

UN Convention on the Elimination of All Forms of
Discrimination against Women

**Report on Violence and
Discrimination against Female Sex
Workers by State and Non-State
Actors in Hungary**

Submitted by Szexmunkások Érdekvédelmi Egyesülete (SZEXE- Association of Hungarian Sex Workers) to the Committee on the Elimination of All Forms of Discrimination against Women on January 16 for the 54th CEDAW session (11 February - 1 March 2013)

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Executive summary

Sex workers are a large and heterogeneous community in Hungary. The majority of sex workers are women who work in indoor settings, but a significant number also work on the street. Despite their diverse circumstances, all sex workers face extremely high-levels of social exclusion and discrimination. Many female sex workers further face routine human rights violations by state and non-state actors.

Even though sex work was legalized in Hungary since 1999, sex workers continue to face discrimination from police and other authorities as well as violations of their rights to workplace health and safety. Most Hungarian municipalities failed to allot or define legal working areas for sex workers as the law requires, and sex workers are routinely arbitrarily fined, arrested and detained under vague laws.

Furthermore, sex workers are regularly discriminatorily targeted for administrative fines on unsubstantiated grounds to meet police quotas. When those remain unpaid due to financial burden, they face detention, which further affects their health and safety and their families' economic wellbeing and security. The situation has especially worsened with the introduction of the new law on misdemeanors, which converts fines to higher sentences than before.

The stereotypical and unbalanced representation of sex workers in the mainstream media, extreme intolerance by the general population and the discrimination by the authorities contribute to making sex workers one of the most vulnerable female groups in Hungary. The widespread discrimination and lack of equal access to police protection place sex workers at higher risk of being victims of abuse, including but not limited to trafficking. Additionally, the lack of or insufficient access to free, voluntary and respectful health and harm reduction services impedes sex workers' right to health.

Our report therefore concludes that discrimination and violence against female sex workers in Hungary is currently prevalent, systemic and institutionalised in social, cultural, political, health and economic spheres, and in direct contravention of CEDAW Articles 5, 6, 11 and 12.

Introduction

The Hungarian state report to the fifty-fourth session of the Committee on the Elimination of Discrimination against Women (CEDAW) addresses the list of critical issues requested by the Committee.¹ However, the Hungarian government's report omits any mention of one of the most marginalized groups of women, female sex workers. The government has undertaken no measures to ensure that sex workers have equal access to protection of the law in matters of discrimination or violence nor to ensure sex workers' right to safe and healthy working conditions. This is of even greater concern given, that as this report documents, governmental policies and state-actors are responsible for many of the human rights violations sex workers face. Furthermore, the government's stated aim to "decrease the acceptance of prostitution as a social phenomenon" (para 59) risks further exposing sex workers to discrimination, violence and other rights abuses.

The Hungarian government legalized sex work in 1999 under Act LXXV and has regulated sex work ever since.² Under the law, sex workers are regarded as professionals who engage in sexual activities in exchange for money. The government allows sex work as long as sex workers comply with the criteria set forth within the law. If not, sex workers can be fined or detained. However, these criteria are often vague, overly broad and arbitrarily enforced by police representatives and judges.¹

Sex workers are a large and heterogeneous community in Hungary. SZEXE, the Association of Hungarian Sex Workers estimates that there are approximately 15.000 active sex workers either working in Hungary or of Hungarian origin. Despite their various circumstances, all sex workers face extreme social exclusion and discrimination. Furthermore, state-actors, such as law enforcement agencies often discriminate against them, denying them assistance when they experience violence or other crime. In Hungary, street sex workers are the most frequently targeted with repression, fines and detention under the current laws. Nonetheless, sex workers working in indoor settings also suffer from stigma, police harassment, discrimination, extortion and prejudice from their immediate environment.

SOURCES

The sources of that data in this report are:

- Research surveys conducted by SZEXE
- Reports by independent researchers and research organizations
- Official national statistics
- Case documentation by SZEXE

Full references can be found in the footnotes.

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¹ The description of these criteria can be found under the 'Article 11: Employment' section.

