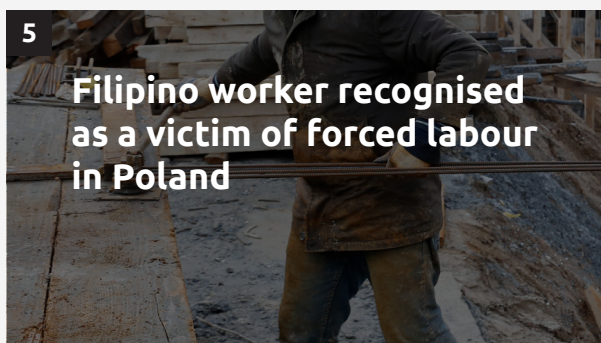


Protecting Asian trafficking victims in Romania, the Czech Republic and Poland

From 1 January 2022 until 31 December 2023, the project 'Cross-Continent Collaborations to Protect Asian Trafficking Victims in Europe' is coordinated by La Strada International and implemented with our members Adpare in Romania and La Strada Czech Republic and La Strada Poland. The project is financially supported by Porticus. The project aims to strengthen access to legal aid, strategic litigation and protection services for Asian victims trafficked in Europe, and to raise awareness about risks of severe forms of labour exploitation.

CASE STUDIES



Exploitation of Pakistani truck drivers in Romania

Two Pakistani men came to Bucharest to work as professional drivers for a cargo transport company. They worked in this company for six months. Both men were not paid according to their contract; were forced to work overtime, and were refused rest breaks. Moreover, they were forced to use the tachograph cards of other employees to make as many trips as possible. The two Pakistani men did not receive their salary for two months. When they requested their employer to stop violating their rights and requested the payment of their salary and overtime hours, they were physically abused by their employer. Intervention by the police and medical assistance was necessary. After this, the employer terminated their working contracts for disciplinary reasons – leading to lasting negative effects for the two employees.

ADPARE provided direct support, covering their immediate needs, as well as legal assistance for their representation in both the criminal and civil cases. In the criminal case against the employer, not all required elements of human trafficking could be proven to prosecute the employer for this crime. The prosecutor decided to only prosecute the employer for minor criminal offences. In the civil case, the court decided in November 2023 that the company must pay (a part of) the back wages and overtime hours for the two Pakistani employees.

■ GOOD PRACTICE

Through legal support by ADPARE, the two men received (part) of the salaries they were entitled to through a civil procedure.

■ BOTTLENECK

The fact that their former exploitative employer terminated their contracts ‘for disciplinary reasons’, made it very difficult for the two men to find a new job.

Deception of a Nepalese women recruited to work in Romania

A Nepalese woman agreed to work as a tailor in Romania. All the arrangements were made with a Nepalese recruitment agency. The woman entered Romania with a working visa received based on a pre-contract. When she arrived in Bucharest, she discovered she was deceived. And had to work as a cleaner instead. Upon her arrival, the employer neglected to provide her with an employment contract. For 12 days, she was accommodated in a 2-room apartment together with six other persons. She could only leave the apartment accompanied and was controlled and constantly threatened with being sent back to Nepal if she would leave the apartment without approval. She managed to escape with the support of a person from the Nepalese community in Bucharest. Through this person, she tried to find a new job. However, this was not possible because her former employer had never provided her with an employment contract, and she was thus staying irregularly in the country. Since the former employer neglected giving her a contract, there was no possibility for her to apply for a residence permit. The women testified in the criminal investigation against her former employer, the case is currently under investigation.

■ **BOTTLENECK**

Impossible to access any of her rights due to her irregular status.

■ **CHALLENGE**

Finding a Nepalese translator in Romania. The translation during the hearing was done in cascade; a person from the Nepalese community translated into English, which was then translated into Romanian.

■ **GOOD PRACTICE**

After testifying, the prosecutor issued the ordinance for obtaining a residence permit. This process often takes many months, however, in this case the residence permit was issued in one month.

