

Commission consultative dans le domaine de la prostitution
Beratende Kommission im Bereich der Prostitution

Grand-Rue 27, 1701 Fribourg

T +41 26 305 14 03, F +41 26 305 14 08 www.fr.ch/dsj

Prostitution

Frequently asked questions (FAQ)

Terms used in this FAQ are applicable without distinction to both females and males.

Α.	LAW ON PROSTITUTION	4
1.	Why is prostitution regulated in the canton de Fribourg?	4
2.	AS PER THE LAW, WHAT IS THE DEFINITION OF PROSTITUTION?	4
3.	If I am a prostitute working from home, do I have to register myself? If yes, at which authority/office?	4
4.	If I AM A PROSTITUTE IN A SALON/BROTHEL, DO I HAVE TO REGISTER MYSELF? IF YES, AT WHICH AUTHORITY/OFFICE?	5
5.	If I AM A PROSTITUTE IN A HOTEL, DO I HAVE TO REGISTER MYSELF? IF YES, AT WHICH AUTHORITY/OFFICE?	5
6.	If I AM AN ESCORT, DO I HAVE TO REGISTER MYSELF? IF YES, AT WHICH AUTHORITY/OFFICE?	5
7.	IF I LOOK FOR CLIENTS USING EROTIC ADVERTISEMENTS ON THE INTERNET, DO I HAVE TO REGISTER MYSELF? IF YES, AT WHICH AUTHORITY/OFFICE?	5
8.	If I OFFER "ONLINE" SERVICES (E.G. EROTIC LIVE CAM), DO I HAVE TO REGISTER MYSELF?	5
9.	If I give erotic massages without, strictly speaking, having sex, do I have to register myself? If yes, at which authority/office?	6
10.	What are the conditions under which I can be a street prostitute? What rules should I respect?	6
11.	CAN I BE SURE THAT THE INFORMATION THE POLICE HAS COLLECTED ON ME WILL NOT BE PUBLISHED OR TRANSMITTED TO A THIRD PARTY?	7
12.	IF I WISH TO OPEN A CLUB FOR PROSTITUTION, WHAT AUTHORIZATIONS DO I HAVE TO ASK FOR AND WHAT ARE THE CONDITIONS I NEED TO FILL?	7
13.	IF I AM THE OWNER OF A HOTEL AND I REGULARLY RENT THE ROOMS TO SEX-WORKERS, DO I HAVE TO ASK FOR AN AUTHORIZATION?	8
14.	If I AM A SEX-WORKER, I WORK FROM HOME AND ALSO RENT A ROOM TO ANOTHER SEX-WORKER, DO I HAVE TO ASK FOR AN AUTHORIZATION?	8
15.	What are the practical conditions that the premises for prostitution should follow?	9
16.	CAN MY AUTHORIZATION FOR THE PREMISE OF PROSTITUTION BE TAKEN AWAY FROM ME? IF YES, WHY?	9

17.	If the Cantonal Police want to enter my prostitution club, should I allow them? Why should the Police want to see my salon/club when prostitution is legal?	10
<u>B.</u>	RIGHTS OF FOREIGNERS	10
1.	If I am a national of a European Union member nation, which allows free movement of people, and wish to come to the canton of Fribourg to be a prostitute, then what do I have to do?	10
C.	PENAL CODE (THE LAW)	11
1.	What are the limits for prostitution? What is forbidden?	13
2.	THE OWNER OF THE PROSTITUTION CLUB WHERE I WORK DECIDES THE NUMBER OF CLIENTS I MUST RECEIVE DURING THE NIGHTS AND THE CLOTHES I MUST WEAR. DOES HE HAVE THE RIGHT TO DO SO?	12
3.	THE OWNER OF THE PROSTITUTION CLUB WHERE I WORK MAKES IT COMPULSORY FOR ME TO ACCEPT OR PERFORM CERTAIN SEXUAL ACTS. DOES HE HAVE THE RIGHT TO DO	
	so?	13
4.	THE OWNER OF THE PROSTITUTION CLUB WHERE I WORK HAS CONFISCATED MY PASSPORT, MY IDENTITY CARD OR RESIDENCE PERMIT. DOES HE HAVE THE RIGHT TO DO SO?	13
5.	THE OWNER OF THE PROSTITUTION CLUB WHERE I WORK ASKS ME TO SHARE A PART OF THE AMOUNTS I RECEIVE FROM CLIENTS. DOES HE HAVE THE RIGHT TO DO SO?	13
6.	If a client has refused to pay me for a service I have rendered, what should I do?	14
7.	I WAS FORCED BY A CLIENT TO PERFORM A SEXUAL ACT WHICH I HAD INITIALLY REFUSED/ I WAS RAPED BY A CLIENT OR MY CLIENT THREATENED ME, WHAT ARE MY RIGHTS?	14
8.	I AM A MINOR AND I AM A PROSTITUTE. IS THIS ALLOWED? WHAT AM I RISKING?	14
9.	My husband/friend asked me to prostitute myself to be able to pay the month-end bills. Is this allowed?	15
10.	I AM A CLIENT AT A PROSTITUTION CLUB. THE WORKING CONDITIONS DO NOT LOOK VERY CLEAN AND I FEAR THAT SOME SEX-WORKERS ARE BEING EXPLOITED. WHAT CAN I	
	DO?	15
11.	I AM A CLIENT AT A PROSTITUTION CLUB. IT SEEMS TO ME THAT THE SEX-WORKERS WHO OFFER THEIR SERVICES ARE PARTICULARLY YOUNG. DO I RISK ANYTHING IF THESE	
	YOUNG WOMEN ARE MINORS?	16
12.	I AM A CLIENT AT A PROSTITUTION CLUB. IF I REPORT ILLEGAL FACTS TO THE POLICE, WILL MY NAME BE REVEALED DURING THE COURT PROCEEDINGS? WILL MY FAMILY FIND	
	OUT THAT I FREQUENT PROSTITUTION CLUBS?	16