SCOPE OF THIS REPORT

The present report focuses on four critical areas corresponding to CEDAW articles:

- Article 5: Elimination of Discrimination Based on Prejudices and Stereotyping
- Article 6: Suppressing all Forms of Trafficking and Exploitation of Prostitution
- Article 11: Right to Health and Safety in Working Conditions
- Article 12: Elimination of Discrimination in Access to Healthcare

PRINCIPLES

We share the principles of the Sex Workers' Rights Advocacy Network of Central and Eastern Europe and Central Asia on sex work:

I. We understand sex work as the unforced sale of sexual services for money or goods between consenting adults. Sex work includes street sex work, escort services, telephone sex services, pornography, exotic dancing and others.

II. Sex workers are human beings who have the same human rights as any other people. Sex workers should have the same rights and responsibilities as all other workers, and as every other citizen and resident.

III. Protection of the rights of sex workers is crucial for effective harm reduction, HIV/AIDS, hepatitis B and others STIs prevention and treatment efforts at all levels - individual, community and national. To ensure protection of these rights, sex workers should be able to work legally.

IV. Barriers preventing access to health, social, and drug treatment services need to be removed to improve the health and social wellbeing of sex workers.

V. Activities related to sex work between consenting adults should be decriminalized. All national criminal laws relating to adult sex work should be repealed. All regional and local regulations targeting sex workers to prosecute the practice of their trade should be repealed.

VI. Sex workers and other community members should have an active role in designing commercial regulations of the sex trade.

VII. Targeted, pragmatic, and comprehensive social programs must be developed in consultation with sex workers and implemented to improve relations between the police and sex workers as well as between sex workers in the community at large.

VIII. Targeted, pragmatic, and comprehensive social programs must be developed and implemented with the involvement of sex workers to raise awareness about safer sex, safer drug use, and HIV/AIDS prevention, treatment and support.

Article 5: Elimination of Discrimination Based on Prejudices and Stereotyping

Sex workers report to SZEXE that they face discrimination on an on-going basis from state authorities, media outlets and the public at-large. Discrimination by authorities and widespread media stereotyping can often send a message that discrimination against sex workers is condoned by and acceptable. This discrimination has important consequences on sex workers' well-being, their ability to protect their health and safety and to seek protection and redress when their rights are violated.

The Hungarian state report acknowledges the role of media in disseminating discriminatory representations of women, but does not address the widespread stereotypical and unfair representation of sex workers in the mainstream media. Data gathered through a public opinion poll conducted by SZEXE and through a literature and media content analysis conducted by FACT Foundation in collaboration with SZEXE found that the stereotypical and sensationalistic portrayal of sex workers in the media fuels widespread stigma and discrimination against women sex workers in Hungarian society.

In 2009, SZEXE contracted a firm to conduct a representative public opinion poll on social attitudes to sex work and sex workers.³ Of 1000 people surveyed, 10% thought that discrimination towards sex workers was acceptable and 19,4% felt that discrimination towards sex workers by authorities was acceptable. Respondents who had direct experience of knowing sex workers were significantly less discriminatory towards them than those who had never known sex workers. Few people however, reported such experiences, and a full 92% of respondents reported that they knew very little about commercial sex. According to those surveyed, the media played the biggest role in shaping public opinion about sex work. Notably, those survey respondents who held *more* discriminatory views against sex workers consumed *more* news on television and in radio. This is a strong indication that television and radio coverage of women sex workers fails to be fair and balanced even though it plays a critical role in shaping public attitudes towards these women. This is of critical concern given that television is the main source of information for close to two-thirds of the population over 18 in Hungary⁴.

In 2009, the FACT Foundation's literature review and media content analysis similarly concluded that media representations of sex work in the country were overwhelmingly sensationalistic and prejudicial, including by the common practice of referring to women sex workers using degrading language.⁵ The research found that sex work and sex workers are usually represented as threatening vectors of sexually transmitted infections (STIs) or as involved in organized. Neither of these stereotypes is substantiated by available data on sex workers in Hungary.

