

## Spanish authorities disregarded duty to investigate Nigerian woman's serious allegations of human trafficking

In today's **Chamber** judgment<sup>1</sup> in the case of [T.V. v. Spain](#) (application no. 22512/21) 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.**

The case concerned a victim of human trafficking from Nigeria to Spain. She alleged that the Spanish authorities' investigation into her criminal complaint of human trafficking and sexual exploitation between 2003 and 2007 had been inadequate. She managed to escape her alleged traffickers and brought the criminal complaint in 2011.

The Court found in particular that no measures had been taken at all in the first two years of the investigation; that the investigators had failed to pursue obvious lines of enquiry; and, that the decisions to provisionally dismiss her case in 2017 had been superficial and insufficiently reasoned. Such shortcomings showed a blatant disregard for the duty to investigate serious allegations of human trafficking, an offence with devastating consequences for its victims.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

### Principal facts

The applicant, Ms T.V., is a Nigerian national who lives in Spain. Her date of birth is disputed, ranging between 1981 and 1989.

According to Ms T.V., she was trafficked to Spain from Nigeria in 2003, when she was 14 years old. C., a family acquaintance, had offered to take her to work in Spain in return for 70,000 euros (EUR), to be paid back from the wages she earned there. She was not told the nature of her future work. She travelled to Spain via Paris on a forged adult passport and was met by C. who took her to a house in Arahal (a municipality south-east of Seville) where she lived with her partner, U.. Ms T.V. was forced to work as a prostitute and remained under C.'s control until 2007, when she managed to escape. She continued to work as a prostitute in various regions of Spain.

In 2010 she started receiving assistance, including housing and healthcare, from the Apip-Acam Foundation, a non-governmental organisation (NGO). The support encouraged her to bring a criminal complaint in June 2011.

She maintained her story throughout the ensuing domestic proceedings. She specified in particular that C.'s relatives had performed a "voodoo ritual" on her and made her promise not to report C. to the Spanish police, otherwise "voodoo would kill her."<sup>2</sup> C. and U. had threatened and constantly monitored her, and C. had taken all the money she had earned. She provided a detailed description of her alleged work for several months in a club, R., in Arahal, and also referred to her stays in

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](http://www.coe.int/t/dghl/monitoring/execution).

<sup>2</sup> See paragraph 77 of the judgment and a 2006 report referring to "voodoo" as an "occult threat". According to the report, Nigerian trafficking in Europe is "built on a pact" which is "sealed through rituals. ... In Europe these rituals are often characterized as voodoo".

various regions of Spain and her arrest on two occasions in 2005 by the police for breaches of immigration law.

The authorities immediately opened a formal investigation in June 2011 and granted Ms T.V. protected witness status.

The case was transferred in November 2011 to Marchena Investigating Court no. 2 which had jurisdiction to deal with the matter. The investigating court instructed the *Guardia Civil* to identify the victim, the alleged perpetrators – and their whereabouts – and the management of the R. club where she alleged she had been forced to work as a prostitute since the second month of arriving in Spain. Two managers of the club were questioned in January and April 2013. The case was, however, provisionally dismissed for lack of evidence.

The prosecutor lodged an appeal, which the investigating court allowed in April 2014 and ordered further steps to be taken. The police proceeded to identify and question C. and U. – who denied Ms T.V.'s allegations. Statements were also taken from witnesses on U.'s behalf, and the court decided to admit, among other evidence, a report by the Apip-Acam Foundation summarising Ms T.V.'s story. Two age assessment reports were drawn up in 2015 and early 2016. Each of the reports concluded that the applicant was at least 18 at the time of the expert examinations.

The investigation was terminated in September 2016 and referred to court, namely the Seville *Audiencia Provincial*.

In January 2017 the *Audiencia Provincial* provisionally dismissed Ms T.V.'s case. It found that, according to the age assessment reports, "the victim was 6 years old in 2003", making it unlikely that she could have travelled to Spain on an "adult" passport or worked as a prostitute because "the police monitor[ed] the age of prostitutes."

Ms T.V. appealed, arguing that age assessment reports were often unreliable and that the authorities had failed to take into account the entirety of her testimony which had remained detailed and consistent.

In June 2017, the *Audiencia Provincial* upheld its decision to provisionally dismiss the case. It found that Ms T.V.'s allegations were inconsistent: the only possible scenario for her to have entered Spain in 2003, when she had been 6 years old, was with her parents, but according to her she had come on an adult passport.

