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Date: 10/07/2024

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Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1507th meeting (September 2024) (DH)

Communication from the authorities (08/07/2024) concerning the case of V.C.L. and A.N. v. the United Kingdom (Application No. 77587/12).

Information made available under Rule 8.2a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1507^e réunion (septembre 2024) (DH)

Communication des autorités (08/07/2024) relative à l'affaire V.C.L. et A.N. c. Royaume-Uni (requête n° 77587/12) **[anglais uniquement]**.

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



Ministry
of Justice

DGI

08 JUIL. 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Ministry of Justice
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Anders-Molander Skavlan
Department for the Execution of Judgments
of the European Court of Human Rights
DGI – Directorate General of Human Rights and Rule of Law
Council of Europe
F-67075 Strasbourg Cedex

8 July 2024

Dear Mr Skavlan,

VCL and AN v the United Kingdom (Application No. 77587/12 and 74603/12)

I am writing further to the Action Plan submitted on 28 March 2024 relating to the execution of the above judgment of the European Court of Human Rights.

In response to the Committees of Ministers' recommendation for authorities to monitor how the statutory defence and the updated prosecutors' guidance are being applied in practice across the United Kingdom, the Home Office is working with partners and the devolved administrations to explore how data on the use of the defence can be captured, to better understand its effectiveness.

Under section 8 of the Human Trafficking and Exploitation (Scotland) Act 2015¹ the Lord Advocate has a statutory duty to issue and publish instructions about the non-prosecution of victims of human trafficking or exploitation who may have committed a crime where in the case of an adult they appear to have been compelled to do so because of their victim status or in the case of a child they did so as a consequence of their victim status.

In connection with this duty, the Crown Office and Procurator Fiscal Service have provided data for the Committee of Ministers on the number of human trafficking and exploitation cases reported to the National Lead Prosecutor for Human Trafficking and Exploitation in Scotland. This includes data on the number of accused persons whom proceedings were not raised against, or where proceedings were discontinued, on the basis that the test in the Lords Advocate's instructions was satisfied. This data covers the period from 2016/17 to 2023/24 and is attached at Annex A.

Comparable data for England and Wales, as well as Northern Ireland, will be provided at a later date, subject to the necessary data and quality assurance clearances.

Yours sincerely,

Michael Johnstone
National Coordinator for the Implementation of Judgments
International Human Rights Team

¹ <https://www.legislation.gov.uk/asp/2015/12/section/8/enacted>

Annex A: Non-prosecution data for Scotland

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08 JUIL. 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

The Crown Office and Procurator Fiscal Service have provided data on the number of cases reported to the National Lead Prosecutor (NLP) for Human Trafficking and Exploitation in Scotland and the number of accused persons whom proceedings were not raised against, or were discontinued, on the basis that the test in the Lords Advocate's instructions was satisfied – this is further broken down into the number of adult and child victims. Caveats to be considered when interpreting the data are included below.

Summary of key statistics:

- The number of accused persons reported to the NLP in 2022/23 was a total of 140 (124 adults and 16 children), an increase of 976.9% from 13 people in 2016/17 (12 adults and 1 child). Of these 140 people, the number of accused persons reported to the NLP against whom proceedings were not raised or were discontinued on the basis that the test in the Lord Advocate's instructions was satisfied was 41 people, 29 of whom were adults and 12 were children.
- In 2021/22, there was a total of 73 (64 adults and 9 children) accused persons reported to the NLP. Of these, proceedings were not raised or were discontinued against 45 (37 adults and 8 children) on the basis that the test in the Lord Advocate's instructions was satisfied.
- In 2023/24, a total of 130 accused persons were reported to the NLP. Of these, proceedings were not raised or were discontinued against 16 on the basis that the test in the Lord Advocate's instructions was satisfied.

Annex A: Non-prosecution data for Scotland

Data table 2016/17 – 2023/24

Year	No. of police reports containing charges against accused people reported to the NLP (<i>one report may contain more than one person identified</i>)	No. of accused persons reported to the NLP	No. of accused persons reported to NLP against whom proceedings were not raised or were discontinued on the basis that the test in the Lord Advocate's instructions was satisfied	Number of adults reported to NLP against whom proceedings were not raised or were discontinued on the basis that the test in the Lord Advocate's instructions was satisfied	Number of children reported to NLP against whom proceedings were not raised or were discontinued on the basis that the test in the Lord Advocate's instructions was satisfied	Nature of alleged offences
2016-17	9	Total: 13 12 adults and 1 child 9 Vietnamese (1 child) 2 Chinese 2 Romanian	7 4 Vietnamese 1 Chinese 2 Romanian	6 3 Vietnamese 1 Chinese 2 Romanian	1 1 Vietnamese	11 accused of offences in terms of the Misuse of Drugs Act 1971 – Chinese and Vietnamese 2 accused of offences in terms of section 11 of the Criminal Law (Consolidation) (Scotland) Act 1995 – brothel keeping – Romanian
2017-18	8	11 adults 8 Vietnamese 2 Chinese 1 Malaysian	2 1 Vietnamese 1 Chinese	2	0	9 accused of offences in terms of the Misuse of Drugs Act 1971 – Vietnamese, Chinese and Malaysian 1 accused of Fraud – Chinese 1 accused of offence in terms of section 24B(1) of the Immigration Act 1971 – Vietnamese

