

Press release issued by the Registrar

Chamber judgment ¹

Rantsev v. Cyprus and Russia (application no. 25965/04)

**CYPRIOI AND RUSSIAN AUTHORITIES FAILED TO PROTECT 20-YEAR OLD RUSSIAN
CABARET ARTISTE FROM HUMAN TRAFFICKING**

Unanimously:

***Violation of Article 2 (right to life) for failure to conduct effective investigation by Cyprus
and no violation of this Article by Russia***

***Violations of Article 4 (prohibition of slavery and forced labour) by Cyprus and Russia
Violation of Article 5 (right to liberty and security) by Cyprus
of the European Convention on Human Rights***

(The judgment is available only in English.)

Principal facts

The applicant, Mr Nikolay Rantsev, is a Russian national who was born in 1938 and lives in Svetlogorsk, Russia. He is the father of Ms Oxana Rantseva, also a Russian national, born in 1980, who died in strange and unestablished circumstances having fallen from a window of a private home in Cyprus in March 2001.

Ms Rantseva arrived in Cyprus on 5 March 2001 on an “artiste” visa. She started work on 16 March 2001 as an artiste in a cabaret in Cyprus only to abandon her place of work and lodging three days later leaving a note that she was going back to Russia. After finding her in a discotheque in Limassol some ten days later, at around 4 a.m. on 28 March 2001, the manager of the cabaret where she had worked took her to the police asking them to declare her illegal in the country and to detain her, apparently with a view to expelling her so that he could have her replaced in his cabaret. The police, after checking their database, concluded that Ms Rantseva did not appear to be illegal and refused to detain her. They asked the cabaret manager to collect her from the police station and to return with her later that morning to make further inquiries into her immigration status. The cabaret manager collected Ms Rantseva at around 5.20 a.m.

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

Ms Rantseva was taken by the cabaret manager to the house of another employee of the cabaret, where she was taken to a room on the sixth floor of the apartment block. The cabaret manager remained in the apartment. At about 6.30 a.m. on 28 March 2001 Ms Rantseva was found dead in the street below the apartment. A bedspread was found looped through the railing of the apartment's balcony.

Following Ms Rantseva's death, those present in the apartment were interviewed. A neighbour who had seen Ms Rantseva's body fall to the ground was also interviewed, as were the police officers on duty at Limassol police station earlier that morning when the cabaret manager had brought Ms Rantseva from the discotheque. An autopsy was carried out which concluded that Ms Rantseva's injuries were the result of her fall and that the fall was the cause of her death. The applicant subsequently visited the police station in Limassol and requested to participate in the inquest proceedings. An inquest hearing was finally held on 27 December 2001 in the applicant's absence. The court decided that Ms Rantseva died in strange circumstances resembling an accident, in an attempt to escape from the apartment in which she was a guest, but that there was no evidence to suggest criminal liability for her death.

Upon a request by Ms Rantseva's father, after the body was repatriated from Cyprus to Russia. Forensic medical experts in Russia carried out a separate autopsy and the findings of the Russian authorities, which concluded that Ms Rantseva had died in strange and unestablished circumstances requiring additional investigation, were forwarded to the Cypriot authorities in the form of a request for mutual legal assistance under treaties in which Cyprus and Russia were parties. The request asked, inter alia, that further investigation be carried out, that the institution of criminal proceedings in respect of Ms Rantseva's death be considered and that the applicant be allowed to participate effectively in the proceedings.

In October 2006, Cyprus confirmed to the Russian Prosecution Service that the inquest into Ms Rantseva's death was completed on 27 December 2001 and that the verdict delivered by the court was final. The applicant has continued to press for an effective investigation into his daughter's death.

The Cypriot Ombudsman, the Council of Europe's Human Rights Commissioner and the United States State Department have published reports which refer to the prevalence of trafficking in human beings for commercial sexual exploitation in Cyprus and the role of the cabaret industry and "artiste" visas in facilitating trafficking in Cyprus.

Complaints, procedure and composition of the Court

Relying on Articles 2, 3 (prohibition of torture and inhuman and degrading treatment), 4, 5 and 8 (right to private and family life), Mr Rantsev complained about the investigation into the circumstances of the death of his daughter, about the failure of the Cypriot police to take measures to protect her while she was still alive and about the failure of the Cypriot authorities to take steps to punish those responsible for her death and ill-treatment. He also complained under Articles 2 and 4 about the failure of the Russian authorities to investigate his daughter's alleged trafficking and subsequent death and to take steps to protect her from the risk of trafficking. Finally, he complained under Article 6 of the Convention about the inquest proceedings and an alleged lack of access to court in Cyprus.

The application was lodged with the European Court of Human Rights on 26 May 2004.

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

Christos **Rozakis** (Greece), **President**,

Anatoly **Kovler** (Russia),
Elisabeth **Steiner** (Austria),
Dean **Spielmann** (Luxembourg),
Sverre Erik **Jebens** (Norway)
Giorgio **Malinverni** (Switzerland),
George **Nicolaou** (Cyprus), *judges*,

and Søren **Nielsen**, *Section Registrar*.

