



Sex workers are getting screwed by Brexit

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As the clock ticks down to Brexit, EU sex workers, living and working in the UK are demanding the right to stay on the basis of their work and the contribution they are making to the survival of families and even communities. Sex workers are disadvantaged and discriminated against as sex work isn't recognised as work in the UK. Many people therefore don't have the documentation, including the record of waged work that is needed to establish a right to stay in the UK.

Arrests and deportations of EU migrant sex workers have been rising, particularly since the Brexit referendum in 2016. The English Collective of Prostitutes (ECP) has compiled case studies of some of the women in our network who have been targeted by the police and immigration officials over the last five years, and who in some cases have successfully defeated attempts to deport them.

With the help of Legal Action for Women and in a few cases, lawyers, we researched legal rulings (see notes below) and found that sex workers can claim self-employed status which entitles women to reside in the UK. We prepared letters laying out sex workers rights which women carried along with our rights sheet. But no precedent has been established so each woman still has to fight her individual case.

Legal rulings used in defending EU migrant sex workers from deportation:

- a) A sex worker is self-employed as an “independent provider of services” (Tilianu v Secretary of State for Work and Pensions [2010] EWCA Civ 1397 paragraph 8).
- b) Sex work performed on a self-employed basis is “self-employment” for the purpose of EU law – confirmed by the Court of Justice (see Case C-268/99 *Jany & Ors (External relations)*, paragraphs 48-50, 61).
- c) Self-employed people (even those employed for as little as three hours per week) have the right to reside in the UK – confirmed by the Upper Tribunal (see [2009] UKUT 58 (AAC) (11 March 2009)).
- d) Sex workers are workers for the purpose of free movement – confirmed by the European Court of Justice (now known as the Court of Justice of the European Union) in 1982 (Case 115 and 116/81 *Adoui and Cournaille*).

Despite these rulings, UK police have been giving out notices telling women that sex work is not a legitimate job, that they are not “economically active”, that therefore they are not exercising their treaty rights (the criteria for staying in the UK) and are liable for deportation. Women's hard work providing an income to support people at a time of rising poverty, homelessness and even destitution is dismissed and disparaged!

Many migrant women are kept out of other jobs by racism, endemic low wages, lack of employment rights and other abuses so that prostitution becomes one of the only viable economic options for survival.ⁱ

Others are arrested in brothel raids and then threatened with deportation for working illegally – sex work doesn't count as work except for the purpose of deporting sex workers!

Other women have been arrested for loitering and soliciting many times in quick succession, then labelled a “persistent offender” and told their presence in the UK was “not conducive to the public good”. In our view a woman working to support herself and her family is an asset to our community and society. She is certainly more valuable than the politicians who reduce people to destitution and the rapacious bosses who escape paying tax and inflict misery and degradation on their workers.

Hounding EU sex workers is putting lives at risk. Women are being forced to work in less well-lit, more isolated places to avoid being picked up by police. Women are particularly worried as figures show a [17% rise](#) in recorded incidents of hate crime against EU migrants since the Brexit vote.

This crackdown against immigrant sex workers comes at a time when the injustices of the hostile immigration environment inflicted on the Windrush generation have been exposed in the media outraging the public. Detentions and enforced removals of all foreign nationals, including EU citizens, [have risen](#) sharply since the EU referendum.

We appreciate the support of trade unions like ASLEF and the GMB but the reluctance of other unions like Unison and Unite to unequivocally acknowledge sex work as work and defend sex workers' rights has left us unprotected against the kinds of injustice described below.

Cases

2019

Ms N from Brazil, but with EU residency, was entrapped by police posing as a client in a brothel raid. She was working with a friend for safety but fell foul of the law which makes it illegal for more than one woman to work from premises. Police demanded to see her documents and then referred her to immigration who took her to Yarl's Wood Immigration Removal Centre (IRC), where she remains. The ECP has found a lawyer to help and the case is ongoing.

2018

Ms L from Romania was arrested and charged for loitering and soliciting and taken from the court to Yarl's Wood IRC. Ms L faced deportation for being a “persistent offender” because between 28 April 2017 and 26 June 18, she was convicted six times of loitering and soliciting. She had fled Romania because of domestic violence and was working to support her two children and cover health costs for her sister and mother who were both unwell. As a victim of violence, she should not have been detained as Home Office guidelines say vulnerable women shouldn't be held in detention. The ECP found her a lawyer to fight her case. After three weeks, Ms L couldn't endure conditions in detention and the prospect of fighting her case so decided to go back to Romania. Her detention sets a dangerous precedent as police will be encouraged to round up migrant sex workers for multiple arrests and convictions, label them persistent offenders and push through deportation orders.

Ms LP and Ms F from Romania were working in a flat threatened with a closure order. After an initial visit to the property, police claimed to have evidence that the premises were being operated as a brothel and advised the worker that ‘any female found at the address in the future is VERY LIKELY [their emphasis] to be arrested’. They left the premises and moved to another location.