Sex workers were not given any opportunity to represent their personal or collective point of view or experiences in any of the 64 articles analyzed. Furthermore, none of the articles addressed the pressing human rights and women's rights issues sex workers are facing, such as police repression, discrimination and violence. This reflects either lack of awareness on the part of journalists or an intentional avoidance of the topic due to it not being a "high-seller".

In light of these facts, it is of great concern that the National Strategy for the Promotion of Gender Equality articulates that "eradicating prostitution as a social phenomenon" is a key objective for the

2010-2021 period.⁶ This approach will worsen the extent to which sex workers are discriminated against and contribute to maintaining their social exclusion and barriers to their health and safety. We agree with the joint statement of the International Committee on the Rights of Sex Workers in Europe and Sex Workers' Rights Advocacy Network of Central and Eastern Europe and Central Asia (SWAN)⁷ that laws and policies that aim to decrease the social acceptance of sex work have the effects of decreasing the social acceptance of sex workers, increasing repression against sex workers and directly threatening sex workers' safety and human rights.

Recommendations

The Hungarian government should revise its current National Strategy for the Promotion of Gender Equality and other existing state policies and programs that currently promote discrimination against sex workers.

The Hungarian government must address discrimination against sex workers by state-actors, in particular law enforcement officers. The government must ensure that sex workers have equal access to government services, including police protection and the ability to report violence and other crime against them.

The government must undertake and fund programs and policies to reduce discrimination and stereotyping of sex workers, including in the media.

Sex workers and sex worker associations must be involved in the conception, implementation and evaluation of policies and programs that seek to diminish discrimination against them.

Article 6: Suppressing all Forms of Trafficking and Exploitation of Prostitution

There are no reliable statistics on the occurrence of trafficking of women in Hungary. The State's reply to the CEDAW cites 18 investigations in 2012 in the area of human trafficking, of which 15 cases concern trafficking in the sex industry.⁸ The State acknowledges⁹ that the actual number of trafficking crimes is likely to largely exceed the number of cases investigated.

In SZEXE's experience working with victims of trafficking in the sex industry, a large number of women worked consensually in sex work prior to being trafficked. This is echoed by research by the European Roma Rights Centre in 2011¹⁰ that also found that previous involvement in sex work is linked to being in situations of trafficking. It is not involvement per se in sex work that places sex workers at higher risk of being in situations of trafficking. Rather, sex workers' lack of equal access to police protection, due to discrimination and police repression, creates a climate of impunity for abuse against sex workers, including but not limited to trafficking. Sex workers are often approached with offers of new job in the sex industry but deceived as to the conditions under which they will be working, ending up in exploitative or coercive situations.

The European Roma Rights Centre further found that Roma individuals are more likely to become victims of trafficking in Hungary due to the following factors: living in poverty, social exclusion, limited or lack of education, illiteracy, growing up in state care, being indebted. SZEXE's experience

confirms that Roma sex workers are disproportionately targets for human rights abuses, including trafficking, due to their social exclusion and perceived lack of recourse to police protection. Discrimination based on ethnic origin and on involvement in sex work are compounded for Roma sex workers making them all the more vulnerable to abuse. The government must address discrimination based on ethnic origin and sex work experience as well as police repression against sex workers if it wishes to suppress trafficking and exploitation in prostitution.

The accounts of sex workers who have experienced situations of trafficking that have been shared with SZEXE highlight the injustice and inadequacy of present victim support services. Firstly, despite sex work being recognized as work, victims of trafficking who endured exploitation, receive very little compensation for their suffering. Secondly, the limited capacity of shelters and support services and the general lack of awareness among service providers about sex workers' issues, particularly for women who return to sex work of their own volition, also create barriers for post-traumatic recovery and support.

Recommendations

The Hungarian government must actively undertake initiatives to ensure that sex workers have access to police protection. These must be publicized to dissuade traffickers and other violent perpetrators who might otherwise target sex workers.

The Hungarian government must actively take measures to eliminate police repression against sex workers that creates a barrier to sex workers reporting violence, including trafficking, against them.

The Hungarian government should undertake training of police services on sex worker and Roma issues as part of an anti-discrimination campaign to pro-actively ensure that sex workers and Roma sex workers in particular have equal access to police protection if they are targeted with abuse, including trafficking.

