

CASE ERIK

Combating trafficking in human beings for forced labour, children and sexual exploitation

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Detection of Offences / Start of Pre-trial Investigation

- Observations of the West Finland PCB (Police, Customs, and Border Guard)
 - foreign employees
 - Arrangement of illegal immigration case in Germany
 - tip from the Regional State Administrative Agency
- Joint investigation team in accordance with the PCB Decree West Finland Coast Guard District / South-West Finland Police, Immigration Police / National Bureau of Investigation, Turku office

Intelligence/Evidence

- Video hearings, monitoring e.g. telecommunications monitoring, WU
- Personal surveillance and technical viewing to identify injured parties and to verify working hours
- Telecommunications interception (ca. 100 calls/day)
- Tax authorities
- Employment office
- Requests for international judicial assistance

continues...

- Searches/hearings also in Sweden
- Preventive measures, apartments/commercial real estates
- Bank account informations, wage slips, reliability (e.g. Star New York Pizzeria)
- Time card working time reports
- e-mails
- Videos recorded by injured parties
- TLO reports on bus trips

Subject Matter of the Offences

- Trafficking in human beings (Palermo protocol)
 - offence against freedom
 - meaning of financial benefit less important than in usury
 - act, means and exploitative purpose need to be present at the same time and to be connected
- Usury
 - offence mainly against property
- Extortionate work discrimination
 - discrimination offence, financial benefit irrelevant
- All these offences have in common the exploitation of injured party's distress

End of Pre-trial Investigation

- 18 injured parties, out of them three for aggravated trafficking in human beings (aggravated usury), and one for trafficking in human beings, 14 for extortionate work discrimination
 - act: arrangement of illegal immigration, accomodation
 - means: using the dependent position and the vulnerable state of the injured parties (debt from arrangement of immigration; foreign, no knowledge in the language) and with deceiving/threats/deceitfulness to do forced labour (deception with residence permit, threats of violence/report of an offence, assault)
 - forced labour to gain financial benefit (387 000 € of financial benefit from unpaid wages) threats of injured parties in hearings and in phone interceptions, debt bondage, wage assignments
- Arrangement of illegal immigration and professional receiving offence
- Five suspects, mainly from Agali family
- Financial offences and health offence into consideration of charges in 12/2012, in principle, for every business aggravated tax fraud/aggravated accounting offence/aggravated employment pension insurance premium fraud, financial benefit ca. 370 000 €

Ruling of the District Court

- Sergio Agali
 - 4x aggravated usury
 - professional receiving offence
 - extortionate work discrimination
 - imprisonment for 4 years
 - obligation to pay compensation, total 494 000 € e.g. unpaid wages
- For others, almost all charges were dismissed
- Grounds for trafficking in human beings
 - act: immigration was based on family relations, not to recruit for forced labour, arrangement of illegal immigration was not proven

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- means: accommodation was partly organised by the reception centre, so there was no evidence of a submissive and dependent state on the suspect, debt from arrangement of immigration was not proven (reliability of suspects' stories/money transfers etc.), asylum seekers get information at the reception centre, so they were aware of their rights (conditions of employment/minimum wages), therefore, deceiving and deceitfulness was not proven

- purpose to gain financial benefit i.e. in this case, recruiting for forced labour can not be proven only when conditions of work and wages were bad, threats were not proven despite injured parties' stories, and the assault happened when employment relationship had already ended, so it didn't matter? Choices of words in phone interceptions were merely vulgar language.

- Grounds for aggravated usury

- taking advantage the injured parties' financial distress gained financial benefit, that is clearly disproportionate to the given remuneration (wages to pay 212 000, not everyone asked for them) sought considerable benefit and caused injured parties considerable detriment and particular significant loss.

Summary

- Difficulties in human trafficking subject matter evidence
- Some evidence from hearings
 - As in many other cases, all injured parties did not see themselves as 'victims', some of them work for Agali even at the moment
- Tax authorities didn't pay any attention to business activities, even though Agali's inexplicable property gain in 2009/2010 was estimated at 120 000 €
- Investigation took about a year, as did the trial, 70 persons from different authorities were operating on the day of the arrest alone
- Interpretation costs...
 - ~30 000 euros for pre-trial investigation alone
- Appeals, answers
 - Arrests were in court every two weeks, appeal against all of them to the Court of Appeal