ISSN 2029-1701
ISSN 2335-2035 (Online)

Research Journal
PUBLIC SECURITY AND PUBLIC ORDER
2026, Vol. 38, Nr. 3

EXPLOITATION FOR FORCED LABOUR: QUALIFICATION ISSUES IN LITHUANIAN CRIMINAL LAW

Giedrius NEMEIKŠIS
Mykolas Romeris University
Maironio str. 27, LT 44211 Kaunas, Lithuania
E-mail: giedrius.nemeiksis@yahoo.com
ORCID ID: 0000-0003-3900-2559

DOI: 10.13165/PSPO-26-38-03-04

Abstract. *Negative statistical data and the resulting trends indicate an exclusively worsening situation regarding the phenomenon of forced labor and its proliferation globally, as well as a considerably troubling situation in Lithuania. Moreover, the causality of forced labor, linked to contemporary realities - such as the migration of daily life into the digital sphere or even the war in Ukraine - further substantiates the trends of the consistent spread of this negative phenomenon. This demonstrates the relevance of the topic and underscores the need to continue research into the challenges surrounding the regulation and application of criminal liability for exploitation for forced labor in Lithuanian law. The research results of this article aim not only to provide new knowledge about exploitation for forced labor (services) as a criminal offense, but also to enable a better understanding of the newly emerging weaknesses in its legal elements, as well as the new challenges that arise when incriminating such acts in practice. Therefore, the purpose of the research is to analyze the problems of qualifying exploitation for forced labor (services) as a criminal offense in Lithuanian criminal law, thereby aiming to better understand the legal construction of this offense and identify the weaknesses in its constituent elements. Consequently, the tasks of the research are based on three main areas of this analysis: namely, the assessment of the objective and subjective elements of exploitation for forced labor (services), as well as the evaluation of additional qualifying features in Lithuanian criminal law. The article utilizes research methods such as comparative analysis, document analysis, systematic analysis, and generalization methods. The analysis in this article substantiated the difficulties arising in the assessment of certain objective and subjective elements of exploitation for forced labor (services) as a criminal offense, and provided specific solutions related to the proper evaluation of the modus operandi, the determination of guilt, and additional qualifying features, such as forcing someone to work under conditions of slavery or other inhuman conditions.*

Keywords: *forced labour, elements of a criminal offense, criminal liability, Lithuanian criminal law.*

Introduction

Exploitation for forced labour is currently a pressing problem, as it is influenced by various negative phenomena occurring on a global scale. According to the International Labor Organization, 17.3 million people worldwide are engaged in forced labour in the private sector, and 3.9 million people are engaged in state-mandated forced labour (ILO, Walk Free, IOM, 2022). Meanwhile, according to the United Nations Office on Drugs and Crime, forced labour exploitation has recently become one of the most prevalent types of human trafficking. According to statistics, the number of cases of exploitation for forced labour worldwide has increased by as much as 47 percent (Global Report, 2024). Also, when assessing this situation from another perspective, it was noted that in 2024, the International Labor Organization's data on the total annual illicit profits derived from the exploitation of private forced labour reached as much as 63.9 billion US dollars, therefore it can be stated that the total illicit profits from forced labour "appear to have increased significantly over the past decade" (ILO, 2024). And based on the 2023 Global Slavery Index, it is estimated that 6.1 out of a thousand people in Lithuania were in modern slavery at any given time in 2021, i.e. about 17,000 people experienced forced labour or forced marriage (Walk Free, 2023). Such negative trends indicate an exclusively worsening trend with the phenomenon of forced labour and its spread not only

in the world, but also in a rather bad situation in Lithuania. Meanwhile, delving deeper into the causality of this phenomenon, it should be noted that the growth of exploitation for forced labour (services) is also conditioned by the rapid development of various global phenomena, such as: 1) the development of technologies, as job search websites and social networks are used to involve victims in exploitation or influence them in order to keep them in forced labour conditions, 2) the ongoing war in Ukraine and military conflicts in other regions, as over time the social and economic vulnerability of millions of people affected by the war will increase, and therefore the number of cases of exploitation for forced labour (services) will also increase (General Report, 2023). Therefore, not only are the statistics negative, but an analysis of the causes of forced labour shows a consistent trend of this negative phenomenon spreading. For that reason, it is necessary to continue research and analyse the challenges of regulating and applying criminal liability for exploitation for forced labour in Lithuanian criminal law in order to be properly prepared for these negative trends. At this point, it should be noted that according to official statistics, only 22 pre-trial investigations into human trafficking were initiated last year, 10 of which were related to forced labour. This constitutes only a very small fraction, i.e., a mere 0.14% of all registered criminal offenses, and this number has been consistently decreasing since 2022 (Verslo žinios, 2025). This only further substantiates certain challenges in properly identifying and assessing such criminal offenses, as well as in deciding on the prosecution of the responsible individuals. In addition, the relevance of the topic is also supported by the fact that there is a significant lack of new research on this topic in Lithuanian legal doctrine, i.e. exploitation for forced labour (services) as a criminal act has been analysed in Lithuanian legal doctrine by such authors as O. Fedosiukas (2005, 2007), A. Gutauskas (2015, 2016), however, in the studies of these scientists, such a criminal act was mainly examined in the context of human trafficking, the studies were conducted more than a decade ago, and the study by I. Karalienė (2019) reveals only certain features of this criminal act. Such situation justifies the need to continue research on this topic in order to assess the situation in this area to date. Specifically, the research results in this article not only provide new knowledge about exploitation for forced labour (services) as a criminal offense, but also enable a better understanding of the newly emerging weaknesses in its legal elements and the new challenges that arise when incriminating such acts in practice. This is significant not only from a scholarly perspective but also provides value in legal practice when working with the incrimination of this offense, as it allows legal practitioners to prepare for the difficulties encountered in the incrimination process.

