

How to Prevent and Combat Sex Trade in Finland

In the Light of Practical Experiences from Other European Countries

Seminar at the Parliament Annex Auditorium (Pikkuparlamentti), Arkadiankatu 3, Helsinki.
Thursday, March 15, 2012 at 9.30 – 15.00

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Presentation 15.3.2012 The Abuse of a Victim of Prostitution

I will talk about Finnish legislation on abuse of a victim of prostitution and how this provision works in practice. As I am a prosecutor I concentrate on criminal cases, how it works in law enforcement.

As you might know we have a special section on abuse of a victim of prostitution in Finnish Penal Code. It is the section 8 in the chapter 20. It came into force in October 2006.

The section differs from the Swedish version. According to Finnish law, buying sex is punishable only if it happens from the victim of pandering, aggravated pandering, human trafficking or aggravated human trafficking. The perpetrator of this offence may be sentenced to a fine or imprisonment at most six months. Also an attempt is punishable. The idea of this section was to defend the victims of pandering and human trafficking and also to prevent these offences. The idea is very good. Another thing is how this section works in practice.

So the important thing is that in criminal cases it has to be shown that the perpetrator has known that person giving the sex service is a victim of these crimes or the perpetrator should have known that considering the circumstances in which the service is given. In practice it means that the purchaser should have been able to conclude from the circumstances that it is very likely that the person giving sex services is the victim of these before mentioned crimes. That kind of circumstances are for example:

- the fact that the subject of the sex trade is contacted through a third party or the payment is made to a third person
- the freedom of movement of the person who has given the act is somehow limited
- the person who has given sex is very young or he or she is not in good shape mentally
- the behavior of the person giving sex is somehow strange, for example she or he is shy, withdrawn, not so enthusiastic about the action

or there is something else in the situation so that the purchaser should have been able to understand that the person giving sex is a victim of pandering or human trafficking.

The problem is, however, that these features are not always so easily noticeable in real situations. That's why it is not so easy to prove the intent in court cases.

Practice

I must say, that unfortunately in practice this section has not been very successful. I mean that we have had quite a few cases in court. The penalties of those cases that I know have been only fines and the amount of fines has been very low.

Unfortunately, I myself have not had any cases concerning this section even in the consideration of charges. Those prosecutors who have practical experience of this section have told me for example about these problems:

In the pre-trial investigation it is not so easy to find the buyers. There are not any registers on clients. The police may have some knowledge of the phone calls from the possible clients. But just the call is not enough to prove that the phone caller has met the person giving sex. The victims themselves don't always recognise their clients, and that is needed sometimes.

As I told earlier it is not so easy to prove that sex buyers have known that the persons giving sex have been victims of the pandering or human trafficking offences or that they should have been able to make this kind of conclusions from the circumstances. The truth is that the buyers themselves don't usually tell so much of the facts of the circumstances that they should have noticed in these situations.

As the maximum of this offence is so lenient, the truth is that the police and prosecutors want to concentrate on more severe crimes. For instance, if we have a large pandering or human trafficking case in pre-trial investigation or in consideration of charges, we often have to concentrate on these crimes. We have to take into account also the small resources that we have in investigation and prosecution of these crimes. In this occasion I want to mention that in whole Finland we have only five prosecutors who have specialized in sexual offences. If we compare it to the amount of the prosecutors who specialize in economic or drug crimes, the difference is quite big.

Another thing is also that these clients may be good witnesses when we want to prove pandering or human trafficking cases in court. If they are afraid that they may be sentenced themselves they are not so eager to tell about their observations of the circumstances. And these observations might be very useful when we try to prove the pandering or human trafficking.

The problem is also that if the victims are foreigners they might have left from the country before these cases are handled in court. Their testimony is often very essential if we want to get the accusations proved. If they have disappeared it is almost impossible to succeed in court. We must also remember that it is not only the District court, where we need these victims to give their testimonies. If the case is appealed to the Court of Appeal, we need them also there. As you might know the Finnish Court of Appeal process is very heavy. In this kind of cases where it is question about the evaluation of evidence and the credibility of the testimonies of the injured parties or witnesses, we have to hear them again in the Court of Appeal. It causes problems to get these persons to court. It is also very hard for these victims who have to keep these things in mind a long time and tell their stories many times.

Finally I would say that it is perhaps too early to evaluate how this section works as we have so little experience on court cases. But it seems that this section, in this form as it is now, is not very functional. So my estimation is that these offences would be investigated and prosecuted more, if they were more simple to prove.