<u>D.</u>	COMMUNAL (MUNICIPAL) AUTHORITIES	17
1.	Our commune (municipality) would like to prohibit the opening of prostitution clubs throughout our territory. Do we have the right to do this?	17
2.	Our municipality would like to forbid street prostitution in our entire territory. Do we have the right to do so?	17
۷.	OUR MUNICIPALITY WOULD LIKE TO FORBID STREET PROSTITUTION IN OUR ENTIRE TERRITORY. DO WE HAVE THE RIGHT TO DO SO?	17
<u>E.</u>	HEALTH	18
1.	I AM A SEX WORKER. I NEED SOME ADVICE OR SOME SUPPORT. WHOM SHOULD I GO TO?	18
2.	I HAVE SOME HEALTH PROBLEMS BUT NO HEALTH INSURANCE. WHOM SHOULD I GO TO?	18
3.	I AM PREGNANT AND DO NOT WISH TO CONTINUE THE PREGNANCY. WHO CAN HELP ME?	18
۶. 4.	WHAT ARE THE RECOMMENDED HEALTH PRACTICES IN SEX WORK, WHERE MAY I GET INFORMATION?	19
4 .	I AM LOOKING FOR INFORMATION ON HIV/AIDS. WHOM SHOULD I CONTACT?	19
5. 6.	I HAD UNPROTECTED SEX (OR THE CONDOM TORE), WHAT ARE THE RISKS AND WHOM CAN I CONTACT?	19
7.	Where can I find information on sex work in Switzerland?	20
<u>F.</u>	SOCIAL – ASSISTANCE	20
1.	I HAVE SOME QUESTIONS ABOUT MY PROFESSIONAL LIFE, I WOULD LIKE TO CHANGE WORK, WHO CAN ADVISE AND HELP ME?	20
2.	Who can help me stick to my budget when I am facing financial difficulties?	20
3.	I AM FACING DIFFICULTIES WITH MY RESIDENCE PERMIT, WHERE CAN I FIND HELP?	21
4.	I HAVE BEEN A VICTIM OF RACISM, WHERE CAN I GET HELP?	21
<u>G.</u>	VIOLENCE AND OTHER FORMS OF PRESSURE	21
1.	I AM A VICTIM OF PHYSICAL OR PSYCHOLOGICAL VIOLENCE AND OTHER KINDS OF THREATS, WHOM CAN I CONTACT?	21
2.	I HAVE BEEN RAPED, WHAT SHOULD I DO?	22

A. Law on prostitution

1. Why is prostitution regulated in the canton de Fribourg?

Prostitution is legal in Switzerland. In the canton of Fribourg, like in certain other cantons, prostitution is regulated by law.

Prostitution is regulated, as there are risks associated for those doing it. The objective of the law is to reinforce the fight against forced prostitution and exploitation, to put preventive measures in place, ensure health and social care in this field and specify restrictions on street prostitution.

2. As per the law, what is the definition of prostitution?

The law defines prostitution as "the action of a person who performs sex or a sexual activity with a specified or an unspecified number of persons in exchange for payment of any kind."

This definition comprises therefore a whole set of situations, from street prostitution like "escort", to erotic massages. It includes heterosexual as well as homosexual relations, regular as well as occasional services. Payment is a broad term which includes not only money but also payment in kind, as objects or services.

3. If I am a prostitute working from home, do I have to register myself? If yes, at which authority/office?

Yes. Anyone working in any kind of prostitution must register themselves with the cantonal Police.

For registration, please call the Judicial Police, division "prostitution" at 026 304 17 19 to take an appointment. Registrations happen on Monday afternoons and Thursday mornings, in the office of the Judicial police, at Place Notre-Dame 2, 1700 Fribourg.

