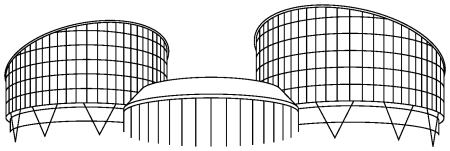

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Guide on Article 4 of the European Convention on Human Rights

Prohibition of slavery and forced labour

Updated on 31 August 2025

Prepared by the Registry. It does not bind the Court.

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Note to readers

This guide is part of the series of Case-Law Guides published by the European Court of Human Rights (hereafter "the Court", "the European Court" or "the Strasbourg Court") to inform legal practitioners about the fundamental judgments and decisions delivered by the Strasbourg Court. This particular guide analyses and sums up the case-law on Article 4 of the European Convention on Human Rights (hereafter "the Convention" or "the European Convention"). Readers will find herein the key principles in this area and the relevant precedents.

The case-law cited has been selected among the leading, major, and/or recent judgments and decisions.*

The Court's judgments and decisions serve not only to decide those cases brought before it but, more generally, to elucidate, safeguard and develop the rules instituted by the Convention, thereby contributing to the observance by the States of the engagements undertaken by them as Contracting Parties (*Ireland v. the United Kingdom*, § 154, 18 January 1978, Series A no. 25; *Jeronovičs v. Latvia* [GC], no. 44898/10, § 109, ECHR 2016).

The mission of the system set up by the Convention is thus to determine issues of public policy in the general interest, thereby raising the standards of protection of human rights and extending human rights jurisprudence throughout the community of the Convention States (*Konstantin Markin v. Russia* [GC], § 89, no. 30078/06, ECHR 2012). Indeed, the Court has emphasised the Convention's role as a "constitutional instrument of European public order" in the field of human rights (*Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland* [GC], no. 45036/98, § 156, ECHR 2005-VI, and more recently, *N.D. and N.T. v. Spain* [GC], nos. 8675/15 and 8697/15, § 110, 13 February 2020).

Protocol No. 15 to the Convention recently inserted the principle of subsidiarity into the Preamble to the Convention. This principle "imposes a shared responsibility between the States Parties and the Court" as regards human rights protection, and the national authorities and courts must interpret and apply domestic law in a manner that gives full effect to the rights and freedoms defined in the Convention and the Protocols thereto (*Grzęda v. Poland* [GC], § 324).

This Guide contains references to keywords for each cited Article of the Convention and its Additional Protocols. The legal issues dealt with in each case are summarised in a List of keywords, chosen from a thesaurus of terms taken (in most cases) directly from the text of the Convention and its Protocols.

The HUDOC database of the Court's case-law enables searches to be made by keyword. Searching with these keywords enables a group of documents with similar legal content to be found (the Court's reasoning and conclusions in each case are summarised through the keywords). Keywords for individual cases can be found by clicking on the Case Details tag in HUDOC. For further information about the HUDOC database and the keywords, please see the HUDOC user manual.

* The case-law cited may be in either or both of the official languages (English and French) of the Court and the European Commission of Human Rights. Unless otherwise indicated, all references are to a judgment on the merits delivered by a Chamber of the Court. The abbreviation "(dec.)" indicates that the citation is of a decision of the Court and "[GC]" that the case was heard by the Grand Chamber. Chamber judgments that were not final when this update was published are marked with an asterisk (*).

I. General principles

Article 4 of the Convention – Prohibition of slavery and forced labour

"1. No one shall be held in slavery or servitude.

2. No one shall be required to perform forced or compulsory labour.

3. For the purpose of this Article the term 'forced or compulsory labour' shall not include:

(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of [the] Convention or during conditional release from such detention;

(b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;

(c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;

(d) any work or service which forms part of normal civic obligations."

HUDOC keywords

Slavery (4-1) – Servitude (4-1) – Trafficking in human beings (4-1) – Forced labour (4-2) – Compulsory labour (4-2) – Work required of detainees (4-3-a) –Work required to be done during conditional release (4-3-a) – Service of military character (4-3-b)– Alternative civil service (4-3-b) – Service exacted in case of emergency (4-3-c) – Service exacted in case of calamity (4-3-c) – Normal civic obligations (4-3-d)

A. Structure of Article 4

1. Article 4 of the Convention, together with Articles 2 and 3 of the Convention, enshrines one of the fundamental values of democratic societies (*Siliadin v. France*, 2005, § 112; *Stummer v. Austria* [GC], 2011, § 116).

2. Article 4 § 1 of the Convention requires that "no one shall be held in slavery or servitude". Unlike most of the substantive clauses of the Convention, Article 4 § 1 makes no provision for exceptions and no derogation from it is permissible under Article 15 § 2 even in the event of a public emergency threatening the life of the nation (*C.N. v. the United Kingdom*, 2012, § 65; *Stummer v. Austria* [GC], 2011, § 116).

3. Article 4 § 2 of the Convention prohibits forced or compulsory labour (*Stummer v. Austria* [GC], 2011). The notion of "forced or compulsory labour" under Article 4 aims to protect against instances of serious exploitation, irrespective of whether, in the particular circumstances of a case, they are related to the specific human trafficking context (*Zoletic and Others v. Azerbaijan*, 2021, § 148). Any such conduct might have elements qualifying it as "slavery" or "servitude" under Article 4, or might raise an issue under another provision of the Convention (*S.M. v. Croatia* [GC], 2020, §§ 300 and 303).

4. Article 4 § 3 of the Convention is not intended to "limit" the exercise of the right guaranteed by paragraph 2, but to "delimit" the very content of that right, for it forms a whole with paragraph 2 and indicates what the term "forced or compulsory labour" is not to include (*Stummer v. Austria* [GC], 2011, § 120).

B. Principles of interpretation

5. The Court has never considered the provisions of the Convention as the sole framework of reference for the interpretation of the rights and freedoms enshrined therein. It has long stated that one of the main principles of the application of the Convention provisions is that it does not apply them in a vacuum. As an international treaty, the Convention must be interpreted in the light of the rules of interpretation set out in the Vienna Convention of 23 May 1969 on the Law of Treaties. Under that Convention, the Court is required to ascertain the ordinary meaning to be given to the words in their context and in the light of the object and purpose of the provision from which they are drawn. The Court must have regard to the fact that the context of the provision is a treaty for the effective protection of individual human rights and that the Convention must be read as a whole, and interpreted in such a way as to promote internal consistency and harmony between its various provisions. Account must also be taken of any relevant rules and principles of international law applicable in relations between the Contracting Parties and the Convention should so far as possible be interpreted in harmony with other rules of international law of which it forms part. The object and purpose of the Convention, as an instrument for the protection of individual human beings, requires that its provisions be interpreted and applied so as to make its safeguards practical and effective (*Rantsev v. Cyprus and Russia*, 2010, §§ 273-275).

6. In interpreting the concepts under Article 4 of the Convention, the Court relies on international instruments such as the 1926 Slavery Convention (*Siliadin v. France*, 2005, § 122), Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (*C.N. and v. v. France*, 2012, § 90), ILO Convention No. 29 (Forced Labour Convention) (*Van der Mussele v. Belgium*, 1983, § 32) and Council of Europe Convention on Action against Trafficking in Human Beings ("Anti-Trafficking Convention") and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organised Crime ("Palermo Protocol"), 2000 (*Rantsev v. Cyprus and Russia*, 2010, § 282).

7. Conversely, since the Court's jurisdiction is limited to the Convention, it has no competence to interpret provisions of international instruments, such as the Anti-Trafficking Convention, or to assess the compliance of respondent States with the standards contained therein (*V.C.L. and A.N. v. the United Kingdom*, 2021, § 113).