The object of the research – problems of qualifying exploitation for forced labour (services) as a criminal offense in Lithuanian criminal law.

The aim of the research – to analyse the problems of qualifying exploitation for forced labour (services) as a criminal offense in Lithuanian criminal law, thereby aiming to achieve a better understanding of the legal construction of this offense and to identify the weaknesses in its constituent elements.

The tasks of the research:

1) to disclose the challenges in assessing the objective elements of exploitation for forced labour (services) as a criminal offense – specifically regarding the object and the methods of committing a criminal offense – in Lithuanian criminal law;

2) to disclose the challenges in establishing guilt as a subjective element of exploitation for forced labour (services) as a criminal offense in Lithuanian criminal law;

3) to disclose the challenges in evaluating additional qualifying features of exploitation for forced labour (services) as a criminal offense, namely forcing someone to work under conditions of slavery or other inhuman conditions, in Lithuanian criminal law.

Methodology of the research: depending on the topic, goals and objectives of this research, the following research methods are used: the systematic analysis and comparative analysis methods are used when comparing legal regulation and case law; the document analysis method is used in detailing the analysed issues, while the generalization method helps to systematize the entire analysis and to provide structured conclusions.

Abbreviations in the research:

1. CC – Criminal Code of the Republic of Lithuania;
2. SCL – Supreme Court of Lithuania;
3. CAL – Court of Appeal of Lithuania.

The problem of assessing the objective side of exploitation for forced labour (services)

The problematic definition of the object of a criminal offense

One of the first significant moments, which poses a number of difficulties when seeking to apply criminal liability under Article 147^1 of the CC, is the broad definition of the object of this criminal act. At first glance, it would seem clear that the direct object of this criminal act is a person's freedom to choose an activity (to work or provide services) regardless of the will of others (SCL Review No. AB-61-1). Although a person's freedom to choose an activity is not absolute and it may be restricted on the grounds provided for by legal acts, by establishing certain requirements for a person's education, competencies, and special knowledge, as is also observed in legal doctrine (Bužinskas, 2016), a person's freedom to choose a job, as the object of the criminal act under consideration, should be understood much more broadly, i.e. such freedom may also include his right not to work, to live on savings, to have a business, or to secure a living in another legal way (Tiažkijus, 2005). Comparing this with case law, it is worth noting that such work, in terms of Article 147^1 of the CC, can even be associated with illegal work, when either such activity is not formalized in accordance with the procedure established by legal acts, e.g. housework, repair work, driver work, etc. (CAL ruling in case No. 1A-49-487/2021, SCL ruling in case No. 2K-42-628/2021, etc.) or it is generally prohibited, such as the cultivation or distribution of narcotic substances (e.g. Panevėžys Regional Court ruling in case No. 1-9-491/2021). Moreover, in the context of Article 147^1 of the CC, it is necessary to take into account that such criminal liability could also be applied when work (services) performed under duress has even been paid for (Gruodytė, Fedosiuk, 2021). Such situations may be cases of forced labour only because they can be assessed in the context of the object of the norm of Article 147^1 of the CC, i.e. if they meet the condition that a person is forced to perform certain work (provide services) against his or her will, therefore certain characteristics of such forced labour, related to the illegality or even remunerability of such work, do not change the fact that the value protected by criminal law was objectively likely to be violated.

