

Working paper¹

Comparative Summary of Evaluation Reports on France's 2016 Prostitution Act

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Introduction:

On 13 April 2016, the Act to “reinforce the fight against the prostitution system and support people in prostitution”² was promulgated in France. The Act is made up of a penal component instituting the criminalization of clients, a social component regarding the implementation of a “prostitution exit program,” and an educational component focusing on the “prevention of prostitutional practices and recourse to prostitution.” The publication of an official report evaluating this Act two years after its enactment was a legal obligation.

In December 2019, more than three years after the Act was passed, the government presented an evaluation report on the Act of April 13, 2016 prepared by an interministerial task force.³ The report assesses the measures introduced by the Act. It elucidates the Act’s implementation from the point of view of police, administrative and judicial authorities. While the point of view of civil society organizations (CSOs) and social workers is included in the evaluation, little account is taken of the perspective of “people in prostitution.” Ultimately, this report concentrates on evaluating the Act’s implementation more than its impact on either human trafficking or on the living and working conditions of “people in prostitution.” In contrast, civil society organizations have focused the greater part of their reports on evaluating the impact of the Act.

Indeed, a group of sex workers’ organizations and health and community health organizations that work with sex workers have published their own evaluations drawing on their work in the field.⁴ The first civil society organization report was published in April 2018 to prepare a response to the government evaluation scheduled two years after the Act’s passing.⁵ It presents a qualitative research study focusing on the views of sex workers who are directly affected by the Prostitution Act.⁶ In 2020, the same group of organizations published a second evaluation report⁷ presented as a response to the government’s 2019 evaluation report. In it, the organizations propose an evaluation of the Act based on the lived experience of the people concerned, the expertise of the grassroots organizations, and the academic literature. These two civil society organization reports (hereafter CSO reports) do not look in detail at the legal and

² Law 2016-444 of April 13, 2016: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000032396046/>

³ The report was co-authored by members of the General Inspectorate of the Administration (*Inspection générale de l’administration*), the Inspectorate-General of the Judicial Services (*Inspection générale de la justice*), and the General Inspectorate of Social Affairs (*Inspection générale des affaires sociales*). Available at: <https://www.interieur.gouv.fr/Publications/Rapports-de-l-IGA/Rapports-recents/Evaluation-de-la-loi-du-13-avril-2016-visant-a-renforcer-la-lutte-contre-le-systeme-prostitutionnel-et-a-accompagner-les-personnes-prostituees>

⁴ The report was prepared by a steering committee composed of members of 11 organizations: Médecins du monde, Grisélidis, le Collectif des Femmes de Strasbourg Saint Denis, Cabiria, les Amis du Bus des femmes, Acceptess-T, Arcat, le Syndicat du travail sexuel—STRASS, Aides, le Mouvement français pour le planning familial, and Paloma. For the sake of transparency, it should be noted that Hélène Le Bail, author of this summary, contributed to the 2018 report.

⁵ Hélène Le Bail and Calogero Giametta (eds.), 2018, *Que pensent les TravailleuSEs du sexe de la loi prostitution ?* Available at: <https://www.medecinsdumonde.org/fr/actualites/publications/2018/04/12/enquete-sur-limpact-de-la-loi-du-13-avril-2016-contre-le-systeme-prostitutionnel>. English translation: 2019, *What do sex workers think about the French Prostitution Act?* Translated by Irene McClure. Available at: <https://hal.archives-ouvertes.fr/hal-02115877/document>

⁶ The study was supervised by researchers and the research methodology is presented in detail in the report.

⁷ <https://www.medecinsdumonde.org/fr/actualites/publications/2020/07/06/travail-du-sexe-reponses-levaluation-de-la-loi-de-2016>

administrative mechanisms, but rather focus on the experiences and trajectories of sex workers in the face of this change in legislation, with the impact on living and working conditions as the primary criterion. Note that these organizations campaigned against client criminalization before the Act was passed.

Terminology:

This summary uses the terms “sex work”/“prostitution” and “sex worker,” “person in prostitution”/“people involved in prostitution.” As the choice of terms is an indicator of political positions within the debate in France, we maintain the terms employed in each of the reports when we refer to them.

Objective of the summary:

This paper is a comparative summary of the three evaluation reports available to date⁸ on the new Prostitution Act. It briefly presents the main points of the Act—client criminalization, support for exiting prostitution, combating sexual exploitation, and preventive measures for minors—then compares the main elements of the three reports’ assessments and highlights convergences and divergences.

The conclusion of this paper highlights the reports’ diametrically opposite explanations for the Act’s failure to “combat the prostitution system.”

⁸ There is one other evaluation conducted by two independent sociologists, H el ene Pohan and Jean-Philippe Guillemet, and financed by the French Secretary of State for Gender Equality and the Scelles Foundation. We decided not to include this report in our summary because the observations and conclusions overlap with the other two types of report. Pohan and Guillemet’s report nonetheless has specific merits. Like the government report, it sought to question a wide range of actors (except, unfortunately, for people in prostitution/sex workers) and like the 2018 civil society organization report, it is based on a field study. Its strong point is the inclusion of four monographs on the Act’s implementation between 2016 and 2019 in the cities of Narbonne, Bordeaux, Strasbourg, and Paris. This allows it to bring to light the disparities in the Act’s application according to local realities and to provide a detailed picture of the different actors, including the points of view of the police, the gendarmerie, and of local residents, which is less developed in the other reports. Available at: <https://www.fondationscelles.org/fr/actualites/283-rapport-d-evaluation-locale-de-la-mise-en-oeuvre-de-la-loi-2016-la-loi-fonctionnelle-la-et-ou-elle-est-integralement-appliquee>.

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I. Legislation to “End Demand”: Introduction of client criminalization and consequences for sex workers/people in prostitution

Key points regarding the Act

The so-called “Client Criminalization” Act passed in April 2016 repeals the Act of March 18, 2003, which provided for a two-month prison sentence and a €3,750 fine for the offense of soliciting in public. Now, the offense of paying for a sexual act is punishable by a fifth class fine of €1,500. In the event of a subsequent offense, the offense becomes a crime and is punishable by a fine of €3,750. In addition to the fine, the offender may be obliged to attend an awareness course to discourage the purchase of sexual acts (equivalent to a John school or kerb-crawling rehabilitation scheme).

The argument for criminalizing demand (the purchase of sexual services) is set out in the 2013 bill:⁹ the legislators consider, first, that criminalizing clients is a further step towards gender equality; “[...] punishing the act of using prostitution services is to uphold and build on the legislation that has criminalized rape and made sexual harassment a criminal offense: the goal is always to shield sexuality from violence and male domination.”¹⁰

Second, the legislators claim that making paying for sex illegal is “the most effective measure to date to reduce prostitution, and to deter trafficking and prostitution rings from establishing themselves in a country. This is the conclusion that Sweden has drawn since implementing such legislation in 1999. Finland, Norway, and Iceland have followed suit. Banning the purchase of sexual acts also helps to change representations and behaviors.”¹¹

Third, “Banning the purchase of sexual acts is also the solution that offers the best protection for those who remain in prostitution. By inverting the power balance with the clients of prostitution, banning the purchase of sexual acts will allow people in prostitution to denounce any violence or health risks (sex without a condom, etc.) that clients may impose on them.”

The ban on the purchase of sexual acts was promptly implemented following the circular of April 18, 2016. The reports aimed to evaluate the Act in the light of these initial arguments. The argument about combating sexual exploitation will be discussed more specifically in Part IV.

⁹ Bill tabled on October 10, 2013: <http://www.assemblee-nationale.fr/14/pdf/propositions/pion1437.pdf>

¹⁰ Idem, p 14.

¹¹ Idem.

A. Criminalization of clients: shifting criminal responsibility from sex workers/people in prostitution to clients and redressing the power balance

In summary

The repeal of the offense of soliciting is part of a policy to decriminalize sex workers, who are now presented as victims of a “prostitution system” and no longer as “offenders.”¹² The Act criminalizing clients is intended to shift criminal responsibility from sex workers to clients; the police and the judiciary must now protect rather than prosecute people involved in prostitution. One of the arguments for shifting criminal responsibility was to empower sex workers in their dealings with clients.

On this point, the three reports concur that the shift in criminal responsibility has come up short, in part because of the maintenance of municipal by-laws (such as bans on parking vans or public loitering) that target sex workers and not clients. All three reports also highlight the failure of this measure in terms of power relations with clients.

1. Limited shift of criminal responsibility

Government report, p. 52

“[...] While the mission stresses that the police and gendarmerie officials it met with have adjusted well to the shift of criminal responsibility and the new consideration of prostitutes that the Act introduced, it found that on the ground, the approach could be different, with people involved in prostitution not always being considered as full-fledged victims.”

Government report, p. 50

“Furthermore, client criminalization often appears to be misused to solve public order problems and to periodically tidy up the appearance of certain districts or peri-urban areas. The mission observed that in some cities it visited, the passing of the Act has not affected municipal by-laws on street occupancy, some of which specifically target the practice of prostitution. It considers that these practices are not in keeping with the spirit of the Act.”

