

APPEL DE BRUXELLES



EUROPEAN WOMEN'S
LOBBY
EUROPÉEN DES FEMMES



FONDATION
SCELLEES



MOUVEMENT
DU NID
FRANCE
Abolir le système prostitution

'ENSEMBLE POUR UNE EUROPE LIBÉRÉE DE LA PROSTITUTION'

CEDAW Secretariat
Office of the High Commissioner for Human Rights (OHCHR)
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva 10
Switzerland

By E-mail: cedaw@ohchr.org

Submission of the Brussels' Call partnership to the CEDAW Committee

Sent to Ms. Daniela Buchmann via email (catriona.graham@womenlobby.org to dbuchmann@ohchr.org)

Dear esteemed Committee Members,

The below signed members of the Brussels' Call partnership welcome the opportunity to submit for your consideration our submission on the Concept Note for the General Discussion on Trafficking in Women and Girls in the Context of Global Migration (hereafter the 'Concept Note'). We believe this is an apt moment for the consolidating, refining and further development of recommendations to end the impunity of all those who exploit vulnerability of migrant women and girls.

About the Brussels' Call, Together for a Europe Free from Prostitution

Initiated in 2012, the Brussels' Call is a commitment to a Europe free from prostitution: a Europe that stands up for equality, human rights and prevention of violence; a Europe that condemns the sexism, classism and racism inherent to prostitution. We stand together to say that we expect better for those affected, and that no one has a right to sex at the expense of another.

The Brussels' Call presents [six key recommendations](#): the decriminalisation of the sale of sexual services; the criminalisation of all forms of control, pimping and trafficking; the development of real alternatives and exit programmes for those in prostitution; the prohibition of the purchase of sexual services; the implementation of policies of prevention and education to promote equality and positive sexuality; the development of prevention policies in the countries of origin of prostituted persons.

Signed by more than [200](#) civil society organisations and [55](#) Members of the European Parliament in its first year alone, the Call made it clear that we cannot accept a system where 75% of those driven into the sex industry have experienced rape. We know that 9 out of 10 women do not want to participate and would leave prostitution if they could: we work to provide better alternatives, holistic exit support and create policies that prevent the financial vulnerability that can leave women at risk and without choice.

Since 2012, Europe has taken significant steps in combatting this system of exploitation. In 2014, the European Parliament passed a landmark resolution on '[Sexual exploitation and prostitution and its impact on gender equality](#)' by a [strong majority](#), a resolution which "stresses that prostitution violates human dignity and human rights" and calls for the provision of exit services. This was a strong statement for equality, human rights, human dignity and social justice which was welcomed also by the European Commission. Since then, more and more Member States are following the leadership of Sweden (1999) by introducing the 'Equality Model', which prosecutes those who benefit from sexual exploitation while offering supports and empowering those affected by prostitution – Northern Ireland (2015), France (2016) and the Republic of Ireland (2017), with others continuing to consider adopting this approach.

1. Substantive contribution for consideration

We commend the Committee for the Elimination of Discrimination Against Women for the timely consultation process and consideration for a General Recommendation on trafficking in women and girls in the context of global migration. Signatories of the Call as listed below welcome this initiative on the issue and hopes that this consultation will lead to the Committee formalising a General Recommendation which will build on its past work in recognising the inequality, exploitation and violence inherent to trafficking of women and girls for sexual exploitation, its disproportionate impact on migrant women and girls, and the interconnectedness of prostitution and trafficking for sexual exploitation.

We thank you for setting out to expand on the guidance to State parties in relation to Article 6 of the 1979 Convention on the Elimination of All Forms of Discrimination against Women (hereafter ‘Article 6’ and ‘1979 Convention’). Since Article 6 was first published 40 years ago, the phenomenon of trafficking in human beings has continued to grow in scale and profitability for the international criminal gangs who drive it. Also in the past four decades, a number of law and policy responses have been developed and implemented on both prostitution and trafficking. **It is therefore timely to review the impact of these policy trends and to urge State parties to the Convention to take more proactive steps to end these forms of violence against women, based on successful practices identified which we set out to highlight below.**

We urge the CEDAW Committee to draft the General Recommendation by taking into account all political (contextual) factors intersecting with the THB of girls and women and not solely the current global migration trends.