4. If I am a prostitute in a salon/brothel, do I have to register myself? If yes, at which authority/office?

Yes. Anyone working in any kind of prostitution must register themselves with the cantonal Police.

For registration, please call the Judicial Police, division "prostitution" at 026 304 17 19 to take an appointment. Registrations happen on Monday afternoons and Thursday mornings, in the office of the Judicial police, at Place Notre-Dame 2, 1700 Fribourg.

5. If I am a prostitute in a hotel, do I have to register myself? If yes, at which authority/office?

Yes. Anyone working in any kind of prostitution must register themselves with the cantonal Police.

For registration, please call the Judicial Police, division "prostitution" at 026 304 17 19 to take an appointment. Registrations happen on Monday afternoons and Thursday mornings, in the office of the Judicial police, at Place Notre-Dame 2, 1700 Fribourg.

6. If I am an escort, do I have to register myself? If yes, at which authority/office?

Yes. Anyone working in any kind of prostitution must register themselves with the cantonal Police.

For registration, please call the Judicial Police, division "prostitution" at 026 304 17 19 to take an appointment. Registrations happen on Monday afternoons and Thursday mornings, in the office of the Judicial police, at Place Notre-Dame 2, 1700 Fribourg.

7. If I look for clients using erotic advertisements on the internet, do I have to register myself? If yes, at which authority/office?

Yes. Anyone working in any kind of prostitution must register themselves with the cantonal Police. You must register by calling the Judicial Police, division "prostitution" at 026 304 17 19 to take an appointment. Registrations happen on Monday afternoons and Thursday mornings, in the office of the Judicial police, at Place Notre-Dame 2, 1700 Fribourg.

8. If I offer "online" services (e.g. erotic live cam), do I have to register myself?

No. This type of sexual service is not considered prostitution as per the law on prostitution, because it does not include physical contact.

9. If I give erotic massages without, strictly speaking, having sex, do I have to register myself? If yes, at which authority/office?

Yes. This type of service is included in the law on prostitution. Anyone working in any kind of prostitution must register themselves with the cantonal Police.

For registration, please call the Judicial Police, division "prostitution" at 026 304 17 19 to take an appointment. Registrations happen on Monday afternoons and Thursday mornings, in the office of the Judicial police, at Place Notre-Dame 2, 1700 Fribourg.

10. What are the conditions under which I can be a street prostitute? What rules should I respect?

Prostitution is forbidden in places/times where/when it would disturb public peace and order, hamper traffic, cause nuisance or hurt decency. In particular, the following places:

- > In the vicinity of schools, places of worship, cemeteries and hospitals;
- > In parks, playgrounds, public transport stops, public toilets and in their vicinity;
- > In public parking places and in their vicinity.

In the city of Fribourg, street prostitution is allowed on rue de la Grand-Fontaine, from 8pm to 2am. However, it is forbidden:

- > In public transport stops during hours of operation,
- > In park places and underground garages or their immediate vicinity,
- > In parks, walks and playgrounds and their vicinity,
- > In public places,
- > In the vicinity of churches, schools and hospitals.

It is important to note that people's night rest is very important in Swiss culture. Inhabitants are generally very sensitive to disturbance at night, which is why the highest regard for neighbours must be kept when exercising street prostitution.

11. Can I be sure that the information the Police has collected on me will not be published or transmitted to a third party?

Yes. How the information collected on prostitution is used, is regulated in the same manner as any other information. Hence, no information can be transmitted to anyone else without the agreement of the concerned person (art. 10 al. 1 let. c of the law on the protection of information (loi sur la protection des données)).

In addition, there are specific rules on the information the police collect on prostitution. Firstly, the information is saved in a file separate from the other police files. Secondly, the file is accessible only to agents of the division "mœurs" (Unit responsible for prostitution) of the Judicial Police and the information contained in it can only be used with the objective to prevent and repress violations of the law and violations of the law on prostitution. Finally, the sex-workers can request that their information be deleted from their files at any time.

12. If I wish to open a club for prostitution, what authorizations do I have to ask for and what are the conditions I need to fill?

Anybody who provides premises for prostitution must have an authorization. This authorization may contain certain conditions. It is granted to the person who manages the club and cannot be transferred or "loaned" to somebody else. The authorization can be requested from the Commercial Police department Service de la police du commerce.

Following are the conditions required to obtain an authorization:

- > Must have Swiss nationality or hold the necessary permit to work independently in Switzerland.
- > Have an active domicile in Switzerland
- > Have the capacity to act
- > Should not have any outstanding debts ("be solvent")
- > Be able to offer, by his/her history and behaviour, the guarantee that the establishment and its owner will respect the obligations of the law on prostitution and its statutes (e.g. have a clean register of criminal conviction).