2018 CSO report, p. 33

“However, several interviews mentioned that the offence of soliciting was not the only way of putting pressure on sex workers and questioned whether from one day to the next the police could prioritise their “protection.” In reality, cities continued to apply municipal ordinances with a view to preventing sex work in certain areas: these ordinances relate to parking vans or comings and goings in public places. Interviews with grassroots organisations confirmed that these local ordinances continue to be applied in, among other cities, Lyon, Nîmes, Narbonne and Toulouse. In some cities and certain country roads, sex workers continue to be more penalised than clients, some even receiving several fines on the same day.”

2018 CSO report, p. 32

“During arrests, it is not uncommon for police officers to intimidate sex workers to report their clients, or even to arrest them if they do not have residence papers.”

¹² Bill tabled on October 10, 2013: <http://www.assemblee-nationale.fr/14/propositions/pion1437.asp>

2. No improvement in the power balance between sex workers/people in prostitution and clients

2020 CSO report, p. 51

“Sex workers report that under the combined effects of declining client numbers and the precarity of their living conditions, they are no longer in a position to choose their clients and potentially refuse people who appear to them to be ‘at risk of behaving violently,’ as they were able to do before.

2020 CSO report, p. 44

“The drop in client numbers has increased clients’ power to negotiate acceptance of unsafe sexual practices. In fact, sex workers pointed to client criminalization as the main factor in their loss of power due to a decrease in income, which was reported by 78.2 percent of respondents.”¹³

2018 CSO report, p. 38

“In contrast to the argument in favor of criminalization, which assumes that sex workers hold the upper hand in the power relationship with a client who is committing an offence, the interviews unanimously revealed that the balance of power has deteriorated. The growing competition between sex workers is advantageous to the clients.”

Government report, p. 50

“[...] In the opinion of several of the mission’s interlocutors, the implementation of [client criminalization] increases the precarity of people in prostitution, risk behaviors, and the insecurity linked to increased secrecy, with clients now imposing their demands on the grounds that they are the ones risking criminal charges. According to these interlocutors, criminalization has had a deterrent effect on certain clients, with some spurning prostitution, some turning to online prostitution and, finally, some who live in border areas now going abroad.”

3. How do sex workers/people in prostitution perceive client criminalization compared to the crime of soliciting?

2018 CSO report, p. 32

“Only a few migrant women said they were relieved when soliciting was decriminalised, most of them did not see any difference, or felt that the criminalisation of the clients penalised them even more than the offence of soliciting. Many also mentioned that other forms of criminalisation or control had not changed, or had even been established in order to make them move out of certain areas. [...] Many interviewees raised questions over whether it was even possible to criminalising a purchase without criminalising a sale: they felt that they were also undoubtedly a target of the law. Thus, in towns or areas where the purchase of sexual activities had been banned, police presence was described either as a barrier to work, or as a form of intimidation which targeted both sex workers and their clients.”

¹³ Le Bail and Calogero Giametta (eds.), 2019, *What do sex workers think about the French Prostitution Act?* op. cit.

B. Prosecution of clients: fines and awareness courses

In summary

The prosecution of clients is a key feature of the Act. All three reports are critical of both the implementation of the fines and the relevance of the awareness courses. However, the civil society organization reports diverge from the government report in their reasons for finding the courses inadequate. The government report only criticizes the lack of homogeneity in course delivery, whereas the civil society organizations denounce the stigmatization of sex workers through these courses, which convey a moralistic view of sex work and present a distorted reality of the job.

1. Implementation of fines and police presence

2018 CSO report, p. 32

“Six months after the application of clients’ criminalisation, French newspaper *Le Monde* published a figure of only 250 fines for clients.¹⁴ [...] In any case, as it clearly emerged from the interviews, police presence and pressure has contributed to putting clients off and this should be taken into account when considering the impact of the law.”

Government report, p. 48

“The charge of using prostitution services as introduced by the Act has been laid relatively rarely, with 586 proceedings in 2016, 1,422 in 2017 and 1,185 in 2018, including 17 for repeat offenses. The number of people charged for all offenses of using prostitution services recorded by the courts increased from 799 in 2016 to 2,072 in 2017 and 1,939 in 2018. [...]

The mission observes that the number of defendants charged with using prostitution services is higher than the number charged with soliciting in the years before the Act came into force.¹⁵ Looking for violations is not one of the intervention priorities required of the police and gendarmerie. Its geographic application is erratic and largely dependent on the criminal policies implemented in different areas.”

2. Awareness courses for clients

Government report, p.50

“The participant evaluations of these courses that were passed on to the mission indicate that the most striking component was the testimony of a person who had been involved in prostitution, and that a large majority of the participants had changed their view of prostitution by the end of the course. The mission found that although these courses fulfil their pedagogical function of providing a better understanding of the law, their content varies from one place to another and depends very much on the quality of the facilitators. It recommends that the offer of

¹⁴ Gaëlle Dupont, “In six months, 250 clients of prostitutes received verbal warnings,” in *Le Monde.fr*, October 4, 2016. Available at: <http://www.lemonde.fr/societe/article/2016/10/04/en-six-mois-250->

¹⁵ The number of people charged with soliciting fell from 3,290 in 2004 to 2,859 in 2005, 2,054 in 2006, an annual average of 1,124 between 2007 and 2014, and 780 in 2015 (according to OCRTEH’s 2015 report).

these courses be expanded, but with greater uniformity in terms of their duration, content, and cost.

2020 CSO report, p. 49-50

“The aim of the course, apart from deterring the purchase of sexual services, is to educate participants about ‘the realities of prostitution,’ as defined by the law, so that clients understand that they have committed an illegal but also morally reprehensible act. [...]

First of all, they are told that the vast majority of ‘people in prostitution’ are forced to work by procurers. [...] Given the broad definition of procuring, it is unwarranted to say that procuring is systematically forced, since the police and the judiciary recognize “support procuring”¹⁶ as “aiding prostitution,” and not as coercion. It would be more accurate to point out the diversity of situations and to explain that some people rely on intermediaries and are sometimes forced to work because of social and gender inequalities or difficulties during migration, among other things.

Participants are then told that ‘people in prostitution’ start on average at age 14, with a life expectancy of no more than 40, and on average turn 30 tricks a day. They also reportedly suffer from a higher suicide rate than the general population. However, no scientific study provides evidence for these claims, not even the INVS ProSanté¹⁷ study cited during the course which states on the contrary that the 251 sex workers surveyed started working at an average age of 26.5 years old. The French National Authority for Health (*Haute Autorité en Santé*), which has looked into the issue of sex workers’ mental health, has not found any studies claiming an above-average suicide rate and instead mentions the lack of data with which to establish a link between the practice of sex work and the occurrence of mental disorders.¹⁸ [...]

Instilling the notion that the consent sex workers express has no value is a real concern for sex workers.

Spreading theories to the effect that the vast majority of sex workers are forced, manipulated, or victims of Stockholm syndrome or mental dissociation, with the aim of invalidating their voice and their capacity to give consent, is felt to be a major source of stigma but also of exposure to, and even encouragement of, violence.

C. Impacts on living conditions

In summary

Criminalizing clients has had an impact on the living conditions of sex workers/people in prostitution, and while the three reports do not agree on the causal links between client criminalization and the deterioration of living conditions, they all stress that the living conditions of people involved in prostitution have become even more difficult.

¹⁶ “Support procuring” (*proxénétisme de soutien*) refers to the actions of a person who helps, protects, or profits from the prostitution of others, without using pressure or violence. This form of procuring is defined in opposition to coercive procuring, which uses physical violence, intimidation, trickery, and pressure of all kinds.

¹⁷ Etude ProSanté. *Etude sur l'état de santé, l'accès aux soins et l'accès aux droits des personnes en situation de prostitution rencontrées dans des structures sociales et médicales* (Study on the state of health, access to care, and access to entitlements of people in prostitution encountered in social services and healthcare facilities), FNARS, INVS, 2013, p. 52.

¹⁸ *Etat de santé des personnes en situation de prostitution et des travailleurs du sexe et identification des facteurs de vulnérabilité sanitaire, op. cit.*, p. 26.

Although the government report does not go into as much detail on this issue as the civil society organization reports, they all concur on the increased precarity of sex workers and on growing concerns about sexually transmitted infections (STIs) and access to healthcare. The civil society organizations also focused on the impact on health more generally: stress, depression, etc. The three reports highlight that sex work is moving from the street to the internet. The civil society organization reports go further by also documenting the movement to neighboring countries where client criminalization does not apply. Finally, the multiple forms of violence suffered by sex workers have, according to the civil society organization reports, increased to a worrying extent, while the government report states that this violence must be taken seriously and that it is not enough to simply seek to curb prostitution. Here, we have deliberately cited long extracts from the reports in order to compare precise data that we consider important for evaluating the Act in concrete terms.

1. Precarity

2018 CSO report, p. 37

“As anticipated by the legislators, criminalizing clients has led to a drop in the number of clients. For sex workers, the consequence is a significant, sometimes alarming, reduction in income. Faced with less work, and when the official alternative of a prostitution exit program ultimately only concerned a small minority of sex workers, some have ended up in extremely vulnerable situations. The majority among them has tried to adapt their practices and living conditions; most of them continue to offer their services and work in poorer conditions.