Deception of a Filipino woman for work in a Czech massage parlour

A Filipino woman was recruited from Poland to work in a massage parlour in the Czech Republic, where she was also accommodated. The employer violated her labour rights in various ways: she was fined if she was late for work; she was not paid the statutory allowances; and her wages were only paid in full if she assisted a certain number of clients. Eventually, the woman discovered that she was deceived, her employment contract was for a position of a cleaner and not of a masseuse, as she had been told. Subsequently, the woman was dismissed by her employer, which meant she lost both her job and accommodation. This termination of the employment relationship was not in accordance with the Czech labour law. On top of this violation, the employer also withheld her qualification certificate as a masseuse and demanded that the woman's next employer would have to pay him CZK 30,000 (approx. EUR 1,200).

La Strada Czech Republic offered direct support services to the woman, including accommodation in their shelter. They discovered that the employer was engaging in similar unfair practices against other employees on an ongoing and significant scale and reported the case to the police. Moreover, the organisation prevented the termination of the contract by the employer which was contrary to labour law.

■ GOOD PRACTICE

La Strada's cooperation with the police led to the employer being found to be engaging in unfair practices against other people on an ongoing and significant scale, and thereby prevented that these unfair practices could continue.

■ BOTTLENECK

Without the organisation's intervention, the employer could have easily terminated the employment contract although this was contrary to statutory employment law provisions.



Vietnamese worker prevented from losing his legal residence status in the Czech Republic

A Vietnamese man moved to the Czech Republic to work in a poultry farm. The man had difficulties arranging his legal stay on the territory of the Czech Republic. He had been granted an Employee Card, a type of permit for long-time residence on the territory of the country for the purpose of employment. However, in order to collect this document – which had already been issued to him – he needed a written confirmation from his employer that he was working for him. However, the employer refused to give him this written confirmation. The man thus found himself in a situation where was unable to collect his Employee Card. After working at the farm for six months, he was informed by his employer that he was being dismissed.

Thanks to the outreach team of La Strada Czech Republic, the man received adequate legal advice and with the help of the organisation's staff and cooperating lawyers, he eventually succeeded in retrieving the document needed and could legally stay in the Czech Republic.

■ **GOOD PRACTICE**

Thanks to information disseminated by La Strada's outreach team, the man received relevant information and support, preventing that he would lose his legal residence status in the Czech Republic.

■ **BOTTLENECK**

This case is a perfect example of how fragile and unfavourable the Czech system of Employee Cards is towards third country nationals.



Filipino man recognised as a victim of forced labour in Poland

A man from the Philippines came to Poland for work through an employment agency. In the Philippines, the man signed a contract and paid the agency for its services, which would include the flight, medical care, accommodation, and food. Upon arrival, he had to sign another contract prepared in Polish. In Poland, he had to work in construction, where he experienced dangerous situations. His salary was not paid in full, and his employer withheld his passport for 3 months. When the man asked the Filipino embassy for help, they contacted a representative of the employment agency, which led to the man being threatened with deportation because he was “spoiling the agency’s image”. Where many similar cases are disregarded by the authority as a mere ‘labour law’ matter, with legal support from La Strada Poland, this exploitative employer is prosecuted for the crime of human trafficking through forced labour.

■ GOOD PRACTICE

Thanks to the persistence and commitment of the legal support provided through La Strada Poland, the case was taken seriously by the criminal investigation authorities, and the employer is prosecuted for the crime of human trafficking through forced labor. The man was found to be a victim of human trafficking.

■ BOTTLENECK

A survivor of forced labour is often treated by the authorities as a person with an irregular residency status who is in violation of legal employment regulations, ignoring his or her victim status. This is most often the result of inexperience, and the lack of specialization of front-line police officers.

Exploitation of Filipino truck drivers in Poland

A group of Filipino workers arrived in Poland, where they worked as truck drivers. They reported a lack of payment as well as the inhumane conditions under which they had to work. They were in a very vulnerable position and lacked sufficient funds for food. La Strada Poland provided the persons with direct support as well as with a lawyer who took up the criminal case. Through the interference of the NGO, the investigating authorities could be convinced to qualify this as a case of human trafficking against the exploitative employer. This meant the victims received the legal status of victims of trafficking in persons during these criminal proceedings.