8. 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, and that the increasingly high standard being required in the area of the protection of human rights and fundamental liberties correspondingly and inevitably requires greater firmness in assessing breaches of the fundamental values of democratic societies (*Siliadin v. France*, 2005, § 121; *Stummer v. Austria* [GC], 2011, § 118).

C. Specific context of human trafficking

9. Article 4 makes no mention of trafficking, proscribing "slavery", "servitude" and "forced and compulsory labour" (*Rantsev v. Cyprus and Russia*, 2010, § 272).

10. Trafficking in human beings, by its very nature and aim of exploitation, is based on the exercise of powers attaching to the right of ownership. It treats human beings as commodities to be bought and sold and put to forced labour, often for little or no payment, usually in the sex industry but also elsewhere. It implies close surveillance of the activities of victims, whose movements are often circumscribed. It involves the use of violence and threats against victims, who live and work under poor conditions. It is described in the explanatory report accompanying the Anti-Trafficking Convention as the modern form of the old worldwide slave trade (*Rantsev v. Cyprus and Russia*, 2010, § 281; *M. and Others v. Italy and Bulgaria*, 2012, § 151). There can be no doubt that trafficking threatens the human dignity and fundamental freedoms of its victims and cannot be considered

compatible with a democratic society and the values expounded in the Convention (*Rantsev v. Cyprus and Russia*, 2010, § 282).

11. In *S.M. v. Croatia* [GC], 2020, the Court clarified that conduct or a situation may give rise to an issue of human trafficking under Article 4, only if all the three constituent elements of the international definition of human trafficking, under the Anti-Trafficking Convention and the Palermo Protocol, are present: (1) an action (the recruitment, transportation, transfer, harbouring or receipt of persons); (2) the means (threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person); (3) an exploitative purpose (including, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs) (§§ 290 and 303; and in respect of the "means" element *Krachunova v. Bulgaria*, 2023, §§ 148-154). From the perspective of Article 4, the concept of human trafficking relates to both national and transnational trafficking in human beings, irrespective of whether or not connected with organised crime (*S.M. v. Croatia* [GC], 2020, §§ 296 and 303; see also *Zoletic and Others v. Azerbaijan*, 2021, § 155).

12. While human trafficking falls within the scope of Article 4, this did not exclude the possibility that, in the particular circumstances of a case, a particular form of conduct related to human trafficking might raise an issue under another provision of the Convention (*S.M. v. Croatia* [GC], 2020, §§ 297 and 303). The question whether a particular situation involves all the constituent elements of "human trafficking" and/or gives rise to a separate issue of forced prostitution is a factual question which must be examined in the light of all the relevant circumstances of a case (*ibid.*, §§ 302-303 and *Zoletic and Others v. Azerbaijan*, 2021, § 157).

13. In *Jasuitis and Šimaitis v. Lithuania*, 2023, §§ 119-140, the Court dealt with the interaction between Article 4 and Article 7 of the Convention and found that the applicants' conviction of trafficking in human beings – in line with the respondent State's positive obligations under Article 4 - was a foreseeable consequence of their actions.

II. The prohibition of slavery and forced labour

A. Freedom from slavery or servitude

Article 4 § 1of the Convention

"1. No one shall be held in slavery or servitude."

HUDOC keywords

Slavery (4-1) – Servitude (4-1) – Trafficking in human beings (4-1)

1. Slavery

14. In considering the scope of "slavery" under Article 4, the Court refers to the classic definition of slavery contained in the 1926 Slavery Convention, which defines slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised" (*Siliadin v. France*, 2005, § 122).

15. In *Siliadin v. France*, 2005, where the applicant, an eighteen years old Togolese national, was made to work as a domestic servant fifteen hours a day without a day off or pay for several years, the Court found that the treatment suffered by her amounted to servitude and forced and compulsory labour, although it fell short of slavery. It held that, although the applicant was clearly deprived of her personal autonomy, she was not held in slavery as there was no genuine right of legal ownership over her, thus reducing her to the status of an "object" (§ 122).

16. In a case concerning alleged trafficking of a minor girl, the Court also considered that there was not sufficient evidence indicating that she was held in slavery. It held that, even assuming that the applicant's father received a sum of money in respect of the alleged marriage, in the circumstances of that case, such a monetary contribution could not be considered to amount to a price attached to the transfer of ownership, which would bring into play the concept of slavery. In this connection, the Court reiterated that marriage has deep-rooted social and cultural connotations which may differ largely from one society to another and that therefore this payment can reasonably be accepted as representing a gift from one family to another, a tradition common to many different cultures in today's society (*M. and Others v. Italy and Bulgaria*, 2012, § 161).

2. Servitude

17. For Convention purposes "servitude" means an obligation to provide one's services that is imposed by the use of coercion, and is to be linked with the concept of slavery (*Seguin v. France* (dec.), 2000; *Siliadin v. France*, 2005, § 124).

18. With regard to the concept of "servitude", what is prohibited is "particularly serious form of denial of freedom". It includes "in addition to the obligation to perform certain services for others ... the obligation for the 'serf' to live on another person's property and the impossibility of altering his condition" (*Siliadin v. France*, 2005, § 123).

19. The Court noted that servitude was a specific form of forced or compulsory labour, or, in other words, "aggravated" forced or compulsory labour. In fact, the fundamental distinguishing feature between servitude and forced or compulsory labour within the meaning of Article 4 of the Convention lies in the victims' feeling that their condition is permanent and that the situation is unlikely to change. The Court finds it sufficient that this feeling be based on the above-mentioned objective criteria or be brought about or kept alive by those responsible for the situation (*C.N. and v. v. France*, 2012, § 91).

20. In this connection, the Court underlined that domestic servitude is a specific offence, distinct from trafficking and exploitation and which involves a complex set of dynamics, involving both overt and more subtle forms of coercion, to force compliance (*C.N. v. the United Kingdom*, 2012, § 80).

21. In *Siliadin v. France*, 2005, the Court considered that the applicant was held in servitude because, in addition to the fact that the applicant was required to perform forced labour, she was a minor with no resources, vulnerable and isolated with no means of living elsewhere than the home where she worked at their mercy and completely depended on them with no freedom of movement and no free time (§§ 126-127). See also *C.N. and v. v. France*, 2012, where the Court found the first applicant to be held in servitude but not the second applicant (§§ 92-93).

22. In *F.M. and Others v. Russia,* 2024, § 277, where women were taken from their home countries and exploited in convenience stores in Moscow for periods ranging from six months to ten years, the Court defined the treatment to which the applicants had been subjected as servitude, in addition to cross-border trafficking in human beings, given that the applicants had to do the work imposed by the use of coercion and that they had to live on their employers' property with no opportunity to alter their situation, with a feeling that it was permanent and unlikely to change.

B. Freedom from forced or compulsory labour

Article 4 § 2 of the Convention

"2. No one shall be required to perform forced or compulsory labour."

HUDOC keywords

Forced labour (4-2) – Compulsory labour (4-2)

23. Article 4 § 2 of the Convention prohibits forced or compulsory labour (*Stummer v. Austria* [GC], 2011, § 117). However, Article 4 does not define what is meant by "forced or compulsory labour" and no guidance on this point is to be found in the various Council of Europe documents relating to the preparatory work of the European Convention (*Van der Mussele v. Belgium*, 1983, § 32).