The problem of assessing the methods of committing a criminal offense

Precisely due to the aforementioned circumstances related to the definition of the object of a criminal offense, it is crucial in forced labour cases to establish the fact of the relevant impact on the victim, thereby restricting their freedom of choice regarding work (provision of services). This is because criminal liability can only arise when a sufficient threat is posed to the value protected by the criminal law. In case law, such a restriction is associated with "malicious influence on the victim, allowing him to bend his will, control him and involve him in exploitation" (SCL Review No. AB-61-1). Such impact in such cases means deliberate and unlawful actions aimed at restricting a person's freedom and involving them in a situation of exploitation. Although the methods of committing forced labour as a criminal offense manifest themselves in quite various forms, i.e. the use of physical violence, threats, deception or other

methods specified in Article 147[1] of the CC, it is appropriate to pay more attention to the least obvious methods of committing this criminal offense, one of which is the vulnerability of the victim, which is recognized in practice as the main method of bending the will of victims in cases of human trafficking (2022 review, 2023). And this is defined in the case law of the Court of Cassation as "a malicious offer to a person who is forced to accept it due to a difficult situation. This is a situation where the victim has no real or acceptable choice but to surrender to that abuse" (SCL in case No. 2K-43-942/2016). Such vulnerability, when exploited for forced labour, can be extremely diverse: difficult financial situation, youth (CAL ruling in case No. 1A-110-318/2019), physical, psychological, emotional, related to family relationships, social vulnerability, fragile health (SCL ruling in case No. 2K-7-73-511/2021), naivety, gullibility (SCL ruling in case No. 2K-288-648/2018), abuse of alcohol or psychotropic substances (SCL ruling in case No. 2K-165-976/2022) and other similar aspects. Foreign researchers have also noted that the vulnerability of migrants (regardless of whether they arrived legally or not) increases over time due to the deliberate worsening of their situation, e.g., by creating artificial debt situations. Therefore, it can be argued that vulnerability is often closely related to the victim's dependence (Andrees, 2008). However, in case law, one can find cases where the exploitation of vulnerability is not always properly recognized, such as a situation where a foreign citizen legally working in Lithuania was forced to work under unfavourable working conditions, threatening that otherwise the legal employment relationship would be terminated and he would be deported, which was not recognized as exploitation of a person's vulnerability (Klaipėda Regional Court ruling in criminal case No. 1S-34-462/2008). It is believed that such a court decision is not justified, since the employer could have caused the deportation of the victim, which makes such a person dependent on the will of the employer and this is fully consistent with the essence of this objective qualifying characteristic. Precisely because of the increasing vulnerability of the employee over time, when the employer deliberately aggravates his or her situation, it is necessary to assess in each case whether the specific situation is so disadvantageous to the victim that choosing any other course of action than that required by the perpetrator will make the victim's situation even more disadvantageous. And this can be determined only after taking into account the totality of the circumstances of the case, which objectively complicates the assessment of this criterion, especially since case law requires for this purpose to establish at least several cumulative circumstances that would complicate the victim's refusal to be exploited (SCL ruling in case No. 2K-7-73-511/2021).

The problem of assessing the method of committing a criminal offense: taking advantage of the victim's dependence

Meanwhile, when assessing the possibility of taking advantage of the possible dependence of the victim in committing the criminal act in question, case law seeks to define the content of this possible qualifying characteristic in quite detail, noting that such dependence of the victim on the perpetrator can arise on quite various grounds, i.e. kinship, material dependence, employment, etc. (SCL ruling in case No. 2K-288-648/2018). Although formal dependence, which is based on legally regulated relationships between the victim and the perpetrator and supported by mutual rights and obligations, is usually significant in criminal law (Abramavičius et al., 2009), however, given the specific nature of the criminal offense in question, limiting oneself to formal dependence would not reflect the essence of this criminal offense and would result in overly narrow criminal liability for the application of such a norm, as noted in legal doctrine. However, the case law of the Court of Cassation sets a certain limit for determining this characteristic, indicating that such dependence of the victim is sufficient to completely or partially lose the ability to effectively resist the perpetrator's behaviour (SCL ruling in case No. 2K-288-648/2018). Although this complicates the process of determining

this characteristic, on the other hand, it allows criminal liability to be applied responsibly and in a sufficiently balanced manner. Moreover, the perpetrator may not only take advantage of the objectively existing dependency between him and the victim, but may also take specific intentional actions to even create a person's dependency. So, taking advantage of the victim's dependency also occurs when the victim is turned into a debtor by the perpetrator's intentional actions, or when travel tickets and other important documents are taken away, restricting the victim's freedom of movement (SCL ruling in case No. 2K-7-73-511/2021). In principle, such dependence of the victim created by the perpetrator's intentional actions does not have a significant impact on the final qualification of the criminal act and will be assessed as the use of an already objectively existing dependence. On the other hand, this complicates the process of proof itself, since it becomes necessary to prove additional intentional actions of the perpetrator, specifically aimed at creating such a circumstance. At this point, it is also necessary to note the subjective qualifying feature of forced labour - intent, which, as a necessary element in the investigation, the perpetrator's awareness of both the vulnerability of the victim and his or her potential vulnerability, or at least an assumption thereof and an intention to take advantage of it, which further raises the standards for proving this qualifying feature. Especially this is important in cases where the criminal act is committed in collusion and not all of the accomplices to such an act can properly perceive the existence of this feature, particularly when they are only separate elements in a larger criminal scheme.