Government report, p. 50

“[...] In the opinion of several of the mission’s interlocutors, the implementation of [client criminalization] increases the precarity of people in prostitution, risk behaviors, and the insecurity linked to increased secrecy, with clients now imposing their demands on the grounds that they are the ones are risking criminal charges.”

2. Health and access to care

Increased risk of infection with STIs, including HIV

Government report, p. 72

“Recent changes in prostitution activity have increased the proportion of ‘problem’ clients, who negotiate not to use a condom for oral-genital sex, argue over prices, and sometimes make physical threats to get the money back after the act. Some fake clients extort people in prostitution.

The issue of reduced condom use is beginning to arise. The people in prostitution interviewed said they systematically used condoms themselves, but reported that some prostitutes were starting to accept unprotected sex for economic reasons. Although people in prostitution are generally fairly well informed about the risks of infection (especially for HIV infection),

knowledge can be uncorrelated to behavior, and people can find themselves in high-risk situations.

Yet it is important not to reduce health risks to HIV infection alone. Although it is a key risk, condom use practices have been good or even very good in France since the beginning of the epidemic, including among people in prostitution. However, there does appear to be a slackening of STI prevention behaviors, which is seen in the population more generally, especially among young people. It is all the more important to continue risk reduction efforts also for people in prostitution, who are under pressure from clients.”

2020 CSO report, p. 45

“The 2016 report of the French National Authority for Health (*Haute Autorité de Santé*) confirms sex workers’ overexposure to sexually transmitted infections (STIs) such as chlamydia, gonococcus, papillomavirus (HPV) and certain urogynecological disorders (vaginosis, candidiasis, pelvic inflammation). Indeed, sex workers are twice as likely to contract chlamydia as women in the general population. Similarly, the prevalence of human papillomavirus (HPV) among sex workers was 15.8%, i.e., ten times higher than in the general population. The Act of April 2016, by worsening working conditions for sex workers and making the harm reduction activities proposed by our organizations more difficult, has not helped tackle these health issues—quite the opposite.”

While the government report insists that studies and knowledge are lacking, the civil society organizations highlight the causal relationship between repressive policies and the prevalence of sexually transmitted infections.

2020 CSO report, p. 43

“The correlation between repressive approaches and the increase in health risks, particularly with regard to HIV transmission, cannot be disputed. It has been scientifically proven.¹⁹ The Reeves study published in *The Lancet* in 2017 found that the 10 countries that criminalize sex work—through direct or indirect repression—have an HIV prevalence eight times higher (about 4%) than the 17 countries where selling sex is legal (about 0.5%)²⁰ [...] Precarious socio-economic conditions and the lack of a stable administrative situation have an effect on risk-taking, but also on the quality of care received. Regarding the overall health of sex workers, in January 2019 the *British Medical Journal* published the findings of a systematic review of studies from 1990 to 2018 in 33 countries showing that criminalization of sex work has a negative impact on the health of sex workers and that decriminalization of sex work following the New Zealand model was the best legislation for their health.²¹ The studies exist and the evidence is overwhelming against abolitionist regulatory models.

The government report presents access to healthcare as a priority, but for the civil society organizations, access to healthcare is directly impacted by client criminalization.

Government report, p. 73

“Access to entitlements is an important part of the civil society organizations’ work, but the link with social services should be strengthened so that people involved in prostitution can have

¹⁹ Aaron Reeves, et al., “National sex work policy and HIV prevalence among sex workers: an ecological regression analysis of 27 European countries,” *The Lancet*, 4(3), 2017, pp. e134-e140. Doi: 10.1016/S2352-3018(16)30217-X.

²⁰ *Ibid*

²¹ Sally Howard, “Sex workers’ health: international evidence on the law’s impact,” *BMJ*, 2019, pp. 364:l343. <https://www.bmj.com/content/364/bmj.l343>.

access to healthcare. Strengthening the medical and paramedical staff of certain key services (infectious diseases, gynecology, psychiatry) is essential to organize a real ‘uptake’ of healthcare facilities, in addition to the work done by civil society organizations.”

2020 CSO report, p. 44-45

“The Act has distanced sex workers from access to health care. An increase in risk-taking has been observed, including a decrease in condom use and thus increased exposure to the risk of HIV and other [sexually transmitted infections]. [...] The decrease in negotiation time induced by criminalizing the purchase of sexual services weakens sex workers’ capacity to impose conditions that protect their health. The decline in the number of clients is forcing sex workers to adapt their activity to this new context at their own expense. This involves working in more isolated locations (including the Internet) that are less accessible to law enforcement, and increased mobility, with sex workers often changing their place of work. Isolation and greater mobility make it difficult to access health promotion schemes and organizations, which are constantly having to identify the new locations of sex work. These are all obstacles to delivering appropriate risk-reduction messages and providing close, dignified support for people through a healthcare pathway and comprehensive care approach. This means difficulties in ensuring proper adherence to treatment. Some of the sex workers we met reported that they had been cut off from treatment, care, and entitlements because of poor working and living conditions.”

The civil society organizations also denounce a lack of political will to implement harm reduction policies for sex workers.

2020 CSO report, p. 41-42

“The Act was already unbalanced in spirit and its implementation has widened the gap between security, law enforcement, and health issues. While it took a year for the implementing regulations of the so-called social component of the Act to be published, the repressive component of the Act—client criminalization—was the subject of a circular published for immediate application only two days after the Act was promulgated; the symbolism is instructive. Meanwhile, the decree relating to the “national harm reduction reference framework for people in prostitution” was published in March 2017 [...].

This lack of political will demonstrates the state’s lack of interest in the health of sex workers. It also reflects a bias and an undisguised intention not to give the necessary means to health and community health organizations [...] which are trying to survive with subsidies that are increasingly sapped by competition with abolitionist organizations, since ‘exiting prostitution’ has become the priority to the detriment of people’s health.

The difficulty of obtaining a residence permit is an additional obstacle in access to healthcare denounced by the civil society organizations.

2018 CSO report, p. 55

“Organisations working with trans people are also extremely concerned about the move towards itinerant working for people living with HIV or those who are transitioning and find themselves interrupting their treatments.

‘SWs [sex workers] are starting to work in an itinerant way. HIV-positive sex workers stop their treatment when they leave Paris to find work (sometimes for periods of three or four months). Sometimes they come back to Paris in a terrible condition, they’ve almost contracted full-blown AIDS.’

Acceptess-T, organisation in Paris”

Both civil society organization reports highlight a deterioration in the overall health of sex workers.

2020 CSO report, p. 45

“Finally, the consequences of this Act are detrimental to individuals’ overall health. The 2018 Le Bail/Giametta study showed that 63% of sex workers reported having experienced a deterioration in their living conditions. 37.6% of individuals said they had increased their working hours (time waiting or looking for clients). Increased precarity, stigmatization, violence, increased risk-taking, and longer working days to try to get enough clients for a decent income lead to a deterioration in the overall health of sex workers. Many sex workers report experiencing stress, anxiety, and psychosomatic problems. These consequences have a concrete impact on people’s mental health and their ability to take care of their health.”

3. Shift in places of work and changes in prostitution practices

The civil society organization reports stress that street-based sex workers have moved to more isolated locations so that clients are not spotted by the police, and to neighboring countries.

2018 CSO report, p. 44-46

“Some people who work in the streets have changed the places where they wait for their clients. They move towards less visible places with a view to avoiding the risk of the client being arrested. They wait in more isolated, darker places in the street or the forest. [...] Since the law passed, there has been a change in the places where the work takes place, on the clients’ request. For people working in the street, clients insist that the transaction takes place in more isolated locations. For example, many interviewees mentioned that clients ask to go to car parks which are further away, thus increasing the risk taking [...] If problems do arise, it is more difficult for them to call for outside help or for colleagues waiting nearby.”

2020 CSO report, p. 17

“Following client criminalization, many French sex workers or migrant sex workers with a residence permit moved to neighboring countries to work. This is particularly noticeable in countries with a border with France and a more favorable regime for sex workers, such as Belgium, Germany, Switzerland, and Spain. But they have moved all over Europe. In cross-border establishments, French sex workers are often the largest group of ‘migrants’ and the only ones from such a rich country.”

2020 CSO report, p. 19-20

“Even more critically, besides being counterproductive, criminalizing clients puts victims of trafficking and those in need of protection at risk. These individuals have become even less visible than before because the people who exploit them hide and isolate them and organize for clients to come directly to the places where they work. People are no longer able to meet with health organizations, which are often the initial gateway to an individual effort for liberation that can extend over many months.”

All the reports call attention to sex work moving online. While the government report sees this as an ongoing trend due to the development of new technologies, the civil society organizations highlight an acceleration in the move online linked to criminalization, which seems to result in a loss of independence for many women.

