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| **MINISTERS’ DEPUTIES** | Notes on the Agenda | **CM/Notes/1377bis/H46-13** | 3 September 2020 |

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| **1377bis meeting, 1-3 September 2020 (DH)**Human rights**H46-13 Chowdury and Others v. Greece (Application No. 21884/15)**Supervision of the execution of the European Court’s judgments Reference documents[DH-DD(2020)275](https://search.coe.int/cm/Pages/result_details.aspx?Reference=DH-DD(2020)275" \o "1377th meeting (June 2020) (DH) - Action report (19/03/2020) - Communication from Greece concerning the case of Chowdury and Others v. Greece (Application No. 21884/15) [anglais uniquement] ), [DH-DD(2020)275-add](https://search.coe.int/cm/Pages/result_details.aspx?Reference=DH-DD(2020)275-add" \o "1377bis réunion (1-3 septembre 2020) (DH) - Addendum au bilan d’action (10/06/2020) - Communication de la Grèce concernant l’affaire Chowdury et autres c. Grèce (requête n° 21884/15) [French only]), [CM/Del/Dec(2018)1324/H46-7](https://search.coe.int/cm/Pages/result_details.aspx?Reference=CM/Del/Dec(2018)1324/H46-7) |

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| **Application** | **Case** | **Judgment of** | **Final on** | **Indicator for the classification** |
| 21884/15 | CHOWDURY AND OTHERS | 30/03/2017 | 30/06/2017 | Complex problem |

**Case description**

The case concerns the authorities’ failure to protect 42 Bangladeshi applicants who were the victims of trafficking for agricultural labour in 2012-2013 and to conduct an effective investigation into the offences committed and punish those responsible (violation of Article 4 § 2 of the Convention).

The applicants were irregular migrants in Greece, hired to pick strawberries in Manolada, Peloponnese, where they were subject to extremely poor conditions. During a confrontation with their employers over non-payment of wages, some workers - including 21 of the applicants - were wounded when the employers’ guards opened fire on them. The ensuing criminal proceedings against four individuals for human trafficking and grave bodily harm resulted in 2014 in their acquittal on the trafficking charges. The Patras Assize Court held notably that the workers had not been forced or tricked into accepting employment and that it had not been demonstrated that they had been vulnerable to exploitation. Complaints filed at a later stage by the workers were rejected by the prosecutors.

**Status of execution**

***Information provided by the authorities***

On 19 March and 10 June 2020, the authorities submitted an action report ([DH-DD(2020)275](https://search.coe.int/cm/Pages/result_details.aspx?Reference=DH-DD(2020)275" \o "1377th meeting (June 2020) (DH) - Action report (19/03/2020) - Communication from Greece concerning the case of Chowdury and Others v. Greece (Application No. 21884/15) [anglais uniquement] )) and an addendum ([DH-DD(2020)275-add](https://search.coe.int/cm/Pages/result_details.aspx?Reference=DH-DD(2020)275-add" \o "1377bis réunion (1-3 septembre 2020) (DH) - Addendum au bilan d’action (10/06/2020) - Communication de la Grèce concernant l’affaire Chowdury et autres c. Grèce (requête n° 21884/15) [French only])), which can be summarised as follows:

*Individual measures*

All applicants have received the just satisfaction awarded by the Court. The applicants who were parties to the Assize Court proceedings were awarded EUR 16,000 and each of the other applicants, EUR 12,000.

Thirty-five applicants have been identified by the Ministry of Migration either as victims of human trafficking or victims of violence under (Articles 49-56 and Article 19A of Law 4251/2014, respectively) and have been given renewable residence and work permits. Seven never requested residence or work permits. The authorities consider it likely that those seven applicants have left Greece but confirm that if they had wished to obtain a residence permit as victims of trafficking and had indeed submitted such a request, this would have been examined on the same terms as the thirty-five accepted requests.

*General measures*

*Legislative developments*

The authorities underlined that they continuously aim to improve the national legislative context to ensure effective protection of victims of human trafficking. The new Criminal Code, in force since 1 July 2019 (Law 4619/2019), provides an extended definition of “exploitation” to include the subjection of a person to servitude or servitude-like practices, regardless of the victim’s consent. The recruitment of human trafficking victims, sexual intercourse with them and receipt of revenue generated by their exploitation are classified as criminal offences including in cases where the perpetrator did not use coercion or deception.

In addition, under Article 323A of the Code, the sentence for those who receive the services of human trafficking victims has been increased to a minimum term of three years’ imprisonment and a fine. The authorities also note that under the new Code human trafficking victims cannot be prosecuted for offences linked to their entry and illegal employment and that the procedure for lodging a human trafficking complaint was simplified. The new Code also equipped law enforcement agencies with the necessary resources and tools to detect and investigate human trafficking.

