November 2012

Forced labour and trafficking

Domestic workers

Siliadin v. France (application no. 73316/01)

26 July 2005

Ms Siliadin, a Togolese national having arrived in France in 1994 with the intention to study, was made to work instead as a domestic servant in a private household in Paris. Her passport confiscated, she worked without pay, 15 hours a day, without a day off, for several years. Ms Siliadin complained about having been a domestic slave.

The European Court of Human Rights found that Ms Siliadin had not been enslaved because her employers, although exercising control over her, had not had "a genuine right of legal ownership over her reducing her to the status of an "object". It held, however, that the criminal law in force at the time had not protected her sufficiently, and that although the law had been changed subsequently, it had not been applicable to her situation. The Court concluded that Ms Siliadin had been held in servitude, in violation of Article 4 (prohibition of slavery, servitude, forced or compulsory labour) of the European Convention on Human Rights.

C.N. and V. v. France (no. 67724/09)

11 October 2012

The case concerned allegations of servitude or forced or compulsory labour (unremunerated domestic chores in their aunt and uncle's home) by two orphaned Burundi sisters aged 16 and ten years.

Violation of Article 4 (prohibition of slavery and forced labour) in respect of the first applicant (C.N.), as the State had not put in place a legislative and administrative framework making it possible to fight effectively against servitude and forced labour;

No violation of Article 4 in respect of the first applicant (C.N.) with regard to the State's obligation to conduct an effective investigation into instances of servitude and forced labour; and,

No violation of Article 4 in respect of the second applicant (V.).

The Court concluded, in particular, that C.N. had been subjected to forced or compulsory labour, as she had had to perform, under threat of being returned to Burundi, activities that would have been described as work if performed by a remunerated professional – "forced labour" was to be distinguished from activities related to mutual family assistance or cohabitation, particular regard being had to the nature and volume of the activity in question. The Court also considered that C.N. had been held in servitude, since she had felt that her situation was unchanging and unlikely to alter. Finally, the Court found that France had failed to meet its obligations under Article 4 of the Convention to combat forced labour.

C.N. v. the United Kingdom (no. 4239/08)

13.11.2012

The case concerned allegations of domestic servitude by a Ugandan woman who complained that she had been forced into working as a live-in carer.

Violation of Article 4 (prohibition of slavery and forced labour)

The Court found that the legislative provisions in force in the United Kingdom at the relevant time had been inadequate to afford practical and effective protection against

treatment contrary to Article 4. Due to this absence of specific legislation criminalising domestic servitude, the investigation into the applicant's allegations of domestic servitude had been ineffective.

Pending cases

Elisabeth Kawogo v. the United Kingdom (no. 56921/09)
The applicant, a Tanzanian national having arrived in the United Kingdom on a domestic working visa valid until November 2006, was made to work daily for the parents of her previous employer, from 7 a.m till 10.30 p.m., without payment, for several months after her visa expired. She escaped in June 2007. She complains she was subjected to forced labour, in breach of Article 4.
Communicated to the Government in June 2010.

Trafficking and/or forced prostitution

Rantsev v. Cyprus and Russia (no. 25965/04)
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 Court noted that, like slavery, trafficking in people treated human beings as commodities to be bought and sold and put to forced labour; accordingly trafficking itself was prohibited by Article 4. The Court found that Cyprus had violated Article 4 because it had failed to put in place an appropriate legal and administrative framework to combat trafficking, and the police had failed to protect Ms Rantseva despite circumstances suggesting a credible suspicion that she might have been a victim of trafficking. There had also been a violation of Article 4 by Russia on account of its failure to investigate how and where Ms Rantseva had been recruited and, in particular, to take steps to identify those involved in her recruitment or the methods of recruitment used.

Kaya v. Germany (no. 31753/02)
28 June 2007
The applicant is a Turkish national who has lived in Germany for some 30 years. He was convicted in 1999, among other things, for attempted aggravated trafficking in human beings and aggravated battery, the courts having found that he beat two women trying to force them into prostitution, compelled his former partner to give him most of her prostitution-earned money, and locked another woman in an attempt to coerce her into prostitution so that he could live from the money she would be earning. He was expelled in April 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. Mr Kaya complained that his deportation from Germany breached his private and family life.
The Court found that Mr Kaya's expulsion had been in accordance with the Convention, particularly given that Mr Kaya had been sentenced for rather serious offences in Germany, and had been eventually able to return to Germany. No violation of Article 8.