When considering THB in the context of migration, migration should be understood as a permanent and positive aspect of modern society, and current high levels of unsafe, illegal migration as contravening human rights principles and a result of ongoing conflict, climate change and a lack of safe passage routes. The lack of safe and legal routes to migration is one of the factors contributing to the vulnerability of migrant women and girls into trafficking for exploitation in prostitution and labour exploitation. Other factors include feminisation of poverty, women’s low access to education, asset and land ownership, women’s low participation in decision-making, child/early and forced marriage, economic inequalities between the Global South and the Global North and pervasiveness of patriarchal sex roles. As a result of these clustered discriminations and vulnerabilities, particularly in the Global South, organised trafficking rings target girls and women - by using the position of vulnerability and abuse of power, through coercion, abuse, threat and deceit - generating the supply for the demand in the system of prostitution both in the Global North and the Global South.

Any specific exploration of the current trends in global migration through the lens of impact on women and girls would by necessity include the documented corruption within visa processing centres, refugee camps and detention centres, and actions to bring an end to the possibility of criminal gangs working closely with migration authorities. **We urge the CEDAW Committee in its Recommendation to give a due consideration to a human-rights analysis of the impact of migration on multiple forms of violence against women and girls, of which THB is a part.** This should include women’s SRHR; safe housing needs; impunity of sexual violence perpetrators along migration routes and within refugee facilities, including smugglers, traffickers but also aid workers national State actors and fellow male refugees; and a deeper analysis of forced and exploitative sham marriage.

However, we are concerned that the focus of the General Recommendation under consideration is primarily upon only one aspect of the Article. The substantive aspects of the Concept Note consider the issue of trafficking in human beings, but does not fully elaborate on the issue of the “exploitation of prostitution of women” (1979 Convention, Article 6). **Within the context of global migration, the issues of prostitution and trafficking for sexual exploitation remain intrinsically linked and thus, the full text of the article must be taken under consideration for elaboration.** Despite Concept Note Paragraph 53 stating that the General Recommendation “will not broach a policy discussion on the theme of prostitution”, we posit that the input sought under Paragraph 54 **must by necessity include an analysis and response to the system of prostitution.** We also urge further consideration of the need for full inclusion of, and alignment with, the full text of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, in particular Article 9.5:

“States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”

Furthermore, there are many international human rights instruments (see headings 2 and 3) which emphasise the need to take into consideration both prostitution and trafficking for sexual exploitation when working towards prevention of commercial sexual violence against women. **At the core driving prostitution and trafficking is the demand for paid sex acts.** Thus, we particularly **welcome** the recognition that addressing the demand is required as an aspect of responding (Concept Note, par 18, 52) – of course this cannot be addressed in terms of demand for victims of trafficking for exploitation as the demand is for *paid sexual services*. Therefore, **any measures to address demand must be targeting the prostitution system as a whole**, and all of those who seek to pay for sexual services. We look forward to seeing expansion on detailed proposals for how demand can be credibly addressed by State parties.

The Brussels’ Call supports the Swedish/Nordic approach, which puts back the responsibility where it should be: trafficking exists because the systems of prostitution exist and are very profitable. And those systems of prostitution exist and are profitable because there is a demand, and because traffickers and pimps play with this demand and therefore build and look for ‘supply’ to perpetuate and fuel the demand. **We therefore need to address sex buyers, to stop the demand and therefore the ‘supply’.** Prohibiting the purchase of a sexual act would send a clear message, both to society and to the procurers and traffickers. To the general audience and therefore to men, it conveys the message that one cannot access to someone else’s body through money, and that paying for sex equals imposing their desire on someone else with money.

We would welcome consideration of a development under Concept Note, Paragraph 54 to outline specific means to address demand for paid sexual acts, and recognise that in so doing, **State parties have a responsibility to provide exit routes to those impacted:** these must include health support, access to social support systems, financial compensation employment, language and integration supports for those requiring it, and stable housing. Such supports should be made available independent to cooperation with an ongoing criminal procedure against a trafficker, buyer or pimp. We urge that specific mention is made for stronger judicial accountability systems and access to services for women and girl survivors of commercial sexual exploitation.