24. In the case of *Van der Mussele v. Belgium*, 1983, the Court had recourse to ILO Convention No. 29 concerning forced or compulsory labour. For the purposes of that Convention the term "forced or compulsory labour" means "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". The Court has taken that definition as a starting point for its interpretation of Article 4 § 2 of the Convention (*ibid.*; *Graziani-Weiss v. Austria*, 2011; *Stummer v. Austria* [GC], 2011, § 118 and *Adigüzel v. Turkey* (dec.), 2018, §§ 26-27 with the case-law references cited therein).

25. In *S.M. v. Croatia* [GC], 2020, the Court clarified that the notion of "forced or compulsory labour" under Article 4 aims to protect against instances of serious exploitation, such as forced prostitution, irrespective of whether, in the particular circumstances of a case, they are related to the specific human trafficking context (see paragraph 3 above).

26. It is true that the English word "labour" is often used in the narrow sense of manual work, but it also bears the broad meaning of the French word "*travail*" and it is the latter that should be adopted in the present context. The Court finds corroboration of this in the definition included in Article 2 § 1 of ILO Convention No. 29 ("all work or service", "*tout travail ou service*" in French), in Article 4 § 3(d) of the European Convention ("any work or service", "*tout travail ou service*" in French) and in the very name of the International Labour Organization (ILO), whose activities are in no way limited to the sphere of manual labour (*Van der Mussele v. Belgium*, 1983, § 33).

27. In order to clarify the notion of "labour" within the meaning of Article 4 § 2 of the Convention, the Court has underlined that not all work exacted from an individual under threat of a "penalty" is necessarily "forced or compulsory labour" prohibited by this provision. Factors that must be taken into account include the type and amount of work involved. These factors help distinguish between "forced labour" and a helping hand which can reasonably be expected of other family members or people sharing accommodation. Along these lines, in the case of *Van der Mussele v. Belgium*, 1983, the Court made use of the notion of a "disproportionate burden" to determine whether a lawyer had been subjected to compulsory labour when required to defend clients free of charge as a court appointed lawyer (§ 39; see also *C.N. and v. v. France*, 2012, § 74).

28. The first adjective "forced" brings to mind the idea of physical or mental constraint. As regards the second adjective "compulsory", it cannot refer just to any form of legal compulsion or obligation. For example, work to be carried out in pursuance of a freely negotiated contract cannot be regarded as falling within the scope of Article 4 on the sole ground that one of the parties has undertaken with the other to do that work and will be subject to sanctions if he does not honour his promise (*Van der Mussele v. Belgium*, 1983, § 34). What there has to be is work "exacted ... under the menace of any penalty" and also performed against the will of the person concerned, that is work for which he "has not offered himself voluntarily" (*ibid.*).

29. The Court noted that in the global report "The cost of coercion" adopted by the International Labour Conference in 1999, the notion of "penalty" is used in the broad sense, as confirmed by the use of the term "any penalty". It therefore considered that the "penalty" may go as far as physical violence or restraint, but it can also take subtler forms, of a psychological nature, such as threats to denounce victims to the police or immigration authorities when their employment status is illegal (*C.N. and v. v. France*, 2012, § 77). In the context of forced prostitution, the Court stressed that "force" may encompass the subtle forms of coercive conduct identified in the Court's case-law on Article 4, as well as by the ILO and in other international materials (*S.M. v. Croatia* [GC], 2020, § 301).

30. The Court found the first criterion, namely "the menace of any penalty", fulfilled in *Van der Mussele v. Belgium*, 1983, where the applicant, a pupil advocate, ran the risk of having the Council of the *Ordre des avocats* strike his name off the roll of pupils or reject his application for entry on the register of advocates (§ 35); in *Graziani-Weiss v. Austria*, 2011, where the refusal of the applicant, a lawyer, to act as a guardian gave rise to disciplinary sanctions (§ 39); in *C.N. and v. v. France*, 2012, where the applicant was threatened to be sent back to her country of origin (§ 78).

31. In *Siliadin v. France*, 2005, the Court considered that, although the applicant, a minor, was not threatened by a "penalty", the fact remained that she was in an equivalent situation in terms of the perceived seriousness of the threat as she was an adolescent girl in a foreign land, unlawfully present on French territory and in fear of arrest by the police. Her fear was nurtured, and she was led to believe that her status would be regularised (§ 118).

32. By contrast, in the case of *Tibet Menteş and Others v. Turkey*, 2017, § 68, the Court noted that the applicants, workers in airport shops complaining about unpaid overtime, had voluntarily agreed to their conditions of work involving continuous twenty-four-hour shifts. In addition, there was no indication of any sort of physical or mental coercion to force the applicants to work overtime. The mere possibility that they could be dismissed in the event of refusal did not, in the Court's view, correspond to "the menace of any penalty" for the purposes of Article 4. It thus took the view that the first criterion was not satisfied and dismissed the complaint as incompatible *ratione materiae* with Article 4 of the Convention.

33. In *Adigüzel v. Turkey* (dec.), 2018, where the applicant, a forensic doctor, complained that he was required to work outside the prescribed working hours without pecuniary compensation, the Court held that by choosing to work as a civil servant for the municipality, the applicant must have known from the beginning that he could be subject to work outside the standard hours without pay. Moreover, even if pecuniary compensation was not available, the applicant could have taken

compensatory days off, which he never requested. He could thus not claim to be subject to a disproportionate burden. The risk of having his salary deducted or even being dismissed for refusing to work outside working hours was not sufficient to conclude that the work had been required under the threat of a "penalty". In light of the foregoing, the Court took the view that the additional services the applicant was required to provide did not constitute "forced or compulsory labour". The Court dismissed the complaint as incompatible *ratione materiae* with Article 4 of the Convention (§§ 30-35).

34. As to the second criterion, namely whether the applicant offered himself voluntarily for the work in question (*Van der Mussele v. Belgium*, 1983, § 36), the Court took into account but did not give decisive weight to the element of the applicant's prior consent to the tasks required to be performed (*ibid.*; *Graziani-Weiss v. Austria*, 2011, § 40; *Adigüzel v. Turkey* (dec.), 2018, § 30).

35. Rather, the Court will have regard to all the circumstances of the case in the light of the underlying objectives of Article 4 when deciding whether a service required to be performed falls within the prohibition of "forced or compulsory labour" (*Graziani-Weiss v. Austria*, 2011, § 37; *Bucha v. Slovakia* (dec.), 2011). The standards developed by the Court for evaluating what could be considered normal in respect of duties incumbent on members of a particular profession take into account whether the services rendered fall outside the ambit of the normal professional activities of the person concerned; whether the services are remunerated or not or whether the service includes another compensatory factor; whether the obligation is founded on a conception of social solidarity; and whether the burden imposed is disproportionate (*Graziani-Weiss v. Austria*, 2011, § 38; *Mihal v. Slovakia* (dec.), 2011, § 64).

36. No issue was found to arise under Article 4 in cases where an employee was not paid for work done but the work was performed voluntarily and entitlement to payment was not in dispute (*Sokur v. Ukraine* (dec.), 2002), where the applicant was transferred to a less lucrative employment (*Antonov v. Russia* (dec.), 2005), where the social assistance act required the applicant to obtain and accept any kind of labour, irrespective of the question whether it would be suitable or not, by reducing her benefits if she refused to do so (*Schuitemaker v. the Netherlands* (dec.), 2010), where the applicant, a notary, was required to receive reduced fees when acting for non-profit making organisations (*X. v. Germany*, Commission decision, 1979), where the domestic courts reduced the applicants' fees, when they were acting as officially appointed lawyers on behalf of civil parties in criminal proceedings (*Dănoiu and Others v. Romania*, 2022) or where the applicant complained about the unfairness of the work and pay conditions imposed by the State on relatives of persons with disabilities acting as personal assistants (*Radi and Gherghina v. Romania* (dec.), 2016). By contrast, the Court found, in the case of *Chowdury and Others v. Greece*, 2017, that the applicants' situation – irregular migrants working in difficult physical conditions and without wages, under the supervision of armed guards, in the strawberry-picking industry in a particular region of Greece – constituted human trafficking and forced labour.