L.R. v. the United Kingdom (no. 49113/09)
14 June 2011
The applicant claimed that she was 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 Article 4.

The Court discontinued its examination of the case 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

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, particularly as he was an unaccompanied minor.

The Court discontinued its examination of the case 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.

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

31 July 2012

The applicants, of Roma origin and Bulgarian nationality, complain 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 the village of Ghislarengo. They claim that the Italian authorities failed to investigate the events adequately, in breach of Article 4.

The Court held 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 a villa in the province of Vercelli. Violation of Article 3 as regards the investigation into the alleged illtreatment of the first applicant by private individuals, and no violation of Article 3 in respect of the steps taken by the Italian authorities to release the first applicant.

Professional services: lawyers, etc.

Steindel v. Germany (no. 29878/07)

14 September 2010 (admissibility decision)

Decision: inadmissible

Van der Mussele v. Belgium (no. 8919/80)

23 November 1983

The applicant, a pupil advocate, was called upon to provide free lawyer's services to assist indigent defendants. He complained that that represented forced labour.

The Court found no violation of Article 4: the free legal aid service Mr Van des Mussele was asked to provide was connected with his profession, he received certain advantages for it, like the exclusive right to audience in the courts, and it contributed to his professional training; it was related to another Convention right (Art 6(1) the right to legal aid) and could be considered part of "normal civic obligations" allowed under Article 4 (3). Finally, being required to defend people without being paid for it did not leave Mr Van des Mussele without sufficient time for paid work.

Karol Mihal v. Slovakia (no. 23360/08)

28 June 2011

The applicant, an enforcement judicial officer, was not compensated for costs he had incurred trying to enforce a court decision. He complained that the absence of any compensation for the work he had carried out amounted to forced labour.

The Court found that the burden imposed on the applicant had not been excessive, disproportionate or otherwise unacceptable and rejected the application as inadmissible.

Štefan Bucha v. Slovakia (no. 43259/07)

20 September 2011 (admissibility decision)

The applicant, a lawyer having been appointed to represent his client in a free legal scheme, complains that the Constitutional Court, contrary to its practice in other similar cases, refused to compensate him for the costs relating to his participation at the oral hearing before it. He claims a breach of Article 4.

Decision: inadmissible

Work during detention

Van Droogenbroeck v. Belgium (no. 7906/77)

24 June 1982

Mr. Van Droogenbroeck was convicted for theft and ordered to be placed, on completion of his two-year prison sentence, at the disposal of the state for a number of years, during which time he could be recalled for detention. He complained that he was held in servitude given that he was subjected "to the whims of the administration" and that he was forced to work to save some money.

The Court held that there had not been a violation of Article 4. It stressed that Mr Droogenbroeck's situation could have been regarded as servitude only if it had involved a particularly serious form of denial of freedom, which had not been the case. Further, the work which he had been asked to do had not gone beyond what was ordinary in that context since it had been calculated to assist him in reintegrating himself into society.

De Wilde, Ooms and Versyp ("Vagrancy cases") v. Belgium (nos. 2832/66, 2835/66 et 2899/66)

18 June 1971

The applicants were found to be vagrants and detained in vagrancy centres where they were made to work in exchange of payment at a low rate. They complained about having been obliged to work in return for an absurdly low wage and under pain of disciplinary sanctions.

The Court found that there had been no violation of Article 4, as their work in the vagrancy centres had not exceeded the permitted limits in the Convention because it had been aimed at the rehabilitation of vagrants and was comparable to that in several other Council of Europe member states.

Military service or substitute civilian service

W., X., Y. and Z. v. the United Kingdom (nos. 3435/67, 3436/67, 3437/67 and 3438/67)

19 July 1968 (decision of the European Commission of Human Rights)

Four boys aged 15 and 16 years enlisted in the British navy for a period of nine years. Their requests to be discharged from service for different personal reasons were refused by the authorities following which they complained that they were held in servitude.

The Commission found that the applicants' military service did not amount to servitude in the sense of Article 4 § 1 and declared the applications inadmissible.

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