2017

Ms AM from Romania was stopped by police in the car with her boyfriend. The police found £11,000 in her car and confiscated it and her phones. The police investigated her and found out that she was a sex worker and immediately arrested her boyfriend for controlling prostitution. She found a lawyer who helped her provide evidence that some of the money came from her mother and the rest from her earnings as a sex worker in Switzerland. She came to the ECP for help because her lawyer tried to charge her too much. She had to fight very hard over many months to get the money back. Eventually, the police dropped the charges against her and her boyfriend.

Ms M from Romania was raided and threatened with deportation whilst working in a flat in London. Although she was working inside, she was charged with soliciting. She was told that she had to sign on every day at the police station. She saw this as an excuse for harassment and couldn't endure it so returned to Romania.

2016

Ms G from Romania was threatened with deportation whilst working on the street in Tottenham, London. The police stopped her and interviewed her in a police van without a translator. She was given a big batch of papers and told to fill them in and return within six days, or else she would be deported. She was also instructed to return to the police station for another interview at the end of the month. The ECP found a Romanian translator who went through the papers with her. The ECP also contacted the police to ask what she had been accused of, what evidence existed of any criminal offence and why had she been interviewed without an interpreter. As a result, the police did not pursue her further and she was not deported.

Ms C from Romania was arrested for brothel-keeping and threatened with deportation whilst working in a flat. The police couldn't find enough evidence to convict her for brothel-keeping, but they continued with the deportation order on the grounds that she was not "exercising her treaty rights". Despite the EU recognising sex workers as "self-employed", she was told that sex work was not a legitimate form of work. She was told that she had to show that she can independently support herself, but her passport was confiscated so she was unable to get any other job. The ECP got the Aire Centre to help with her case and the deportation was stopped.

Ms G from Romania was threatened with violence whilst working on the street in Edmonton. A man approached her claiming that she couldn't work there unless she started to work for him. Ms G stopped a passing police car to report the incident, but the police said that she had to be threatened three times before the police could take action. When she was attacked, she was told by police to go home. Ms G had the name, Facebook account with photos, and license plate number of one of the men that attacked her but the police refused to investigate. After several months of fighting to get the police to investigate the violence, and living in constant fear of retribution, she was called back to Romania to attend to a family emergency and the men were left free to attack others.

Ms O from Romania was stopped at Luton airport immigration holding centre after being accused of not exercising her treaty rights. She had lived and studied in the UK for three years and had just been home to Romania for a holiday. The ECP asked Legal Action for Women (LAW) to urgently write to the immigration authorities saying she was exercising her treaty rights as a student. Ms O was sent back before a lawyer or her local MP could intervene.

Ms A from Romania was given a deportation order whilst working on the street in Tottenham. The order said she was not exercising her treaty rights because sex work “is not a legitimate job in the UK”. Ms A was working to pay for her grandmother’s care. Ms A was interviewed by nine immigration officers in the back of an immigration van and they processed her application there and then (including taking her photo and printing out the documents). She was given 16 days to appeal the order and with the help of the ECP her deportation was stopped.

Ms R from Romania was given a deportation order for not exercising her treaty rights whilst working on the street in Tottenham. Her ID was confiscated, and she was told that she will get it back from the Home Office if she produces a one-way ticket to Romania. The ECP helped her get her ID back and appeal the deportation order. After several months she decided to move to Greece.

Ms R from Romania was given a warning notice by immigration officers in Leeds. She lived and worked from a flat with another women advertising through an escorting website. The warning said she needed to find another job and pay taxes in order for her to be entitled to remain in the UK. Legal Action for Women, at the ECP’s request, did a letter for her to carry with her whilst working outlining why she was entitled to be in the UK as an independent sex worker. Every time she was stopped, she showed this letter to the police and they took no further action. Other women asked for copies of this letter and used it to stave off police harassment.

Ms S from Romania was given a deportation notice after being convicted for soliciting in Harringay. The notice said she was not exercising her treaty rights and she was instructed to sign on a month later. She was given no information on how to appeal the removal notice. She got in touch with the ECP which helped her to fight her case and she won the right to stay.

Ms L and Ms M from Romania were given a notice of deportation whilst working together in a flat in London. In December 2016, they got a 30-day notice saying that they had to leave the country by Christmas day. They were called in to a meeting with the Immigration Enforcement Unit and told to either arrive with a ticket to Romania or evidence of employment/self-employment. They got a ticket to Romania and showed it but the police pursued them saying that they knew where they worked and that they could easily be found. Both women wanted to appeal the removal notice but couldn’t stand the harassment and decided to return to Romania.

Ms B from Romania worked as a sex worker on the street in Tottenham. She contacted the ECP when she was arrested for soliciting. She was taken to Tottenham police station and kept overnight, with no interpreter provided, despite the fact that she didn’t speak English. The ECP found her a lawyer who got her released before she could be referred for deportation. The ECP also contacted her MP who intervened with police on her behalf.