For regulatory requirements of the premises, please see the answer to question 15.

13. If I am the owner of a hotel and I regularly rent the rooms to sex-workers, do I have to ask for an authorization?

Yes. Anyone who provides premises for prostitution must have an authorization. Hence, a hotel owner who knowingly provides rooms for prostitution has to ask for an authorization from the Commercial Police department <u>Service de la police du commerce</u>.

Following are the conditions required to obtain an authorization:

- > Must have Swiss nationality or hold the necessary permit to work independently in Switzerland.
- > Have an active domicile in Switzerland
- > Have the capacity to act
- > Should not have any outstanding debts ("be solvent")
- > Be able to offer, by your history and behaviour, the guarantee that the establishment and its owner will respect the obligations of the law on prostitution et its statutes.

For regulatory requirements of the premises, please see the answer to question 15.

14. If I am a sex-worker, I work from home and also rent a room to another sex-worker, do I have to ask for an authorization?

Yes. Anyone who provides premises for prostitution must have an authorization. The authorization can be requested from the Commercial Police department Service de la police du commerce.

Following are the conditions required to obtain an authorization:

- > Must have Swiss nationality or hold the necessary permit to work independently in Switzerland.
- > Have an active domicile in Switzerland
- > Have the capacity to act
- > Should not have any outstanding debts ("be solvent")
- > Be able to offer, by your history and behaviour, the guarantee that the establishment and its owner will respect the obligations of the law on prostitution et its statutes.

For regulatory requirements of the premises, please see the answer to question 15.

15. What are the practical conditions that the premises for prostitution should follow?

Premises for prostitution must have adequate security, in particular against fire hazards. They should not present a risk for an accident for the sex-workers. In addition, the premises should be safe, clean, well-maintained and sufficiently hygienic. The person holding the authorization must, in particular:

- > Maintain the premises, the property and the linen;
- > Offer the sex-workers adequate space and toilets, with at least a shower;
- > Make condoms available for free or at cost price for the sex-workers and their clients. Material with information on health should also be available.

16. Can my authorization for the premise of prostitution be taken away from me? If yes, why?

Yes. The authorization is not permanent and valid only for a period of two years. The conditions are reviewed periodically. In addition, the authorization can be taken away at any time, if the holder does not respect the obligations as laid down by the law on prostitution or if the conditions on the basis of which the authorization was granted, are not longer fulfilled. This could be the case, if for example:

- > The authorization holder doesn't have an active domicile in Switzerland any longer, doesn't have the capacity to act any longer, has unpaid debts or his/her behaviour and history can no longer give the guarantee that the establishment for prostitution is being used as per the law on prostitution (e.g. presence of drugs, exploitation of sex-workers, presence of minor sex-workers, violations of the law on prostitution).
- > The authorization holder does not maintain the premises for prostitution, with unsatisfactory hygiene or very high security risks.
- > The authorization holder has not updated the establishment's registers.
- > The authorization holder prevents/hinders the cantonal Police from visiting the premises for prostitution.
- > The authorization holder does not adequately check whether the prostitution happening in the premises conforms to the rules of the law, in particular when the prostitution is happening free of any constraints.
- > The authorization holder allows minors to prostitute themselves in his/her premises.
- > People who are offenders of the law on foreigners (e.g. lack of residence permit) prostitute themselves in the premises of the authorization holder.
- > The authorization holder does not take adequate measures to not disturb public peace and order.

If the authorization is taken away, the person cannot request for a new authorization for a period of 3-5 years.

17. If the Cantonal Police want to enter my prostitution club, should I allow them? Why should the Police want to see my salon/club when prostitution is legal?

Yes. The Cantonal Police is the authority which is responsible to ensure that the law on prostitution is being followed. Hence, it has the right to enter the premises for prostitution at any time, in order to conduct a check on the people and the premises.

Refusing to allow the Cantonal Police to enter premises for prostitution can result in the withdrawal of the authorization.

B. Rights of foreigners

- 1. If I am a national of a European Union member nation, which allows free movement of people, and wish to come to the canton of Fribourg to be a prostitute, then what do I have to do?
 - > For a stay of less than 90 days in a calendar year (It does not have to be consecutive):

You have to apply online for your stay and for your work. This has to be done minimum 8 days before starting gainful activity. The online application can be made here: https://meweb.admin.ch/meldeverfahren

> For a stay of more than 90 days in a calendar year (It does not have to be consecutive):

It's necessary to fill an arrival declaration form and a residence permit request which can be downloaded at this site: http://www.fr.ch/spomi/files/pdf73/declaration_arrivee_sejour_fr.pdf. This form has to be sent along with the following documents:

- > Copy of passport or identity card
- > 2 passport size photos
- > Detailed work plan (description and exact nature of activity, organizational structure, number of employees, target market, means to implement to achieve objective, etc....)
- > Detailed Business plan (with projections over 3 years) (see for e.g. under : https://www.kmu.admin.ch/kmu/fr/home/savoir-pratique/creation-entreprise/premiers-pas/demarrage-bien-planifie/business-plan/modeles-exemples-rediger-business-plan.html)
- > Copy of the rental contract of the organization (if applicable)

- > Copy of the rental contract (residence)
- > Attestation from the Compensation fund (to be submitted within 30 days to the Office of Population & Migration (SPoMi) after the delivery of the residence permit)
- > Copy of accounts of the last 3 months (if already available)
- > Statement of criminal/police record from country of origin or provenance.

