prescribing, so as to break the vicious cycle in which sex work funds drug use.

Some European countries have legal obstacles to this kind of programme, which makes the work of HIV prevention projects difficult.

Civil rights

Many other laws, varying from one country to the next, infringe sex workers' legal or civil rights and potentially damage their health. For example, laws governing sexual violence are often interpreted to mean that sex workers cannot be raped. In 1999 the German prostitutes' movement planned to launch a campaign against this form of violence. At the moment, a sex worker is considered to be "available" for sex at all times. The man in question would only be charged with a minor sexual attack/offence. The prostitutes' movement is calling for an immediate amendment to guarantee the equal treatment of sex workers in law.

In England, a similar situation existed until 1996, when a man was found guilty of rape for enforcing sex without a condom. This followed the first successful private prosecution case brought by two prostitutes. The man was convicted of rape, indecent assault, false imprisonment and actual bodily harm. All sex workers, including migrants, should be protected by law from exploitation, blackmail and violence.

The local regulation of sex work

Local regulations can have a major effect on how prostitutes work, and how HIV prevention projects operate. For example, in Paris, the media reported a high prevalence of HIV among prostitutes working in the Bois de Boulogne; this was followed by a local regulation prohibiting cars from stopping along certain roads in order to prevent clients picking up sex workers. An HIV prevention project worked from a bus in this area and was subject to the same regulations, prevented from parking, and less able to promote safer sex or distribute condoms. In Germany, most cities have zones where prostitution is prohibited, and areas of tolerance, where prostitution is found in super brothels and Eros centres. Sex workers who do not fit in, such as migrant workers or drug users, are expelled to isolated areas where working conditions are more dangerous and access to health services and prevention projects more difficult.

This is a time of change in prostitution policy. It is crucial both from a public health and a human rights perspective to ensure that developments do not have a negative impact on the health of sex workers and all those with whom sex workers come into contact. The European Network advocates reviewing all policies and proposed changes in relation to their impact on health.

¹ This is the text of a leaflet produce by the European Network for HIV/STD Prevention in Prostitution (Europap/Tampep 4) in 1999