We hereby register our significant concern with the use of the term “forced prostitution” (Concept Note, Paragraphs 29, 30). This is not in line with UN language (1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, 1979 Convention on the Elimination of All Forms of Discrimination against Women) and the concept of ‘forced’ prostitution gives legitimacy to the possibility of a viable or acceptable other form of prostitution, despite the significant and unavoidable prevalence of severe violence experienced in the trade in addition to its power inequality and the racism, sexism and classism that is at the core of its existence. Similarly, the wording of Concept Note Paragraph 30 implies that the “listed purposes of trafficking”, including for sexual exploitation and marriage, could be considered as forms of “work”. **Sexual exploitation including in any aspect of the commercial sex trade cannot be considered as ever potentially aligning with basic safety, regulatory or equality- and anti-discriminatory frameworks of labour.**

It is crucial that a clear distinction is made between prostitution and trafficking for sexual exploitation, and labour trafficking: ILO statistics referred to do not show a clear disaggregation of these issues, including “forced sexual exploitation” under “forced labour” (Concept Note, Paragraph 37). We strongly urge the removal of any links made between child rape and ‘work’: ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which includes the prostitution of children and violates Palermo, UN Convention on the Rights of the Child and 1979 Convention. While a clear separation of labour trafficking from sexual exploitation must be delineated, **it should also be recognised that migrant women and girls who are victims of labour trafficking, domestic work, made vulnerable by a precarious legal status may face particular vulnerability to being coerced or exploited in the sex trade, and specific provisions and responses should be made in response to this.**

We welcome the recognition under Concept Note Paragraph 44 of “Article 10 and GR No. 36 (2017) – Rights to education, within education and through education” and **propose that specific mention of the need for language supports where needed and education on sexual and reproductive health and rights could further strengthen**

this point. Similarly, we welcome the particular focus on access to **healthcare** brought in Concept Note Paragraph 46, and **we support further expansion on the specialised needs in relation to mental health support for victims of trafficking for sexual exploitation and women and girls in prostitution.**

2. Relevant texts of the United Nations

In particular, the Brussels' Call highlights the **1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others**, which has been adopted by the UN General Assembly (the same GA who adopted the Universal Declaration for Human Rights), and the **1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**.

The **1949 Convention** states: "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" (Preamble).

The Convention calls member parties to support persons in prostitution by suppressing any criminalisation against them, and criminalise all forms of pimping:

- Article 1: Punishment for any person who "procures, entices, or leads away, for purposes of prostitution, another person", or "exploits the prostitution of another person", even with the consent of that person.
- Article 2: Punishment for any person who "keeps or manages, or knowingly finances or takes part in the financing of a brothel" and "knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others".
- Article 6: "Each Party to the present Convention agrees to take all the necessary measures to repeal or abolish any existing law, regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document or to any exceptional requirements for supervision or notification."

The **1979 Convention**, Article 6 states: "States parties shall take all appropriate measures, including legislation, to **suppress all forms of traffic in women and exploitation of prostitution of women.**"

While the above elements are particularly relevant in this case, in drafting this submission the partners of the Brussels' Call also considered the following:

- **1989 Convention on the Rights of the Child**

Article 34: "States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse".

Article 35: "States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form."

- **1992 CEDAW General Recommendation No. 19 on Violence against Women**

Comment on article 6 of the CEDAW Convention:

"Poverty and unemployment force many women, including young girls, into prostitution. Prostitutes are especially vulnerable to violence because their status, which may be unlawful, tends to marginalize them. They need the equal protection of laws against rape and other forms of violence."

- **1994 Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children**

Violence against women and girl children (43-63)

"Violence against women and girl children is a global phenomenon which cuts across geographical, cultural and political boundaries and varies only in its manifestations and severity. Gender violence has existed from time immemorial and continues up to the present day. It takes covert and overt forms including physical and mental abuse. Violence against women, including female genital mutilation, wife-burning, dowry-related violence, rape, incest, wife battering, female foeticide and female infanticide, trafficking and prostitution, is a human rights violation and not only a moral issue. It has serious negative implications on the economic and social development of women and society, and is an **expression of the societal gender subordination of women.**"

- **2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children,**

supplementing the UN Convention against Transnational Organised Crime (The Palermo Protocol)

Article 9:

“States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.”