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2018-19	15	Total: 25 24 adults and 1 child 15 Vietnamese (1 child) 4 Albanian 3 Romanian 2 Chinese 1 Iranian	5 3 Vietnamese 2 Albanian	4 2 Vietnamese 2 Albanian	1 1 Vietnamese	22 accused of offences in terms of the Misuse of Drugs Act 1971 – Albanian, Vietnamese, Chinese and Iranian 3 accused of offences in terms of section 11 of the Criminal Law (Consolidation) (Scotland) Act 1995 – Romanian
2019-20	16	Total: 24 19 adults and 5 children	6 2 British 3 Vietnamese 1 Albanian	3 2 Vietnamese 1 Albanian	3 2 British 1 Vietnamese	22 accused of offences in terms of the Misuse of Drugs Act 1971 – Albanian, Vietnamese, Chinese and British 2 accused of Theft – Bulgarian
2020-21	47	Total: 68 58 adults and 10 children 41 Vietnamese (9 children) 20 Albanian 5 Chinese 2 British (1 child)	33 21 Vietnamese 6 Albanian 4 Chinese 2 British	26 15 Vietnamese 6 Albanian 4 Chinese 1 British	7 6 Vietnamese 1 British	67 accused of offences in terms of the Misuse of Drugs Act 1971 – Albanian, Vietnamese, Chinese and British 1 accused of offence in terms of section 1 Human Trafficking and Exploitation (Scotland) Act 2015 – Chinese

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2021-22	54	Total: 73 64 adults and 9 children 39 Vietnamese (5 children) 22 Albanian 1 Romanian 2 Chinese 1 Gambian (child) 7 British (3 children) 1 Hungarian	45 25 Vietnamese 10 Albanian 1 Gambian 1 Romanian 6 British 1 Chinese 1 Hungarian	37 20 Vietnamese 10 Albanian 4 British 1 Romanian 1 Chinese 1 Hungarian	8 5 Vietnamese 2 British 1 Gambian	68 accused of offences in terms of the Misuse of Drugs Act 1971 - Albanian, Vietnamese, Chinese, British and Gambian 1 accused of offence in terms of the Human Trafficking and Exploitation (Scotland) Act 2015, section 1 – British 1 accused of offence in terms of the Criminal Law (Consolidation) (Scotland) Act 1995, section 11 – Romanian 1 accused of offence in terms of the Civic Government (Scotland) Act 1982, section 52A – Albanian 1 accused of an offence in terms of the Dogs (Protection of Livestock) Act 1953, section 1 – Hungarian 1 accused of a common law offence of Fraud – British

Annex A: Non-prosecution data for Scotland

2022-23	99	<p>Total: 140 124 adults and 16 Children</p> <p>2 Chinese 57 Vietnamese (5 children) 55 Albanian (1 child) 20 British (8 children) 1 Romanian 1 Palestinian 1 Greek 1 Syrian 2 Polish (children)</p>	41	<p>11 British 15 Vietnamese 2 Chinese 9 Albanian 1 Greek 2 Polish 1 Palestinian</p>	29	<p>4 British 12 Vietnamese 2 Chinese 9 Albanian 1 Greek 1 Palestinian</p>	12	<p>7 British 2 Polish 3 Vietnamese</p>	<p>131 accused of offences in terms of the Misuse of Drugs Act 1971 – Albanian, Vietnamese, Chinese, British, Polish and Greek</p> <p>1 accused of common law assault – Polish</p> <p>2 accused of s49(1) of the Criminal Law (Consolidation) (Scotland) Act 1995 – British and Palestinian</p> <p>1 accused of offences under the Proceeds of Crime Act 2002 – Vietnamese</p> <p>2 accused of s38 of the Criminal Justice & Licensing (Scotland) Act 2010 – British and Syrian</p> <p>1 accused of offences under the Road Traffic Act 1988 – Albanian</p> <p>1 accused of offences under the Identity Document Acts 2010 – Albanian</p> <p>1 accused of s28 of the Criminal Justice & Licensing (Scotland) Act 2010 – Romanian</p>
2023-24	98	<p>Total: 130 117 adults and 13 children</p> <p>15 British (10 children) 1 Greek</p>	16	<p>6 British 3 Vietnamese 1 Chinese</p>	10	<p>1 British 3 Vietnamese 1 Chinese</p>	6	<p>5 British 1 Syrian</p>	<p>114 accused of offences in terms of the Misuse of Drugs Act 1971 – Albanian, Vietnamese, British, Bulgarian, Ghanaian and Syrian</p>

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		1 Romanian 2 Chinese 57 Albanian 44 Vietnamese (1 child) 1 Syrian (child) 1 American (child) 1 Lithuanian 1 Algerian 1 Canadian 1 Bulgarian 3 Ghanaian	2 Albanian 1 Syrian 3 Ghanaian	2 Albanian 3 Ghanaian		1 accused in relation to s1 of the Human Trafficking and Exploitation Act 2015 – American 2 accused of offences in terms of the Customs & Excise Management Act – Chinese, Canadian 2 accused in relation to s47(1) and s49(1) of the Criminal Law (Consolidation) (Scotland) Act 1995 – British 5 accused in relation to contraventions of the Electricity Act 1989 – Albanian, Vietnamese 1 accused of s38(1) of the Criminal Justice & Licensing (Scotland) Act 2010 – Ghanaian 1 accused of offences in terms of the Road Traffic Act 1988 – Albanian 1 accused of attempted murder – British

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						1 accused of theft/house breaking – Algerian 1 accused of fraud – Vietnamese 1 accused of assault – Romanian

Caveats

A decision to discontinue proceedings can be taken at any time during a proceeding. Therefore, although the NLP has not discontinued proceedings against an accused person, that may not be the final decision. Should further information become available, such as a positive conclusive grounds decision, the NLP may decide to discontinue proceedings on receipt of that information.

The data is manually pulled out from the system and so whilst the data is as accurate as it can be, we cannot guarantee full accuracy. The data changes constantly depending on when new information is received.

The data on nature of charges refers to one of the charges libelled against an accused person.