*Implementation by the domestic courts*

The authorities draw the Committee's attention to the fact that the judgment of the Court of Assizes of Patras, criticised by the European Court, has been the subject of an appeal in cassation.[[1]](#footnote-1) The Court of Cassation provided a definition of human trafficking in the form of labour exploitation which fully complies with the requirements of Article 4 of the Council of Europe Anti-Trafficking Convention. It clarified that the consent of the victim to the intended exploitation is irrelevant and also that human trafficking does not require absolute enslavement, total deprivation of the victim’s liberty or the constant and uninterrupted placement of the victim under the perpetrator’s control in order for the victim to be considered in a vulnerable situation. Other judgments provided by the authorities demonstrate that this approach is now settled case-law.

As regards sentencing, under Greek criminal law human trafficking is subject to 5-10 years’ imprisonment combined with a pecuniary penalty, while in cases with aggravating circumstances the sentences foreseen are 5-15 years’ imprisonment combined with a pecuniary penalty. Where death is caused the penalty foreseen is at least ten years’ imprisonment. These penalties are in accordance with other European States’ practice and the case-law of the European Court (*Rantsev v. Cyprus and Russia*, judgment of 7 January 2010, §§ 129, 290; *S.M. v. Croatia*, judgment of 19 July 2018, §§ 25, 66-68).

The authorities note that available data show that sentences imposed by Greek courts for human trafficking range from a minimum of three to 10 years’ imprisonment, usually combined with pecuniary penalties ranging from €10,000 to €55,000. Between 2015 and the first semester of 2019 the most common sentence was 10 years’ imprisonment and a €55,000 pecuniary penalty. These are reportedly some of the heaviest penalties imposed by European courts for comparable offences.

*Inspections and investigations including victim identification*

The authorities provided statistical data concerning the coordinated, multi-agency inspections in the sectors most at risk (health care facilities, agricultural facilities, poultry and livestock farms, construction sites and industrial sites) during the years 2016-2019. The 2016-2019 data provided shows an increase in the number of joint inspections, and in victim identification (especially in 2018-2019).

The police Anti-Trafficking Unit regularly carries out inspections in various places of work including agricultural facilities. In 2018, 1,426 joint inspections with labour inspectors and social workers led to 46 cases of various offences. In 2017 the inspections were 1,244 while in 2016, 498.

In Athens and Thessaloniki, expert public prosecutors have been appointed to deal exclusively with human trafficking cases. In order to ensure expeditious and effective criminal proceedings, especially in cases where the victims of human trafficking are minors, all investigations, prosecutions and trials are prioritised. NGOs also assist in the detection of possible victims of human trafficking by visiting refugee camps and offering support. NGOs have reported the existence of good cooperation with law enforcement officers and excellent cooperation with the Anti-Trafficking Unit of the police.

The authorities provided two sets of statistics relating to the number of investigations and prosecutions.

According to the database recording criminal investigations conducted by the police, in **2015**, following criminal investigations, six cases were brought to justice and 20 perpetrators of human trafficking for labour exploitation and forced begging; in **2016,** there were seven cases and 18 perpetrators; 20 victims of human trafficking were rescued; in **2017** there was one case and one perpetrator, while three victims were rescued; in **2018**, there were two cases and three perpetrators and one victim was rescued; in **2019**, there were three cases and eight perpetrators and 18 victims were rescued.

According to the second database, recording criminal proceedings initiated by prosecutors, in **2015** there were five prosecutions for human trafficking for labour exploitation and begging, three convictions in first instance for these offences and one acquittal judgment; in **2016** there were seven criminal prosecutions, one conviction in first instance and one acquittal judgment; in **2017** there were five criminal prosecutions and two convictions in first instance; in **2018** there were three prosecutions, three convictions in first instance and 17 in second instance and eight acquittal judgments; finally in **2019**, there were two convictions in first instance and four in second instance.

*Legal framework enhancing protection and redress for victims of human trafficking*

The authorities noted that the Court of Cassation Prosecutor has issued three circulars addressed to all prosecutors in 2018, 2019 and 2020 (Nos 1/2018, 7215/2019, 9/2020) by which he disseminated the European Court’s case law concerning human trafficking. These circulars also enjoined prosecutors to collect statistics concerning this type of criminal proceedings in order to optimise the identification of, and aid to victims. Under Law 4478/2017 and Presidential Decree 233/2003 social welfare and legal assistance and protection of victims of trafficking are provided irrespective of whether they have lodged an official complaint or criminal proceedings initiated. Relevant detailed statistics were submitted.

As regards redress for victims of trafficking, notably under Law 3811/2009 (as amended in 2020) on victims of crime, they have the right to apply for compensation from the State if the offender is unknown or does not have the means to pay compensation awarded by a court. The investigating authorities are under an obligation to inform victims of this.