The Hungarian government should adopt Directive 2011/36/EU of the European Parliament and of the Council ¹¹ with particular attention to means for compensating victims of trafficking (for example, by making it regulatory to compensate the victim from the trafficker's property).

The Hungarian government should provide support for service providers and civil society organizations for carrying out anti-trafficking programs and prevention activities, which raise awareness on the danger of trafficking and provide appropriate victim assistance services for sex workers.

Article 11: Right to Work and to Health and Safety in Working Conditions

Street Sex Work

Under the act that legalized sex work in 1999, law number 75¹² was passed with the purpose of dealing with the “legal changes and the rules of combating organized crime and certain phenomena that are in connection with it” all at once. According to this law, so-called “tolerance zones” needed to be identified in each municipality with more than 50,000 inhabitants (smaller municipalities may also identify these zones) or in cases where sex work seemed to be widespread. The law differentiated between so-called “protected” zones and “tolerance” zones. Engaging in sex work outside of these tolerance zones is illegal. In practice, Hungarian authorities have been reluctant to identify such zones, so a significant proportion of sex work continues to take place illegally. This means not only that a significant number of sex workers are fined and/or detained every year but it also creates an antagonistic relationship with police, whereby sex workers fear them rather than be able to depend on them for protection from violence or other crime.

Over the years, SZEXE initiated legal cases and some districts of Budapest have been required by court to identify quasi tolerance zones, so far, these have only resulted in a couple of streets being identified that sex workers can use. However, these streets are in dark and isolated areas away from commercial activity, without any kind of security systems available making sex workers vulnerable to violence and other crime or furthering their dependence on third parties in order to protect their safety. SZEXE has publicly raised concerns that the government has been violating the law for years by not identifying these tolerance zones. The official statement of the Deputy of the Commissioner of Fundamental Rights from 2003 (OBH 4007/2003.) also states that “municipalities violate prostitutes’ fundamental rights by not having designated tolerance zones”¹³.

As additional requirements, sex workers must possess entrepreneurial permits, regularly pay taxes and attend obligatory health checks every three months to get a health certificate. Any person who violates these restrictions on sexual services commits an administrative offence and shall be punished by confinement or fine. Soliciting, offering and advertising sexual services in protected zones are also prohibited, which may lead to fines and when unpaid, in many cases, these fines lead to detention.

The new law on misdemeanors¹⁴ also affects sex workers harshly. Since the new law came into effect in 2012, police officers are allowed to fine sex workers on the spot for being non-compliant with the often vague regulations surrounding sex work (i.e. for offering their services in ill-defined or undefined protected zones). Courts have no other option but to convert the fine to public work or imprisonment. The law determines that for an unpaid 5.000 HUF fine (approximately 15 EUR) the sentence of one day imprisonment can be received. SZEXE is involved in the case of one sex worker who has received in half a year more than 80 fines in the value of more than 4.000.000 HUF (approximately 13.000 EUR). Since she has no property, she faces three years of imprisonment. Although this is an extreme case, the situation among street sex workers is dramatic. The current practise punishes the poorest and the most vulnerable groups of our society causing serious problems in the economically most disadvantaged regions. The practice of sentenced imprisonment as a consequence of police fines threatens hundreds of sex workers in Hungary.

According to the present regulations, sex work is legal outside of protected zones (the law determines the distances from public institutes, churches, schools, etc. to be respected). However, in a lot of cases it is not evident whether a certain area is a protected zone or not; the boundaries are usually vague and not publicized. Due to the lack of maps showing protected areas, sex workers working/wishing to work in a given area do not know if they can pursue sex work. Police are just as unclear as to what is within a protected area or not, however they regularly and arbitrarily accuse sex workers of illegal sex work in protected zones, take them into pre-trial detention and initiate legal procedures. The Act LXXV of 1999¹⁵ is also a source of problems and misunderstandings since it allows municipalities to pronounce territories protected, even if they are not described as protected areas in the text of the law. Sex workers coming from other parts of the country therefore are not able to know whether an area is protected or not. They could inquire at the municipality, but in most of the cases they refuse to do so because they do not want to reveal their profession and expose themselves to discrimination there.

