



Legislation update: March 2017

R v Mohammed Rafiq [2016] EWCA Crim 1368, Court of Appeal

Case convicting men of modern slavery

The Facts

Mohammed Rafiq was the owner of a bed-making business by the name of Kozee Sleep, based in Ravensthorpe, Dewsbury, West Yorkshire, and its subsidiary, Layzee Sleep, based in Batley. This business supplied its products to retailers such as Next and John Lewis.

Rafiq had knowingly employed Hungarian nationals illegally trafficked into the UK. The men were trafficked into the UK by Hungarian nationals Janos Orsos and Ferenc Illes. According to Section 2 (1) of the Modern Slavery Act 2015, a person commits a human trafficking offence if the person arranges or facilitates the travel of another person, the victim, with a view to the victim being exploited, and according to Section 2(2) of the 2015 Act, it is irrelevant whether the victim consented to the travel.

The men were promised good wages, housing and food if they travelled to the UK but found themselves living in shared, cramped and squalid accommodation. The workers were also not allowed to travel and were made to work up to 16 hours a day, seven days a week, for less than £2 per day.

The retailers who had contracted Rafiq, such as Next and John Lewis required workers to be paid the minimum wage, have contracts, not to be overworked and have holiday entitlement. But Rafiq ignored these requirements and the retail companies' ethical audits failed to spot what was happening.

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The Decision

In February 2016 Mohammed Rafiq was found guilty of conspiracy to traffic at Leeds Crown Court, and was sentenced to twenty-seven months in prison under Section 1(1) of the Criminal Law Act 1977. Rafiq's conviction follows that of Hungarian men Ferenc Illes and Janos Orsos, who were convicted the previous year after being found guilty of supplying Kozee Sleep with slave labour. The particulars of that offence were that Rafiq, between 1st January 2011 and 1st December 2013, conspired with those others to arrange or facilitate travel within the UK by individuals in respect of whom he knew that an offence contrary to section 4(1) of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 had been committed with intent to exploit those individuals in the UK or elsewhere.

Those provisions have now been replaced by Section 2 of the Modern Slavery Act 2015 going forward, but they remain on the statute book for the purpose of dealing with cases which arise prior to the coming into force of the 2015 Act.

Prosecutor Christopher Tehrani QC told the court Rafiq knew Orsos's organisation would source him "cheap slave labour to work at Kozee Sleep and Layzee Sleep factories".

The Court of Appeal in a judgment delivered by Lord Justice Treacy held that Rafiq's conviction was to remain in place.

Implications for business

One of the implications from this decision is that it is still not impossible for a high-street retailer to be supplied by unethical manufacturers.

With the coming into force of the Modern Slavery Act 2015, UK businesses will need to take a much more proactive approach towards the audit of their supply chains than they may have taken in the past. Section 54 of the Act obliges UK businesses (or overseas businesses "carrying on business" in the UK) and which have an annual turnover of £36 million to publish an annual statement on their website which explains the steps they have taken to combat slavery and human trafficking in their supply chain. The companies must really need to "get to know" their suppliers (and the suppliers of those suppliers), whether based in the UK or overseas.



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The Government has published guidance to assist with compliance and suggested a focus in the statement on the following areas:

- information about the business's structure, its business and supply chains
- the business's policies relating to modern slavery
- its due diligence processes in relation to slavery and trafficking in its business and supply chain
- the parts of the business where there is a risk of modern slavery and the steps it has taken to assess and manage that risk
- its effectiveness in ensuring that modern slavery is not taking place, measured against appropriate performance indicators
- information about the training about slavery and human trafficking available to staff.

For more information on how your business can be supported to implement these requirements contact Colleen.Theron@clt-envirolaw.com



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