In 2019 and 2020 five major legislative amendments were adopted that enhanced the protection of property and compensation provided to victims of crime including human trafficking. Notably under Law 4689/2020 human trafficking victims now have the right to State compensation irrespective of their place of residence. Also under the same law deadlines for submitting compensation claims were extended from five days to three months from the day of the offence and the fee for submitting such claims was halved to 50 Euros.

*Establishment of the National Referral Mechanism (NRM)*

On 1 January 2019, the National Rapporteur on human trafficking, in cooperation with the National Centre for Social Solidarity of the Ministry of Labour, established the NRM to enhance the coordination of all domestic institutions and organisations involved in the collection of data and the protection of the victims of human trafficking. The most recent undertaking of the Mechanism is to expand the number of professionals who can assist in the identification of victims, through new training activities. Since the start of its operation, the NRM has provided protection to 101 victims.

In 2019, 150 presumed or officially recognised victims of human trafficking were registered with it. The services provided to victims include psychosocial support and legal aid. NRM has notably enhanced the cooperation with civil society organisations which provided the former with reports concerning potential victims.

*The new National Action Plan (NAP) 2019-2023*

Following the successful completion of the 2013-2017 NAP, a new NAP 2019-2023 was established aimed notably at prevention of human trafficking; early detection of potential human trafficking victims; ensuring the victims’ protection and assistance; ensuring law enforcement so that perpetrators are brought to justice and punished accordingly; the coordination and the effective co-operation of all the national and international actors involved in the field; and ensuring a victim-centred approach while planning the political and operational policy of the State for the protection of the human trafficking victims.

In this context, it is noted that in October 2019 the Prosecutor of the Court of Cassation transmitted to all public prosecutors a memorandum drafted by the National Rapporteur on the characterisation of human trafficking victims. The Court of Cassation Prosecutor requested all public prosecutors to report every four months the number of the human trafficking victims they have officially recognised.

*Training and awareness- raising of judicial authorities, police and labour inspectors*

In November 2018, the National Rapporteur’s Office, in cooperation with the Council of Europe, organised an all-day seminar to present and analyse the Court’s case-law in *Chowdury* as well as the decisions of the 1324th meeting of the Committee on that case. Participants included 50 prosecutors as well as judges, police officers, investigators and social security mechanisms within the labour and agricultural sector. In 2019, prosecutors also participated in a number of other training seminars on human trafficking issues.

In addition, the curriculum of the National Magistrates’ School has included 12 and 24 additional hours of courses for prosecutors and judges respectively, on criminal law issues with a particular emphasis on human trafficking-related offences. Also, law enforcement officers continue to follow training on human trafficking issues and participated in various seminars to that effect in 2019. Lastly, in 2018 and 2019 the Ministry of Labour organised training seminars on the tackling of human trafficking for the executives of the Labour Inspectorate (SEPE) from all over the country. The seminars aimed at raising the awareness of the complexity of the phenomenon of human trafficking and of the indicators concerning potential labour exploitation.

Lastly, the authorities stress their firm commitment and determination to continue their fight against human trafficking as well as to work closely with GRETA. They also underline that no similar application is now pending before the European Court, a sign of the effectiveness of the measures adopted to date.

*Communications submitted by NGOs and a NHRI*

On 20 and 21 April 2020, international and Greek NGOs (Advice on Individual Rights in Europe Centre and the Platform for Undocumented Migrants, Hebrew Immigrant Aid Society and Greek Helsinki Monitor) submitted three communications ([DH-DD(2020)411](https://search.coe.int/cm/Pages/result_details.aspx?Reference=DH-DD(2020)411" \o "1377th meeting (June 2020) (DH) - Rule 9.2 - Communication from NGOs (Advice on Individual Rights in Europe (AIRE), Centre and the Platform for Undocumented Migrants (PICUM)) (21/04/2020)  in the case of Chowdury and Others v. Greece (Application No. 21884/15) [Anglais uniquement] ), [DH-DD(2020)412](https://search.coe.int/cm/Pages/result_details.aspx?Reference=DH-DD(2020)412" \o "1377th meeting (June 2020) (DH) - Rule 9.2 - Communication from an NGO (HIAS Greece) (21/04/2020) in the case of Chowdury and Others v. Greece (Application No. 21884/15) [Anglais uniquement] ) and [DH-DD(2020)410](https://search.coe.int/cm/Pages/result_details.aspx?Reference=DH-DD(2020)410" \o "1377th meeting (June 2020) (DH) - Rule 9.2 - Communication from an NGO (Greek Helsinki Monitor) (20/04/2020) in the case of Chowdury and Others v. Greece (Application No. 21884/15) [Anglais uniquement] )). They underlined the need to protect the personal data of workers submitting complaints or identified as victims of trafficking from being used for immigration enforcement purposes and the need to reinforce the inspection authorities and ensure that complainant migrant workers have access to information, advice and legal aid. They submitted that situations similar to the present case still persist in Greece.

