

## Empowering LGBTI sex workers towards the full respect of their human rights ILGA-Europe's position paper (Spring 2018)

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ILGA-Europe are working for the protection of the human rights of all LGBTI people. Based on the principle of self-determination, ILGA-Europe believe that everyone has the right to be protected against violence and discrimination.

To achieve this goal, we work with activists and policymakers to craft legislation and policies to form the basis of such protection. Crucially, we also support LGBTI communities to self-organise and make sure their own experiences are heard.

This position paper is based on these core principles. LGBTI sex workers should have agency and their voices need to be included in the LGBTI community and in the discussion and adoption of any policies affecting their lives.

For the purpose of this position paper, the term 'sex work' refers to **consenting adults exchanging sexual services, without coercion, for some form of remuneration. Sex work does not involve violence and coercion** – as otherwise it is a criminal offence.

ILGA-Europe are very clear about not conflating sex work and trafficking. Trafficking is a serious human rights violation, and an extremely worrying reality across Europe, Central Asia and beyond. We therefore stand in full solidarity with voices calling on decision-makers to make sure that existing laws aimed at combating trafficking are effectively implemented, and that victims get all the support they need in the countries where they find themselves.

Moreover, ILGA-Europe are aware that young LGBTI people, including minors, may resort to sex work as a means of survival in a context of family rejection and social marginalization. However, the issue of support and protection of minors selling sex services is outside the scope of this policy, because commercial sex involving children is a criminal offence. In addition, any policy affecting young people who sell sex should take into consideration their capacity to exercise agency.

There are many reasons why LGBTI people engage in sex work, from personal motivations to structural LGBTI-phobia and exclusion. Marginalisation, discrimination, bullying at school, rejection of family and friends, limited employment and economic opportunities are all factors that can push LGBTI people into sex work.

The lack of access to affordable legal gender recognition procedures and difficulties to finance gender affirming treatments, are also structural problems that lead to social and economic exclusion of trans people. In some parts of Europe and Central Asia, resorting to sex work is still today one of the very few options available to trans people to earn money.

Factors like age, gender identity, minority ethnic background or being a migrant without legal status in the country, can increase the vulnerability of some within the LGBTI communities. While stigma and marginalisation often create conditions that significantly

limit people's options, engaging in sex work often adds a layer of stigma and marginalisation for LGBTI people.

Sex workers of all sexual orientations, gender identities and sex characteristics face serious human rights violations and violence. ILGA-Europe acknowledge that sex work is a multi-gendered phenomenon. While it is clear that the majority of sex workers are women, as an LGBTI organisation, it is our role to give visibility and to speak about the high number of LGBTI people in sex work and their specific vulnerability and needs.

In order to empower LGBTI sex workers and fully respect their human rights, we all, the LGBTI community, civil society organisations, policy makers and other stakeholders, need to take the following steps:

### **Combatting structural discrimination and social exclusion of LGBTI people**

ILGA-Europe work on combatting discrimination in all areas of life and on ensuring that LGBTI people can live their lives safe and free of discrimination, including tackling the multiple reasons that play a role in LGBTI people engaging in sex work.

In this context, ILGA-Europe urge States to take appropriate measures to realise the economic, social and cultural rights of all people so that no person enters sex work against their will or is compelled to rely on it as their only means of survival. In addition, laws and public policies should ensure that people are able to stop sex work if and when they choose.

Such measures could include: policies ensuring that schools are safer and more LGBTI-inclusive; legal gender recognition procedures that are accessible and based on self-determination; and the implementation of anti-discrimination laws covering all areas of life.

### **Calling for decriminalisation as a cornerstone for protecting the human rights of sex workers**

Based on available evidence and the testimonies from LGBTI sex workers, and in line with statements of UN agencies and other international organisations<sup>1</sup>, ILGA-Europe acknowledge that decriminalisation is a cornerstone of the protection of sex workers' human rights.