C. Delimitations

Article 4 § 3 of the Convention

"3. For the purpose of this Article the term 'forced or compulsory labour' shall not include:

(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of [the] Convention or during conditional release from such detention;

(b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;

(c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;

(d) any work or service which forms part of normal civic obligations."

HUDOC keywords

Work required of detainees (4-3-a) –Work required to be done during conditional release (4-3-a) – Service of military character (4-3-b)– Alternative civil service (4-3-b) – Service exacted in case of emergency (4-3-c) – Service exacted in case of calamity (4-3-c) – Normal civic obligations (4-3-d)

37. Paragraph 3 of Article 4 serves as an aid to the interpretation of paragraph 2. The four subparagraphs of paragraph 3, notwithstanding their diversity, are grounded on the governing ideas of general interest, social solidarity and what is normal in the ordinary course of affairs (*Van der Mussele v. Belgium*, 1983, § 38; *Karlheinz Schmidt v. Germany*, 1994, § 22; *Zarb Adami v. Malta*, 2006, § 44).

1. Work during detention or conditional release

38. Article 4 § 3 (a) indicates that the term "forced or compulsory" labour does not include "any work to be done in the ordinary course of detention" (*Stummer v. Austria* [GC], 2011, § 119) or during conditional release from such detention.

39. In establishing what is to be considered "work required to be done in the ordinary course of detention", the Court will have regard to the standards prevailing in member States (*Stummer v. Austria* [GC], 2011, § 128).

40. For example, when the Court had to consider work a recidivist prisoner was required to perform, his release being conditional on accumulating a certain amount of savings, while accepting that the work at issue was obligatory, the Court found no violation of Article 4 of the Convention on the ground that the requirements of Article 4 § 3 (a) were met (*Van Droogenbroeck v. Belgium*, 1982, § 59). In the Court's view the work required did not go beyond what is "ordinary" in this context since it was calculated to assist him in reintegrating himself into society and had as its legal basis provisions which find an equivalent in certain other member States of the Council of Europe (*ibid.*; *Stummer v. Austria* [GC], 2011, § 121; *De Wilde, Ooms and Versyp v. Belgium*, 1971, § 90).

41. Regarding prisoners' remuneration, the Commission has held that Article 4 does not contain any provision concerning the remuneration of prisoners for their work (*Twenty-one detained persons v. Germany*, Commission decision, 1968; *Stummer v. Austria* [GC], 2011, § 122). The Court has noted that there have been subsequent developments in attitudes to this issue, reflected in particular in the 1987 and 2006 European Prison Rules, which call for the equitable remuneration of the work of prisoners (*Zhelyazkov v. Bulgaria*, 2012, § 36; *Floroiu v. Romania* (dec.), 2013, § 34). However, it has considered that the mere fact that a prisoner was not paid for the work he did, did not in itself prevent

work of this kind from being regarded as "work required to be done in the ordinary course of detention" (*ibid.*, § 33).

42. For example, in *Floroiu v. Romania* (dec.), 2013, the Court observed that prisoners were able to carry out either paid work or, in the case of tasks assisting the day-to-day running of the prison, work that does not give rise to remuneration but entitles them to a reduction in their sentence. Under domestic law prisoners were able to choose between the two types of work after being informed of the conditions applicable in each case. The Court, having regard to the fact that the applicant had been granted a significant reduction in the time remaining to be served found that the work carried out by the applicant was not entirely unpaid and that therefore the work performed by the applicant can be regarded as "work required to be done in the ordinary course of detention" within the meaning of Article 4 § 3 (a) of the Convention (§§ 35-37).

43. Recently, the Grand Chamber was called upon to examine the question whether Article 4 requires the State to include working prisoners in the social security system, notably, as regards the old-age pension system. It noted that while an absolute majority of Contracting States affiliate prisoners in some way to the national social security system or provides them with some specific insurance scheme, only a small majority affiliate working prisoners to the old-age pension system. Thus Austrian law reflects the development of European law in that all prisoners are provided with health and accident care and working prisoners are affiliated to the unemployment insurance scheme but not to the old-age pension system (*Stummer v. Austria* [GC], 2011, § 131). It therefore considered that there was no sufficient consensus on the issue of the affiliation of working prisoners to the old-age pension system. It held that while Rule 26.17 of the European Prison Rules, which provides that as far as possible, prisoners who work shall be included in national social security systems, reflects an evolving trend, it cannot be translated into an obligation under Article 4 of the Convention. Consequently, the obligatory work performed by the applicant as a prisoner without being affiliated to the old-age pension system had to be regarded as "work required to be done in the ordinary course of detention" within the meaning of Article 4 § 3 (a) (*ibid.*, § 132; *Floroiu v. Romania* (dec.), 2015, § 32).

44. In a case where the applicant complained about the obligation on prisoners to perform work in prison after they had reached retirement age, the Court, having regard to the aim of the work imposed, its nature, its extent and the manner in which it was to be performed as well as noting the absence of consensus among the Council of Europe member States on the issue, held that no absolute prohibition can be found to exist under Article 4 of the Convention and that the compulsory work performed by the applicant while in detention, including the work carried out after he had reached retirement age, could therefore be regarded as "work required to be done in the ordinary course of detention" within the meaning of Article 4 § 3 (a) of the Convention (*Meier v. Switzerland*, 2016, §§ 72-79).

2. Military service or substitute civilian service

45. Article 4 § 3 (b) excludes from the scope of "forced or compulsory labour" prohibited by Article 4 § 2 "any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service" (*Bayatyan v. Armenia* [GC], 2011, § 100; *Johansen v. Norway*, Commission decision, 1985).

46. In the Commission decision of *W., X., Y. and Z. v. the United Kingdom*, 1968, where the applicants were minors when they entered into the armed forces of the United Kingdom, the Commission held that the service entered into by the applicants was subject to the limiting provision under Article 4 § 3, and therefore any complaint that such service constituted "forced or compulsory labour" had to be rejected as being manifestly ill-founded in view of the express provision of Article 4 § 2 (b) of the Convention.

47. The Commission has held, however, that "servitude" and "forced or compulsory labour" are distinguished in Article 4 and, although they must in fact often overlap, they cannot be treated as

equivalent, and that the clause excluding military service expressly from the scope of the term "forced or compulsory labour" does not forcibly exclude such service in all circumstances from an examination in the light of the prohibition directed against "slavery or servitude" (*W., X., Y. and Z. v. the United Kingdom*, Commission decision, 1968). The Commission held that generally the duty of a soldier who enlists after having attained the age of majority, to observe the terms of his engagement and the ensuing restriction of his freedom and personal rights does not amount to an impairment of rights which could come under the terms of "slavery or servitude" (*ibid.*). It found that the young age of the applicants who had entered into the services with their parents' consent cannot attribute the character "servitude" to the normal condition of a soldier (*ibid.*).

48. Recently, however, in the case of *Chitos v. Greece*, 2015, which concerned the obligation imposed on an army officer to pay the State a substantial sum of money to allow him to leave the military before the end of the contracted service period, the Court departed from the above interpretation of the Commission and considered that the limitation under Article 4 § 3 was aimed at military service by conscription only and did not apply to career servicemen. It held that sub-paragraph 3 (b) of Article 4 must be viewed as a whole. A reading of the entire sub-paragraph in its context suggested, for two reasons, that it applied to compulsory military service in States where such a system was in place: firstly, through the reference to conscientious objectors, who will obviously be conscripts and not professional military personnel, and secondly, through the explicit reference to compulsory military service at the end of the sub-paragraph. It further found support for this interpretation in ILO Convention no. 29 as well as in the view taken both by the European Committee of Social Rights and by the Committee of Ministers (§§ 83-89).