Government report, p. 38

“According to the Ministry of the Interior, for the first time in 2017, the percentage of victims identified on the street was lower than for those working in ‘indoor prostitution.’ While some explain this development as a consequence of the Act of April 13, 2016, the change seems to be related more to the rise of the Internet. The *Psytel* study had already estimated in May 2015 that 62% of prostitution used the Internet. Out of 69 networks dismantled in 2018 by the police and gendarmerie services, 33 involved prostitution using the Internet.”²²

2020 CSO report, p. 19-20

“The effects of client criminalization, i.e., increased precarity and movement of sex work venues (as observed to a lesser degree when public soliciting was criminalized), tend to make sex workers more dependent on intermediaries and third parties. There is a move from visible spaces in large cities to the outskirts of cities, as well as to Internet advertising platforms. [...] In concrete terms, the increase in the use of intermediaries has manifested in two ways.

First, for migrant sex workers with a poor command of French, the main impact of the police presence in public space has been to lead people to look for other ways to work, since they could no longer find enough clients on the street. But a lack of proficiency in French forces them to use intermediaries, who provide new ways of meeting and contacting clients in exchange for remuneration, which sometimes also entails a loss of independence in the choice of clients.

Second, especially in the case of escorts and more mobile people, work trips to border areas or other countries have meant having to work for employers or to pay the owners of establishments, whereas their sex work in France previously was totally independent.”

Faced with the shift of sex work/prostitution to the Internet, the reports disagree on issues of combating “cyber-pimping.” The government report looks at methods while the civil society organizations question the impacts of a “cyber-repressive policy.”

Government report, p. 39-40

“In the mission’s view, [...] the authorities [should] strengthen the capacity of the police and gendarmerie to effectively combat procuring and trafficking via social networks and the Internet. Those involved in the repression of procuring stress how time-consuming online monitoring and outreach are. Increasing network infiltration would require more human and digital resources to complement traditional investigative techniques. [...] All the investigations undertaken concur that the use of social networks and online advertising platforms, together with the spread of new information and communication technologies (ICTs), facilitate the phenomenon of prostitution.”

2020 CSO report, p. 23

²² The source is not cited in the government report but seems to come from this document produced by the Mouvement du Nid for the European Commission: <https://prostcost.files.wordpress.com/2015/05/prostcost-synthc3a8se-ok.pdf>.

“It is more than likely that shutting down advertising sites, far from helping to combat exploitation, instead makes it more difficult for the police to identify the most problematic situations. So the question that needs to be asked is: What is the goal, to combat prostitution or to combat exploitation? Because an attitude that condemns all forms of sex work and conflates and essentializes diverse situations does not make it possible to combat abuses that are condemnable and condemned by sex workers themselves.”

4. Violence

The civil society organization report an increase in multiple forms of violence since client criminalization was put in place. The government report does not acknowledge any causality between the increase in violence and client criminalization, but it does pay attention to the importance of dealing with violence beyond simply proposing a way “out of prostitution.”

2020 CSO report, p. 51

“When we warn about the increase in violence against sex workers, our critics reply that prostitution has always been violent and that it was already violent before the Act was passed. This leads to two observations.

First, the testimony of sex workers reporting an increase in violence is ignored or invalidated and is never recognized as a valid source of evidence, no matter how it is gathered.

Second, risk and harm reduction in terms of exposure to violence is effectively dismissed out of hand as a public policy worth considering. Ultimately, this illustrates once again the failure of the client criminalization measure: it does not protect sex workers although this is one of the stated objectives. In defining sex work as a form of violence in itself, the authorities are not looking to combat the violence suffered in the context of sex work, but only the practice of sex work, with the paradoxical consequence of increasing sex workers’ exposure to violence. [...] This is also the case for the data collected by Médecins du Monde’s Lotus Bus program, which shows an increase in reports of violence from Chinese sex workers in Paris. From April to September 2015, 41 sex workers reported experiencing violence, while from April to September 2016 (just after the Act was passed), 71 sex workers reported experiencing violence. Between January 1, 2020 and March 31, 2020, on the alert and information website of Médecins du Monde’s Jasmine program, 206 acts of violence were reported, of which 62 corresponded to serious crimes (including rape and armed robbery).”

2018 CSO report, p. 39

“The ones that sex workers want to be able to report to the police are the ‘fake clients,’ those who pretend to be clients in order to steal from them, often using violence. But, as mentioned earlier, even in these situations it is difficult to turn to the law, and the changes to the law have not improved this. Sex workers do not feel any greater sense of legitimacy in reporting clients than previously. Trying to intimidate clients or ‘fake’ clients by threatening to report them to the police is often seen as a reason for the escalation of violence”

Government report, p. 42

“The mission considers that the role of advocacy and support organizations working with people in prostitution must be strengthened to allow better support for victims of rape, sexual assault, and violence committed against them while practicing prostitution and to assist them in filing complaints. To this end, the possibility for organizations to associate in a court action with the public prosecutor (*se constituer partie civile*) should be extended to these offences.

II. Prostitution exit program

Key points regarding the Act

While the criminal component of the Act (banning the purchase of sexual acts, but also repealing the crime of soliciting and strengthening anti-procuring measures) received the most media attention, policymakers were anxious to propose a global approach that coupled the punitive measures with social measures, particularly by putting in place a “program for exiting prostitution and social and professional integration” (hereafter abbreviated to prostitution exit program or exit program).²³

This program includes:

- the provision of a six-month, renewable temporary residence permit (maximum 18 months) with authorization to work,
- the provision of financial aid to help with social and professional integration (known by its French acronym, AFIS) of €330 per month (plus €102 per dependent child) for those not eligible for minimum government allowances
- and the support of an accredited organization to access social housing, training, healthcare, and entitlements.

Applications for the prostitution exit program are reviewed and accepted or rejected by new committees: the Departmental Committees to Combat Procuring and Human Trafficking for the Purposes of Sexual Exploitation (French acronym, CDLP). To apply for the exit program, candidates must:

- be represented by an organization that has previously obtained an accreditation
- commit to stopping prostitution from the moment they submit the application.

Unlike the criminal component, which was implemented a few days after the Act was passed, the social component was specified by a decree in October 2016,²⁴ then implemented via the circular of January 31, 2017.²⁵

A. The committees

In summary

The prostitution exit program is handled by the departmental committees to combat procuring and human trafficking for the purposes of sexual exploitation, whose mission is: 1. to coordinate the various stakeholders concerned by this problem and 2. to review applications to enter the prostitution exit program. The reports agree on a number of failures in the establishment of these committees: their uneven deployment across the country, particularly in some

²³ See the bill tabled in 2013, pp. 6-7: <http://www.assemblee-nationale.fr/14/propositions/pion1437.asp>

²⁴ Decree 2016-1467 of October 28, 2016: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000033318834>

²⁵ Circular DGCS/B2/2017/18 of January 31, 2017 relating to the implementation of the program for exiting prostitution and social and professional integration

big cities where there are large numbers of sex workers; the inadequate training of committee members (who include representatives of the gendarmerie, the police, the prefecture, the employment support sector, the State education system, etc.); the excessive disparity in the eligibility criteria being applied for the exit program, and even a clash between the scheme and immigration management objectives (ultimately, the prefect retains discretionary authority over decisions); and finally, the exclusion of certain civil society organizations from this sphere of coordination because of the conditions for obtaining accreditation (the decree requires accredited organizations to state that their main purpose is to help people out of prostitution,²⁶ which is not the purpose of health and community health organizations).

5. Uneven deployment across the country and lack of training for committee members

Government report, p. 58

“As of June 30, 2019, 71 [departmental committees to combat procuring and human trafficking for the purposes of sexual exploitation] had been established in metropolitan France. 25 *départements* remained without a committee (i.e., a quarter of *départements*). In the opinion of the prefects concerned, the extent of prostitution or the lack of a specialized organization in the *département* did not justify the setup of a specialized authority. [...] In the mission’ view, it is necessary to complete deployment of the committees throughout the country very soon.”

Government report, p. 61

“In the majority of *départements*, the committee members have received training from the accredited civil society organizations. According to the prefects, their duration, from one hour to a half-day, is insufficient, and additional training appears necessary. This observation confirms the view of the civil society organization representatives whom the mission met with that a majority of committee members were unaware of the realities of prostitution and the difficulties experienced by the victims.”

6. Wide disparity in the criteria for acceptance by the committees and conflict with the scheme’s objectives

Government report, p. 63

“[The mission] notes that there has been no circular specifying the eligibility criteria for applications, resulting in significant differences in interpretation. The main source of divergence concerns the situation of applicants in terms of residence status. Some prefects refuse access to the program to persons who are subject to the “Dublin procedure,”²⁷ or to an obligation to leave French territory (OQTF), or are in the process of applying for asylum. They consider that because the Act makes no specific mention of this point, it is not possible to depart from the provisions of the Code of Entry and Residence for Foreigners

²⁶ Decree 2016-1467 of October 28, 2016, op. cit.

²⁷ Procedure relating to the European regulation known as the Dublin regulation, which concerns persons wishing to apply for asylum in France, but for whom another European country is responsible (either because they have already filed an application in that country, or because it is the country in the Schengen area that they arrived in first).

and the Right of Asylum (*Code de l'entrée et du séjour pour les étrangers et du droit d'asile* or CESEDA). Other prefects have prioritized the objective of exiting prostitution. According to our inquiries, this reason for refusal is not always stated explicitly in the decision. Many trafficked persons from Nigeria are denied access to the [exit program] on these grounds, illustrating the difficulty of reconciling the objectives of migration policy with those of combating prostitution intended by the Act of April 13, 2016. [...].