2015

Ms M from Romania was arrested for loitering and soliciting in Haringey, London. She was convicted unjustly on a number of occasions for example, on one occasion because her friend was carrying condoms and on another because she was waiting at a bus stop in the red-light area. Once she pleaded guilty even though she wasn’t working because she had a flight booked the next day to go back to Romania to see her child and she was scared of missing it. The penalties got increasingly harsh including £250 fines and curfews. At the same time, Ms M was being threatened by a group of men who were trying to force her to work for them. When she went to report the threats to the police they said, *“are you telling us you are working as a prostitute? Because if so, we will arrest you”*.

Ms AP from Romania was arrested for controlling in a flat in Swindon, Wiltshire. Five police officers broke down her front door. She was arrested, held in a cell for six hours and then bailed. The evidence against her was based on her helping a friend (Ms C, who had just arrived in the UK and didn't speak English) to get a flat and lending her the money for the deposit. She also helped her to make a profile on an online advertising site. She acted as a "buddy" and was on the end of the phone for safety. In some cases she answered phone calls from clients until her friend's English got better. The ECP found her a lawyer from Hodge Jones and Allen LLP and the controlling charges were dropped. Ms AP returned to Romania.

Ms M from Romania was imprisoned for four years for brothel-keeping and supplying class A drugs. She was convicted after the police raided the flat where she was working in central London. The evidence against her comprised of two text messages from her ex-partner to another man saying, '*M has a good team*'. The drug charge was based on a statement from an undercover police officer and ambiguous video evidence. She protested strongly that she was a working girl and had never used or supplied drugs. Her lawyer didn't put up a good defence. He told her that it wasn't a serious charge and that she would only get a community sentence. Her lawyer was later convicted of fraud. The ECP got the Centre for Criminal Appeals to take her case, but before an appeal could be prepared, Ms M was offered early release on the condition that she agreed to be deported. She has been banned from re-entering the UK for 10 years.

2012

Ms A from Romania was raided and threatened with deportation when working in Mayfair, London. In 2011 she was attacked by a man she was living with who attempted to rape her. He also tried to steal her ID. She escaped but was made homeless. She started working in a flat to survive. In 2012, the flat was raided, she was interviewed for four hours in her underwear and given a deportation letter. After hours of questions, she was asked if she was a victim of trafficking. She came to the ECP who wrote to the police objecting to the deportation order and organised for a lawyer to accompany her to Charing Cross police station. Her deportation order was withdrawn.

2010

Ms N from Latvia was raided by police when working with two other women in a flat in Walthamstow, London. All three were EU citizens. Seven police officers raided the flat and were rude, aggressive and threatening. Ms N was called to Charing Cross police station to be questioned because her name was on the tenancy for the flat. The ECP called the police on Ms N's behalf and eventually the police stopped hassling her to come to the station. A couple of months later, two men robbed the flat, breaking down the door. The women did not report to the police, because they thought that the police would not do anything.

Our recommendations for change include:

- 1) **Sex work should be recognised as work.**ⁱⁱ EU migrants should be able to rely on this work to help establish that they have been in the UK and are making a contribution to the economy and society. Women who want to use their record of sex work to help establish that they have a right to be in the UK should get an assurance that they won't be prosecuted for prostitution offences like soliciting or brothel-keeping (for women who have been working with others from premises.)
- 2) **Decriminalise sex work**, using the New Zealand Prostitution Reform Act (2003) as a model. This would include repealing the laws relating to "loitering or soliciting" and "brothel-keeping" and amending controlling and trafficking legislation so that prosecutions are brought only in cases where there is force and/or coercion. Anti-Social Behaviour Orders and Closure Orders which are used to arrest, exclude and evict sex workers based on hearsay evidence and bypassing the normal judicial process, should also be repealed.
- 3) **Expunge historical convictions** for prostitution offences such as loitering and soliciting from sex workers' records.
- 4) **End discrimination** by renouncing the way in which sex workers have been classified as "persistent offenders" and their presence in the UK deemed "not conducive to the public good".
- 5) **Recognise and measure the contribution sex workers make** to the survival of families, communities and the economy.
- 6) **Provide economic and other support for those who want to leave prostitution.** For example: refuges and other targeted help for women escaping domestic violence; housing priority for sex workers who are "vulnerable" because of homelessness, drug use, domestic or other violence, especially if they have children; financial help to cover childcare costs and to clear debts; immediate and appropriate drug rehabilitation services for those who want them.
- 7) **Reverse austerity cuts** which have disproportionately targeted women and specifically the policy of benefit cuts and sanctions to ensure that people aren't pushed into sex work by hunger and homelessness.

ⁱⁱ Sex work performed on a self-employed basis is "self-employment" for the purpose of EU law – confirmed by the Court of Justice (see Case C-268/99 *Jany & Ors (External relations)*, paragraphs 48-50, 61). Sex workers are workers for the purpose of free movement – confirmed by the European Court of Justice (now known as the Court of Justice of the European Union) in 1982 (Case 115 and 116/81 *Adoui and Cournaille*). Self-employment counts as exercising treaty rights.