SZEXE have routinely witnessed how police take advantage of the lack of clarity around protected zones to routinely discriminatorily target sex workers with fines in order to fill their quotas. Sex workers are frequently charged with offences they did not commit, such as littering or violating pedestrian or traffic regulations. Since sex workers generally do not know if they are standing in a protected zone or not, and thus, do not know if they are committing an offence or not, they usually sign the tickets rather than contest, out of fear that otherwise they will be given the more serious charge of being in a protected zone and taken into detention. After receiving multiple fines (these can be as high as 5-7.000 HUF daily – app. 20 EUR) in a certain period of time, fines are aggregated and the court turns these bigger amounts of accumulated fines into the sentence of imprisonment, which can last for more than a year. SZEXE is in contact with a number of women who have served a year in jail due these circumstances.

The following table presents data from the first half of 2010, showing the high number of court proceedings in illegal sex work broken down by county (these cases were initiated on the basis of not complying with all requirements of the law on sex work).

County	Nr. of court proceedings
Bács-Kiskun	338
Baranya	58
Békés	109
Borsod-Abaúj- Zemplén	1.037
Budapest	842
Csongrád	88
Győr-Moson-Sopron	19
Hajdú-Bihar	156
Heves	72
Jász-Nagykun-Szolnok	69
Komárom-Esztergom	26
No county specified	280
Pest	54
Somogy	91
Szabolcs-Szatmár-Bereg	173
Tolna	52
Vas	3
Veszprém	3
Zala	103
TOTAL:	3.623

Table 1: The table shows the number of court rulings with the administrative offence of sex work during January and July 2010. The data were provided by the Central Office for Administrative and Electronic Public Services upon request of SZEXE.

Indoor Sex Work

The law also sets additional restrictions on sex work taking place indoors. Renting property for sex work is regulated as follows:

‘The person who makes available a building or another place for prostitution to another person, commits a felony and shall be punishable with imprisonment of up to three years.’¹⁶

This regulation is discriminatory since other entrepreneurs are able to run their business activities regardless of the ownership of the property. The financial barrier to working legally pushes many sex workers to work from rented property in situations where they fear law enforcement instead of

being able to depend on them and are continually vulnerable to eviction and homelessness; or to work for third parties or out-call where they may not be able to control their working conditions, including health and safety, to the same extent; or to work outdoors in more precarious conditions. The law also prevents sex workers from working together in a property belonging to one of them, thus exposes them to isolation, and unsafe working conditions. Indoor sex workers face another disadvantage in comparison to other entrepreneurs: they are not able to write off rental expenses from their taxes.

Levels of Police Violence

A 2011 survey¹⁷ conducted by SZEXE investigated the extent of abuse by police officers experienced by sex workers. According to the results, more than 10 % of the 246 respondents had been asked by a police officer to offer free sexual services. A total of 43.4% of sex workers had experienced a verbal or physical assault by authorities, of these, 15,4 % of sex workers have experienced conflicts with police and other authorities frequently and 28 % occasionally. A conflictual relationship with law enforcement due to the existing law and policy framework and lack of awareness on sex workers' rights seriously threaten sex workers' safety and health.

Recommendations

The government must proactively address and punish violence against sex workers by police officers.

The government must cease the discriminatory targeting of sex workers with fines, arrest and detention.

Mechanisms for sex workers to report violence or discrimination without fear of arrest or abuse must be secured.

The government must revise sections of the law that are vague, arbitrary and overly broad and open to abuse. Furthermore, any penalties for non-compliance must be proportionate to that for other businesses.

Requirements for indoor sex work, especially renting conditions need to be reviewed in consultation with sex workers to ensure their safe and fair working conditions.

Policy and law must weigh against the greater harm of creating an antagonistic relationship between law enforcement and women who are vulnerable to abuse due to unequal access to police protection.

Municipalities are to be punished for not complying with the requirements of laws.

Tolerance zones but must be in well-lit and safe areas. They must be equipped with security measures and adequate support services for sex workers must be funded. They must be clearly defined and well-publicized.