Similarly, the requirement to stop prostitution is also the subject of debate, in the absence of criteria on the starting point and duration of this period. On this point, too, the committees' interpretations diverge; in the mission's view, registering in an exit program could substitute for the requirement to stop prostitution. This approach would allow the committee more flexibility in assessing the merits of the plan submitted for its consideration. The professional integration criterion is also a point of divergence. Some committees ask that the first steps towards integration have already been taken (training in French as a foreign language, for example), while others are satisfied with a plan.

The vagueness of the criteria and the inconsistency in their interpretation create unequal treatment of applicants and reduce the scheme's impact. They also crystallize tensions within the committees, a situation reported by nine prefects and several [departmental delegates for women's rights and equality] and civil society organizations.

2020 CSO report, p. 34

“Ordinarily, access to the exit program should not be conditional; it should be available to anyone who wishes to use it. But, in reality, we observe that the criteria for accessing the exit program are partly defined by the prefects and hence we note large disparities between regions.”

2018 CSO report, p. 68

“The backdrop of a strict migration policy with regards to [undocumented] migrants was another aspect which had to be taken into account during the committees, as applications would necessarily come from people [without legal residency]. Although the Act stated that a temporary residence permit would be provided, and although there are no official criteria on the residence status of people while the committees consider their applications, it is clear from the interviews that there was significant tension between the approach to combating irregular immigration and that of supporting people who want to stop sex work.”

7. The objective of networking between local actors undermined by suspicion towards civil society organizations...

2018 CSO report, p. 66

“In the case of the committee established in Toulouse for the Haute-Garonne Department, the Grisélidis organization reported its shock about the atmosphere of suspicion which prevailed during the examination of applications by almost all the members: the gendarmerie, the police, the Prefecture, the DIRRECTE [departmental directorate for work and employment], representatives of the national education system etc. The two accredited organisations, Grisélidis and L'Amicale du Nid, were confronted with a series of criteria which were used to dismantle the validity of the applications: applications which were not sufficiently personalised (similar stories, requests to intrude into people's private lives), applicants who had been arrested a long time ago or, in contrast, who had not yet been arrested for sex work, lack of ability in French, lack of evidence of being integrated into society, possibility for applicants to use other proce-

dures (right of asylum). Grisélidis reported several disparaging statements made about applicants on the part of the committee, which assumed that they were far from being ‘victims of prostitution.’ Of the ten applications submitted, only four received a favorable response.

Government report, p. 60

“The accredited organizations [...] whom the mission met with have a fairly positive view of this scheme, even if some have voiced criticisms. They believe that the committees are an opportunity for networking to facilitate coordination between stakeholders and an initial step toward creating a common culture between State services and civil society organizations. Some organizations perceive that certain committee members regard them with mistrust. In the mission’s view, mutual trust and recognition of the members’ legitimacy are vital to the committees’ sustainability and effectiveness.

8. ... and by the exclusion of certain civil society organizations

Government report, p. 68

“The Act entrusts the role of designing and coordinating the program to accredited organizations [...]. The majority of civil society organizations supporting people in the exit program are so-called abolitionist organizations. Some community health organizations have nonetheless decided to offer this support, despite their critical view of the Act, in order to adapt to the reality on the ground and to meet demand from people involved in prostitution.”

2020 CSO report, p. 34

“It should also be noted that the conditions for organizations to gain accreditation exclude most sex workers’ organizations, community health organizations, and health organizations, since they require a decision of the General Meeting that makes “exiting prostitution” the main purpose of the organization, which is politically impossible for our movement and outside the objectives of health and rights organizations.”

B. The role of civil society organizations

In summary

Civil society organizations play a central role in supporting sex workers and are key stakeholders for the departmental committees, which have to build a network of local partners. In addition, all applicants for the exit program must be represented by a civil society organization before the committees.

All three reports highlight criticisms raised by the civil society organizations regarding the committees’ effectiveness:

- **the cumbersome process of preparing applications leads to a heavy workload for civil society organizations.**
- **these civil society organizations find themselves selecting the applications (and therefore people) with the best chance of being accepted for the exit program because they do not have sufficient human and material resources to prepare all the applications requested.**

Finally, all three reports agree that the civil society organizations are short of funding, even if the civil society organization reports stress that organizations

are unequally funded, with abolitionist organizations being granted more resources than others.

1. A heavy bureaucracy

Government report, p. 62

“In the mission’s view, the delay in drawing up the decrees (the decree concerning AFIS [financial aid for social and professional integration] was published on October 29, 2017), the late establishment of organizations in certain areas, and the accreditation procedure explain why take-up has been slow. In addition, the civil society organizations have stressed their limitations in preparing applications, which is time-consuming and complex. Some of them indicate that, out of caution, they have been severe in selecting applications, choosing only those profiles that pose no difficulties (guaranteed accommodation, integration underway with residence permits or acknowledgement of receipt of a permit application), or stress the slow and cumbersome system, which has discouraged some of the people who would like to benefit from the prostitution exit program.”

2020 CSO report, p. 34

“Finally, our organizations all highlight the cumbersome preparatory work required by the committees to put together applications. State funding is not sufficient. Some organizations, such as Grisélidis, are unable to assist all the sex workers who ask to join the exit program. Yet, as we can well attest, many non-accredited organizations support people wanting to leave sex work through mainstream schemes and not via the exit program. According to most organizations, moreover, the majority of those who manage to change their occupation do so by drawing on mainstream policies and their own resources.”

2018 CSO report, p. 64

“For organisations, which have been accredited to submit exit programme applications, the question of applications’ selection has been raised. This question is two-fold. On the one hand, the preparation of applications and the monitoring needed involves a significant amount of work, although of all the grass- roots organisations interviewed, only one had received additional funding for this purpose. Some organisations had even seen their departmental funding drop in 2017. On the other hand, most of those responsible for the relevant departmental services (the delegate for women’s rights) had said that the number of applications that could be accepted would be reduced, given the financial resources available.”

2. Civil society organizations forced to make a choice of applications

Government report, p. 68

“The small number of applications that the committee can process and the risk of being rejected for the program leads the organizations to select the strongest applications—i.e., the people who are closest to exiting prostitution—to the detriment of the most vulnerable and isolated. Some organizations wonder whether their involvement in the committees is sustainable. Others choose not to apply for accreditation because the number of applications accepted is derisory given the time it takes to manage them and, above all, because of the number of people they help leave prostitution without going through the program provided for in the Act.”

3. Unequal funding of civil society organizations

Government report, p. 69

“In the mission’ view, the engagement of all the organizations committed to the reintegration of people involved in prostitution should receive funding commensurate with the number of people they support. Indeed, it is the objective of the Act and in the interest of victims of sexual exploitation for them to get out of prostitution, whatever the path.”

2020 CSO report, p. 34-35

“It seems that most of the €5 million budgeted each year does not go to the people concerned but, again, to the same organizations that maintain an abolitionist stance. [...] Conversely, with the setup of the exit program, the activities of non-abolitionist organizations receive less and less support and funding. This is the case for several community health organizations that have been criticized for their opposition to the Act. As a result, they have lost certain funding and have had to suspend some of their outreach activities for sex workers.

D. A dysfunctional social policy tool

In summary

The prostitution exit program introduced by the 2016 Act has clearly identified the obstacles that people wanting to leave the industry encounter: difficulties with housing, residence permits, financial assistance, and access to employment. Yet the implementation of the exit program is a long way from meeting their needs. Both the civil society organizations and the government report stress that the measures are ill-adapted to the realities of sex workers, the housing crisis, the employment crisis, and the issuance of residence permits.

1. Inadequate Financial Aid for Social and Professional Integration (AFIS)

Government report, p. 67

“The decree establishing [financial aid for social and professional integration] sets the amount at €330 per month for a single person, plus €102 per dependent. According to the mission’s interlocutors, this low amount has the effect of encouraging beneficiaries to look for additional income and to accept low-skilled jobs that jeopardize their training. [...] [I]t seems to be enough to live decently only if the person is offered a place in emergency housing.”

2020 CSO report, p. 33

“First of all, the [financial aid for social and professional integration] is a stigmatizing and disadvantageous exclusion from the mainstream social welfare system. The financial aid for social and professional integration (AFIS) offered through the exit program is a derisory €330, well below the poverty line established by INSEE at €1,026. In comparison, the RSA [*Revenu de solidarité active* or work welfare benefit] can amount to about €550, and other minimum welfare benefits are possible. Yet since the program allowance cannot be combined with other

social entitlements, it is only worthwhile for foreign nationals who are undocumented or are not eligible for other entitlements.

2018 CSO report, p. 62

“However, for the majority of people interviewed, the amount allocated was deemed to be insufficient to encourage them to stop sex work from one day to the next. Estimated living costs are most often between €1,000 and €1,500 per month, given that many do not want to live in unstable housing.”

2. Limited access to housing

Government report, p. 64

“People in prostitution often lack stable housing or are dependent on their network or their pimp; accommodation in a shelter can enable them to move on to more stable housing, a key step in any reintegration project.

