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This Factsheet does not bind the Court and is not exhaustive

# Trafficking in human beings

“The absence of an express reference to trafficking in the [\[European\] Convention \[on Human Rights\]](#) is unsurprising. The Convention was inspired by the Universal Declaration of Human Rights, proclaimed by the General Assembly of the United Nations in 1948, which itself made no express mention of trafficking. In its Article 4, the Declaration prohibited ‘slavery and the slave trade in all their forms’. However, in assessing the scope of Article 4<sup>[1]</sup> of the Convention, sight should not be lost of the Convention’s special features or of the fact that it is a living instrument which must be interpreted in the light of present-day conditions. The increasingly high standards required in the area of the protection of human rights and fundamental liberties correspondingly and inevitably require greater firmness in assessing breaches of the fundamental values of democratic societies (...). The [\[European\] Court \[of Human Rights\]](#) notes that trafficking in human beings as a global phenomenon has increased significantly in recent years (...). In Europe, its growth has been facilitated in part by the collapse of former Communist blocs. The conclusion of the [Palermo Protocol](#) in 2000 and the [Anti-Trafficking Convention](#) in 2005 demonstrate the increasing recognition at international level of the prevalence of trafficking and the need for measures to combat it.” ([Rantsev v. Cyprus and Russia](#), judgment of 7 January 2010, §§ 277-278).

## Obligation on States to protect the victims of trafficking

### [Rantsev v. Cyprus and Russia](#)

7 January 2010

The applicant was the father of a young woman who died in Cyprus where she had gone to work in March 2001. He complained that the Cypriot police had not done everything possible to protect his daughter from trafficking while she had been alive and to punish those responsible for her death. He also complained about the failure of the Russian authorities to investigate his daughter’s trafficking and subsequent death and to take steps to protect her from the risk of trafficking.

The European Court of Human Rights noted that, like slavery, trafficking in human beings, by its very nature and aim of exploitation, was based on the exercise of powers attaching to the right of ownership; it treated human beings as commodities to be bought and sold and put to forced labour; it implied close surveillance of the activities of victims, whose movements were often circumscribed; and it involved the use of violence and threats against victims. Accordingly the Court held that trafficking itself was prohibited by Article 4 (prohibition of slavery and forced labour) of the European Convention on Human Rights. It concluded that there had been a **violation** by Cyprus of its **positive obligations arising under Article 4** of the Convention on two counts: first, its failure to put in place an appropriate legal and administrative framework to combat trafficking as a result of the existing regime of artiste visas, and, second, the

<sup>1</sup>. Article 4 (prohibition of slavery and forced labour) of the [European Convention on Human Rights](#) provides that:

- “1. No one shall be held in slavery or servitude.
  2. No one shall be required to perform forced or compulsory labour.
- (...)”

failure of the police to take operational measures to protect the applicant's daughter from trafficking, despite circumstances which had given rise to a credible suspicion that she might have been a victim of trafficking. The Court held that there had also been a **violation of Article 4** of the Convention by Russia on account of its failure to investigate how and where the applicant's daughter had been recruited and, in particular, to take steps to identify those involved in her recruitment or the methods of recruitment used. The Court further held that there had been a **violation** by Cyprus of **Article 2** (right to life) of the Convention, as a result of the failure of the Cypriot authorities to investigate effectively the applicant's daughter's death.

#### **V.F. v. France (application no. 7196/10)**

29 November 2011 (decision on the admissibility)

This case concerned the proceedings for the applicant's deportation to Nigeria, her country of origin. The applicant alleged in particular that if she were expelled to Nigeria she would be at risk of being forced back into the prostitution ring from which she had escaped and being subjected to reprisals by those concerned, and that the Nigerian authorities would be unable to protect her. In her view, the French authorities were under a duty not to expel potential victims of trafficking.

The Court declared the application **inadmissible** (manifestly ill-founded). While it was well aware of the scale of the trafficking of Nigerian women in France and the difficulties experienced by these women in reporting to the authorities with a view to obtaining protection, it nevertheless considered, in particular, that the information provided by the applicant in this case was not sufficient to prove that the police knew or should have known when they made the order for her deportation that the applicant was the victim of a human trafficking network. As to the risk that the applicant would be forced back into a prostitution ring in Nigeria, the Court observed that, while the Nigerian legislation on preventing prostitution and combating such networks had not fully achieved its aims, considerable progress had nevertheless been made and it was likely that the applicant would receive assistance on her return.

