

Vietnamese Restaurant

Expert Seminar on Human Trafficking with a
Focus on Legal Activities

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Vietnamese Restaurant

- Presentation of the case
- The prosecution and the reasons for that
- The verdict
- Problems
- What was good

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- Two defendants, Mr and Mrs D
- 10 victims: 5 cooks, 4 wives (waitresses) and 1 son (worked only in summer 2011 and in weekends)
- Mr D recruited the cooks in Vietnam (2006-2009)
 - Mr D deceived the cooks mainly in working hours

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- In Finland Mr and Mrs D accommodated the cooks in the apartments that Mr and Mrs D owned
- The cooks worked in the restaurants 6-7 days/week and about 8-17 hours/day.
- The possible free day was not known beforehand
- The cooks had to work also in Mr and Mrs D's home, if they ordered
- The salary that the cooks received was far below the minimum level
- The cooks were under Mr and Mrs D's control almost all the time

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Trafficking in human beings (650/2004)

(1) A person who

- (1) by abusing the dependent status or vulnerable state of another person,
- (2) by deceiving another person or by abusing a mistake made by that person,
- (3) by paying remuneration to a person who has control over another person, or
- (4) by accepting such remuneration

takes control over another person, recruits, transfers, transports, receives or harbours another person for purposes of sexual abuse referred to in chapter 20, section 9, subsection 1(1) or comparable sexual abuse, forced labour or other demeaning circumstances or removal of bodily organs or tissues for financial benefit shall be sentenced for *trafficking in human beings* to imprisonment for at least four months and at most six years.

(2) Also a person who takes control over another person under 18 years of age or recruits, transfers, transports, receives or harbours that person for the purposes mentioned in subsection 1 shall be sentenced for trafficking in human beings even if none of the means referred to in subsection 1(1) –(4) have been used.

(3) An attempt is punishable.

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Extortionate work discrimination (302/2004)

If in the work discrimination an applicant for a job or an employee is placed in a considerably inferior position through the use of the job applicant's or the employee's economic or other distress, dependent position, lack of understanding, thoughtlessness or ignorance, the perpetrator shall, unless a more severe penalty is provided for the act elsewhere in the law, be sentenced for *extortionate work discrimination* to a fine or to imprisonment for at most two years.

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- The cooks were in a vulnerable state in Finland
 - weak economic state
 - no accommodation
 - lack of language skills
 - they knew nothing about Finnish society, their own rights and the responsibilities of the employers
 - the lack of social network

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- The Cooks were dependant on Mr and Mrs D
 - Mr and Mrs D knew also some of the cooks' relatives (gratitude for Mr and Mrs D)
 - The Cooks needed the work and the salary
 - The Cooks had to borrow money from Mr and Mrs D
 - The cooks needed Mr and Mrs D's help for their daily life

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- Forced labour:
 - ILO definition: "All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily"

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- The wives :
 - did not come to Finland for work (but went to work after coming to Finland)
 - some of them worked overtime, but not so much as the cooks did.
 - the salary was under minimum level
 - had to work in Mr and Mrs D's home if ordered
 - were in the dependent status and vulnerable state as the cooks

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- Problems/Difficulties
 - definition of forced labour
 - definition of taking control over another person
 - vietnamese culture
 - language

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- The prosecution: 9 trafficking in human beings (alternative charges with extortionate work discrimination), 1 extortionate work discrimination
- The District Court: 8 trafficking in human beings, 2 extortionate work discriminations
- The Court of Appeal: 6 trafficking in human beings, 4 extortionate work discriminations
- The defendants have asked for the leave to appeal from the Supreme Court

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- What was good in the case:
 - good pre-trial investigation
 - victims had legal counsels already in the pre-trial investigation
 - victims were in the assistant system
 - the economic crimes were handled in the same proceedings.
 - all victims and witnesses came to trial and they told about their situation