The government must support sensitization of police to sex worker and human rights issues implemented jointly by police and sex workers. Such programs and policies must involve sex workers in the conception, implementation and evaluation stages.

Article 12: Elimination of Discrimination in Access to Healthcare

The conditions in which sex work occurs have a profound impact on HIV and STI vulnerability. In Hungary, discrimination against sex workers, a lack of free, voluntary and respectful health services and a lack of or insufficient access to harm reduction services all impede sex workers' right to health. Although sex workers have an incredibly low HIV-prevalence rate in Hungary, it can only be maintained with adequate attention to prevention.

One positive change in 2011 was the replacement of the regulation on obligatory health certificates for sex workers in Hungary. The new regulation has been in effect since 1 January 2012. The main changes the SZEXE managed to reach through advocacy are the following:

"...In most countries, discrimination remains legal against women, men who have sex with men, sex workers, drug users, and ethnic minorities. This must change. I call on all countries to live up to their commitments to enact or enforce legislation outlawing discrimination against people living with HIV and members of vulnerable groups...In countries without laws to protect sex workers, drug users, and men who have sex with men, only a fraction of the population has access to prevention. Conversely, in countries with legal protection and the protection of human rights for these people, many more have access to services. As a result, there are fewer infections, less demand for antiretroviral treatment, and fewer deaths. Not only is it unethical not to protect these groups: it makes no sense from a public health perspective. It hurts us all."

Ban Ki-moon, The Secretary-General of the United Nations

- The health certificate does not contain the word "prostitute" anymore, thus it does not function as a registration document that labels sex workers.
- Before the new law came into effect, sex workers were obliged to pay a significant fee for the mandatory health checks, even though they had the screenings done at their general doctor as well paid from their health insurance. During our preparation meetings with the Ministry of National Resources (former Ministry of Health), we flagged this problem and advocated for change. From 2012 on, sex workers still have to pay for these health checks every 3 months, but if they have the tests run at any doctor for free, covered by their health insurance, they are not requested to pay additional fee for the same tests.
- The SZEXE managed to negotiate and keep the previous price of the mandatory examination, in spite of heavy lobbying of doctors, who hoped for larger profits by increasing prices.

Apart from this positive example, serious problems threaten sex workers' right to access to appropriate services. The Hungarian government cancelled the national drug and AIDS strategy in 2010, and there have not been new strategies and action plans made ever since. Several watchdog organizations have called on the government to finalize its national strategy on AIDS to deal with a rise in the number of HIV infections over the past five years.¹⁸ Low-threshold service providers are also under serious threat since government cut back funding of NGOs running long-standing successful prevention and harm-reduction programs, including grants for services for sex workers.

Recommendations

The creation of a national AIDS Plan in the possible widest consultation with civil society and affected groups should be a top priority for the government. The plan should incorporate strategies and actions on HIV and sex work.

In line with recommendations of UNAIDS¹⁹, the government should implement policies and programs that support a comprehensive, evidence-informed and rights-based approach to HIV and sex work. Sex workers have to be in decision-making and monitoring positions in the process and funding lines have to be matched to the outlined programs for prevention and services targeted especially at sex workers.

Partnerships should be strengthened between the government, civil society organizations, service providers and community organizations working with sex workers. In order to achieve wide collaboration among actors, action needs to be taken to sensitize different actors to issues sex worker face.

The access to confidential and affordable/free STI/SRH services for sex workers has to be improved.

The access to confidential and free of charge harm reduction services inclusive to sex workers has to be secured.

About the author

The present report is the product of the joint efforts of colleagues working for the Association of Hungarian Sex Workers (SZEXE). The Association wishes to serve the interests and needs of sex workers in Hungary and of Hungarian origin. We foster equal opportunities and human rights of sex workers since we believe that sex workers are human beings who have the same human rights as any other people. Building on the needs of various sex worker groups and on sex workers' leadership in programming, we aim at protecting their rights, increasing their access to quality health, social, and drug treatment services, and lobbying for a more appropriate legal environment.

For any feedback about this report, readers are welcome to write to info@szexmunka.hu.

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