[...] The Act of April 13, 2016 recognizes [people in prostitution] as a priority group for access to social housing. The mission observes that the persons registered in prostitution exit programs rarely obtain social housing [...] because of their financial insecurity (given the low amount of [financial aid for social and professional integration]) and the short duration of their residence permit. In addition, the wait times for social housing in certain over-stretched areas, even for a priority group, are not compatible with a program granted for a six-month period. Finally, according to some civil society organizations, sheltered accommodation is often more appropriate in the first stage of the process of leaving prostitution.

2020 CSO report, p. 34

“A [temporary residence permit] does not enable or makes it difficult to access certain entitlements, in particular social housing (a one-year residence permit is required) and does not protect against a loss of entitlements. The promise of priority access to housing cannot be kept given that the social housing stock and emergency shelters are already at capacity.”

3. The residence permit: vital but too short and too insecure

2018 CSO report, p. 57

“The quantitative study, which took place at the start of 2018, asked people who said they were interested in the exit programme what, for them, was their most pressing need (from the following choices: help with housing, residence permit, financial assistance, training, other). A residence permit was considered by more than half of respondents as being the most important.”

Government report, p. 66

“The first [difficulty] is that it is impossible for some applicants to establish their civil status and nationality. [...] Applicants often do not have identity documents, either because they were taken away from them after their journey in the case of [human trafficking] victims (and in any case, they had usually used a false identity) or because they never had any. [...] Finally, the prefectures do not accept all the permits provided for in the circular and there are variations in which permits are accepted.

The second concerns the duration of the temporary residence permit. The minimum duration of six months provided for by the law seems to have been interpreted by the committees and prefectures as a fixed duration. Yet a six-month permit can hinder access to stable housing, vocational training, and employment and lead to a loss of entitlements if the permit is not renewed quickly enough. In addition, the administrative work associated with frequent renewals is time-consuming for all parties involved.

2020 CSO report, p. 33-34

“For foreign sex workers, the exit program does not allow them to obtain a full residence permit. Only a six-month temporary residence permit (*autorisation provisoire de séjour*, APS) is granted, renewable for the duration of the program, which cannot exceed two years.”

4. Difficulties finding employment

Government report, p. 67-68

“People exiting prostitution have difficulty accessing training and employment due, among other things, to a poor command of French and low levels of education [...] More than 80% of prefects point out that the duration of the [temporary residence permit] granted (six months) is an obstacle to accessing a long training program leading to a qualification.

According to the information we gathered, in most cases, the [exit programs] nonetheless allow their beneficiaries to access an initial, often insecure job, the first sector being cleaning in the hotel industry.”

2020 CSO report, p. 34

“Not having a long-term residence permit, only such a short one, also means people are refused registration with *Pôle Emploi* (the Job Center) or employers refuse to hire them. Moreover, no provision is made for people to take French-language courses.”

2020 CSO report, p. 35

“The existence of this ‘exit program’ allows the authorities to avoid questioning the structural causes that trap individuals in precarious situations and reduce their economic and professional choices, and for which they [the authorities] are chiefly responsible, namely repressive and anti-social migration policies, which are in complete contradiction with the stated objectives of the Act.”

On the issue of employment prospects, we should recall here the criticism of the fact that stopping prostitution is a prerequisite to apply for the exit program. This criticism was mentioned above in a citation from the government report (in the section on the disparity of criteria).

2018 CSO report, p. 59-60

“The central criticism of the exit program is around the commitment applicants must make to stop sex work even before the committee examines the application. Many feel that a gradual change would be much more practical and more respectful of sex workers’ choices and needs. [...] These extracts from interviews highlight the advantages of a progressive career change compared to the obligation to immediately stop sex work; or at least, the possibility of having the choice of progressively stopping. Several interviewees recalled the fact that, from a very pragmatic point of view, it’s not possible from one day to the next to sign up to such a sudden

drop in income, because people are often committed to supporting their parents and children living in their country of origin. Some may even be in danger if they do not repay their debts.”

D. A social policy tool castigated by sex workers/people in prostitution: social control, moralizing, and stigmatization

In summary

The civil society organization reports, which choose to focus on what sex workers have to say, compound the concrete criticisms listed above with more fundamental criticisms of the implementation of the prostitution exit program. Because the program is outside mainstream policy, it creates unequal treatment of individuals; it is experienced by those who would apply for it as a source of social control, and by those who refuse it as a moralizing, stigmatizing discourse.

2020 CSO report, p. 33

“It is also a form of social control and blackmail because the entitlements that come with the exit program are contingent on stopping a legal, taxable occupation that is subject to social security contributions, and are under the supervision of departmental committees that can withdraw these ‘entitlements’ at any time. As the *Défenseur des Droits* (ombudsman) has pointed out,²⁸ this creates discrimination among sex workers in their access to entitlements. For example, we heard from a person who was refused housing assistance on the grounds that she was a sex worker and had to enter the specific ‘exit program’ scheme which provides housing assistance, though in fact most do not receive that assistance due to a lack of supply.”

2018 CSO report, p. 55

“[...] although everyone felt that this might be a useful mechanism for the most vulnerable people, both French and migrant workers were against the setup of a social mechanism outside the mainstream social welfare system which risked strengthening the stigma around those who take part and those who were not interested in it. This exit program risks creating divisions between those who are considered as worthy of protection (because they want to stop sex work) and those who prefer to continue, who would then be considered as the collateral damage of a political objective that does not take into account their choices and their rights. In other words, sex workers, in more or less constructive terms, criticized the moral aspect underlying the new law.

2018 CSO report, p. 68

“For sex workers and grassroots organizations, the reservations expressed around the exit program related to a fear of social control and the use of personal information. Many people did not want to be categorized as sex workers, or did not want to be assisted by an organization which would make their work obvious. Many people did not have sex work as their main source of income, or did not want to be identified with this type of work. [...] Interviewees broadly rejected the victimizing, moralistic and ultimately stigmatizing approach which, for them, is

²⁸ https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/ddd_avis_20151216_15-28.pdf

implicit in the exit program mechanism—the fact that it denies the option of considering sex work as a profession was criticized.”

E. A simple lack of political will or an ineffective scheme?

In summary

To conclude on the prostitution exit program, the government report points to a lack of political support and communication on the program’s existence, while the civil society organizations denounce it as smoke and mirrors with no real political will to put in place an effective program for leaving prostitution. Hence, the government report calls for an improvement in the scheme, while the organizations conclude that the scheme is a predictable failure.

Government report, p. 62

“The mission highlights the disparity between the number of people whom the organizations support who are interested in the exit program and the number of applications submitted. In the opinion of the prefects and civil society organizations, which the mission shares, the [exit program] scheme is not widely known despite the civil society organizations’ efforts to promote it. In addition, the rise in less visible prostitution reduces the organizations’ contact with people in prostitution and therefore makes it difficult to identify those interested in getting support to leave prostitution. Others refuse to join the scheme for fear of reprisals. In addition, a definitive break with prostitution is a prerequisite for benefiting from the scheme, but this requirement is not always compatible with a precarious situation pending the outcome of the procedure. The low amount of the [financial aid for social and professional integration] may discourage people without housing independence. Finally, the requirement for an employability plan means that the [exit program] is more suited to people who have already progressed through the support system. [...] Thus, the individuals in the [exit program] are a small proportion of those whom the civil society organizations support: the vast majority continue to be supported without the exit program.

2020 CSO report, p. 37

“Official estimates of the number of sex workers in France (which have no scientific basis and are probably underestimated) vary from 30,000 to 40,000 people. Yet three years on, only 341 people have effectively benefited from the Act via the ‘prostitution exit program.’ The Act’s advocates originally anticipated between 500 and 1000 people per year for the ‘exit program.’ So, after three years, this represents between 0.9% and 1.1% of the estimated total population of female sex workers in France.”

III. Educational component and the issue of minors

Key points regarding the Act

The third component of the 2016 Act is an educational component designed to prevent prostitution among minors. This component hinges in particular on instituting “information sessions on the realities of prostitution and the dangers of the commodification of the body” in secondary schools: “these sessions present an egalitarian vision of relations between women and men. They help teach respect for the human body.”²⁹

The prevention of prostitution was to be included in the annual sex education sessions that exist in middle and high schools and complement the instruction also delivered through the curricula of various school subjects. The government report indicates that there have been no circulars to clarify this part of the Act. The civil society organization reports have no information either, but express concern that the few practical sessions on prevention will be taken over by pure anti-prostitution rhetoric.

Thus, the reports deal less with the introduction of the topic into school curricula and more with the broader need for prevention in the face of the worrying issue of prostitution among minors, an issue that has become much more prominent in the debate since the Act was passed. Both the government report and the 2020 civil society organization report take these considerations beyond the case of minors to include young adult students.

E. Difficulties in quantifying and defining the sexual exploitation of minors

Government report, p. 76

“The stakeholders interviewed were of the unanimous opinion that the phenomenon is worsening. According to statistics collected by OCRTEH [Central Office for the Suppression of Trafficking in Human Beings (*Office central pour la répression de la traite des êtres humains*)], 129 underage victims of sexual exploitation were counted in 2017 and 147 in 2018 (including 129 of French origin).³⁰ According to OCRTEH, this trend can be explained by the growth of procuring in deprived housing projects [so-called *proxénétisme ‘de cité’*]. [...]