C. Penal Code (The law)

1. What are the limits for prostitution? What is forbidden?

Prostitution is legal in Switzerland. Nevertheless, as a high-risk activity, prostitution has limits set by the law.

With regard to public order, prostitution can be restricted, particularly to avoid certain nuisances associated with this activity, like exposing minors to prostitution, moral outrage or noise. This is why, in the canton de Fribourg, street prostitution isn't allowed in all cases (see answer to question 10 of this FAQ). The framework is set by article. 1 al. 1 let. c and article 5 of the law on prostitution <u>loi sur l'exercice de la prostitution (LProst; RSF 940.2)</u>.

The Swiss Penal Code (CP; RS 311.0) has many articles which forbid certain practices or actions.

First of all, the law forbids encouragement of prostitution (article 195 du Code pénal). Hence it also punishes:

- > People who push minors (less than 18 yrs.) to prostitution or encourage such practice with the aim to benefit from such a situation;
- > People who push another who is dependent on them to prostitute themselves or with the aim to benefit from them;
- > People who restrict the freedom of a sex-worker by overseeing his/her activities or imposing certain conditions on him/her (for example: the venue, the location, the number of tricks, the number of clients);
- > People who keep a sex-worker in prostitution, when he/she does not wish to do this activity anymore.

A sexual act with minors under 16 years old is forbidden. This crime is punishable as per article 187 of the law (article 187 du Code pénal) which forbids acts of a sexual nature with children. A person who has sex/ a sexual relation with a minor under 16 years old or who causes a minor under 16 years to have sex risks up to 5 years in prison.

Direction de la sécurité et de la justice DSJ Page 12 de 22

Prostitution with minors under 16 years old is also forbidden <u>article 196 of the law</u> (article 196 du Code <u>pénal</u>). The person who has sex with a minor under 16 years old against payment or who causes a minor under 16 years to have sex against payment risks up to 3 years in prison.

A person who exploits another person, by using coercion/force for the purpose of prostitution under the context of trafficking, falls under human trafficking article 182 of the law (article 182 du Code pénal) and risks up to 20 years in prison.

Profiteering (article 157 of the law)(<u>article 157 du Code Pénal</u>), which means exploiting discomfort, dependency, inexperience or poor judgement to get a price much lower than the usual price, can also be punished in prostitution. Particularly, in cases where the venues are rented out at usurious rates to an illegal sex-worker.

Finally, please remember, that when a woman is a sex-worker, it does not imply that she will necessarily agree to perform the sexual act asked. Hence, sexual coercion and rape offences (articles 189 and 190 of the law) can be held against a client who may have forced a sex-worker to have a sex with him or subjected her to other sexual acts which she was unwilling to do.

2. The owner of the prostitution club where I work decides the number of clients I must receive during the nights and the clothes I must wear. Does he have the right to do so?

No. It is important that the prostitute can freely do this and decide her own limits. She must be free to choose if she does or does not want to offer sexual services (when, how and with whom).

That being said, to some degree, the club-owner can fix a work-setting, with, for example, predetermined work-timings and/or an organizational structure in his club. In this context, a club-owner is allowed to demand his club's sex-workers to have a certain dress-code. But, it is important that these demands do not pressurize or exploit. This can happen if the sex-worker does not know her rights and is unable to refuse. In all cases, it is not allowed to subject the sex-workers to inconveniences or fines if they do not execute the demands on dress-code by the club-owner. This type of behaviour goes against article 195 of the law (article 195 du Code pénal) (encouraging prostitution).

3. The owner of the prostitution club where I work makes it compulsory for me to accept or perform certain sexual acts. Does he have the right to do so?

No. This type of behaviour is against article 195 of the law <u>article 195 du Code pénal</u> (encouraging prostitution). It is important that a prostitute does the sex-work freely, without force. She can decide, at any time, to refuse certain acts without checking with anyone.

If you find yourself in such a situation, we advise you to call the Police on: 026 304 17 19 and/or the support centre - Solidarité Femmes on: 026 322 22 02.

4. The owner of the prostitution club where I work has confiscated my passport, my identity card or residence permit. Does he have the right to do so?