The problem of assessing the method of committing a criminal offense: payment of money or provision of other benefits to the person effectively controlling the victim

The last of the methods of committing an act provided for in Article 147^1 of the CC is controversial – payment of money or provision of other benefits to a person who actually controls the victim. This qualifying characteristic is unique in that, in this case, there is no objective direct impact on the will of the victim, as in other ways of committing a criminal act discussed in this article. Due to the uniqueness and distinctiveness of this characteristic from other methods of committing this criminal act under consideration, legal doctrine even raises the question of the possible existence of another independent form of dangerous act in the same legal norm (Gutauskas, 2015). However, in this case, it is still necessary to take into account the composition of the entire criminal act in question, established in Article 147^1 of the CC, and in particular the value protected by this criminal law - the freedom of a person to choose work, which in this case must already be objectively limited. The victim must still be treated as property in order to be transferred to the disposal of another person, therefore it is not even necessary to additionally exert a direct influence on the will of the victim, which is not important for the perpetrator himself. In this case, it should be noted that in order to avoid problems and to avoid criminalizing cases of forced labour in the narrowest sense, when direct coercive methods of committing a criminal act are used, the rule applies that the victim's consent obtained by using one of the methods that break the victim's will is not legally significant (Skrivankova, 2010). Therefore, it is necessary to consider that exploitation for forced labour is a continuous process lasting for a certain period of time, during which control that restricts freedom can be acquired gradually and without using direct, coercive methods of breaking the will. This rule is confirmed by the case law of the European Court of Human Rights, such as in case No. 21884/15, where the court emphasised that the prior consent of the victim is not sufficient to prevent work from being considered forced if the employer abuses his power or takes advantage of the workers' vulnerability to exploit them. Thus, in each case, when assessing whether the victim's consent is significant, when deciding on the transfer to work (to provide services), it is necessary to take into account the context in which such consent was given. This practice has also become established in the case law formed by the Court of

Cassation, where the case of forced labour exploitation was assessed as a criminal act, although the victim, knowing that she was going to engage in prostitution, voluntarily arrived in a foreign country to engage in this activity. However the attention was drawn to the fact that when the victim started working, the relationship based on volunteering developed into labour exploitation (CAL ruling in case No. 1A-358/2007). Therefore, the mere fact that the victim taken into custody by the perpetrator agrees to forced labour or is not directly influenced from the moment of such custody does not preclude the possibility of incriminating the aforementioned criminal offense if the act meets other elements of the offense, although the assessment process itself becomes more difficult.

Thus, when assessing the objective signs of the act of exploitation for forced labour (services), it is necessary not only to flexibly assess the object of this act, but also to be able to properly recognise the methods of violating the victim's freedom to choose an activity, which should be taken into account when applying the criminal liability in question.

The issue of the subjective side of exploitation for forced labour (services)

Challenges in establishing guilt in cases of complicity

Another significant problematic aspect when seeking to apply criminal liability under Article 147^1 of the CC is the definition of the subjective side of a criminal act and the significant specifics related to it. When assessing the subjective side of this criminal act, it is necessary to properly determine the guilt of the perpetrator. The objective elements of a criminal act established by the criminal law itself also detail the necessary content of the perpetrator's intent, i.e. for this it is necessary to establish the perpetrator's perception that he has the goal of involving the victim in exploitation or, even without such a goal, the person must realize that the victim is or will be involved in exploitation (Karalienė, 2019). As the Court of Cassation points out, "guilt usually manifests itself in direct intent, when the perpetrator realizes that by using one of the alternative methods of committing the crime, he is illegally forcing the victim to perform certain work or provide certain services, and wants to act in this way" (SCL review No. AB-61-1). This justifies the fact that the detailed determination of the criterion of intentional guilt with its broad content, consisting of a number of different elements of intent, sets considerable standards for establishing a reliable connection between a person's mental relationship with the criminal act committed. And the latter aspect rather complicates the application of Article 147^1 of the CC in practice, especially considering the variety of forms of manifestation of this criminal act in practice and the difficulties of determining the objective side. So, in the case of exploitation for forced labour (services), the perpetrator must know that, having broken the will of the victim, he forces him to work (provide services) and consciously seeks to do so, including in cases where this is done in a group of accomplices.

It is precisely the determination of guilt in the case of complicity that objectively poses a number of challenges. Based on the insights of authors who have analysed human trafficking, complicity in human trafficking, exploiting them for forced labour or services, can take various forms, be characterized by systemicity, close ties between accomplices, and be transnational in nature (Aronowitz et al., 2010). In addition, it is generally known that human trafficking is one of the main activities and sources of income for organized crime, and human trafficking is also important in the activities of terrorist groups (Explanatory Report, 2005). Therefore, continuing this aspect, it should be noted that complicity in criminal law is described and revealed by a set of objective and subjective characteristics: 1) the participation of two or more persons in committing a criminal act; 2) the commonality of their actions; 3) an agreement to commit a criminal act together and a commonality of intent, when each accomplice realizes that he is

