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**THE PROTECTION OF FUNDAMENTAL RIGHTS IN COMBATING HUMAN
TRAFFICKING: BETWEEN INTERNATIONAL OBLIGATIONS AND JUDICIAL
PRACTICE**
by **Ionascu Otilia**

Abstract

This topic examines the intersection between international human rights obligations and the fight against human trafficking. The paper focuses on respect and obligations, as well as the fight against human trafficking. The paper focuses on respect and the enforcement of fundamental rights, such as the right to human dignity (Article 1), the prohibition of torture (Article 4), and the right to an effective remedy and a fair trial (Article 47). This research evaluates court decisions and case laws, highlighting the progress made and the shortcomings of legal systems involved in preventing and punishing human trafficking. The human trafficking of women, men, and children occurs for multiple purposes, which include labor exploitation in factories, farms, and private homes, as well as sexual exploitation and forced marriage. The practice of human trafficking exists throughout every region and most nations across the world.

Keywords

Charter of Fundamental Rights, European Court of Human Rights, Fair Trial, Human dignity, Prohibition of Torture.

Introduction

Human trafficking exists as a worldwide complex issue. The practice includes sexual exploitation alongside forced labor and servitude and organ trafficking. The United Nations Office on Drugs and Crime (UNODC) reports that millions of people experience trafficking annually with women and children making up most victims. Human trafficking constitutes both a major criminal offense and a severe infringement against human rights. The European Union established the protection of fundamental rights as its central legal principle through the Charter of Fundamental Rights of the EU. The research evaluates how the European Charter's fundamental rights regarding human dignity (Article 1) and the prohibition of torture (Article 4) and the right to an effective remedy in (Article 47) function in human trafficking prevention efforts.¹

¹ Charter of Fundamental Rights of the European Union, (Article 1), European Union (2007); Charter of Fundamental Rights of the European Union, (Article 4), European Union (2007); Charter of Fundamental Rights of the European Union, (Article 47) European Union (2007).



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Human Trafficking in International Law

The Palermo Protocol

The most important international instrument to combat trafficking in the Palermo Protocol, a supplement to the UN Convention against Transnational Organized Crime (2000).² Human trafficking exists as a major criminal offense that simultaneously represents a severe violation of human rights. A strong international legal framework must exist to address the transnational nature of human trafficking because it enables the prevention of exploitation, victim protection, and perpetrator punishment. During the last twenty years, international and regional legal instruments have united to create mandatory state obligations which focus on criminalization alongside victim protection and rights-based approaches.

The Protocol established the 3P paradigm which consists of Prevention, Protection and Prosecution and later added Partnership and Policy. The Protocol has been ratified by more than 182 states, and it serves as the normative basis for regional and national anti-trafficking laws.³

Council of Europe Convention on Action against Trafficking in Human Beings (2005)

The Council of Europe Convention on Action against Trafficking in Human Beings (2005) in Europe strengthens these standards by emphasizing human rights and victim protection. The Convention establishes monitoring systems for implementation through the Group of Experts on Action against Trafficking in Human Beings (GRETA).⁴ The European Union's legal instrument for preventing and combating trafficking and protecting victims is Directive 2011/36/EU. The directive imposes mandatory requirements on member states to implement victim-centred and gender-sensitive approaches. The legal framework requires states to fulfil positive duties which include victim identification and assistance provision and non-punishment for coerced acts and justice and remedy access. The obligations frequently clash with domestic migration and criminal justice priorities which makes judicial interpretation essential to achieve proper enforcement and rights protection.

Directive 2011/36/EU: The EU Legal Framework

The European Union has also taken significant steps to combat human trafficking, including the adoption of the Directive 2011/36/EU on preventing and combating trafficking in human beings and

² United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, U.N. Doc. A/RES/55/25 (Nov. 15, 2000)

³ *Id.*

⁴ Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA), Council of Europe.



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protecting its victims.⁵ This directive sets out minimum standards for the protection of victims, including the right to assistance, support, and protection (European Union, 2011). The European Court of Human Rights has also played a crucial role in shaping the jurisprudence on human trafficking, emphasizing the importance of protecting victims' rights and holding states accountable for their obligations under the European Convention on Human Rights (European Court of Human Rights, 2019).