No. This type of behaviour is against article 195 or 182 of the law (encouraging prostitution or human trafficking). It is important that a prostitute does the sex-work freely. Confiscating a passport constitutes as an unacceptable means of coercion and an obstacle to freedom. It proves that the sex-worker is being controlled and that she finds herself dependant on the owner: all of which are forbidden by law (article 195 or 182 du Penal Code).

If you find yourself in such a situation, we advise you to call the Police on: 026 304 17 19 and/or the support centre - Solidarité Femmes on: 026 322 22 02.

5. The owner of the prostitution club where I work asks me to share a part of the amounts I receive from clients. Does he have the right to do so?

In principle, no. But what is important in this context, is that the sex-worker is free to decide.

If the sex-worker freely consents to share a part of the amounts received, without coercion and with a complete ability to decide, such a practice is acceptable, if she gets a service in return (for example, venue availability, laundry, etc....)

If the sex-worker shares a part of the amounts received when she finds herself dependant, in fear, doesn't have sufficient knowledge of the market or is not totally free to leave the club where she works to go to another club, then paying such amounts can be a problem and can certainly be punished (encouraging prostitution, article 195 CP, of the law; subsequent human trafficking, article 182 of the law).

6. If a client has refused to pay me for a service I have rendered, what should I do?

The Federal Council and the courts have recently recognized a prostitution contract being a normal contract and that legal course of action can be taken in civil courts. A criminal action is also foreseeable, on the basis of fraud article 146 of the law (article 146 du Code pénal), particularly if the client hasn't informed the prostitute that he didn't have the intention of paying for the service.

In case of refusal to pay for the service, the client can have legal proceedings started against him (http://www.fr.ch/opf/fr/pub/index.cfm).

To avoid such problems, it is advisable to get paid for the services in advance.

7. I was forced by a client to perform a sexual act which I had initially refused/ I was raped by a client or my client threatened me, what are my rights?

Forcing a sexual act on a sex-worker is considered "indecent assault", which is forbidden by article 189 of the law (article 189 du Code pénal). Coercion is applicable on serious acts (ex. Fellatio, anal sex). For example, a kiss on the mouth or an inappropriate act does not constitute as sexual coercion. If the refused action is a completed sexual act (vaginal intercourse), then it is rape.

Rape is punishable by article 190 of the law (article 190 du Code pénal).

Finally, threats are also punishable by law (article <u>180</u>).

If you are a victim of such acts, we advise you to call the Police on: 026 304 17 19 and/or the support centre Solidarité Femmes on: 026 322 22 02.

8. I am a minor and I am a prostitute. Is this allowed? What am I risking?

No. Prostitution of minors (less than 18 years) is forbidden by article 196 of the law (<u>article 196 du Code pénal</u>). As a minor, you cannot be punished. Only clients of sex-workers who are minors can be punished (see answer under question 29).

It should be noted that the presence of one or many sex-workers who are minors in a club can lead to the withdrawal of the owner's authorization to use the club.

9. My husband/ friend asked me to prostitute myself to be able to pay the month-end bills. Is this allowed?

This depends on the situation, the decisive criteria being the free choice of the woman prostituting herself.

If the woman prostitutes herself out of complete free-will, without coercion and without being in a dependant relationship with her husband/ friend, this arrangement between the couple isn't against the law. Please note, that in this case, the partner must not take any advantage of this situation directly (for example, by keeping a part of the amount earned by his wife/woman), but it is allowed for him to be able to benefit from the prostitution activities of his wife.

But, if the woman prostitutes herself while being in a dependant relationship with her partner/friend (for example if the dependence is a result of her feelings of love/passion for the man) or when her husband/friend uses a lot of pressure which doesn't leave the woman any free choice, then, this arrangement between the couple could be considered as encouraging prostitution (article 195 du Code pénal).

In all cases, the prostitutes must register themselves at the cantonal Police. For registration, please call the Judicial Police, division "prostitution" at 026 304 17 19 to take an appointment. Registrations happen on Monday afternoons and Thursday mornings, in the office of the Judicial Police, at Place Notre-Dame 2, 1700 Fribourg.

10. I am a client at a prostitution club. The working conditions do not look very clean and I fear that some sexworkers are being exploited. What can I do?

Exploitation of sexual activity is forbidden as per law (article 195 and 182). Exploitation can mean pushing a person into prostitution and benefitting from a dependant relationship or with the aim of gaining advantage (money). Restricting the prostitute's freedom of action is equally punishable, when her activities are monitored or the place, the time and frequency of services or other conditions are imposed on her. Holding a person as a prostitute is punishable as well as per the law article 195 (article 195 du Code pénal). Of course, trafficking (forcing a migrant into prostitution for business), is punishable by law (article 182 du Code pénal).