committing the criminal act not alone, but jointly with another person (or other persons) (SCL ruling in case No. 2K-1-719/2020). Therefore, to establish complicity, it is not necessary for each accomplice to implement all the elements of the objective side of the criminal act or directly force the victim to work (provide services). Also, in case law, one can find cases where a well-organized group of accomplices is established, operating with the aim of exploiting persons for forced labour, and each accomplice in such a group of accomplices performs different criminal acts, including the roles of recruitment, transportation, exploitation for labour, control, and assistance (e.g., SCL ruling in case No. 2K-57-788/2022, etc.). As a result, the problem of determining the appropriate intent of accomplices remains particularly difficult in forced labour cases, since each participant in this criminal act must have a formed intentional form of guilt to act criminally and such intent should be based on the perception of all the elements of the criminal act. And in addition to this, in case law, difficulties are also encountered in establishing sufficiently informative intent in the commission of the criminal act under consideration, since the mere performance of a specific act in a certain episode of the criminal act. Although it was a necessary element for the implementation of the criminal act provided for in Article 147^1 of the CC through several or more stages in different episodes of the criminal act, is not a basis for imposing criminal liability on a person without intentional fault, which would be based on the perception of all the elements of Article 147^1 of the CC and the determination of the intention to commit this act (CAL ruling in case No. 1A-21-626/2023).

Challenges in establishing the elements of the content of guilt

Moreover, in the context of the analysed criminal act, the determination of guilt is further complicated by the not always recognizable mechanism of control that restricts freedom, which also complicates the proper determination of the content of the perpetrator's guilt. From another perspective, cases of obvious violence do not in themselves mean that the perpetrator acted intentionally, i.e. the boundary between when violence is applied systematically and intentionally and when violence is merely an expression of uncontrolled behaviour is not always easily recognizable (Andrees, 2008). Therefore, the mere fact that the victim experienced control may not be due to an attempt to exploit them, but, for example, to an inadequate understanding of the employer's labour standards and work organization practices that contradict those standards but are not aimed at exploitation (Scott, 2017). The solution to this problem is a very detailed assessment of the perpetrator's actions during the entire episode of the crime and the establishment of a connection based on evidence, because otherwise, the assessment of the perpetrator's individual actions in committing a criminal act may lead to the absence of the composition of this criminal act. Meanwhile, the courts have recognized important circumstances that substantiate the direct intent of the perpetrators, for example, that the perpetrator took advantage of the victim's vulnerability and created a situation of dependence, i.e. lent the victim money, called him and his relatives threatening to deal with the victim for the victim's existing debt, and as a way to repay the debt, ordered the victim to do repair work (SCL ruling in case No. 2K-165-976/2022); sought out vulnerable individuals, recruited them to work as flyer carriers, arranged work routes, used deception, did not pay money for the work performed (SCL ruling in case No. 2K-57-788/2022), etc. Meanwhile, another possible solution to this problem is motive and purpose, which, as subjective elements of a criminal act, are not necessary in the case of exploitation for forced labour or services. (Abramavičius et al., 2009). However, taking them into account when deciding on the presence of guilt in the perpetrator's actions is an important argument, because if, for example, the perpetrator's behaviour, forcing a person to work against their will, is determined by motives of enrichment or revenge. Such a circumstance may also indicate the direct intent of that person and justify his actions in order to realize the criminal act in question. And according to case

law, the act of exploitation for forced labour (services) is committed exclusively for the purpose of exploitation, i.e. the perpetrator must either have the intention to involve the victim in exploitation or, even without such an intention, be aware that the victim is or will be involved in exploitation (CAL ruling in case No. 1A-49-487/2021). Consequently, the perpetrator must know that by performing certain actions, the person is being forced to work for the purpose of exploitation, which also facilitates and allows for a more justifiable assessment of the content of the guilt and its directionality.

In addition, in the case of the crime of exploitation for forced labour, liability is also provided for a legal entity, which also arises from the requirements of the European Union: Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (2009) and the Directive on the prevention of trafficking in human beings (2011). In this way, the provision of criminal liability for a legal entity prevents the avoidance of legal impunity and encourages legal business. It should be noted here that for criminal liability to arise, it is not sufficient to establish the objective signs of liability of a legal person, i.e. the liability of a natural person (usually the head of a legal person) appropriate in terms of his duties for a specific unlawful act and the circumstance that such unlawful act was committed for the benefit or in the interests of a legal person, as provided for in the provisions of Sections 2-3 of Article 20 of the CC. For this purpose, in each case, the guilt of the legal person must also be established, which is understood as the connection of the act with the legal person itself, such as, when deciding this issue, it must be assessed whether the shareholders knew, encouraged, tolerated the criminal acts of the relevant natural person (SCL rulings in cases No. 2K-9-303/2015, No. 2K-7-30-788/2017, etc.). Due to the provision of such additional criteria for the liability of a legal entity, in addition to the need to prove all the elements of forced labour as a criminal act, bringing such an entity to criminal liability is a rather complicated process, requiring a detailed assessment of not only the objective, but also the subjective criteria for such liability.