(Article 1) Human Dignity

The EU Charter of Fundamental Rights establishes through (Article 1) that human dignity remains inviolable and states that it must receive respect and protection. The provision functions as the base for every right in the Charter, while being particularly significant in human trafficking cases because victims lose their status as human beings.⁶ The violation of personal autonomy and the destruction of individual worth makes protecting human dignity both a legal requirement and a moral obligation. The European Court of Human Rights ruled in *Rantsev v. Cyprus and Russia* that human trafficking constitutes a fundamental rights violation because it infringes upon the prohibition of slavery and servitude and degrading treatment. The Court evaluated the case under (Article 4) ECHR but its reasoning strengthened the principle of human dignity as a core value for anti-trafficking legal decisions.⁷ The young Russian woman, Oxana Rantseva, became a trafficking victim in Cyprus before her death under unclear circumstances shortly after she escaped her employer. The Court determined that Russia and Cyprus did not provide sufficient protection for Rantseva against trafficking and failed to conduct an effective investigation into her death. The court required states to establish protective legal and administrative systems for people from exploitation and to take immediate action when they detect potential trafficking cases. The violation of dignity occurs through both the act of trafficking and state inaction, and victim identification failures and inaction. These failures dehumanize the victim and reinforce systemic abuse. The protection of human dignity requires state authorities to adopt proactive measures that include victim-sensitive procedures and non-discrimination practices, and meaningful access to support services.

(Article 4) Prohibition of Torture and Inhuman or Degrading Treatment

The European Union Charter of Fundamental Rights contains (Article 4) which mirrors (Article 3) of the European Convention on Human Rights to prohibit torture and inhuman or degrading treatment as well as slavery or forced labor. The provision holds essential value for human trafficking cases because trafficking commonly includes severe forms of abuse along with psychological coercion and

⁵ European Union, Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims (Apr. 5, 2011), <https://eur-lex.europa.eu/eli/dir/2011/36/oj>.

⁶ Charter of Fundamental Rights of the European Union, (Article 1), European Union (2007).

⁷ European Court of Human Rights, *Rantsev v. Cyprus and Russia*, Application No. 25965/04, Judgment (Jan. 7, 2010).



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violence that degrade human dignity. The European Court of Human Rights (ECtHR) has consistently interpreted (Article 4) ECHR as imposing both negative and positive obligations on states. The legal framework includes two main obligations for states: preventing inhuman treatment of people and ensuring effective protection of victims and prosecution of traffickers. The most important ruling regarding this matter is *L.E. v. Greece*. In this case, the applicant, a Nigerian national, was trafficked to Greece and forced into prostitution. Although she reported her situation to the authorities in 2005, Greek officials failed to grant her victim status or take timely investigative action. The Court found that the authorities' **prolonged inaction** and failure to provide protection amounted to a breach of **(Article 4) ECHR**.⁸

The judgment clarified that states are required to adopt legal and practical measures to prevent human trafficking and must respond promptly when victims come forward. The Greek state failed in its procedural obligations to investigate and protect, thus allowing ongoing risks of inhuman and degrading treatment.

The Court also found a **violation of (Article 13)**, due to the lack of an effective remedy. This case confirms that trafficking must be treated not only as a crime but also as a human rights violation, demanding a coordinated and victim-focused response.⁹

(Article 47) Right to an Effective Remedy and Fair Trial

The European Court of Human Rights in *V.C.L. and A.N. v. the United Kingdom* evaluated how British authorities failed to determine if the two Vietnamese minors who faced drug offense charges were victims of human trafficking.¹⁰ The authorities discovered both applicants at cannabis farms before charging them criminally without conducting any proper assessment of their potential victim status. The Court determined that the UK violated Articles 4 and 6 of the ECHR, but the decision also established important implications under Article 47 of the EU Charter, which protects the right to an effective remedy and fair trial. The applicants received no official determination of their trafficking victim status, and the prosecution and courts failed to evaluate their exploitation as a possible defense. The applicants lost their protective status and legal defense because of this failure, which violated their procedural rights. National authorities must identify trafficking indicators before starting prosecution, according to the ECtHR. The UK violated the applicants' right to an effective remedy and fair trial procedures by failing to conduct proper investigations before prosecuting them. The case serves as an essential legal foundation to protect victims of criminal trafficking from unfair punishment while requiring proper victim identification before conducting fair judicial proceedings.

⁸ European Court of Human Rights, *L.E. v. Greece*, Application No. 71545/12, Judgment (Jan. 21, 2016).

⁹ Charter of Fundamental Rights of the European Union, (Article 13), European Union (2007);

¹⁰ European Court of Human Rights, *V.C.L. and A.N. v. the United Kingdom* (applications nos. 77587/12 and 74603/12), Judgment (Feb. 16, 2021).



