



Criminal complaint by a victim of human trafficking was not dealt with by the Greek authorities in a way compatible with the Convention

In today's **Chamber judgment**¹ in the case of [L.E. v. Greece](#) (application no. 71545/12) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 4 (prohibition of slavery and forced labour) of the European Convention on Human Rights;

a violation of Article 6 § 1 (right to a fair hearing within a reasonable time) of the Convention; and

a violation of Article 13 (right to an effective remedy).

The case concerned a complaint by a Nigerian national who was forced into prostitution in Greece.

Officially recognised as a victim of human trafficking for the purpose of sexual exploitation, the applicant had nonetheless been required to wait more than nine months after informing the authorities of her situation before the justice system granted her that status.

The Court found that the effectiveness of the preliminary inquiry and subsequent investigation of the case had been compromised by a number of shortcomings. With regard to the administrative and judicial proceedings, the Court also noted multiple delays and failings with regard to the Greek State's procedural obligations.

Lastly, the Court considered that the length of the proceedings in question had been excessive for one level of jurisdiction and did not meet the "reasonable time" requirement.

Principal facts

The applicant, L.E., is a Nigerian national who was born in 1982 and lives in Glyka Nera (Greece).

In June 2004 L.E. entered Greek territory accompanied by K.A. He had allegedly promised her that he could take her to Greece to work in bars and nightclubs in exchange for a pledge to pay him 40,000 euros and not to tell the police. On her arrival in Greece K.A. confiscated her passport and forced her into prostitution. L.E. remained in forced prostitution for approximately two years, and contacted Nea Zoi, a non-governmental organisation which provides practical and psychological support to women who have been forced into prostitution.

On 12 July 2004 she applied to the Athens Aliens Department for asylum. On 8 June 2005 she was informed that a place had been found for her at the Red Cross Reception Centre for Asylum Seekers. It appears from the case file that L.E. did not go to the centre.

On 29 August 2005 L.E. was arrested for breaching the laws on prostitution and on the entry and residence of aliens in Greece. She was acquitted by a court judgment. In March 2006 she was again arrested for prostitution, convicted at first instance and acquitted on appeal.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

On 2 April 2006 the head of the police department responsible for aliens issued an expulsion order. Her expulsion was suspended on the ground that it was impractical. In November 2006 L.E. was again arrested for prostitution, and then acquitted. She was subsequently placed in detention pending expulsion, as she did not have a residence permit in Greece.

In November 2006, while she was in detention pending expulsion, L.E. lodged a criminal complaint against K.A. and his partner D.J. She claimed that she was a victim of human trafficking and accused these two persons of forcing her, and two other Nigerian women, into prostitution. On 28 December 2006 the prosecutor at the Athens Criminal Court dismissed her complaint, noting that there was nothing in the case file to indicate that she had been a victim of human trafficking. On 26 January 2007 L.E. applied to the prosecutor for re-examination of her complaint and joined the proceedings as a civil party. In February 2007 the director of the Athens police department responsible for aliens ordered the suspension of the order for her expulsion. On 21 August 2007 the prosecutor brought criminal proceedings against K.A. and D.J. for the offence of trafficking in human beings. On 20 July 2009 the hearing in the case was suspended until such time as the defendants, who could not be found, had been arrested. In May 2011 D.J. was arrested and remanded in custody. The court delivered judgment on 20 April 2012, and held that D.J. was not K.A.'s accomplice but, on the contrary, established that she had been another of K.A.'s victims and that he had been sexually exploiting her too.

The relevant administrative authorities renewed L.E.'s residence permit until 2 November 2014.

Complaints, procedure and composition of the Court

Relying on Article 4 (prohibition of slavery and forced labour), L.E. submitted that she was a victim of human trafficking and had been forced into prostitution. She alleged that the Greek State's failings to comply with its positive obligations under this Article had entailed a violation of this Convention provision.

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time) and Article 13 (right to an effective remedy), she complained about the length of the criminal proceedings in which she was claiming civil damages, and submitted that at the relevant time no effective remedy was available in Greece in respect of complaints concerning the length of proceedings.

The application was lodged with the European Court of Human Rights on 20 October 2012.

Judgment was given by a Chamber of seven judges, composed as follows:

Mirjana **Lazarova Trajkovska** ("The former Yugoslav Republic of Macedonia"), *President*,
Päivi **Hirvelä** (Finland),
Kristina **Pardalos** (San Marino),
Linos-Alexandre **Sicilianos** (Greece),
Paul **Mahoney** (the United Kingdom),
Aleš **Pejchal** (the Czech Republic),
Robert **Spano** (Iceland),

and also André **Wampach**, *Deputy Section Registrar*.