If the club that's used seems to employ such methods on the sex-workers, the client can report these facts to the Cantonal Police (026 304 17 19) or to the public Ministry (026 305 39 39), either in written or verbally. The client is under no obligation to report such facts but he is encouraged to do so, in the interest of the sex-workers.

11. I am a client at a prostitution club. It seems to me that the sex-workers who offer their services are particularly young. Do I risk anything if these young women are minors?

Yes. Indulging and engaging with minors for sex (less than 18 yrs old) is punishable by law (<u>Code pénal (article 196)</u>. Training a minor into prostitution is also punishable. If the minor is less than 16 years old, article 187 of the law (<u>article 187 du Code pénal)</u>, which forbids sexual acts with children, is applicable.

Clients of sex-workers who are minors risk 3 to 5 years in prison, even if the minor consented. To get punished, the client should have known that the sex-worker was a minor, or had a doubt about it. If he does not want to be legally charged, in case of doubt, the client must ask to see the sex-worker's identity documents.

A sex-worker who is a minor cannot get punished.

12. I am a client at a prostitution club. If I report illegal facts to the police, will my name be revealed during the court proceedings? Will my family find out that I frequent prostitution clubs?

Clients of prostitution clubs can report crimes to the Cantonal Police or to the public Ministry. If the client isn't concerned in the procedure (complainant or affected by the crime), he will not be party to the procedure.

That being the case, the identity of the client who reported, will be in the file-report and the parties of the procedure can consult this file. In some cases, the public Ministry can keep the identity of the reporter secret, but on condition that the report does not act as a proof in the procedure.

As regards the family of a client of a prostitution club who reports illegal actions, they will not be informed about the process at all. In all cases, the reporter can ask that all official correspondence should not be delivered home. Finally, it is possible to report crimes anonymously. Bear in mind, however, that such reports may be treated with certain caution.

D. Communal (Municipal) Authorities

1. Our commune (municipality) would like to prohibit the opening of prostitution clubs throughout our territory. Do we have the right to do this?

No. Prostitution is a legal activity, protected by a constitutional right of economic freedom of the federal constitution article 27 and Fribourg constitution article 26 (article 27 de la Constitution fédérale, RS 101 and article 26 de la Constitution fribourgeoise, RSF 10.1; see also ATF 101 Ia 473, consid. 2). Total prohibition of use of prostitution clubs throughout a territory violates this constitutional right.

As per article 24 of the law on prostitution, <u>la loi sur l'exercice de la prostitution</u> (LProst; RSF 940.2), the municipalities can promulgate additional provisions to the law on prostitution regarding exercising street prostitution. In addition, they can exercise the provisions that have been entrusted to them by the legislation for the municipalities, in particular the ones concerning maintaining order and public security as well in the areas of health regulations, building code and fire safety. However, these additional provisions and legislations of the municipalities shall not be in contradiction to the higher right (federal and cantonal) and shall not excessively limit the exercise of prostitution to the point where this activity cannot be practiced at all in the given territory. When municipal provisions have repercussions on the exercise of prostitution, the municipalities must collaborate with the competent cantonal authorities.

2. Our municipality would like to forbid street prostitution in our entire territory. Do we have the right to do so?

No. Prostitution is a legal activity, protected by a constitutional right of economic freedom of the federal constitution article 27 and Fribourg constitution article 26 (article 27 de la Constitution fédérale, RS 101 and article 26 de la Constitution fribourgeoise, RSF 10.1). Such a restriction will constitute an unacceptable breach of this right. In the referring jurisprudence ATF 101 Ia 473, the federal court had an opportunity to review the exercise of street prostitution for a whole day in Geneva. This restriction of the exercise of prostitution was found to be to be contrary to the principle of proportionality (cf. ATF 101 Ia 473, consid. 5).

However, the exercise of street prostitution can be limited as per the conditions of article 5 of the law on the exercise of prostitution <u>la loi</u> <u>sur l'exercice de la prostitution</u> (LProst; RSF 940.2). Prostitution is forbidden in places/times where/when it would disturb public peace and order, hamper traffic, cause nuisance or hurt decency. Hence, the following places cannot have street prostitution:

- > In the vicinity of schools, places of worship, cemeteries and hospitals;
- > In parks, playgrounds, public transport stops, public toilets and in their vicinity;
- > In public parking places and in their vicinity.

Direction de la sécurité et de la justice DSJ Page 18 de 22

In this context, municipalities are authorized to issue additional rules in relation to the exercise of street prostitution (article 5 al. 4 LProst) but shall not override the cantonal law or violate constitutional rights.