Thus, when assessing the subjective characteristics of the act of exploitation for forced labour (services), a number of difficulties have been identified in properly assessing the guilt of this criminal act, including the specifics of determining the guilt of a legal entity, which should also be addressed when applying the criminal liability in question.

The issue of assessing the qualifying characteristics of exploitation for forced labour (services)

Challenges in assessing the categories of slavery and other inhuman conditions

Another important problematic aspect that should be given more attention, as it also complicates the application of criminal liability, i.e. the crime established in Section 1 of Article 147 of the CC includes elements that increase the dangerousness of the act – forcing to work in slavery or other inhuman conditions. Despite the fact that this is a necessary element for the application of criminal liability, given the qualified composition of this crime, the concept of inhuman conditions is not provided in criminal law, and its definition can only be sought in international documents. Section 1 of Article 1 of the United Nations Slavery Convention defines slavery as "the position or condition of a person who is treated wholly or partly as property." Therefore, in the context of exploitation for forced labour (services) under conditions of slavery, such a qualifying characteristic should mean that the person who is forced to work is treated as an "object of property" of the perpetrator, and this is the only way to specify this category. It should also be noted that such a definition of the content of this category is consistent with the interpretation of another qualifying characteristic of this act - other inhuman

conditions. According to the provision of Point i of Article 2 of Directive No. 2009/52/EC of the European Parliament and of the Council of June 18th, 2009, such conditions arise due to discrimination, gender or other reasons, when there are quite significant differences in circumstances compared to the working conditions of legally employed employees, and this has a clear negative impact on the health and safety of employees and is incompatible with human dignity. Therefore, as stated in legal doctrine, inhuman conditions include cases where workers are forced to work in working conditions that are hazardous to health, where the working day is longer than 12 hours and is not properly paid, where workers are humiliated and where workers work in other unacceptable conditions (Gruodytė, Fedosiuk, 2021; Gutauskas, 2015). However, it is impossible to list all inhumane conditions, as these methods of forced labor are constantly changing and these still remain assessment criteria, as each time the court decides individually in each case, taking into account the circumstances of the case. Therefore, in case law, there are cases where, in a situation that appears to be exploitation for forced labor (services), where the living conditions of the victims were difficult. However, the final assessment of this situations concludes that this cannot be equated with inhuman conditions, after a detailed assessment of the individual elements of this situation, indicating whether the victim was caused physical and mental suffering, which is manifested in the failure to satisfy essential human needs, such as sleep, rest, meals, performing natural tasks, leisure after working hours, communication with family, relatives, etc., which in this case have not been established (CAL ruling in case No. 1A-49-487/2021; SCL ruling in case No. 2K-57-788/2022). This is also agreed upon by researchers in legal doctrine, noting that it is precisely mental and physical suffering in a specific situation that indicates a sufficient danger of exploitation for forced labour, as it substantiates the vulnerability of persons working in such conditions and the inconsistency of the situation with their freedom (Karalienė, 2019). Also, in case law, one can find cases in which the importance of such an assessment is clearly justified, and one of such cases is a situation where the perpetrator lived in the same difficult conditions as the victim. However, according to case law, such a circumstance is not significant for determining the characteristic under consideration, because "the convicted person chose such a lifestyle of his own free will, while the victim was forced to work in these conditions" (SCL ruling in case No. 2K-42-628/2021). This perfectly illustrates that the elements in question - forcing to work in slavery or other inhumane conditions - must be assessed according to objective criteria and take into account the fact that qualifying elements that aggravate criminal liability indicate exceptionally more dangerous actions of a person, which must be appropriately justified by an assessment of the detailed circumstances of the case.

The problem of distinguishing between the categories of slavery and other inhuman conditions

In addition, it should be noted that in practice, courts encounter difficulties in distinguishing the categories of slavery and other inhuman conditions, therefore, there are cases where courts, when determining the qualifying characteristics of exploitation for forced labour or services, find slavery and other inhuman conditions together (e.g. CAL ruling in case No. 1S-256-495/2017). Presumably, this is partly because, regardless of whether slavery or other inhumane conditions are established, exploitation for forced labour or services under such conditions is already considered a qualified act. However, from the above analysis, it can be assumed that slavery is associated with the complete deprivation of a person's freedom and their exploitation as property. Meanwhile, inhumane conditions are unbearable, dangerous, unacceptable conditions, but when applied, a person is not treated as an object of the perpetrator's property. Therefore, it is inconsistent with case law, such as the CAL ruling in case No. 1A-49-487/2021, which states that the perpetrator partially treated the victims as his

property and forced them to work in inhumane conditions. It is important to note here that if a person is treated as property, it should unequivocally be considered slavery, as understood in international law. Therefore, it is reasonable to assume that when establishing the qualifying characteristic of exploitation for forced labour, in order to achieve legal clarity, it is necessary to clearly distinguish whether a person was exploited in slavery or inhumane conditions, and not to combine these two different categories into one common qualifying characteristic.