“States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to **discourage the demand that fosters all forms of exploitation of persons, especially women and children**, that leads to trafficking.”

- **2006 Report of Sigma Huda, UN Special Rapporteur on Trafficking in Persons, Especially Women and Children: “Integration of the Human Rights of Women and a Gender Perspective with a Special Focus on the Demand for Commercial Sexual Exploitation and Trafficking”**

“For the most part, prostitution as actually practised in the world usually does satisfy the elements of trafficking. It is rare that one finds a case in which the path to prostitution and/or a person’s experiences within prostitution do not involve, at the very least, an abuse of power and/or an abuse of vulnerability. Power and vulnerability in this context must be understood to include power disparities based on gender, race, ethnicity and poverty. Put simply, **the road to prostitution and life within “the life” is rarely one marked by empowerment or adequate options.**”

“Thus, State parties with legalized prostitution industries have a heavy responsibility to ensure that the conditions which actually pertain to the practice of prostitution within their borders are free from the illicit means delineated in subparagraph (a) of the Protocol definition, so as to ensure that their legalized prostitution regimes are not simply perpetuating widespread and systematic trafficking. **As current conditions throughout the world attest, States parties that maintain legalized prostitution are far from satisfying this obligation.**”

“**Demand** must be understood expansively, as any act that fosters any form of exploitation that, in turn, leads to trafficking.”

“While the human rights of women and children are violated in many forms of trafficking, sex trafficking is a particular form of trafficking in which the human rights of women and children are violated as women and children.”

“Unlike the purchaser of consumer goods produced through trafficked labour, **the prostitute-user is simultaneously both the demand-creator and (by virtue of his receipt of the trafficked person) part of the trafficking chain.**”

“The demand for commercial sex is often further grounded in social power disparities of race, nationality, caste and colour.”

“As a normative matter, it is clear that **responsibility for the sex-trafficking market lies with prostitute-users, traffickers, and the economic, social, legal, political, institutional and cultural conditions which oppress women and children throughout the world.** It would be a grave injustice to impute responsibility for driving the sex market to its victims themselves. Such a claim is tantamount to victim blaming, and constitutes a further violation of the human rights of trafficking victims.”

3. Selected texts of the European Institutions

As a coalition of partner organisations working together for a Europe free from prostitution, we would highlight to the respected Committee members the following selected texts from the European Institutions, setting out the harms of prostitution and trafficking for sexual exploitation, and their findings as to best models for prevention, prosecution, protection, and the policies that can realise these impacts to ensure the future wellbeing and safety of women and girls.

- **European Parliament Report of 17 January 2006 on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation**

“Whereas **one of the principal preconditions for international trafficking in women and children is the existence of local prostitution markets** where certain people can and wish to sell and buy women and children for the purpose of exploiting them sexually; whereas traffickers in human beings mainly send women and children from countries in the south to countries in the north and from east to west, where demand from purchasers is strongest”

“Regrets the lack of any analysis of the demand for prostitution in the Member States as a possible motivation

for the phenomenon of trafficking; considers that the Commission should carry out a comprehensive study on the impact of the Member States' legislation on prostitution on the number of victims of trafficking".

- **European Parliament resolution of 26 November 2009 on the elimination of violence against women**

"Whereas the tolerance of prostitution in Europe leads to an increase in trafficking of women into Europe for sexual purposes, and to sex tourism"

- **European Parliament resolution of 26 February 2014 on Prostitution, sexual exploitation and their impact on gender equality**

"Recognises that prostitution, forced prostitution and sexual exploitation are highly gendered issues and violations of human dignity, contrary to human rights principles, among which gender equality, and therefore contrary to the principles of the Charter of Fundamental Rights of the European Union, including the goal and the principle of gender equality".

"Stresses that there are several links between prostitution and trafficking, and recognises that prostitution – both globally and across Europe – feeds the trafficking of vulnerable women and under-age females, a large percentage of whom are between 13-25 years old; stresses that, as shown by data from the Commission, a majority of victims (62 %) are trafficked for sexual exploitation, with women and under-age females accounting for 96 % of identified and presumed victims, with the percentage of victims from non-EU countries showing an increase in the past few years".