But these figures represent only the visible, very partial share of the phenomenon. They do not account for the number of minors at risk of prostitution who are in state care or under state supervision, nor those in situations of vagrancy and isolation, let alone those hidden by social networks and the Internet.”

2020 CSO report, p. 57

“As for the issue of trafficking, and sex work in general, there are scientifically unfounded figures going round, which estimate the number of ‘underage prostitutes’ in France at 6,000 to 10,000. However, before the 2016 Act, police figures identified an average of about 50 minors each year who were exploited through sex work.³¹ Even considering higher figures such as those provided by the [Interdepartmental Taskforce for Protecting Women Victims of Violence and Combating Trafficking in Human Beings (*Mission interministérielle pour la protection des*

²⁹ Articles 18 and 19 of the law intended to strengthen the fight against the prostitution system and to support people in prostitution passed in 2016: <http://www.assemblee-nationale.fr/14/ta/ta0716.asp>

³⁰ Source: 2018 OCTREH Activity Report.

³¹ <http://www.assemblee-nationale.fr/13/pdf/rap-info/i3334.pdf>, pp. 23 suiv.

femmes victimes de violences et la lutte contre la traite des êtres humains]) and the [National Crime Observatory (*Observatoire nationale de la délinquance et des réponses pénales*)] in their study on human trafficking,³² it appears that 12% of the victims identified by the organizations are minors, i.e. 260 victims in 2018. Although this figure is too high, we are far from the few thousand victims referred to in the political discourse.”

B. Means of combating the sexual exploitation of minors

1. Raising awareness of the law

Government report, p. 77

“The prostitution of minors has been prohibited since 2002, without having stamped out the phenomenon. [...] While the ban on underage prostitution appears to be consensual, the promulgation of the Act of March 4, 2012, and the legislative arsenal concerning the punishment of perpetrators and the protection of victims that followed were not sufficient to curb the phenomenon. In this regard, the mission observes that the principle of prohibiting the prostitution of minors is rarely recalled or commented on in public policy debates or presentations on child protection. It also found that this principle was unknown to the general public and even some professionals. It appears necessary to bring the provisions of the Act of March 4, 2002 into line with those of March 14, 2016, which designates the president of the departmental council as the leader of child protection, and not the juvenile judge as part of educational aid.”

2. Adapting case management for minors

Government report, p. 78

“All the professionals involved in child and youth protection have stressed the limits of the accommodation facilities for underage victims due to an insufficient number of beds and to a lack of staff training and multidisciplinary educational teams, particularly in the management of their mental and physical health. In addition, police inquiries have shown that pimps have now identified child protection institutions, which they target to recruit future victims with impunity, or in which underage prostitutes proselytize and draw other vulnerable young people along with them.”

2020 CSO report, p. 28

“[...] it is necessary to highlight a real state failure regarding the protection of minors who are victims of human trafficking for the purpose of sexual exploitation. The national AcSé scheme, which is a key component of the measures to protect victims of trafficking in France, as cited in Decree 2007-1352 of September 13, 2007 relating to ‘the granting of residence, protection, support, and accommodation to foreign victims of human trafficking,’ does not cover minors. This scheme, which provides relocation, shelter, and support for victims of trafficking who are in danger or highly vulnerable, cannot receive minors and refers them to Child Protection Services (CPS).”

3. Promoting a global and non-judgmental approach for both minors and adults

2020 CSO report, p. 57-58

“For minors and adults alike, combating all forms of sexual exploitation is a fundamental issue. It is clear, as we have amply demonstrated, that the current tools are not fit to combat sexual

³² *Op. cit*

exploitation, but only to combat sex work itself, often with counter-productive effects. Combating sexual exploitation does not entail combating sex work; it entails combating precarity, patriarchy, LGBTQI+-phobias, racism, and the closing of borders. This applies for both adults and minors.

We must also question the means available to Child Protection Services in terms of overall support for minors placed under their protection: What resources do they have? What tools are at their disposal to offer qualitative and emancipatory support? Do they have the means to offer the minors they support real prospects for the future?

Finally, it is also necessary to recall the importance of a harm reduction policy, even for minors who sell sexual services. Simply combating prostitution without worrying about sexual health prevention messages is nonsense in terms of public health. Regrettably, current public policies leave little room for this.

The law provides for three sessions per year of education in emotional, relational, and sexual wellbeing from kindergarten to 12th grade.³³ Unfortunately, schools often have neither the means nor the will to put them in place. Yet these sessions are crucial for addressing issues of consent, risk reduction, our relationship to the body, etc., and therefore for preventing the sexual exploitation of minors.”

C. The special case of foreign minors: conflict between migration and protection policies

2020 CSO report, p. 28-29

“However, the majority of minors met by the civil society organizations on the ground are migrants and have to go through an age assessment platform before they can call on [child protection services]. In general, the individuals are fed and housed in hotels or hostels during the age assessment period, which varies in length, averaging three to four weeks. If they are recognized as minors, they are referred to CPS and provided with care until they turn 18.”

Government report, p. 83

“Regarding foreign minors or young adults who engage in prostitution, our inquiries confirm that most of them are prisoners of an international trafficking network. Our inquiries confirm a significant increase in the number of victims of [human trafficking] for the purpose of sexual exploitation of foreign origin. A quantitative assessment of these phenomena is, again, impossible to establish, given that minors are less often assisted than adults by specialized organizations, since they can benefit from ordinary child protection measures or measures for [unaccompanied minors]. Moreover, these young people often hide the fact that they are minors to avoid identification and control procedures. [...] As the number of [unaccompanied minors] has risen sharply over the past five years, the shelter capacities of the *départements* facing this mass influx are chronically overstretched and many minors are left to fend for themselves. Some may resort to subsistence prostitution in the absence of institutional care and others may fall prey to trafficking networks. In the mission’s view, the care arrangements for minors who are victims of sexual exploitation should be linked to those of the national system for the shelter, assessment, and referral of [unaccompanied minors] established by the Act of March 14, 2016 on child protection.”

Government report, p. 53

³³ Art. 312-16 of the French Education Code

“Young foreigners who declare themselves unaccompanied minors and would like to benefit from child protection services (CPS) appear to submit less and less to this evaluation system in the *départements* that use the national biometric register of unaccompanied minors; the assessments carried out under the authority of the departmental councils are sometimes hasty and not very thorough; signs of exploitation or control are not always recorded.

D. Student prostitution

2020 CSO report, p. 56

“Awareness-raising activities are carried out among the student population so that they understand the dangers they run if they turn to sex work to support themselves during their studies. Such awareness efforts make little sense. If young people and students turn to sex work as a means of subsistence, it is not because they don’t know what sex work means, but because of their precarity. As long as there is no political response focused on tackling precarity among students, namely through access to student housing, student income support, and more widespread grants, the fight against ‘student prostitution’ will be nothing but a tool of political communication to avoid dealing with other problems of social inequality.”

Government report, p. 85

“[An] analysis carried out in 2019 by the University of Grenoble-Alpes, in conjunction with the Amicale du Nid and the [departmental directorate of social cohesion], updating the 2015 analysis, highlights a 3% increase in the percentage of students who had engaged in sexual relations in exchange for goods, services or money over this period (from 4% to 7%). [...] Students who engage in sexual relations in exchange for goods, services, or money are in diverse situations as regards the practice of prostitution. Some of them do not necessarily identify as being involved in prostitution. The contact with clients mostly takes place via the internet. Advertising, escort, or sugar dating sites put sugar daddies, or older benefactors, in touch with ‘sugar babies’ in exchange for sexual favors [...].

IV. Human trafficking and procuring

Key points regarding the Act

The main purpose of the Act of April 13, 2016 is to combat the exploitation of persons, primarily human trafficking. This objective is made very clear by the choice to cite the United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others in the opening lines of the 2013 bill: “Whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community.” As the objective of combating trafficking and exploitation (*proxénétisme* or procuring in French law) was a key argument for instituting client criminalization and the prostitution exit program, it is inevitably central to the debate. Yet it is difficult to assess the impact of the Act on human trafficking.

Both the government report and the civil society organization reports provide a rough overview of the measures that exist in France to combat human trafficking. But as regards the Act of 2016, they only highlight the lack of coherence and coordination with the other measures. We will not, therefore, go into much detail on this aspect, since the bulk of the evaluation reports’ commentary on human trafficking concerns the legislative provisions that existed before the Act was passed. The only more specific link between the 2016 Act and anti-trafficking is the creation of the departmental committees (see above) that are supposed to play a role in preventing trafficking, but the government report notes that coordination is poor between these committees and the rest of the legal apparatus to counter trafficking. Furthermore, the field data do not indicate whether client criminalization and the decline in demand have reduced the number of new trafficking victims.

The civil society organization reports are more concerned with discussing the founding principles of the Act than with attempting to evaluate it. For them, a better way to combat trafficking would be to counter repressive migration policies and to regularize the immigration status of those concerned; but above all, they believe that the Act was misguided from the start insofar as it conflates migrant sex workers and victims of trafficking. Recognition of the diverse realities of prostitution would enable more appropriate policy responses to be proposed.