Unfortunately, a new prosecutor changed the legal qualification in the indictment, merely accusing the employer of violating employee rights. The difficulty in handling the case was that the victims do not live permanently in Poland, and some of them lost contact with the Court during the lengthy trial. This meant it was difficult to collect enough evidence. The victims were unaware of what documents they had signed and what their content was, as often these documents were not translated into a language they understood. If new testimonies from witnesses will not be provided, the case could end with an acquittal.

■ BOTTLENECK

The case was later re-qualified as mere violations of labour rights by a new prosecutor. Unfortunately, it would be very difficult to requalify the case as trafficking in persons.

■ CHALLENGE

If this evidence is not immediately secured by requesting that the victims be heard by the court, the risk is that it will not be possible to hear them later during the trial, and the case might end as an acquittal due to a lack of evidence.

■ GOOD PRACTICE

Due to the legal support and insistence of La Strada Poland, the authorities could be convinced to qualify this case as a case of human trafficking for labour exploitation. This allowed the victims to receive their rights as victims of trafficking during the proceedings.

Main achievements of the project

Cross-Continent Collaborations to Protect Asian Trafficking Victims in Europe

Capacity building for stakeholders

- Through **49 trainings**, ADPARE, LSCZ and LSPL **reached over 1950 relevant stakeholders** in Romania, the Czech Republic & Poland. Police officers, border guards, prosecutors, judges, labour inspectors and legal professionals were trained to detect indicators of human trafficking and labour exploitation among Asian migrants.

Legal support for Asian victims of Human trafficking and forced labour

- ADPARE, LSCZ and LSPL provided **legal support to over 179 (potential) victims** of human trafficking from Asia, including from the Philippines, Pakistan, Vietnam, Sri Lanka Nepal, Turkey and Taiwan. In certain cases, this legal support led to criminal cases against the trafficker, or civil or administrative procedures to claim back wages.

Further Achievements

- Romania: Up until now, only in 7 instances a residence permit has been granted to a Asian victim of human trafficking in Romania, in all these cases this was achieved through legal assistance provided by **ADPARE**. Among these were victims from Nepal, Sri Lanka, and Pakistan.
- Czech Republic: **La Strada Czech Republic** set up targeted monitoring of the Filipino community on social media, this includes conducting online outreach and providing relevant legal information.
- Poland: **La Strada Poland** established cooperation with Asian embassies to spread awareness of human trafficking and forced labour and organised successful meetings with representatives of the Filipino, Indonesian, and Bangladeshi embassies. Special leaflets to raise awareness about migrants' rights for migrants from the Filipin's, Vietnam, India, Pakistan, and Bangladesh will be distributed at the consulates.

Recommendations

1. Ratify the ILO Migrant Workers Convention and the ILO Conventions C189 on Domestic Workers Rights and C190 on Violence and Harassment in the field of work.
2. Enhance legal migration opportunities for Third Country migrant workers and ensure that work visas and work permits are not tied to the specific employer.
3. Strengthen the awareness & capacity of competent law enforcement bodies, legal professionals, and other important stakeholders to detect indicators of human trafficking and labour exploitation among Asian migrants. Including through periodic trainings on forced labour and victims' rights, including the right to compensation.
4. Address gaps that hinder the correct application of anti-trafficking legislation, to ensure access to existing right provisions to all (irregular) migrant workers, including labour rights and victims' rights protection, and the adequate application of the non-punishment principle. For this it is also important to set a definition of human trafficking for forced labour at national level.
5. Ensure access to justice for victims of human trafficking, including by facilitating the provision of information, free legal aid and qualified interpreters. This must include enabling victims to exercise their right to compensation through criminal and/or civil proceedings.
6. Set up an advance payment scheme by the state for compensation awarded to trafficking victims by the courts, thereby lifting the victim's almost impossible burden to claim the payment from the perpetrator.