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**PROJECT**

**STRENGTHENING LAWYERS LEGAL KNOWLEDGE AND COOPERATION WITH PROSECUTORS AND JUDGES, TO PROTECT VICTIMS OF HUMAN TRAFFICKING RIGHTS IN THE JUDICIAL PROCEEDINGS**

**JUST/2015/JTRA/AG/EJTR/8686**

**TRAINING IN BULGARIA**

**6 November 2017**

Case Study, Trainer Elena Lazar, Lawyer Bucharest Bar

By a petition filed with County Court I on 09.01.2015 under no. XX, the petitioner A.B. claimed financial compensation for victims of crimes provided for by Law no. 211/2004 total amount of 35,145 Lei, equivalent of ten minimum national gross wages in 2014, income that the petitioner was deprived of between May 2011and January 2015, calculated at the level of the minimum guaranteed cash income according to Government Decision no. 1091/2014.

In support of his claim addressed to the Crime Injuries Compensation Board of County Court I set up based on Law no. 211/2004, the petitioner showed that:

On 29.04.2011, in the town of S, County I, he was the victim of trafficking in human beings. In fact, on 26.04.2011, at a petrol station on the outskirts of the town, he met the said C.M, representative of the Company Y SRL with its registered office in A, County I, registered on 27.09.2010, including workforce placement in its scope of business. The said C.M. presented A.B. with a written employment offer from a certain T.G. and A.B. signed to acknowledge the offer.

He immediately resigned from SC. G. SRL to leave for Spain, tempted by T.G’s offer (convicted by criminal sentence no. XX/F/04.07.2014). On the same day he arrived in the town of S. in Spain - where the accommodation conditions were unsuited for living and resting - the petitioner returned to Romania. The petitioner showed that, deceived by the convict T.G., he had left for Spain being in order to earn more money to cover necessary and useful expenses, to pay the instalments on the loan in amount of xxxxx CHF he has from Pireus Bank and to increase his income because, at the time of the petitioner’s departure, his child was attending high school on completion of which the child would move into higher education. Consequently, the de facto and de jure cause for ending the employment relationship was resignation based on Article 81 of the Labour Code.

Also, he indicated that since his return to Romania, he tried to get a job in order top cover his monthly expenses comprised of the bank loan instalments, school fees and other useful and necessary costs of living. He also mentioned that he had been in uninterrupted employment with his last employer from 2007 until 2011, where he had worked as security guard, with no disciplinary offence, complaints against him or incidents, thus demonstrating his good faith in having a job and obtaining a monthly income for covering all the useful and necessary expenses. Furthermore, he stated that, since his return to Romania, he worked as days man in agriculture and as a house painter for a number of natural persons who required such services, these being his only sources of income during this time period.

In conclusion of his allegations, the petitioner claimed that he had made all the efforts to get a job and will continue to do so until such time as he will meet the legal retirement requirements.

About the job offer in Spain, more specifically, picking fruit and vegetables, the petitioner claims that he would have earned 800-1200 Euros per month, since the remuneration was 4 Euros per hour and the working day between 8 to 12 hours, this meaning earning between 32 and 48 Euros per day, considering 25 working days per month. At the time he was employed by SC. G. SRL, according to the employment record, his wages were in amount of 720 Lei per month.

Given that at the time of his departure he owed and currently still owes money to the creditor Piraeus Bank, a debt in amount of xxxxx CHF, he decided to leave to work, being attracted by the advantageous offer presented to him and, for this purpose, he resigned from SC. G. SRL. The above- mentioned debt is payable in monthly instalments and at the time of his departure he could cover it from the 720 Lei wages.

Also, he showed that, should he had not been deceived by the said T.G. with the job offer in Spain, he would not have resigned from SC. G. SRL and the employer would not have dismissed him.

He deems that he has been deprived of income he could have earned between May 2011 and January 2015 in amount of 35,145 Lei that he claims in his the application for financial compensation filed on the grounds of Law no. 211/2004.

The petitioner filed the following documents: criminal judgement no. XX/F/04.07.2014 issued by Court I in the criminal case no. XXX, remaining final by criminal judgement no. XX of 25.09.2014 by the Court of Appeal B, whereby the defendant T.G. was convicted to 4 years imprisonment for the continuing offence of trafficking in human beings, To be served in a prison and, among others, admitting in part the civil action initiated by the plaintiff I. G., with the defendant being ordered to pay the latter 450 Euros in physical damages and 1000 Euros in moral damages; report made on 24.02.2015 by the Office of the Court Enforcement Officer A finding that the debtor TG is insolvent; notification from the R. Town Hall indicating that the said T.G. has no movable and/or immovable goods subject to taxation; income statements showing that the petitioner I.G. was not liable for any income tax in 2013 and 2014; certificates issued by the S. Town Hall showing that the petitioner has not property and arable land; Decision no. 556/21.04.2011 of SC.G.SRL showing that the employment was terminated by resignation; proof that, on 06.01.2015, the petitioner registered with the Employment Agency of County I.

The witnesses called by the petitioner (3 witnesses) were heard. The witnesses stated under oath that, after leaving to work abroad and quickly returning disappointed, the petitioner looked permanently for a job.

**Task**

**If you were members in the Crime Injuries Compensation Board of County Court I, what decision would you take in this case? Provide arguments for your opinion.**