On 8 June 2020 the Greek National Commission for Human Rights (NCHR) submitted a communication ([DH-DD(2020)522](https://search.coe.int/cm/Pages/result_details.aspx?Reference=DH-DD(2020)522" \o "1377bis meeting (1-3 September 2020) (DH) - Rule 9.3 - Communication from an NHRI (Greek National Commission for Human Rights (GNCHR)) (08/06/2020) in the case of Chowdury and Others v. Greece (Application No. 21884/15) [Anglais uniquement] )). It expressed concerns similar to those of the NGOs. It added however that one of the major aims of the National Action Plan (2019-23) (NAP) concerning human trafficking is to improve data collection and establish a common database managed by the National Centre for Social Solidarity (Ministry of Labour). It also noted with satisfaction that the NAP, which has been developed in cooperation with civil society organisations, now integrates a human rights approach towards combatting human trafficking, as well as the enhancement of the legislation concerning compensation to victims of violent crime under Law 4689/2020.

**Analysis by the Secretariat**

*Individual measures*

In the light of the information submitted by the authorities, no further individual measures appear to be necessary.

*General measures*

The focus of the Court’s judgment, and thus the Committee’s supervision, are the adequacy of operational measures to prevent and detect human trafficking and protect victims, and the effectiveness of criminal investigations including judicial procedure in respect of human trafficking and forced labour.

1. **Measures to prevent and detect human trafficking and protect victims**

As regards the operational measures, the new National Action Plan 2019-2023 appears to be comprehensive and to meet the objective set. Of particular significance are the systematic training activities targeting notably police, prosecutors and judges and their acquaintance with Council of Europe standards concerning human trafficking. It is also a welcome development that the authorities continue to pursue a proactive approach to the identification of victims of human trafficking for the purpose of labour exploitation by encouraging regular and coordinated multi-agency inspections in the employment sectors most at risk, including agricultural facilities. It is noteworthy that nearly three times more inspections were carried out in 2018 (1,426) than in 2016.

The statistical data provided by the authorities show the police and judicial authorities’ on-going and sustained efforts aimed at identifying and protecting victims. In addition, the three circulars issued in 2018, 2019 and 2020 by the Court of Cassation Prosecutor, as well as the legislative amendments in 2019 and 2020, have reinforced the operational measures concerning protection and redress for victims of human trafficking. They provide an enhanced context of domestic law and practice that appear able to ensure prevention, detection and adequate protection and compensation of victims.

1. **Effectiveness of criminal investigations**

The 2015-2019 official statistical data provided by the authorities concerning investigations, prosecutions and convictions in human trafficking for labour exploitation show a steady number of investigations, prosecutions and convictions. In this context it is positive that the new National Action Plan concerning human trafficking aims to improve data collection and establish a common database. The ongoing training and awareness-training of the judicial authorities, police and labour inspectors, combined with the special attention paid to human trafficking cases by the Court of Cassation Prosecutor and lower prosecutors, seem to be able to provide safeguards for Convention-compliant criminal investigations in this domain. In addition, the fact that there is no new similar application currently pending before the Court may be considered an indication that the national criminal justice response to human trafficking has improved.

1. **Case law developments**

It is noted that the domestic case-law has evolved, notably by the Court of Cassation, so that the courts now apply a definition of human trafficking in the form of labour exploitation which complies with the requirements of Article 4 of the Council of Europe Anti-Trafficking Convention.

Also positive was the 2019 amendment of the Criminal Code that increased sentences for those who receive the services of victims of human trafficking, as well as the legislative changes aimed to accelerate and prioritise criminal proceedings concerning human trafficking.

Lastly the reported penalties imposed by domestic courts in human trafficking cases appear capable of punishing and deterring offenders, in line with the Court’s case-law.

**Conclusion**

In view of the measures adopted and progress achieved, as set out above, as well as the authorities’ clear commitment to pursuing their efforts in combatting all forms of human trafficking in close co-operation with GRETA, the Committee may consider closing supervision of this case as it did in similar cases when the implementation measures had reached a similar stage (e.g. *Rantsev v. Cyprus and Russia*, [CM/ResDH(2017)95](https://search.coe.int/cm/Pages/result_details.aspx?Reference=CM/ResDH(2017)95" \o "Final Resolution CM/ResDH(2017)95 - Execution of the judgment of the European Court of Human Rights - Rantsev against Cyprus and Russian Federation - Application No. 25965/04)).

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| Financing assured: YES |

1. Judgment of the Court of Cassation in plenary session, No. 2/2019. [↑](#footnote-ref-1)