Decriminalisation of sex work removes significant barriers to the effective enjoyment of human rights for LGBTI people who engage in sex work. It contributes to reducing police violence and abuse and to facilitating access to police protection and justice. Indeed, where criminal prosecution of sex work is removed, it becomes easier for sex workers to report crimes to the police and seek redress, without the fear of facing potential prosecution themselves. Decriminalisation also contributes to recognition of sex work as work, and therefore opens up the adoption of measures for safe working conditions and better access

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<sup>1</sup> Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low - and middle-income countries, Recommendations for a public health approach, World Health Organisation, 2012; CEDAW, General Recommendation 33 (women's access to justice), UN Doc. CEDAW/C/GC/33, 2015, paras. 9, 51(I); Leaving no-one behind: reaching key populations through workplace action on HIV and AIDS, International Labour Organisation, 2014; Committee on Economic, Social and Cultural Rights, General Comment No. 22 (2016) on the Right to sexual and reproductive health, para. 49.

to health services, which is important considering that LGBTI sex workers are more at risk of getting infected with HIV or other sexually transmitted infections.

On the other hand, criminalisation of sex work increases stigma against and vulnerability of sex workers. Criminalisation pushes sex workers to work underground, which leaves them more vulnerable and without any social protection. They are exposed to a higher risk of violence, are less easily reached by social and health services' providers, have less opportunities to organise themselves and support each other, and, because they work illegally, have less possibilities to negotiate with clients, for example on condom use. Implementation of criminalizing laws also often come along practices such as identity documents and condoms confiscation, forced HIV testing, and even harassment.<sup>2</sup> Moreover, in a criminalised environment, incidents of violence very often go under-reported and under-investigated.

Violence is a daily reality for LGBTI sex workers. 88% of murdered trans people in Europe are sex workers<sup>3</sup>. Racism, sexism, homophobia, transphobia, xenophobia, exacerbate LGBTI sex workers' vulnerability to violence. Despite these facts, sex workers are considerably less likely to report abuse where sex work is criminalised. They are also likely to have no engagement with policy forces, or negative encounters with law enforcement officials. Indeed, perpetrators are not only clients, but also police officers, as well as members of gangs.

**ILGA-Europe therefore call for the decriminalisation of all aspects of sex work, i.e. the selling, as well as buying of sex services, the operational aspects of sex work and the fact of working collectively with other sex workers.**

**ILGA-Europe call on policy-makers and other stakeholders to listen to the voices of LGBTI sex workers, to meaningfully involve them in the elaboration of all policies affecting them, and to speak out in support of the full decriminalisation of sex work.**

Policy makers should collect data on acts of violence faced specifically by LGBTI sex workers and they should train law enforcement officials on prevention of violence and on provision of adequate support to victims.

We also strongly encourage trade unions to include the voices of LGBTI sex workers in their work so that the conditions in which they operate are regulated and in line with workers' rights standards. Trade unions should work to ensure that LGBTI sex workers have access to social protection, either through their general legislation on work conditions or through regulations specific to sex work.

## **Working towards the full inclusion of the voices of sex workers in the LGBTI community**

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<sup>2</sup> This has been evidenced in particular in the Transgender Europe (TGEU) brief report *The vicious circle of violence: Trans and gender-diverse people, migration, and sex work*, December 2017.

<sup>3</sup> *Ibid*

LGBTI sex workers have always been an important part of the LGBTI movement. Unfortunately, LGBTI sex workers are often excluded from LGBTI activism, whether it is being left out of LGBTI public events such as Prides marches, or not being given visibility in the work of LGBTI groups and organisations. ILGA-Europe consider it very important to ensure that LGBTI sex workers' voices are heard within LGBTI communities and part of the movements in Europe and Central Asia.

We also consider that LGBTI organisations have a key role to play in fighting against stigma affecting LGBTI sex workers, both within and outside the LGBTI community.

**This is why ILGA-Europe commit to raising awareness within the LGBTI community on the human rights violations which LGBTI sex workers are facing, and to addressing stigma against sex workers and supporting them to be more visible within the LGBTI community. At ILGA-Europe, we will do our best to include the voices and concerns of LGBTI sex workers across our work, in the same way as we aim to include all diverse voices in the LGBTI community.**

We will aim to support our members to involve LGBTI sex workers in their activities and help raise awareness about the human rights violations LGBTI sex workers are facing, their specific needs and demands.

ILGA-Europe will also support calls for the decriminalisation of sex work and the protection of LGBTI sex workers with governments and institutions. ILGA-Europe call on all LGBTI organisations, policy makers and other stakeholders to adopt an intersectional and sex workers inclusive approach.