Ultimately, in October 2020 the Constitutional Court declared Ms T.V.'s *amparo* appeal inadmissible.

## Complaints, procedure and composition of the Court

Relying on Article 4 (prohibition of slavery and forced labour), Ms T.V. alleged that the Spanish authorities had failed to investigate, prosecute and punish those responsible for subjecting her to human trafficking.

The application was lodged with the European Court of Human Rights on 20 April 2021.

The Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) and the AIRE Centre (Advice on Individual Rights in Europe) were granted leave to intervene in the proceedings as third parties.

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

Mattias **Guyomar** (France), *President*,  
Lado **Chanturia** (Georgia),  
Stéphanie **Mourou-Vikström** (Monaco),  
María **Elósegui** (Spain),  
Mykola **Gnatovskyy** (Ukraine),

Stéphane Pisani (Luxembourg),  
Úna Ní Raifeartaigh (Ireland),

and also Victor Soloveytchik, *Section Registrar*.

## Decision of the Court

The Court was satisfied that Ms T.V. had made an arguable claim that she had been subjected to human trafficking and forced prostitution. Despite some divergent elements, her allegations had been detailed and consistent. Her recruitment via a relative, with the alleged use of “voodoo” to guarantee payment of her “debt” and to dissuade her from reporting the traffickers to the police, corresponded to the *modus operandi* often used by traffickers in Nigeria. There had also been no doubt that she had been in an extremely vulnerable situation between 2003 and 2011; the Spanish authorities themselves had consistently considered her to be a victim of human trafficking.

The authorities’ investigation had, however, been tainted with shortcomings. Firstly, despite the formal opening of an investigation in 2011, the most basic steps – questioning the managers of the club where Ms T.V. had allegedly been forced to work – had not been taken until 2013. Meaningful steps to identify the alleged traffickers had only been taken in 2014, almost three years after the lodging of the criminal complaint. Clearly the authorities had failed to act with the requisite diligence at the initial stage of the investigation.

Secondly, the Court found that the authorities had failed to pursue obvious lines of inquiry, even though the applicant had provided a detailed description of the alleged events in her complaint, including her arrival in Spain and her work as a prostitute under C.’s control, and had consistently maintained her account throughout the proceedings. In particular, the authorities had not taken all reasonable steps to elucidate the circumstances of the applicant’s alleged work in the R. club. Despite significant discrepancies in key statements by the managers of the club, one saying that it had not been a hostess club, the other that it had, no additional questions had been put to them. Nor were their statements checked against C.’s statements on her work in the R. club, and it was unclear whether the authorities had collected and studied any other evidence pertaining to the club’s status at the relevant time. Ms T.V.’s allegations regarding other clubs where she had worked between 2003 and 2007 had not been followed up at all. Nor had Ms T.V.’s statements been checked against the police records of her two arrests in 2005 which could have corroborated her allegation that the police had seized her passport and C. had provided her with a new one. At no point had the Spanish authorities checked with their French counterparts whether there had been a record of Ms T.V. crossing the border from France where border checks were carried out.

Lastly, it found that the *Audiencia Provincial*’s decisions to provisionally dismiss the case had been superficial and insufficiently reasoned. They had been limited to strikingly brief, one-paragraph conclusions, and had been based on unexplained assumptions with regard to Ms T.V.’s age. In particular, they had concluded that Ms T.V. had been *exactly* six in 2003, whereas the relevant forensic reports of 2015 and 2016 had stated that the applicant had been *at least* 18, thus making an assessment of her minimum age at the time of their examinations. No reasons had been given by the domestic court for such an interpretation. Overall, the *Audiencia Provincial* had based its findings on the age assessment reports, without taking into account any other evidence. Indeed, the assessment of her age had never been checked against other evidence in the case file, clearly suggesting that Ms T.V. had been perceived as an adult – by the police, by doctors and by members of the Apip-Acam Foundation which had helped her.

The Court concluded that those shortcomings showed a blatant disregard for the duty to investigate serious allegations of human trafficking, an offence with devastating consequences for its victims. There had therefore been a violation of Article 4 (procedural aspect).

### Just satisfaction (Article 41)

The Court held that Spain was to pay Ms T.V. 15,000 euros (EUR) in respect of non-pecuniary damage and EUR 12,000 in respect of costs and expenses.

*The judgment is available only in English.*

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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.