Furthermore, another important aspect is that the final conclusion on the inhuman or slave-like nature of the forced labour conditions should not be based on isolated factual circumstances related to the work performed, overtime work, intensive work schedules and other factors (Karalienė, 2019). Likewise, and conversely - the mere fact that the work was physically easy or not very dangerous to one's health - does not negate the fact that such a person was forced to work in slave-like and inhumane working conditions, etc. (SCL ruling in case No. 2K-7-73-511/2021). This is because inhuman or slave-like labour is a special state in which a person is exploited for forced labour and their basic human needs are not met. Therefore, only on the basis of the totality of specific circumstances can it be determined whether the victim was in a situation that caused him physical or mental suffering and whether his basic human needs could not be met, which should be assessed when deciding on the matter at hand.

Thus, the content of the qualifying characteristics of forced labour, such as slavery or other inhuman conditions, is not clearly defined, and these two characteristics require proper differentiation from each other.

Conclusions

Having analysed the objective elements of exploitation for forced labour (services) as a criminal offense, it is necessary to flexibly assess the object of this offense (without linking it solely to the illegality or uncompensated nature of forced labour). Also, it is important to properly recognize the methods used to break the victim's freedom to choose their activity, such as taking advantage of the victim's vulnerability or dependence, as well as to properly evaluate the specific nature of the element of taking the victim under one's control. The problems with the assessment of these qualifying elements are essentially related to the complex process of assessing the circumstances of the entire case, in order to recognize the element of exploitation of a person's vulnerability, to assess the element of dependence more broadly, taking into account its limits and forms of manifestation, the reflection of these elements and the content of intent. This objectively complicates the process of proving, and this process is facilitated only if the consent of the victim himself is not given legal significance.

Having analysed the subjective element of exploitation for forced labour (services) as a criminal offense, difficulties were identified in properly assessing guilt for this act. Specifically, these include difficulties in evaluating the content of the perpetrator's guilt in cases of complicity, where requirements are raised to establish each accomplice's clear intent to commit such an act. Furthermore, challenges arise in establishing sufficiently informed intent regarding the awareness of all qualifying features of the criminal offense, which necessitates a detailed evaluation of the perpetrator's actions within the context of all case circumstances. Finally, the determination of a legal entity's guilt is also compounded by additional evaluative criteria related to the legal entity acting through authorized natural persons.

Having analysed the qualifying features of the constituent elements of forced labour (services) – namely, forcing someone to work under conditions of slavery or other inhuman conditions – it was established that their content is not clearly defined. It contains numerous

evaluative criteria, which should be based on circumstances regarding significant mental and physical suffering of the person and the failure to meet essential human needs. Generally, these two features are not clearly distinguished from one another in practice, as a more detailed assessment is frequently lacking when evaluating and substantiating a situation – specifically, whether a person is merely being exploited under inhuman conditions or is already being treated as an object of the perpetrator's ownership.

References

Legal acts:

1. the Criminal Code of the Republic of Lithuania. *Valstybės žinios*, No. 89, 2741 (2000).
2. Slavery Convention of the United Nations (1926). Access through internet: https://www.ohchr.org/sites/default/files/slavery.pdf (Accessed: December 15, 2025).
3. Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.
4. Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

Special literature:

5. Abramavičius, A. et al. (2009). Lietuvos Respublikos baudžiamojo kodekso komentaras. Antra knyga: specialioji dalis (99-212 straipsniai). Vilnius: Registrų centras.
6. Andrees, B. (2008). Forced labour and trafficking in Europe: how people are trapped in, live through and come out. Geneva: ILO.
7. Aronowitz, A.,Theuermann, G. Tyurykanova, E. (2010). Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime. Organization for Security and Co-operation in Europe.
8. Bužinskas, G. (2016). Laisvė pasirinkti darbą. Darbo teisės principai ir jų taikymas Lietuvos teismų praktikoje. *Kolektyvinė monografija*. Vilnius: Registrų centras.
9. Gruodytė, E. ir Fedosiuk, O. (2021). Lietuvos baudžiamoji teisė. Specialioji dalis. Pirmoji knyga. Vadovėlis. Kaunas: Vytauto Didžiojo universitetas
10. Gutauskas, A. (2015). Išnaudojimas priverstiniam darbui ar paslaugoms (BK 147 (1) straipsnis) kaip prekybos žmonėmis forma. Švedas, G. (red.). *Šiuolaikinės baudžiamosios teisės tendencijos*. Vilnius: Vilniaus Universitetas.
11. Karalienė, I. (2019). Ar darbas ypatingai išnaudojančiomis sąlygomis užtraukia baudžiamąją atsakomybę Lietuvoje? *Teisės apžvalga,* Nr. 1(19).
12. Scott, S. (2017). Labour Exploitation and Work-Based Harm. Bristol University Press.
13. Skrivankova, K. (2010). Between decent work and forced labour: examining the continuum of exploitation, York: Joseph Rowntree Foundation.
14. Tiažkijus, V. (2005). Darbo teisė: teorija ir praktika. I tomas. Vilnius: Justitia.