Decision of the Court

Article 4

The Court noted that, together with Articles 2 and 3, Article 4 enshrined one of the basic values of the democratic societies making up the Council of Europe. Article 4 imposed on the States a series of positive obligations concerning the protection of victims of trafficking.

The Court noted that at the relevant time Article 351 of the Greek Criminal Code defined trafficking in human beings in line with the definition provided in the Palermo Protocol and the Council of Europe Convention on action against trafficking in human beings. The Court considered that the relevant legislation in force in Greece was capable of providing L.E. with practical and effective protection.

On 29 November 2006, and throughout her detention pending expulsion, L.E. had expressly informed the authorities that she was a victim of human trafficking. For the period prior to that date, she had not drawn the authorities' attention to her situation as a victim of trafficking. The relevant authorities, alerted by her that K.A. and D.J. were forcing her into prostitution, had not remained indifferent. The police had taken immediate action by entrusting L.E. to a specialised police department so that investigations could be conducted into the veracity of her allegations. Under the relevant legislation, the expulsion proceedings that had been pending against her had been suspended, and she had been issued with a residence permit allowing her to remain in Greek territory.

On 21 August 2007 the prosecutor at the Athens Criminal Court had formally classified L.E. as a victim of trafficking, which had been confirmed by the judgment from the Athens Assize Court. However, the prosecutor had not granted this status until about nine months after L.E. had informed the authorities about her situation. Equally, in December 2006 E.S., director of Nea Zoi, an NGO which was assisting the applicant, had confirmed the latter's statements and asserted that she did indeed require this type of State assistance. This statement by E.S. had not been included in the case file in good time. In consequence, the nine-month period between L.E.'s statement and the recognition of her victim status by the authorities could not be described as "reasonable". The domestic authorities' delay amounted to a failing in terms of the measures that they could have taken to protect L.E.

With regard to the administrative and judicial proceedings, the Court noted that L.E.'s first complaint had been dismissed by the prosecutor. The latter did not have available the witness statement by E.S., director of the NGO Nea Zoi, who confirmed L.E.'s claims. This witness statement had not been included in the case file on account of inadvertence by the police authorities. In addition, once the witness statement had been added to the case file, the judicial authorities had not resumed examination of her complaint of their own motion. She herself had had to revive the proceedings by applying to the prosecutor's office on 26 January 2007 and it was not until 1 June 2007 that the prosecutor ordered that criminal proceedings be brought. The Government did not provide any explanation as to this period of inactivity, which lasted for more than five months.

With regard to the preliminary inquiry and the subsequent investigation, the Court noted that a number of shortcomings had compromised their effectiveness. A house had been placed under police surveillance immediately after L.E.'s accusation, with a view to locating K.A., the presumed perpetrator. However, after having noted that he was no longer at the address in question, the police had not widened their search to the two other addresses specifically mentioned by L.E. in her statement. Nor did it appear that the police had attempted to gather other information, in particular through further inquiries. There had been considerable delays in the preliminary inquiry and investigation of the case. Once criminal proceedings had been brought against K.A. and D.J. on 21 August 2007, more than four years and approximately eight months had passed before a hearing took place before the Athens Assize Court.

Lastly, with regard to K.A., the presumed principal offender in the acts of trafficking, the evidence did not indicate that the police had taken further tangible steps to find him and bring him before the courts, other than entering his name in the police criminal research file. Nor had the authorities established contact or instigated cooperation with the Nigerian authorities in order to arrest the suspect.

The Court noted a lack of promptness as well as failings with regard to the Greek State's procedural obligations under Article 4 of the Convention and held that there had been a violation of this Article.

Article 6 § 1 and Article 13

With regard to the length of the proceedings, the period to be taken into consideration began on 26 January 2007, the date on which L.E. had announced her intention to join the proceedings as a civil party, and ended on 20 April 2012, when the court had delivered its judgment. It had therefore lasted five years and more than two months at one level of jurisdiction. At the investigation level, and without overlooking the complexity of the case, the Court noted that about two and a half years had passed between L.E.'s civil-party application to join the proceedings and 20 July 2009, the date on which the hearing in the case had been suspended until such time as the suspects were found and arrested.

The Court considered that the length of the proceedings in question had been excessive for one level of jurisdiction and had not met the "reasonable time" requirement. The Court held that there had been a violation of Article 6 § 1.

As to the existence of an effective remedy to complain about the length of the proceedings, the Court had previously held that, at the relevant time, the Greek legal system did not provide an effective remedy within the meaning of Article 13 of the Convention for complaints about the length of proceedings. On account of the absence in domestic law of a remedy by which L.E. could have enforced her right to a hearing within a reasonable time, the Court held that there had been a violation of Article 13.

Just satisfaction (Article 41)

The Court held that Greece was to pay L.E. 12 000 euros (EUR) in respect of non-pecuniary damage and EUR 3,000 in respect of costs and expenses.

The judgment is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.