49. In the aforementioned case of *Chitos v. Greece*, 2015, the Court found that, while it was legitimate for States to provide for obligatory periods of service for army officers after their studies, as well as for payment of compensation in case of early resignation, in order to recover the costs associated with their education, there had to be a balance between the different interests involved. In the particular circumstances of that case the Court found a violation of Article 4 § 2 on the ground that the authorities had placed a disproportionate burden on the applicant (§ 109; see, by contrast, *Lazaridis v. Greece* (dec.), 2016).

3. Service required during an emergency or calamity

50. Article 4 § 3 (c) excludes any service exacted in case of an emergency or calamity threatening the life or well-being of the community from the scope of forced or compulsory labour. In this connection, the Commission held that the obligation on a holder of shooting rights to actively participate in the gassing of fox-holes as part of a campaign against an epidemic – even if the above obligation fell within the notion of compulsory labour – was justified under Article 4 § 3 (c) which allows the exaction of services in case of an emergency or calamity threatening the life or well-being of the community, or under Article 4 § 3 (d) which allows service which forms part of normal civic obligations (*S. v. Germany*, Commission decision, 1994). In a case, which concerned a requirement that the applicant serve a year in the public dental service in northern Norway, two members of the Commission held the view that the service in question was service reasonably required of the applicant in an emergency threatening the well-being of the community and was not forced or compulsory labour (*I. v. Norway*, Commission decision, 1963).

4. Normal civic obligations

51. Article 4 § 3 (d) excludes any work or service which forms part of normal civil obligations from the scope of forced or compulsory labour (*Van der Mussele v. Belgium*, 1983, § 38).

52. In *Van der Mussele v. Belgium*, 1983, the Court accepted that the applicant, a pupil-advocate, had suffered some prejudice by reason of the lack of remuneration and of reimbursement of expenses, but that prejudice went hand in hand with the advantages he enjoyed and had not been shown to be

excessive. It held that while remunerated work may also qualify as forced or compulsory labour, the lack of remuneration and of reimbursement of expenses constitutes a relevant factor when considering what is proportionate or in the normal course of business. Noting that the applicant had not had a disproportionate burden of work imposed on him and that the amount of expenses directly occasioned by the legal work he performed in question had been relatively small, the Court concluded that he had not been a victim of compulsory labour for the purposes of Article 4 § 2 of the Convention (§§ 34-41).

53. More recently, the Court concluded that a physician's obligation to participate in emergency medical service did not amount to compulsory or forced labour for the purposes of Article 4 § 2 and declared the relevant part of the application inadmissible as being manifestly ill-founded (*Steindel v. Germany* (dec.), 2010). In that case the Court considered relevant, in particular, (i) that the services to be rendered were remunerated and did not fall outside the ambit of a physician's normal professional activities; (ii) the obligation in issue was founded on a concept of professional and civil solidarity and was aimed at averting emergencies; and (iii) the burden imposed on the applicant was not disproportionate.

54. The Commission and the Court have also considered that "any work or service which forms part of normal civic obligations" includes: compulsory jury service (*Zarb Adami v. Malta*, 2006; compulsory fire service or financial contribution which is payable in lieu of service (*Karlheinz Schmidt v. Germany*, 1994); obligation to conduct free medical examinations (*Reitmayr v. Austria*, 1995); the obligation to participate in the medical emergency service (*Steindel v. Germany* (dec.), 2010); or the legal obligations imposed on companies in their quality of employers to calculate and withhold certain taxes, social security contributions etc. from the salaries and wages of their employers (*Four Companies v. Austria*, Commission decision, 1976).

55. The criteria which serve to delimit the concept of compulsory labour include the notion of what is in the normal course of business. Work or labour that is in itself normal may in fact be rendered abnormal if the choice of the groups or individuals bound to perform it is governed by discriminatory factors. Therefore in cases where the Court has found that there was no forced or compulsory labour for the purpose of Article 4, it does not follow that the facts in issue fall completely outside the ambit of Article 4 and, hence, of Article 14 (*Van der Mussele v. Belgium*, 1983, § 43; *Zarb Adami v. Malta*, 2006, § 45). For example, any unjustified discrimination between men and women in the imposition of a civic obligation is in breach of Article 14 in conjunction with Article 4 of the Convention (*ibid.*, § 83; *Karlheinz Schmidt v. Germany*, 1994, § 29).

III. Positive obligations

56. In *Siliadin v. France*, 2005, the Court noted that, with regard to certain Convention provisions, such as Articles 2, 3 and 8, the fact that a State refrains from infringing the guaranteed rights does not suffice to conclude that it has complied with its obligations under Article 1 of the Convention (§ 77). In this connection, it held that limiting compliance with Article 4 of the Convention only to direct action by the State authorities would be inconsistent with the international instruments specifically concerned with this issue and would amount to rendering it ineffective (§ 89). It has therefore held that States have positive obligations under Article 4 of the Convention. Two of the aspects of the positive obligations – the duty to put in place a legislative and administrative framework and the duty to take operational measures – can be denoted as substantive, whereas the third aspect concerns the procedural obligation to investigate (*S.M. v. Croatia* [GC], 2020, § 306).

A. The positive obligation to put in place an appropriate legislative and administrative framework

57. Article 4 requires that member States penalise and prosecute effectively any act aimed at maintaining a person in a situation of slavery, servitude or forced or compulsory labour (*C.N. v. the United Kingdom*, 2012, § 66; *Siliadin v. France*, 2005, § 112; *C.N. and v. v. France*, 2012, § 105. In order to comply with this obligation, member States are required to put in place a legislative and administrative framework to prohibit and punish such acts (*Rantsev v. Cyprus and Russia*, 2010, § 285).

58. In the particular context of trafficking, the Court underlined that the Palermo Protocol and the Anti-Trafficking Convention refer to the need for a comprehensive approach to combat trafficking which includes measures to prevent trafficking and to protect victims, in addition to measures to punish traffickers. In its opinion, it was clear from the provisions of these two instruments that the Contracting States, including almost all of the member States of the Council of Europe, have formed the view that only a combination of measures addressing all three aspects can be effective in the fight against trafficking. Therefore, the Court emphasised that the duty to penalise and prosecute trafficking is only one aspect of member States' general undertaking to combat trafficking and that the extent of the positive obligations arising under Article 4 must be considered within this broader context (*Rantsev v. Cyprus and Russia*, 2010). Thus, in order to comply with their positive obligations, member States are required to put in place a legislative and administrative framework to prevent and punish trafficking and to protect victims (*V.C.L. and A.N. v. the United Kingdom*, 2021, § 151).

59. In this connection, the Court has held that the spectrum of safeguards set out in national legislation must be adequate to ensure the practical and effective protection of the rights of victims or potential victims of trafficking. It, accordingly, considered that, in addition to criminal law measures to punish traffickers, Article 4 requires member States to put in place adequate measures regulating businesses often used as a cover for human trafficking. Furthermore, a State's immigration rules must address relevant concerns relating to encouragement, facilitation or tolerance of trafficking (*Rantsev v. Cyprus and Russia*, 2010, § 284). Moreover, States are required to provide relevant training for law enforcement and immigration officials (*ibid.*, § 287). The Court further found that States have a positive obligation to enable the victims of trafficking to claim compensation from their traffickers in respect of lost earnings (*Krachunova v. Bulgaria*, 2023, § 177): as to earnings obtained through prostitution, non-compliance with that positive obligation cannot be automatically justified on the grounds of morality and has to be assessed in the light of the compelling public policy against human trafficking and in favour of protecting its victims (§§ 189-193).

