

2010.10.26 Banciao District Prosecutors Office Press Release

The following is the clarification statement regarding an investigation by the prosecutors of Banciao District Prosecutors Office on the suspected violation of anti-human trafficking regulations by some care center in Taipei County.

Several legislators and members of certain civil groups held a press conference today, censuring prosecutors of this office of trampling human rights, due to their failure to indict employers who illegally exploited foreign workers. This office clarifies the above misunderstanding as follows.

The owner of the care center in question was accused of subjecting foreign workers to labor exploitation, violating Human Trafficking Prevention Act, Labor Standards Act, and Criminal Code. After the investigation, the prosecutor determined not to prosecute, which was later upheld by Taiwan High Prosecutors Office. The plaintiff applied Banciao District Court for setting the case for trial and the panel of judges has yet determined the ruling.

The following reasons are the main causes of prosecutor's determination of non-prosecution.

Firstly, when the foreign workers first came to Taiwan, the employer asked them to voluntarily turn in their ID cards and ATM cards for safekeeping to prevent personal valuables from missing because the center is a public place. And with the assistance of interpreters, the foreign workers agreed and signed the letters of consent and entrustment, in both Mandarin and Vietnamese languages. Most patients in the care center are elderly who can hardly take care of themselves, so the purpose of door access control is to protect the senile patients from wandering outside and getting lost instead of limiting the foreign workers' freedom of movement. When leaving the center, foreign workers were requested to be accompanied by Taiwanese workers. The employer said, it is to prevent them from dangers, being victims of fraud crimes, and escape. The slight limitation did not constitute use of force, threat, intimidation, or confinement to subject foreign workers to labor exploitation. The allegation of violating Human Trafficking Act is therefore unsubstantiated.

Secondly, one of the foreign workers in the center indeed indicated that workers could only eat rice porridge every day. The owner of the center denied

the accusation, and the other foreign workers confessed during investigation that they were provided with normal steamed rice rather than rice porridge. Hence, the allegation of violating Human Trafficking Act is unsubstantiated.

Thirdly, the nature of providing care to the seniors requires long working hours. Although the overtime pay was not in accordance with the workers' overtime hours, the average monthly salary of foreign workers was NTD 20,004 to 26,058, plus NTD 2,000 for allowance, which the prosecutor believed was not unreasonable, considering the working environment, living condition and the content of the work. Furthermore, the employer did not take advantage of foreign workers' limited ability to seek help from outside sources, nor subject them to labor exploitation by means of debt bondage. Therefore, the allegation of violating Human Trafficking Act is unsubstantiated.

Finally, despite long working hours and some limitation on the freedom of movement, foreign workers were not beaten or abused. Their working environment and living standard were moderate, and they were capable of their work. Labor Affairs Bureau, Taipei County reached the same conclusion after conducting examination on the care center. Consequently, the human rights of the foreign workers were not violated.

The center was fined by Taipei County government due to above-mentioned inappropriate management, such as limitation on freedom of movement and overtime working, which violated Labor Standards Act and Employment Service Act. Although the employer was not prosecuted in criminal court, the government could adequately protect the basic human rights of vulnerable foreign workers through administrative measures.

This office has been stressing the importance of protecting the disadvantaged minorities and safeguarding human rights. Combating human trafficking is also the core task of Ministry of Justice. The prosecutors of this office in charge of human trafficking cases have received extensive trainings in investigation skills. In the future, this office will continue to conduct human trafficking cases prudently, to make every effort to bring criminals to justice and protect the human rights of the under-privileged workers.