"One way of combating the trafficking of women and under-age females for sexual exploitation and improving gender equality is the model implemented in Sweden, Iceland and Norway (the so-called Nordic model), and currently under consideration in several European countries, where the purchase of sexual services constitutes the criminal act, not the services of the prostituted persons".

- **2014 Council of Europe Parliamentary Assembly resolution of 8 April 2014 on Prostitution, trafficking and modern slavery in Europe**

The Assembly calls on Council of Europe member and observer States, Parliamentary Assembly observer States and partners for democracy, to:

As regards policies on prostitution:

- **consider criminalising the purchase of sexual services, based on the Swedish model, as the most effective tool for preventing and combating trafficking in human beings;**
- ban the advertising of sexual services, including forms of disguised advertising;
- criminalise pimping, if they have not already done so;
- establish counselling centres providing prostitutes with legal and health assistance, irrespective of their legal or migrant status;
- **set up "exit programmes"** for those who wish to give up prostitution, aimed at rehabilitation and based on a holistic approach including mental health and health-care services, housing support, education and training and employment services;

As regards awareness raising, information and training:

- increase awareness through the media and school education, particularly among children and young people, with regard to **respectful, gender-equal and violence-free sexuality;**
- **raise awareness of the link between prostitution and human trafficking** by means of information campaigns targeting the general public, civil society and education institutions.

Once again we thank the Committee for this opportunity to give feedback on the Concept Note and proposed General Recommendation to elaborate on Article 6 of the 1979 Convention and the commitment of the Committee to provide State parties with further comprehensive guidance in potential remedies and responses to end the impunity of those who exploit and oppress women and girls. We remain open to further consultation on this submission.

Thank you in advance for your consideration of our input.

Signed by,

Europe/International

Anna Zobnina, Coordinator, **European Network of Migrant Women**

Jacqui Hunt, Director Europe Office, **Equality Now**

Joanna Maycock, Secretary General, **European Women's Lobby**

Pierrette Pape, Coordinator, **GenerationAbolition**

Austria

Caroline Sander, **Herzwerk** – initiative for people in prostitution

Sabine Kallauch, Social worker, psychotherapist for trauma and sexual abuse NGO: **Start Up Africa**, Vienna, Austria

Belgium

Magda De Meyer, President, Dutch-speaking Council of Women Belgium | The **Vrouwenraad**

Pierrette Pape, Chair, **isala asbl**

Valérie Lootvoet, Directrice, **Université des Femmes**

Viviane Teitelbaum, President, **Observatory of violence against women**

Bulgaria

Iliana Balabanova, **Bulgarian Platform for the EWL**

Croatia

Nela Pamuković, Co-coordinator, **Women's Network of Croatia**

Denmark

Marie Louise Kiring Løvengreen, Udviklingschef | **KFUKs Sociale Arbejdes**

Finland

Katariina Hyvärinen, Järjestökoordinaattori/Coordinator, **The Coalition of Finnish Women's Associations – NYTKIS**

France

Equipes d'Action Contre le Proxénétisme et d'Aide aux victimes

Germany

Christa Stolle, Terre des Femmes | **TDF Frauenhandel**

Hungary

Réka Sáfrány, Hungarian Women's Lobby | **Magyar Női Érdekvégyesítő Szövetség**

Ireland

Jennifer McCarthy Flynn, Policy Director, **National Women's Council of Ireland**

Nusha Yonkova, Gender & Anti-trafficking Expert, **Immigrant Council of Ireland**

Ruth Breslin, **Sexual Exploitation Research Project (SERP)**, at University College Dublin

Sarah Benson, CEO, **Ruhama**

Italy

Chiara Carpita, **Resistenza Femminista** (Italy)

Esohe Aghatise, Executive Director, with Ruby Till and Domenica Mammì, **Iroko Onlus**

Lithuania

Dr. Dalia Puidokiene, **Klaipeda Social and Psychological Services Centre**

Kristina Misiniene, **Center Against Human Trafficking and Exploitation** in Lithuania

Luxembourg

Anik Raskin, Chargée de Direction, **The National Council of Women from Luxembourg**