Decision of the Court

Unilateral declaration by Cyprus

The Cypriot authorities made a unilateral declaration acknowledging that they had violated Articles 2, 3, 4, 5 and 6 of the Convention, offering to pay pecuniary and non-pecuniary damages to the applicant, and advising that on 5 February 2009 three independent experts had been appointed to investigate the circumstances of Ms Rantseva's death, employment and stay in Cyprus and the possible commission of any unlawful act against her.

The Court reiterated that as well as deciding on the particular case before it, its judgments served to elucidate, safeguard and develop the rules instituted by the Convention. It also emphasised its scarce case law on the question of the interpretation and application of Article 4 to trafficking in human beings. It concluded that, in light of the above and the serious nature of the allegations of trafficking in the case, respect for human rights in general required it to continue its examination of the case, notwithstanding the unilateral declaration of the Cypriot Government.

Admissibility

The Court did not accept the Russian Government's submission that they had no jurisdiction over, and hence no responsibility for, the events to which the application pertained as it found that if trafficking occurred it had started in Russia and that a complaint existed against Russia's failure to investigate properly the events which occurred on Russian territory. It declared the applicant's complaints under Article 2, 3, 4 and 5 admissible.

Right to life

As regards Cyprus, the Court considered that the chain of events leading to Ms Rantseva's death could not have been foreseen by the Cypriot authorities and, in the circumstances, they had therefore no obligation to take practical measures to prevent a risk to her life.

However, a number of flaws had occurred in the investigation carried out by the Cypriot authorities: there had been conflicting testimonies which had not been resolved; no steps to clarify the strange circumstances of Ms Rantseva's death had been made after the verdict of the court in the inquest proceedings; the applicant had not been advised of the date of the inquest and as a result had been absent from the hearing when the verdict had been handed down; and although the facts had occurred in 2001 there had not yet been a clear explanation as to what had happened. There had therefore been a violation of Article 2 as a result of the failure of the Cypriot authorities to investigate effectively Ms Rantseva's death.

As regards Russia, the Court concluded that there it had not violated Article 2 as the Russian authorities were not obliged themselves to investigate Ms Rantseva's death, which had occurred outside their jurisdiction. The Court emphasised that the Russian authorities

had requested several times that Cyprus carry out additional investigation and had cooperated with the Cypriot authorities.

Freedom from ill-treatment

The Court held that any ill-treatment which Ms Rantseva may have suffered before her death had been inherently linked to her alleged trafficking and exploitation and that it would consider this complaint under Article 4.

Failure to protect from trafficking

Two non-governmental organisations, Interights and the AIRE Centre, made submissions before the Court arguing that the modern day definition of slavery included situations such as the one arising in the present case, in which the victim was subjected to violence and coercion giving the perpetrator total control over the victim.

The Court noted that, like slavery, trafficking in human beings, by its very nature and aim of exploitation, was based on the exercise of powers attaching to the right of ownership; it treated human beings as commodities to be bought and sold and put to forced labour; it implied close surveillance of the activities of victims, whose movements were often circumscribed; and it involved the use of violence and threats against victims. Accordingly the Court held that trafficking itself was prohibited by Article 4. It concluded that there had been a violation by Cyprus of its positive obligations arising under that Article on two counts: first, its failure to put in place an appropriate legal and administrative framework to combat trafficking as a result of the existing regime of artiste visas, and, second, the failure of the police to take operational measures to protect Ms Rantseva from trafficking, despite circumstances which had given rise to a credible suspicion that she might have been a victim of trafficking. In light of its findings as to the inadequacy of the Cypriot police investigation under Article 2, the Court did not consider it necessary to examine the effectiveness of the police investigation separately under Article 4.

There had also been a violation of this Article by Russia on account of its failure to investigate how and where Ms Rantseva had been recruited and, in particular, to take steps to identify those involved in Ms Rantseva's recruitment or the methods of recruitment used.

Deprivation of liberty

The Court found that the detention of Ms Rantseva for about an hour at the police station and her subsequent confinement to the private apartment, also for about an hour, did engage the responsibility of Cyprus. It held that the detention by the police following the confirmation that Ms Rantseva was not illegal had no basis in domestic law. It further held that her subsequent detention in the apartment had been both arbitrary and unlawful. There was therefore a violation of Article 5 § 1 by Cyprus.

The Court rejected the applicant's other complaints.

Under Article 41 (just satisfaction) of the Convention, the Court held that Cyprus had to pay the applicant 40,000 euros (EUR) in respect of non-pecuniary damage and EUR 3,150 for costs and expenses, and that Russia had to pay him EUR 2,000 in respect of non-pecuniary damages.

This press release is a document produced by the Registry. It does not bind the Court. The judgments are available on its website (<http://www.echr.coe.int>).

Press contacts

Kristina Pencheva-Malinowski (telephone : 00 33 (0)3 88 41 35 70) or

Stefano Piedimonte (telephone : 00 33 (0)3 90 21 42 04)

Tracey Turner-Tretz (telephone : 00 33 (0)3 88 41 35 30)

Céline Menu-Lange (telephone : 00 33 (0)3 90 21 58 77)

Frédéric Dolt (telephone : 00 33 (0)3 90 21 53 39)

Nina Salomon (telephone: 00 33 (0)3 90 21 49 79)

***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.*