Case law:

15. European Court of Human Rights, March 30th, 2017 judgment of 30 March 2017 in case No. 21884/15.
16. Court of Appeal of Lithuania ruling of December 22nd, 2007 in a criminal case No. 1A-358/2007

17. Klaipėda Regional Court ruling of November 19th, 2008, in criminal case No. 1S-34-462/2008.
18. Supreme Court of Lithuania ruling of January 27th, 2015 in a criminal case No. 2K-9-303/2015
19. Supreme Court of Lithuania ruling of January 6th, 2016 in a criminal case No. 2K-43-942/2016
20. Supreme Court of Lithuania ruling of May 2nd, 2017 in a criminal case No. 2K-7-30-788/2017.
21. Court of Appeal of Lithuania ruling of August 29th, 2017 in a criminal case No. 1S-256-495/2017.
22. Supreme Court of Lithuania ruling of November 27th, 2018 in a criminal case No. 2K-288-648/2018
23. Court of Appeal of Lithuania ruling of December 6th, 2019 in a criminal case No. 1A-110-318/2019.
24. Supreme Court of Lithuania ruling of February 27th, 2020 in a criminal case No. 2K-1-719/2020
25. Supreme Court of Lithuania ruling of January 6th, 2021 in a criminal case No. 2K-7-73-511/2021
26. Supreme Court of Lithuania ruling of January 7th, 2021 in a criminal case No. 2K-42-628/2021
27. Supreme Court of Lithuania ruling of June 1st, 2021 in a criminal case No. 2K-42-628/2021;
28. Court of Appeal of Lithuania ruling of June 1st, 2021 in a criminal case No. 1A-49-487/2021.
29. Panevėžys Regional Court ruling of November 30th, 2021 in a criminal case No. 1-9-491/2021.
30. Supreme Court of Lithuania ruling of March 2nd, 2022 in a criminal case No. 2K-57-788/2022.
31. Supreme Court of Lithuania ruling of June 15th, 2022 in a criminal case No. 2K-165-976/2022.
32. Court of Appeal of Lithuania ruling of May 3rd, 2023 in a criminal case No.1A-21-626/2023.
33. Review of the practice of the Supreme Court of Lithuania in criminal cases of November 21, 2024 regarding trafficking in human beings (Article 147 of the CC), exploitation for forced labour or services (Section 1 of Article 147 of the CC), use of a person for forced labour or services (Section 2 of Article 147 of the CC) (Chapter XX of the CC) No. AB-61-1.

Other sources:

34. International Labour Organization, Walk Free, and IOM „Global Estimates of Modern Slavery: Forced Labour and Forced Marriage“, September 2022. Access through internet: https://www.ilo.org/publications/major-publications/global-estimates-modern-slavery-forced-labour-and-forced-marriage (Accessed: December 10, 2025).
35. Global Report on Trafficking in Persons (2024). United Nations Office on Drugs and Crime (UNODC). Vienna. Access through internet:

https://www.unodc.org/documents/data-and-analysis/glotip/2024/GLOTIP2024_BOOK.pdf (Accessed: December 5, 2025).

36. International Labour Organization, „Profits and poverty: The economics of forced labour“, March, 2024 pg. 15. Access through internet: *ilo.org/publications/major-publications/profits-and-poverty-economics-forced-labour* (Accessed: December 10, 2025).
37. Walk Free 2023, Global Slavery Index 2023, Minderoo Foundation. Access through internet: https://www.walkfree.org/global-slavery-index/ (Accessed: December 5, 2025).
38. Council of Europe (2023). 12th General Report on GRETA's activities covering the period from 1 January to 31 December 2022. Strasbourg: Council of Europe.
39. Explanatory Report on the Council of Europe Convention on Action against Trafficking in Human Beings, 2005. Access through internet: https://rm.coe.int/16800d3812 (Accessed: December 15, 2025).
40. The Overview of the situation of combating human trafficking in Lithuania in 2022 (2023). Ministry of the Interior of the Republic of Lithuania. Vilnius. Access through internet: https://vrm.lrv.lt/uploads/vrm/documents/files/LT_versija/Viesasis_saugumas/Prekyba_zmonemis/PRANESEJO%20ATASKAITA_final.pdf (Accessed: December 15, 2025).
41. Comment by the Prosecutor General. *Verslo žinios*, 2025, Available online at: https://www.vz.lt/verslo-aplinka/2025/08/12/generaline-prokurore-prekyba-zmonemis-priverstiniam-darbui-nauja-tendencija-571648

This article is an Open Access article distributed under the terms and conditions of the Creative Commons Attribution 4.0 (CC BY 4.0) License.