60. The Court has emphasised that the aforementioned principles are equally relevant when it came to human trafficking and the exploitation of individuals through work. The Court thus accepted that trafficking in human beings covers the recruitment of persons for the purposes of exploitation and that exploitation includes forced labour. It underlined, in this respect, that Article 4 § 2 of the

Convention implied a positive obligation for States to address this category of trafficking in the form of a legal and regulatory framework enabling the prevention of trafficking in human beings and their exploitation through work, the protection of victims and the investigation of arguable instances of trafficking of this nature, together with the characterisation as a criminal offence and effective prosecution of any act aimed at maintaining a person in such a situation (*Chowdury and Others v. Greece*, 2017, §§ 86-89 and 103-104).

61. The Court found that the legislation in force at the material time did not afford the applicants practical and effective protection against treatment failing within the scope of Article 4 of the Convention in *Siliadin v. France*, 2005, § 148, in *C.N. and v. v. France*, 2012, § 108, and in *C.N. v. the United Kingdom*, 2012, § 76. Whereas in *Rantsev v. Cyprus and Russia*, 2010, on the basis of the evidence before it and bearing in mind the limits of Russia's jurisdiction in the particular facts of the case, the Court found no such failure in the legislative and administrative framework in Russia with respect to trafficking (*ibid.*, §§ 301-303; *V.F. v. France* (dec.), 2011; *J.A. v. France* (dec.), 2014). In that case, Cyprus was found to be in violation of this obligation because, despite evidence of trafficking in Cyprus and the concerns expressed in various reports that Cypriot immigration policy and legislative shortcomings were encouraging the trafficking of women to Cyprus, its regime of artiste visas did not afford to the applicant's daughter Ms Rantseva, practical and effective protection against trafficking and exploitation (§§ 290-293). In *T.I. and Others v. Greece*, 2019, the Court considered that the legal framework governing some of the proceedings had not been effective or sufficient either to punish the traffickers or to ensure effective prevention of human trafficking, given that human trafficking for the purpose of sexual exploitation had not constituted a separate criminal offence at the material time and that the lesser indictable offence of human trafficking had a shorter limitation period, which resulted in the termination of the prosecution against two of the accused as time-barred. In *L.E. v. Greece*, 2016, the Court considered that the amended legislation provided the applicant with practical and effective protection against human trafficking for the purpose of sexual exploitation.

62. In *I.C. v. the Republic of Moldova*, 2025, §§ 152-57, the Court found that the legal framework at the material time, whereby persons with intellectual disabilities who had been deprived of their legal capacity were deinstitutionalised, failed to afford the applicant – a woman with intellectual disabilities - with practical and effective protection from trafficking and servitude following her removal from State care and placement with a family where she was forced to work without pay.

B. The positive obligation to take operational measures

63. Article 4 of the Convention may, in certain circumstances, require a State to take operational measures to protect victims, or potential victims, of treatment in breach of that Article (*Rantsev v. Cyprus and Russia*, 2010, § 286; *C.N. v. the United Kingdom*, 2012, § 67). In order for a positive obligation to take operational measures to arise in the circumstances of a particular case, it must be demonstrated that the State authorities were aware, or ought to have been aware, of circumstances giving rise to a credible suspicion that an identified individual had been, or was at real and immediate risk of being subjected to treatment in breach of Article 4 of the Convention. In the case of an answer in the affirmative, there will be a violation of that Article where the authorities fail to take appropriate measures within the scope of their powers to remove the individual from that situation or risk (*ibid.* and *V.C.L. and A.N. v. the United Kingdom*, 2021, § 152).

64. As to the type of operational measure which might be required by Article 4 of the Convention, the Court has considered it relevant in the context of trafficking that the Anti-Trafficking Convention calls on member States to adopt a range of measures to prevent trafficking and to protect the rights of victims. The preventive measures include measures to strengthen coordination at national level between the various anti-trafficking bodies and to discourage the demand for all forms of exploitation of persons. Protection measures include facilitating the identification of victims by qualified persons and assisting victims in their physical, psychological and social recovery (*V.C.L. and A.N. v. the United*

Kingdom, 2021, § 153). The vulnerability of victims of trafficking, in particular of minors, must be considered by the State when deciding on the relevant applicable measures (*ibid.*, § 161; see also *A.I. v. Italy*, 2021, §§ 103-104, where the applicant, victim of trafficking, was unable to exercise her contact rights in respect of her two children in breach of Article 8 of the Convention and *N.Ç. v. Turkey*, 2021, § 133, where the State failed to protect a sexually exploited minor in the course of the criminal proceedings regarding her sexual abuse under Articles 3 and 8 of the Convention).

65. However, bearing in mind the difficulties involved in policing modern societies and the operational choices which must be made in terms of priorities and resources, the obligation to take operational measures must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities (*C.N. v. the United Kingdom*, 2012, § 68; *Rantsev v. Cyprus and Russia*, 2010, § 287).

66. The Court has clarified that no general prohibition on the prosecution of victims of trafficking can be construed from the Anti-Trafficking Convention or any other international instrument. However, the prosecution of victims, or potential victims, of trafficking may, in certain circumstances, be at odds with the State's duty to take operational measures to protect them (*V.C.L. and A.N. v. the United Kingdom*, 2021, § 158-159 and *G.S. v. the United Kingdom* (dec.), 2021, § 22). In this respect, the Court has held that early identification of victims of trafficking by a competent authority, on the basis of criteria identified in the Palermo Protocol and the Anti-Trafficking Convention, is of paramount importance and that any decision to prosecute should be taken insofar as possible after this assessment (*V.C.L. and A.N. v. the United Kingdom*, 2021, §§ 160-161). It also underlined that, once a trafficking assessment had been made by a qualified authority, any subsequent prosecutorial decision would have to take that assessment into account. While the prosecutor might not be bound by the findings made in the course of such an assessment, the prosecutor would need to have clear reasons, consistent with the definition of trafficking contained in the aforementioned international instruments, for disagreeing with it (*ibid.*, § 162).

67. In *Rantsev v. Cyprus and Russia*, 2010, various failures of the police, notably, to inquire further into whether Ms Rantseva had been trafficked, the decision to confide her to the custody of M.A and their failure to comply with various domestic law provisions led the Court to find that the Cypriot authorities had failed to take measures to protect Ms Rantseva from trafficking (§ 298).

68. In *V.F. v. France*, 2011, the Court, while conscious of the scale of the phenomenon of trafficking of Nigerian women in France and the difficulties experienced by those persons in identifying themselves to the authorities in order to obtain protection, could only note, in the light of the circumstances of the case, that the applicant had not attempted to contact the authorities about her situation. It was therefore of the opinion that the evidence submitted by the applicant was not sufficient to demonstrate that the police authorities knew or ought to have known that the applicant was the victim of a human trafficking network when they decided to deport her.

69. In *Chowdury and Others v. Greece*, 2017, the Court found that Greece had failed to comply with its positive obligations because the authorities, who knew through official reports and the media about the situation in which migrant workers found themselves well before the shooting incident involving the applicants, had failed to take adequate measures to prevent trafficking and to protect the applicants (§§ 111-115).

