

Communication concerning the decision of the Curia of Hungary
in criminal case n° Bfv.I.81/2017

According to the facts of the case, the first accused “sold” his sister, a person verging on the border of low and medium level mental retardation, for the price of 40 000,- HUF to the fourth accused and his co-perpetrators who intended to exploit the victim as a prostitute outside Hungary, made photographs of her and transmitted them to unknown addressees via Internet. The accused persons took away the victim’s identity papers, did not let her leave her place of stay without being accompanied by one of them, then transported her to Italy where, during her four-day long stay, she was forced to dance in a bar while hardly wearing any clothes to entertain the bar’s male clients and was subjected to sexual violence. The victim was forced to accept her fate by the accused persons’ continuous threat that her eventual opposition would lead to his brother, the first accused assaulting, “getting” her.

By virtue of Directive 2011/36/EU, exploitation shall also mean taking advantage of another person’s prostitution.

With regard to the above, the courts seized with the case correctly established that the accused persons had committed the criminal offence of trafficking in human beings as defined in section 192, subsection (2) of the Criminal Code.

Since the accused persons took away the victim’s identity papers, did not let her leave her place of stay without being accompanied by one of them, then transported her to Italy, and the victim was subjected to continuous threats and was deprived of her personal liberty, the trafficking in human beings was committed to the detriment of a person deprived of her personal liberty. Hence, the high court and the regional appellate court correctly referred to section 192, subsection (3), point a) and subsection (4), point b) of the Criminal Code both in the operative and reasoning part of their judgement.

On the other hand, the lower instance courts failed to qualify the impugned criminal offence as one committed by threat of force as well.

According to the facts of the case, the accused persons also used threats on the victim for the purposes of her exploitation, and, with special regard to her mental retardation, the threats – the prospect of his brother assaulting and “getting” her – were evidently so serious that they were capable of making her fearful in compliance with the condition laid down in section 459, subsection (1), point 7 of the Criminal Code.

Hence, the criminal offence committed by the fourth accused had to be re-qualified and a more serious sanction had to be imposed on him by the Curia on the basis of section 192, subsection (2), subsection (3), points a) and b) and subsection (4), point b) of the Criminal Code.

Budapest, the 6th of September 2017

Criminal Department of the Curia of Hungary