Norway

Agnete Strøm, Women's Front | **Kvinnefronten**

Portugal

Alexandra Alves Luís, Associação Mulheres Sem Fronteiras | Association Women Without Borders

Alexandra Silva, EOS - Associação de Estudos, Cooperação e Desenvolvimento | EOS, Association of research, cooperation and development

Ana Beatriz Cardoso, Associação Ser Mulher | Association Being a Woman

Ana Coucello, Aliança para a Democracia Paritária | Alliance for Parity Democracy

Ana Paixão, Questão de Igualdade | Question of Equality

Ana Sofia Fernandes, Plataforma Portuguesa para os Direitos das Mulheres | **Portuguese** Platform for Women's Rights

Catarina Louro, Mulher Séc. XXI - Associação de Desenvolvimento e Apoio às Mulheres | Women XI Century - Association of development and support to women

Claúdia Rosário, CONTRA O FEMICÍDIO, Associação de Familiares e Amigos/os de Vítimas de Femicídio | AGAINST FEMICIDE, Association of Relatives and Friends of Femicide Victims

Francisco Reis Ribeiro, O Ninho

Gema Muñoz, Assembleia Feminista de Lisboa | Feminist Assembly of Lisbon

Graça Rojão, CooLabora - Intervenção Social | CooLabora - Social Intervention

Ilidiacolina Vera Cruz, Associação das Mulheres de São Tomé e Príncipe em Portugal | Association of Sao Tome & Prince Women in **Portugal**

International, Lisbon Founding Club

Iolanda Veiga, Associação das Mulheres Cabo-verdianas na Diáspora em Portugal | Association of Cape Verdean women in the diaspora in Portugal

Isabel Cruz, Associação Portuguesa Mulheres e Desporto | Portuguese Association of Women and Sports

Isabel Nunes, Associação de mulheres infetadas e afetadas pelo VIH | Association of women infected and affected by HIV

Leonor Valente Monteiro, Associação Projecto Criar | Association Project to Raise

Luísa Brito e Cunha, Soroptimist International Clube Lisboa Fundador | Soroptimist

Margarida Amélia Santos, Fundação Cuidar o Futuro | Foundation Caring for the Future

Margarida Medina Martins, Associação de Mulheres Contra a Violência | Association of Women Against Violence

Nora Kiss, Rede Portuguesa de Jovens para a Igualdade | **Portuguese** Network of Young People for Gender Equality

Olga Mariano, Associação Letras Nómadas

Olga Mariano, Associação para o Desenvolvimento das Mulheres Ciganas Portuguesas | Association for the advancement of Portuguese Roma Women

Patrícia Santos Pedrosa Associação Mulheres na Arquitectura | Association Women in Architecture

Sandra Benfica, Movimento Democrático de Mulheres | Democratic Movement of Women

Susana Martínez Novo, Presidenta, La Comisión para la Investigación de Malos Tratos a Mujeres

Teresa Fériam, Associação Portuguesa de Mulheres Juristas | Portuguese Association of Women in Legal Careers

Virgínia Ferreira, Associação Portuguesa de Estudos sobre as Mulheres | Portuguese Women's Studies Association

Scotland

Linda Thompson, **The Womens Support Project**

Slovenia

Katjusa Popovic, President, **Society Kljuc** – center for fight against trafficking in human beings

Spain

Maria Teresa Nevado Bueno. President. Agrupación de Madrid del **Forum de Política Feminista**
Rosa M^a Fernandez Sansa. President, **Lobby Europeo de Mujeres en España**- LEM España
Susana Martínez Novo, Presidenta, **La Comisión para la Investigación de Malos Tratos a Mujeres**

Sweden

Malin Roux Johansson, Director, **RealStars**
Zandra Kanakaris, President, of **Unizon**
Zandra Kanakaris, Secretary General, **1000 Opportunities**

United Kingdom

Lisa-Marie, CEO, **FiLiA**

Contact Details

Catriona Graham, Policy & Campaigns Officer
European Women's Lobby - 18 rue Hydraulique, BE - 1210 Brussels
Tel: 0032 (0)2 210 04 22, catriona.graham@womenlobby.org

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The European Women's Lobby would be pleased to be contacted for more information about this submission.