E. Health

1. I am a sex worker. I need some advice or some support. Whom should I go to?

Grisélidis

Prevention for sex professionals Rue François-Guillimann 12, 1700 Fribourg +41 26 321 49 45 www.griselidis.ch

2. I have some health problems but no health insurance. Whom should I go to?

Fri-Santé

Care and orientation for persons without health insurance) Rue François-Guillimann 12, 1700 Fribourg +41 26 321 49 45 www.frisante.ch/fr

3. I am pregnant and do not wish to continue the pregnancy. Who can help me?

HFR Fribourg, Cantonal Hospital, Gynaecology Department, 026 426 73 55 **HFR Riaz**, Gynaecology Polyclinic and outpatient obstetrics, 026 919 90 60 **HFR Tafers**, Outpatient Consultations in gynaecology and obstetrics, 026 494 40 25

Family Planning and sexual information (PFIS), 026 305 29 55

4. What are the recommended health practices in sex work, where may I get information?

www.fairsexwork.ch

5. I am looking for information on HIV/AIDS. Whom should I contact?

Empreintes_Stop SIDA

Information and Support Centre for people related with AIDS Boulevard de Pérolles 57, 1700 Fribourg +41 26 424 24 84 www.sida-fr.ch

Family Planning and sexual information (PFIS)

For questions, fears, please call the PFIS service directly. They can help in getting you a quick reading.

Rue de la Grand-Fontaine 50 Rue de la Condémine 60

1700 Fribourg 1630 Bulle

+41 26 305 29 55 +41 26 305 29 55

www.fr.ch/spfis/fr www.fr.ch/spfis/fr

6. I had unprotected sex (or the condom tore), what are the risks and whom can I contact?

- > Risk of unwanted pregnancy: there is an emergency pill (morning after pill) which must be taken within 72 hours or perhaps 120 hours depending on the type of emergency pill prescribed. You must get a consultation as soon as possible after the unprotected sex.
- > Risk of transmission of a sexually transmitted disease, if HIV, for which there is a post-exposure prophylaxis, given on the basis of a medical evaluation.

HFR Fribourg, Cantonal Hospital, Gynaecology Department, 026 426 73 55

HFR Riaz, Gynaecology Polyclinic and outpatient obstetrics, 026 919 90 60

HFR Tafers, Outpatient Consultations in gynaecology et obstetrics, 026 494 40 25

Direction de la sécurité et de la justice DSJ Page 20 de 22

Pharmacie de garde (Emergency Pharmacy) (emergency pill), 026 350 1 144 Family Planning and sexual information (PFIS), 026 305 29 55

7. Where can I find information on sex work in Switzerland?

www.sexwork.ch

Procoré c/o Aspasie Rue de Monthoux 36 1201 Genève 022 732 68 28 (french) Procoré c/o Xenia Langmauerweg 1 3011 Bern 031 311 97 20(german)

F. Social – assistance

1. I have some questions about my professional life, I would like to change work, who can advise and help me?

Espacefemmes Fribourg

Meeting place, Advice and Training for women Rue Hans-Fries 2, 1700 Fribourg +41 26 424 59 24 www.espacefemmes.org

2. Who can help me stick to my budget when I am facing financial difficulties?

Caritas Fribourg

Support for people in precarious situations Route André-Piller 2, 1762 Givisiez +41 26 321 18 54 www.caritas-fribourg.ch

3. I am facing difficulties with my residence permit, where can I find help?

Centre de contact suisse-immigrés – SOS racisme

Legal and social in rights of foreigners Rue des Alpes 11, case postale 366, 1701 Fribourg +41 26 424 21 25 www.ccsi-fr.ch

Grisélidis

Prevention for sex workers Rue François-Guillimann 12, 1700 Fribourg +41 26 321 49 45 www.griselidis.ch

4. I have been a victim of racism, where can I get help?

Racism Prevention and Consultation « se respecter »

Caritas Suisse Bvd de Pérolles 55 1705 Fribourg +41 26 425 81 00 www.serespecter.ch/fr

G. Violence and other forms of pressure

1. I am a victim of physical or psychological violence and other kinds of threats, whom can I contact?

Solidarité Femmes Fribourg Consultation Centre for helping victims of offences (LAVI) for women +41 26 322 22 02 www.sf-lavi.ch

Direction de la sécurité et de la justice DSJ Page 22 de 22

Consultation Centre for helping victims of offences (LAVI) for men

Rue Hans-Fries 2, 1700 Fribourg +41 26 305 15 80

Police

Place de Notre-Dame 2, 1700 Fribourg +41 26 305 19 19 www.policefr.ch

In case of emergency: 117

FIZ - Assistance Centre for migrants and victims of trafficking

Badenerstrasse 682, 8048 Zürich +41 44 436 90 00 http://www.fiz-info.ch/

2. I have been raped, what should I do?

You can get a medical examination done within 48 hrs at the medical emergency:

HFR Fribourg, Cantonal Hospital, Gynaecology Department, 026 426 73 55

Date: 02/06/2016