See also: **Idemugia v. France**, decision on the admissibility of 27 March 2012.

#### **M. and Others v. Italy and Bulgaria (no. 40020/03)**

31 July 2012

The applicants, of Roma origin and Bulgarian nationality, complained that, having arrived in Italy to find work, their daughter was detained by private individuals at gunpoint, was forced to work and steal, and sexually abused at the hands of a Roma family in a village. They also claimed that the Italian authorities had failed to investigate the events adequately.

The Court declared the applicants' **complaints under Article 4** (prohibition of slavery and forced labour) **inadmissible** as being manifestly ill-founded. It found that there had been no evidence supporting the complaint of human trafficking. However, it found that the Italian authorities had not effectively investigated the applicants' complaints that their daughter, a minor at the time, had been repeatedly beaten and raped in the villa where she was kept. The Court therefore held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention under its procedural limb. The Court lastly held that there had been **no violation of Article 3** of the Convention in respect of the steps taken by the Italian authorities to release the first applicant.

#### **F.A. v. the United Kingdom (no. 20658/11)**

10 September 2013 (decision on the admissibility)

The applicant, a Ghanaian national, alleged that she had been trafficked to the United Kingdom and forced into prostitution. She complained in particular that her removal to Ghana would put her at risk of falling into the hands of her former traffickers or into the hands of new traffickers. She further alleged that, as she had contracted HIV in the United Kingdom as a direct result of trafficking and sexual exploitation, the State was

under a positive obligation to allow her to remain in the United Kingdom to access the necessary medical treatment.

The Court declared the applicant's complaints under Articles 3 (prohibition of inhuman or degrading treatment) and 4 (prohibition of slavery and forced labour) **inadmissible**. It noted in particular that the applicant could have raised all of her Convention complaints in an appeal to the Upper Tribunal. By not applying for permission to appeal to the Upper Tribunal, she had failed to meet the requirements of Article 35 § 1 (admissibility criteria) of the Convention.

### **L.E. v. Greece (no. 71545/12)**

21 January 2016

This case concerned a complaint by a Nigerian national who was forced into prostitution in Greece. Officially recognised as a victim of human trafficking for the purpose of sexual exploitation, the applicant had nonetheless been required to wait more than nine months after informing the authorities of her situation before the justice system granted her that status. She submitted in particular that the Greek State's failings to comply with its positive obligations under Article 4 (prohibition of slavery and forced labour) of the Convention had entailed a violation of this provision.

The Court held that there had been a **violation de l'article 4** (prohibition of slavery and forced labour) of the Convention. It found in particular that the effectiveness of the preliminary inquiry and subsequent investigation of the case had been compromised by a number of shortcomings. With regard to the administrative and judicial proceedings, the Court also noted multiple delays and failings with regard to the Greek State's procedural obligations. In this case the Court also held that there had been a **violation of Article 6 § 1** (right to a fair trial within a reasonable time) of the Convention, finding that the length of the proceedings in question had been excessive for one level of jurisdiction and did not meet the "reasonable time" requirement. Lastly, the Court held that there had been a **violation of Article 13** (right to an effective remedy) of the Convention, on account of the absence in domestic law of a remedy by which the applicant could have enforced her right to a hearing within a reasonable time.

### **J. and Others v. Austria (no. 58216/12)**

17 January 2017

This case concerned the Austrian authorities' investigation into an allegation of human trafficking. The applicants, two Filipino nationals, who had gone to work as maids or au pairs in the United Arab Emirates, alleged that their employers had taken their passports away from them and exploited them. They claimed that this treatment had continued during a short stay in Vienna where their employers had taken them and where they had eventually managed to escape. Following a criminal complaint filed by the applicants against their employers in Austria, the authorities found that they did not have jurisdiction over the alleged offences committed abroad and decided to discontinue the investigation into the applicants' case concerning the events in Austria. The applicants maintained that they had been subjected to forced labour and human trafficking, and that the Austrian authorities had failed to carry out an effective and exhaustive investigation into their allegations. They argued in particular that what had happened to them in Austria could not be viewed in isolation, and that the Austrian authorities had a duty under international law to investigate also those events which had occurred abroad.