70. In *V.C.L. and A.N. v. the United Kingdom,* 2021, where the Court was called upon to consider whether the prosecution of a victim or potential victim of trafficking raised an issue under Article 4 of the Convention, the Court found that the United Kingdom had failed in its duty under Article 4 to take operational measures to protect the applicants who were minors from Vietnam working in cannabis factories in the United Kingdom. In this respect, it held that, despite the circumstances which indicated that the applicants had been victims of trafficking, they had been charged with a criminal offence without their status as victims of trafficking having been first assessed by the competent authority. The Court further noted that, even though the applicants were subsequently recognized by that

authority as victims of trafficking, this assessment was disregarded by both the prosecution service and the Court of Appeal which found the initial decision to prosecute justified without providing adequate reasons for their decision (§§ 172-173 and 181-182).

71. By contrast, in *G.S. v. the United Kingdom*, 2021, the Court was satisfied that the Court of Appeal, when refusing the applicant, an adult victim of trafficking, leave to appeal against her conviction on drug related offenses, had considered the extent to which she had been compelled to commit the offence at issue and concluded that the level of compulsion was not such as to extinguish her culpability. It therefore found the manner in which the Court of Appeal assessed the situation to be compatible with Article 26 of the Anti-Trafficking Convention and Article 8 of the Anti-Trafficking Directive and that its refusal to grant permission to appeal could not be construed as a failure of the State under Article 4 to take operational measures to protect the applicant, as a victim of trafficking (§ 24).

C. The procedural obligation to investigate

72. Article 4 of the Convention entails a procedural obligation to investigate where there is a credible suspicion that an individual's rights under that Article have been violated, be it in respect of human trafficking (*Rantsev v. Cyprus and Russia*, 2010, § 288), domestic servitude (*C.N. v. the United Kingdom*, 2012, or forced prostitution (*S.M. v. Croatia* [GC], 2020, § 307). The requirements of the procedural obligation under Article 4 are informed by the converging principles under Articles 2 and 3 of the Convention (*S.M. v. Croatia* [GC], 2020, §§ 309-311).

73. The procedural requirements under Article 4 are similar irrespective of whether the treatment has been inflicted through the involvement of State agents or private individuals. The requirement to investigate does not depend on a complaint from the victim or next-of-kin but that the authorities must act of their own motion once the matter has come to their attention. For an investigation to be effective, it must be independent from those implicated in the events and that it must also be capable of leading to the identification and punishment of individuals responsible, an obligation not of result but of means. Nevertheless, the authorities must take whatever reasonable steps they can to collect evidence and elucidate the circumstances of the case. In particular, the investigation's conclusions must be based on a thorough, objective and impartial analysis of all relevant elements. Moreover, a requirement of promptness and reasonable expedition is implicit in all cases but where the possibility of removing the individual from the harmful situation is available, the investigation must be undertaken as a matter of urgency. Finally, the victim or the next-of-kin must be involved in the procedure to the extent necessary to safeguard their legitimate interests. The possible defects in the relevant proceedings and the decision-making process must amount to significant flaws in order to raise an issue under Article 4. In other words, the Court is not concerned with allegations of errors or isolated omissions but only significant shortcomings in the proceedings and the relevant decision-making process, namely those that are capable of undermining the investigation's capability of establishing the circumstances of the case or the person responsible (*S.M. v. Croatia* [GC], 2020, §§ 312-320; *Rantsev v. Cyprus and Russia*, 2010, § 288).

74. In the particular context of human trafficking, in addition to the obligation to conduct a domestic investigation into events occurring on their own territories, member States are also subject to a duty in cross-border trafficking cases to cooperate effectively with the relevant authorities of other States concerned in the investigation of events which occurred outside their territories (*Rantsev v. Cyprus and Russia*, 2010, § 289 and *Zoletic and Others v. Azerbaijan*, 2021, § 191).

75. In *Rantsev v. Cyprus and Russia*, 2010, the Court found that the Russian authorities had failed to investigate the possibility that individual agents or networks operating in Russia were involved in trafficking Ms Rantseva to Cyprus (§ 308). In *M. and Others v. Italy and Bulgaria*, 2012, however, the Court found that the circumstances of the case did not give rise to human trafficking, a situation which would have engaged the responsibility of the Bulgarian State had any trafficking commenced there

(§ 169). In that case, it has further held that the Bulgarian authorities assisted the applicants and maintained constant contact and co-operation with the Italian authorities (§ 169).

76. In *J. and Others v. Austria*, 2017, where the applicants complained of the prosecutor's decision not to pursue an investigation into alleged human trafficking offences committed abroad by non-nationals, the Court considered that Article 4 of the Convention, under its procedural limb, does not require States to provide for universal jurisdiction over trafficking offences committed abroad. In this connection, it noted that the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organised Crime is silent on the matter of jurisdiction, and the Council of Europe Convention on Action against Trafficking in Human Beings only required States parties to provide for jurisdiction over any trafficking offences committed on their own territory, or by or against one of their nationals (§ 114).

77. In *Chowdury and Others v. Greece*, 2017, the Court considered that Greece had failed to comply with its procedural obligations, in particular because the prosecutor had refused to bring proceedings in respect of twenty-one applicants on the grounds that they had lodged their complaints belatedly, without having regard to the wider issues of trafficking and forced labour of which they complained (§§ 117-121). The Court further found that the domestic courts had taken a very narrow view of the applicants' situation, analysing it from the standpoint of whether it amounted to one of servitude with the consequence that none of the accused was convicted of trafficking in human beings and the appropriate penalties were not therefore applied (§§ 123-127).

78. In *S.M. v. Croatia* [GC], 2020, the applicant alleged that T.M., a former policeman, had physically and psychologically forced her into prostitution. While she obtained administrative recognition of the status of a potential victim of human trafficking, the Court considered that this could not be taken as recognition that the elements of the offence of human trafficking had been carried out. That question had to be answered in subsequent criminal proceedings. Examining the facts of the case against the three constituent elements of human trafficking, the Court pinpointed the applicant's "recruitment" *via* Facebook, the use of force against her as well as possible harbouring and debt bondage. Moreover, T.M., a former policeman, had been capable of abusing her vulnerability. The Court thus found that the applicant had made an arguable claim supported by *prima facie* evidence that she had been subjected to human trafficking and/or forced prostitution. The procedural response to that arguable claim and *prima facie* evidence had suffered from significant flaws, such as the failure to follow obvious lines of inquiry capable of elucidating the true nature of the relationship between both parties and the heavy reliance on the applicant's testimony without taking account of a possible impact of psychological trauma on her ability to consistently and clearly relate the circumstances of her exploitation (see also *T.V. v. Spain*, 2024, where the Court found significant shortcomings in the domestic procedural response to an arguable criminal complaint of human trafficking and forced prostitution, supported by *prima facie* evidence). In *B.B. v. Slovakia*, 2024, § 99, where the applicant was brought from Slovakia to the United Kingdom with a view to engaging in prostitution by an individual who was later convicted only of pimping despite circumstances indicative of human trafficking, the Court underlined that the authorities had failed to take all reasonable steps to collect evidence and clarify the circumstances of the case by demonstrating in particular an understanding of the many subtle ways an individual can fall under the control of another and thereby to elucidate the true nature of the applicant's relationship with the alleged trafficker.

79. In a case concerning alleged cross-border human trafficking and forced labour of migrant workers, the Court found the applicants' claims arguable, given that the materials in the case file, notably, a report prepared by specialised NGOs largely supported the applicants' version of events (*Zoletic and Others v. Azerbaijan*, 2021, §§ 161-164). Moreover, having regard to the information that was available to the authorities *via* different avenues, such as country reports of ECRI and GRETA as well as the civil claim brought by the applicants, the Court found that the authorities attention had been sufficiently drawn to the applicants' arguable allegations of human trafficking and forced labour. An

effective *ex officio* criminal investigation was therefore required (*ibid.*, § 200). However, no such investigation was conducted in the present case (*ibid.*, § 208).