F. How does this Act contribute (or not) to the broader measures put in place to combat human trafficking?

1. Poor coordination between the “Departmental Committees to Combat Procuring and Trafficking in Human Beings for the Purpose of Sexual Exploitation” and other mechanisms

Government report, p. 35

“The mission recommends that the local committee for assistance to victims be identified as the body responsible for organizing and coordinating action in support of victims of human trafficking for purposes other than sexual exploitation, and that this mission be linked with that of the departmental committee for combating prostitution.”

2. Uncertainty about the impact of criminalizing demand on human trafficking

Government report, p. 37

“The prostitution system has experienced rapid changes since the early 2010s and street prostitution seems to be decreasing and becoming more precarious. According to [the Central Office for the Suppression of Human Trafficking (*Office centrale pour la répression de la traite des êtres humains*)], the proportion of identified victims working on the street decreased over three years, from 54% in 2016 to 38% in 2018, and those using the Internet to contact clients rose from 34% to 49%. All stakeholders concur in the observation that street prostitution is still widespread but declining.

2018 CSO report, p. 38

“In any case, grassroots organisations confirmed the drop in the number of clients, but did not report any significant drop in the number of people they encountered in their work. The notable exception was the Maison de Vie du Roussillon and the Comité des TDS in Perpignan, as well as the Planning Familial in Aude, which reported a significant decrease in the sex workers they meet. In fact, this is a region where provisions to criminalise clients were strictly enforced across the country roads. The organisations think that many sex workers moved to the clubs over the Spanish border or that they now work on the internet.”

2020 CSO report, p. 16-17

Due to the lack of accurate data on trafficked sex workers, the civil society organizations find it “impossible to say whether the Act helps reduce human trafficking. However, to think that criminalizing clients would have an impact on such a phenomenon is doubtful, given the exploitation networks’ ability to circumvent any legislative framework. At the time the bill was under study, the people we met in our organizations whom we assist as victims of trafficking explained that the networks were already adapting their methods. Client criminalization is no disincentive given the economic stakes of exploitation.”

B. The civil society organization reports consider that the tools and even the definition of exploitation are inappropriate.

1. Change migration policies, rather than criminalizing demand

2020 CSO report, p. 28

“The lack of real protection for victims is undoubtedly the number one reason for the failure of counter-trafficking policies. Victims are always considered as potential accomplices of the perpetrators, as fraudsters, and most of all as foreigners whose presence in France is undesirable. They find themselves under the obligation to leave French territory (OQTF) and lose all confidence in the authorities and the organizations that support them, which means less information to identify and understand the phenomenon.”

2. Avoid conflating human trafficking and procuring

2020 CSO report, p. 13

“Conflating the offenses of human trafficking and procuring [...] allows neither a good understanding of the constraints faced by sex workers, nor effective action against forced labor, trafficking, and exploitation, since police forces tend to focus on sex work and its organization rather than on coercion as defined in Article 3 of the Palermo Protocol,³⁴ namely the use of force, abduction, fraud, deception, threats, and abuse of power. In practice, the offense of procuring is used in the majority of cases because it is simpler for the police and the judiciary to classify, yet the definition of procuring does not entail any coercion to engage in sex work. Simply aiding or abetting the prostitution of another person is sufficient to classify the offense.³⁵ As a result, the number of trafficking victims and the overall picture of the phenomenon are completely distorted.

To make matters worse, sex workers themselves can be charged with procuring, including when they share an apartment or a van for their safety. We denounce the fact that in the name of combating trafficking, sex workers, including the victims of trafficking themselves, cannot work in safe conditions and may find themselves in the dock.”

Indeed, the government report dodges the need to distinguish between human trafficking and procuring, even though the broad definition of procuring in France means that in many cases it is not a question of power relations:

Government report, p. 6

“Efforts to combat procuring and human trafficking for the purpose of sexual exploitation are increasingly delivering results. The number of criminal investigations conducted in France on these matters has increased by 54% in four years.” (A footnote in the report specifies that this statistic concerns procuring).

3. Avoid conflating migration and human trafficking

Let us note here that there is a battle over the human trafficking figures. Since discussions began on the bill, civil society organizations have been asking policymakers to avoid treating “migrants involved in prostitution” as equivalent to “victims of trafficking.” Accordingly, the 2020 civil society organization report refers to several reports and studies, such as a study conducted by researcher Nicola Mai in 2015³⁶ indicating that only 7% of sex workers, representing 11% of migrant sex workers, were potentially victims of trafficking; meanwhile, the reports of the [Interdepartmental Taskforce for Protecting Women Victims of Violence and Combating Trafficking in Human Beings] and the [National Crime Observatory] indicate that 3.4% of sex workers in France are victims of trafficking; we should also cite the 2015 annual report of the Amicale du Nid,³⁷ an organization campaigning for the “abolition of prostitution”: “17% of the people we met were identified by our teams as victims of human trafficking.” In its 2016 annual report,³⁸ the same organization states that: “23% of the people met (out of 4811) are clearly identified as victims of human trafficking (application of the identification criteria).”³⁹

2020 CSO report, p. 14

³⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000.

³⁵ Art. 225-5, French Penal Code

³⁶ https://www.lames.cnrs.fr/IMG/pdf/RESUME_ETUDE_PENALISATION-2.pdf

³⁷ 2015 Annual Report, Amicale du Nid, p. 14.

³⁸ http://amicaledunid.org/wp-content/uploads/2018/03/Rapport-AGO_2016_AmicaleDuNid.pdf

³⁹ http://amicaledunid.org/wp-content/uploads/2018/03/Rapport-AGO_2016_AmicaleDuNid.pdf

“We challenge the conflation of migrant sex workers with victims of trafficking. Migration trajectories are varied and do not necessarily include all the factors that would qualify as human trafficking according to the definition of the Palermo Protocol.

It is because the government of the time and a section of the French political class decided that the abolitionist ideology prevailed in the understanding of sex work in France, that it was decided to equate any migrant sex worker with a victim of trafficking—and this for political reasons, without regard for scientific considerations. In report after report, independent researchers and evaluators argue that sex work in France must be better studied and quantified, while stressing the diversity of situations, but these recommendations are ignored.”

Conclusion: Lack of political backing and management or the wrong legislation?

All three evaluation reports of the 2016 Prostitution Act have been highly critical of its implementation and effects. In conclusion, we would like to highlight: first, the main divergences in the how the reports interpret the reasons for the Act's relative failure; and, second, how this leads them to put forward very different recommendations for the future, despite agreeing in many respects on the analysis of the Act's application and impact.

I. Divergent explanations for the Act's relative failure

In the government report's analysis, the main impediment to the Act's implementation is a lack of "political backing and proactive commitment on the part of the authorities" (p. 5). Added to this is a lack of national steering, that is, a lack of interministerial collaboration, of coordination between the different levels of government, and of coherence between the departmental committees for combating procuring and human trafficking and the two national action plans for combating human trafficking and violence against women.

Next, the government report points to a lack of communication aimed at the general public, who are still relatively poorly informed about issues related to prostitution. Similarly, the report regrets the lack of training of the key actors "responsible for the law's implementation (law enforcement, judiciary, social workers, state education staff, etc.)" (p. 5).

Finally, the government report highlights insufficient anticipation of the financial resources allocated to the social and employment support of people in prostitution, and a lack of funding for civil society organizations, particularly those that support sex workers/people in prostitution but do not take an abolitionist stance.

The civil society organization reports, on the other hand, consider that there is little scope to improve the Act and that its negative effects are intrinsic to the initial political choices that underpin it. The civil society organizations do not subscribe to the abolitionist approach of repressing demand in order to reduce supply. Their priorities do not relate to combatting prostitution but rather combatting sexual exploitation. For the civil society organizations, sex work is not a problem in itself, but is problematic under the current conditions of criminalization. The civil society organizations are committed to supporting sex workers and improving their working and living conditions, and the consequences of criminalizing clients that they see in the field lead them to reject this Act, especially since the exit program falls short of what is needed.

II. Recommendations: Areas of agreement and disagreement on how the Act should be changed

The government report makes a large number of recommendations. The organizations, while opposed to the 2016 Act criminalizing clients, nevertheless propose a certain number of recommendations to improve the Act.

A number of recommendations are thus shared by the reports.

- First of all, they agree on the need for better implementation of the existing measures to combat human trafficking.

- They also coincide regarding funding, which must be more balanced between abolitionist and non-abolitionist organizations, and on the need to strengthen harm reduction and health measures.
- With regard to the exit program, the reports call for a modification of the conditions for accrediting organizations in the departmental committees, in order to include community and health organizations that do not have the primary purpose of getting people out of prostitution. They also call for the obligation to stop prostitution to be removed from the exit program.

Apart from these agreements on specific points, however, the recommendations differ fundamentally.

- The civil society organizations denounce client criminalization which is effectively responsible for the deterioration of sex workers' living and working conditions. In their reports, while precarity, multiple forms of violence, difficulties in accessing care, and the stigmatization of sex workers existed before 2016, client criminalization made all these problems worse.
- In contrast, the government report contends that criminalizing demand has yet to prove itself, and that with a few adjustments, more resources and greater political will, this Act will prove to be effective.