The Court, finding that the Austrian authorities had complied with their duty to protect the applicants as (potential) victims of human trafficking, held that there had been **no violation of Article 4** (prohibition of forced labour) and **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. It notably noted that there had been no obligation under the Convention to investigate the applicants' recruitment in the Philippines or their alleged exploitation in the United Arab Emirates, as States are not required under Article 4 of the Convention to provide for universal jurisdiction over trafficking offences committed abroad. Turning to the events in Austria, the Court concluded that the authorities had taken all steps which could have reasonably been expected in the situation. The applicants, supported by a

government-funded NGO, had been interviewed by specially trained police officers, had been granted residence and work permits in order to regularise their stay in Austria, and a personal data disclosure ban had been imposed for their protection. Moreover, the investigation into the applicants' allegations about their stay in Vienna had been sufficient and the authorities' resulting assessment, given the facts of the case and the evidence available, had been reasonable. Any further steps in the case – such as confronting the applicants' employers – would not have had any reasonable prospect of success, as no mutual legal assistance agreement existed between Austria and the United Arab Emirates, and as the applicants had only turned to the police approximately one year after the events in question, when their employers had long left the country.

### **Chowdury and Others v. Greece**

30 March 2017

The applicants – 42 Bangladeshi nationals – were recruited in Athens and other parts of Greece between the end of 2012 and early 2013, without a Greek work permit, to work at the main strawberry farm in Manolada. Their employers failed to pay the applicants' wages and obliged them to work in difficult physical conditions under the supervision of armed guards. The applicants alleged that they had been subjected to forced or compulsory labour. They further submitted that the State was under an obligation to prevent their being subjected to human trafficking, to adopt preventive measures for that purpose and to punish the employers.

The Court held that there had been a **violation of Article 4 § 2** (prohibition of forced labour) of the Convention, finding that the applicants had not received effective protection from the Greek State. The Court noted, in particular, that the applicants' situation was one of human trafficking and forced labour, and specified that exploitation through labour was one aspect of trafficking in human beings. The Court also found that the State had failed in its obligations to prevent the situation of human trafficking, to protect the victims, to conduct an effective investigation into the offences committed and to punish those responsible for the trafficking.

### **S.M. v. Croatia (no. 60561/14)**

19 July 2018<sup>2</sup>

This case concerned a Croatian woman's complaint that she had been forced into prostitution. She alleged in particular that the authorities had failed to respond adequately to her complaint and that Croatia lacked a proper legal framework to deal with such issues.

The Court held that there had been a **violation of Article 4** (prohibition of slavery and forced labour) of the Convention. First, it ruled that Article 4 of the Convention could be applied in cases such as the applicant's involving human trafficking and exploitation of women for the purposes of prostitution, even if there had been no international element to her case. The Court then went on to find that, although there was an adequate legal framework in Croatia for criminalising trafficking in human beings, forced prostitution and exploitation of prostitution, there had been shortcomings in the authorities' investigation into her case. In particular, they had not interviewed all the possible witnesses and, in finding that she had voluntarily given sexual services to acquit the accused, had taken no account of international laws on human trafficking according to which the consent of the victim was irrelevant.

### **Pending applications**

#### **T.I. and Others v. Greece (no. 40311/10)**

Application communicated to the Greek Government on 6 September 2016

Recognised as victims of human trafficking, the applicants, three Russian nationals, complain in particular of the Greek State's failure to discharge its obligations to penalise and prosecute acts relating to human trafficking in their cases.

<sup>2</sup>. This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the [European Convention on Human Rights](#).

The Court gave notice of the application to the Greek Government and put questions to the parties under Articles 4 (prohibition of slavery and forced labour), 6 (right to a fair trial) and 13 (right to an effective remedy) of the Convention.

#### **V.C.L. v. the United Kingdom (no. 77587/12)**

Application communicated to the UK Government on 5 March 2018

The applicant, a Vietnamese national, complains about his conviction for drugs-related offences, alleging in particular that the Crown Prosecution Service and the police breached their positive obligation to investigate the claim that he had been trafficked.

The Court gave notice of the application to the UK Government and put questions to the parties under Articles 4 (prohibition of slavery and forced labour), 6 (right to a fair trial) and 34 (right of individual application) of the Convention.