80. In addition to the effectiveness of the proceedings concerning the applicants' alleged exploitation, the Court examined the effectiveness of the proceedings concerning the issuing of the visas to the applicants in *T.I. and Others v. Greece*, 2019. Regard being had, in particular, to the information available on the phenomenon of human trafficking in Russia and Greece at the material time, and given the seriousness of the applicants' allegations and the fact that they had accused public officials of involvement in human-trafficking networks, the authorities had been under a duty to act with special diligence in order to verify that the visa applications had been subjected to detailed scrutiny before the visas were issued and thus to dispel the doubts as to the probity of the public officials. The Court found that the competent authorities had not dealt with the case with the level of diligence required, in particular in view of the length of time taken for the investigation, which resulted in prosecutions (offences of forgery/use of forged documents) becoming time-barred. It also found that the applicants had not been involved in the investigation to the extent required, as all but one of the attempts to serve summonses to appear as witnesses had failed, with no attempts having been made to find them at the address they had given in their applications to join the proceedings as civil parties.

List of cited cases

The case-law cited in this Guide refers to judgments or decisions delivered by the Court and to decisions or reports of the European Commission of Human Rights ("the Commission").

Unless otherwise indicated, all references are to a judgment on the merits delivered by a Chamber of the Court. The abbreviation "(dec.)" indicates that the citation is of a decision of the Court and "[GC]" that the case was heard by the Grand Chamber.

Chamber judgments that were not final within the meaning of Article 44 of the Convention when this update was finalised are marked with an asterisk (*) in the list below. Article 44 § 2 of the Convention provides: "The judgment of a Chamber shall become final (a) when the parties declare that they will not request that the case be referred to the Grand Chamber; or (b) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or (c) when the panel of the Grand Chamber rejects the request to refer under Article 43". In cases where a request for referral is accepted by the Grand Chamber panel, the Chamber judgment does not become final and thus has no legal effect; it is the subsequent Grand Chamber judgment that becomes final.

The hyperlinks to the cases cited in the electronic version of the Guide are directed to the HUDOC database (http://hudoc.echr.coe.int) which provides access to the case-law of the Court (Grand Chamber, Chamber and Committee judgments and decisions, communicated cases, advisory opinions and legal summaries from the Case-Law Information Note) and of the Commission (decisions and reports), and to the resolutions of the Committee of Ministers.

The Court delivers its judgments and decisions in English and/or French, its two official languages. HUDOC also contains translations of many important cases into more than thirty non-official languages, and links to around one hundred online case-law collections produced by third parties. All the language versions available for cited cases are accessible via the "Language versions" tab in the HUDOC database, a tab which can be found after you click on the case hyperlink.

—A—

A.I. v. Italy, no. 70896/17, 1 April 2021
Adigüzel v. Turkey (dec.), no. 7442/08, 6 February 2018
Antonov v. Russia (dec.), no. 38020/03, 3 November 2005

—B—

Bayatyan v. Armenia [GC], no. 23459/03, ECHR 2011
B.B. v. Slovakia, no. 48587/21, 24 October 2024
Bucha v. Slovakia (dec.), no. 43259/07, 20 September 2011

—C—

C.N. v. the United Kingdom, no. 4239/08, 13 November 2012
C.N. and v. v. France, no. 67724/09, 11 October 2012
Chitos v. Greece, no. 51637/12, ECHR 2015
Chowdury and Others v. Greece, no. 21884/15, ECHR 2017

—D—

Dănoiu and Others v. Romania, nos. 54780/15 and 2 others, 25 January 2022
De Wilde, Ooms and Versyp v. Belgium, 18 June 1971, Series A no. 12

—F—

Floroiu v. Romania (dec.), no. 15303/10, 12 March 2013
F.M. and Others v. Russia, no. 71671/16 and 40190/18, 10 December 2024
Four Companies v. Austria, no. 7427/76, Commission decision of 27 September 1976, Decisions and Reports (D.R. 7)

—G—

G.S. v. the United Kingdom (dec.), no. 7604/19, 23 November 2021
Graziani-Weiss v. Austria, no. 31950/06, 18 October 2011

—I—

I. v. Norway, no. 1468/62, Commission decision of 17 December1963
I.C. v. the Republic of Moldova, no. 36436/22, 27 February 2025

—J—

J. and Others v. Austria, no. 58216/12, 17 January 2017
J.A. v. France (dec.), no. 45310/11, 27 May 2014
Jasuitis and Šimaitis v. Lithuania, nos. 28186/19 and 29092/19, 12 December 2023
Johansen v. Norway, no. 10600/83, Commission decision of 14 October 1985, Decisions and Reports 44

—K—

Karlheinz Schmidt v. Germany, 18 July 1994, Series A no. 291-B
Krachunova v. Bulgaria, no. 18269/18, 28 November 2023

—L—

L.E. v. Greece, no. 71545/12, 21 January 2016
Lazaridis v. Greece (dec.), no. 61838/14, 12 January 2016

—M—

M. and Others v. Italy and Bulgaria, no. 40020/03, 31 July 2012
Meier v. Switzerland, no. 10109/14, ECHR 2016
Mihal v. Slovakia (dec.), no. 31303/08, 28 June 2011

—N—

N.Ç. v. Turkey, no. 40591/11, 9 February 2021

—R—

Radi and Gherghina v. Romania (dec.), no. 34655/14, 5 January 2016
Rantsev v. Cyprus and Russia, no. 25965/04, ECHR 2010
Reitmayr v. Austria, no. 23866/94, Commission decision of 28 June 1995

—S—

S. v. Germany, no. 9686/82, Commission decision of 4 October 1984, Decisions and Reports 39
S.M. v. Croatia [GC], no. 60561/14, 25 June 2020
Schuitemaker v. the Netherlands (dec.), no. 15906/98, 4 May 2010
Seguin v. France (dec.), no. 42400/98, 7 March 2000
Siliadin v. France, no. 73316/01, ECHR 2005-VII
Sokur v. Ukraine (dec.), no. 29439/02, 26 November 2002
Steindel v. Germany (dec.), no. 29878/07, 14 September 2010
Stummer v. Austria [GC], no. 37452/02, ECHR 2011

—T—

T.I. and Others v. Greece, 40311/10, 18 July 2019
T.V. v. Spain, no. 22512/21, 10 October 2024
Tibet Menteş and Others v. Turkey, nos. 57818/10 and 4 others, 24 October 2017
Twenty-one detained persons v. Germany, nos. 3134/67 and 20 others, Commission decision of 6 April 1968, Collection 27

—V—

V.C.L. and A.N. v. the United Kingdom, nos. 77587/12 and 74603/12, § 158-159, 16 February 2021
V.F. v. France (dec.), no. 7196/10, 29 November 2011
Van der Mussele v. Belgium, 23 November 1983, Series A no. 70
Van Droogenbroeck v. Belgium, 24 June 1982, Series A no. 50

—W—

W., X., Y. and Z. v. the United Kingdom, nos. 3435/67 and 3 others, Commission decision of 19 July 1968, Collection 28

—X—

X. v. Germany, no. 8410/78, Commission decision of 13 December 1979, Decisions and Reports 18

—Z—

Zarb Adami v. Malta, no. 17209/02, ECHR 2006-VIII
Zhelyazkov v. Bulgaria, no. 11332/04, 9 October 2012
Zoletic and Others v. Azerbaijan, no. 20116/12, 7 October 2021