



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

Information Note on the Court's case-law No. 157

November 2012

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***C.N. v. the United Kingdom - 4239/08***

Judgment 13.11.2012 [Section IV]

**Article 4**

**Article 4-1**

**Servitude**

Ineffective investigation into complaints of domestic servitude owing to absence of specific legislation criminalising such treatment: *violation*

*Facts* – The applicant, a Ugandan national, left Uganda for the United Kingdom in September 2002 with the help of a cousin. In early 2003 she began work as a live-in carer for an elderly Iraqi couple. She alleged that she was permanently on-call day and night; that her salary was sent to the agent who had arranged her work with the family, who then passed a percentage of the money to her cousin on the apparent understanding that it would be paid to her. She did not, however, receive any significant payment for her labour. During that time, her passport was also retained. In August 2006 she collapsed in a bank and spent a month in hospital. She then made an application for asylum, which was refused. After her solicitor had written to the police in April 2007, the Metropolitan Police Human Trafficking Team commenced an investigation, but concluded in August 2009 that the circumstances of her case did not appear to constitute an offence of trafficking people for the purposes of exploitation contrary to the Asylum and Immigration Act 2004. On 6 April 2010 new legislation, without retrospective effect, came into force specifically criminalising slavery, servitude and forced or compulsory labour.\*

*Law* – Article 4: The circumstances of the applicant's case were remarkably similar to the facts of [Siliadin v. France](#), in which the Court had confirmed that Article 4 entailed a specific positive obligation on member States to penalise and prosecute effectively any act aimed at maintaining a person in a situation of slavery, servitude or forced or compulsory labour. Her complaints had thus given rise to a credible suspicion that she had been held in conditions of domestic servitude, which in turn placed the domestic authorities under an obligation to investigate those complaints.\*\* Although it was clear that the domestic authorities had investigated the complaints, the legislative provisions in force at the relevant time were inadequate to afford practical and effective protection against treatment falling within the scope of Article 4. Instead of enabling the authorities to investigate and penalise such treatment, the legislation restricted them to investigating and penalising offences which often, but not necessarily, accompanied the offences of slavery, servitude and forced or compulsory labour. Victims of such treatment who were not also victims of one of these related offences were thus left without any remedy.

Although the Government had argued that the reason no prosecution was ultimately brought was not the absence of appropriate legislation but rather the lack of evidence to support the applicant's allegations, the Court considered that while the investigators had

occasionally referred to slavery, forced labour and domestic servitude it was clear that at all times their focus had been on the offence of trafficking for exploitation enshrined in the legislation as it then stood. Domestic servitude was, however, a specific offence, distinct from trafficking and exploitation, with its own complex set of dynamics, involving both overt and more subtle forms of coercion, to force compliance. A thorough investigation into complaints of such conduct therefore required an understanding of the many subtle ways an individual could fall under the control of another. In the present case, owing to the absence of a specific offence of domestic servitude, the domestic authorities had been unable to give due weight to these factors. In particular, no attempt appeared to have been made to interview the applicant's cousin despite the gravity of the offence he was alleged to have committed. The lacuna in domestic law at the time may explain that omission, together with the fact that no apparent weight was attributed to the applicant's allegations that her passport had been taken from her, that her cousin had not kept her wages for her as agreed, and that she had been explicitly and implicitly threatened with denunciation to the immigration authorities, even though these factors were among those identified by the [International Labour Organization](#) as indicators of forced labour. Consequently, the investigation into the applicant's complaints of domestic servitude was ineffective due to the absence of specific legislation criminalising such treatment.

*Conclusion:* violation (unanimously).

Article 41: EUR 8,000 in respect of non-pecuniary damage.

(See *Siliadin v. France*, no. 73316/01, 26 July 2005, [Information Note no. 77](#))

\* Section 71 of the Coroners and Justice Act 2009.

\*\* See *Rantsev v. Cyprus and Russia*, no. 25965/04, 7 January 2010, [Information Note no. 121](#).

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