Similar application pending: **A.N. v. the United Kingdom (no. 74603/12)**, communicated to the UK Government on 19 June 2018.

## Refugee status and residence permit

#### **L.R. v. the United Kingdom (no. 49113/09)**

14 June 2011 (strike-out decision)

The applicant claimed that she had been trafficked to the United Kingdom from Italy by an Albanian man who forced her into prostitution in a night club collecting all the money which that brought. She escaped and started living in an undisclosed shelter. She claimed that removing her from the United Kingdom to Albania would expose her to a risk of being treated in breach of Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 4 (prohibition of slavery and forced labour) and 8 (right to respect for private and family life) of the Convention.

The Court **decided to strike the application out of its list of cases**, in accordance with Article 37 (striking out applications) of the Convention, as it found that the applicant and her daughter had been granted refugee status in the United Kingdom and that there was no longer any risk that they would be removed to Albania. The Government had also undertaken to pay to the applicant a sum for the legal costs incurred by her.

#### **D.H. v. Finland (no. 30815/09)**

28 June 2011 (strike-out decision)

The applicant, a Somali national born in 1992, arrived by boat in Italy in November 2007. He was running away from Mogadishu where he claimed he had been forced to join the army after the collapse of the country's administrative structures and where he risked his life at the hand of the Ethiopian troops who aimed at capturing and killing young Somali soldiers. The Italian authorities left him in the streets of Rome in the winter of 2007, without any help or resources. He was constantly hungry and cold, physically and verbally abused in the streets, and by the police in Milan where he looked for help. Eventually, he was trafficked to Finland, where he applied for asylum which was refused in February 2010. The applicant complained that if returned back to Italy, he would risk inhuman or degrading treatment contrary to Article 3 of the Convention, particularly as he was an unaccompanied minor.

The Court **struck the application out of its list of cases**, in accordance with Article 37 (striking out applications) of the Convention, as it noted that the applicant had been granted a continuous residence permit in Finland and that he was no longer subject to an expulsion order. The Court thus considered that the matter giving rise to the complaints in the case had been resolved.

#### **O.G.O. v. the United Kingdom (no. 13950/12)**

18 February 2014 (strike-out decision)

The applicant, a Nigerian national, who claimed to be a victim of human trafficking, complained that her expulsion to Nigeria would expose her to a real risk of re-trafficking.

The Court **decided to strike the application out of its list of cases**, in accordance with Article 37 (striking out applications) of the Convention, noting that the applicant was no longer at risk of being removed as she had been granted refugee status and an indefinite leave to remain in the United Kingdom. Moreover, the United Kingdom authorities had accepted that she had been a victim of trafficking.

## Measures taken by States against traffickers and their accomplices

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Issues under Article 8 (right to respect for private and family life) of the Convention

### **Kaya v. Germany**

28 June 2007

The applicant, a Turkish national who had lived in Germany for some 30 years, was convicted in 1999 for, among other things, attempted aggravated trafficking in human beings and aggravated battery. He was expelled in 2001 from Germany to Turkey after he had served two thirds of his prison sentence, as the courts found that there was a high risk that he could continue to pose a serious threat to the public. The applicant complained that his deportation from Germany had breached his private and family life.

The Court held that there had been **no violation of Article 8** (right to respect for private and family life) of the Convention. It found that the applicant's expulsion had been in accordance with the Convention, particularly given that he had been sentenced for rather serious offences in Germany, and had been eventually able to return to Germany.

Issues under Article 1 (protection of property) of Protocol No. 1

### **Tas v. Belgium**

12 May 2009 (decision on the admissibility)

This case concerned the confiscation of premises used in connection with offence linked to human-trafficking and exploiting vulnerable aliens. The applicant relied in particular on Article 1 (protection of property) of Protocol No. 1 to the Convention.

The Court declared the application **inadmissible** as being manifestly ill-founded. Taking into account the margin of appreciation afforded to States in controlling "the use of property in accordance with the general interest", in particular in the context of a policy aimed at combating criminal activities, it found that the interference with the applicant's right to the peaceful enjoyment of his possessions had not been disproportionate to the legitimate aim pursued, i.e., in accordance with the general interest, to combat human trafficking and the exploitation of foreigners in a precarious situation.

## Texts and documents

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See also the Council of Europe's **[Anti-Trafficking website](#)**.

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