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The case strengthens the essential role of procedural safeguards, including legal aid access and timely identification and specialized support services for implementing (Article 47) effectively.¹¹

Balancing Rights with Enforcement

The fight against human trafficking creates substantial ethical difficulties for democratic nations because they must protect individual rights during the process of conducting effective law enforcement actions. The state possesses valid interests to stop trafficking crimes, but these efforts must never compromise the fundamental rights which protect victims of trafficking. The assessment of whether anti-trafficking measures violate fundamental rights protected by the European Union Charter of Fundamental Rights depends on proportionality principles. All detention measures and deportation procedures and coercive interrogation practices need evaluation to determine their compliance with Article 1 human dignity protection and Article 4 inhuman treatment ban and (Article 47) right to fair trial. Enforcement-led methods frequently lead to the criminalization of trafficking victims when these victims perform illegal activities as a direct result of their exploitation. Victims who engage in prostitution or drug cultivation or illegal immigration fall under this category.¹²

The failure of law enforcement to detect victims leads to prosecution instead of protection for these individuals. EU law prohibits these outcomes because they break both the Article 8 non-punishment principle of Directive 2011/36/EU and the Charter rights. The European Court of Human Rights determined the conflict in *V.C.L. and A.N. v. the United Kingdom* regarding the prosecution of two minor cannabis cultivators who had been trafficked without a proper investigation into their victim status. The Court established that insufficient assessment of their vulnerable situation violated procedural protections, which demonstrated that proper anti-trafficking policies should never lead to victim re-traumatization. Migration control measures that governments implement can create conflicts with their anti-trafficking responsibilities. The European Court of Human Rights determined in *O.O. v. France* (2022) that sending a cooperating Nigerian trafficking victim back to her home country created an extreme danger of re-trafficking.¹³ The Court established that this enforcement measure broke Article 3 ECHR while failing to maintain the protective duties of the State. Successful rights enforcement together with effective law enforcement needs active collaboration between police forces and judicial entities and victim support organizations.

Judicial Practice

Judicial responses to human trafficking have undergone substantial transformation during the past twenty years because of supranational instruments, including the European Convention on Human

¹¹ European Court of Human Rights, *V.C.L. and A.N. v. the United Kingdom* (applications nos. 77587/12 and 74603/12), Judgment (Feb. 16, 2021), at 155–160.

¹² Charter of Fundamental Rights of the European Union, *supra* note 1.

¹³ European Court of Human Rights, *O.O. v. France*, Judgment (2022).



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Rights, together with the EU Charter of Fundamental Rights and Directive 2011/36/EU.¹⁴ The normative progress made in anti-trafficking standards has not bridged the substantial difference between established legal requirements and judicial application throughout EU member states and at the European level. The identification process, along with victim rights adjudication and protection, becomes challenging for courts when trafficking intersects with criminal prosecution or irregular migration and procedural delays. Multiple court decisions demonstrate inadequate comprehension of human trafficking complexities, together with victim vulnerability, particularly when victims face prosecution for crimes committed under duress. The ECtHR determined in *V.C.L. and A.N. v. the United Kingdom* that domestic courts did not conduct proper investigations into trafficking indicators before they convicted two minors who worked in drug production.¹⁵

The case exposed how established judicial systems fail to implement vital procedural safeguards because they lack specific identification procedures. Judicial systems fail to use procedural rights consistently because they do not provide adequate legal aid access and interpretation services, nor trauma-informed hearings and protection from secondary victimization. Victims encounter barriers to full participation in legal proceedings because of their language abilities, psychological state, and financial limitations. Judicial systems that fail to recognize trafficking continue to place evidentiary responsibilities on victims, which weakens their legal safeguards while perpetuating both victim silence and further exploitation. The duration of legal proceedings creates obstacles that prevent individuals from accessing justice. The Greek judiciary received criticism from the ECtHR in *L.E. v. Greece* because it maintained prolonged inaction while failing to officially acknowledge the victim's status, which impaired her right to an effective remedy. Systemic failures in victims' rights protection stem from structural inefficiencies, including fragmented investigative procedures and inadequate judicial training, according to the judgment.

At the European level, the **Court of Justice of the European Union (CJEU)** has been more limited in its trafficking-related jurisprudence, though it has emphasized the binding nature of Article 47 of the Charter and the obligation of national courts to provide effective remedies when applying EU law. However, the **lack of uniform case law** from the CJEU on trafficking indicates a jurisprudential gap in interpreting the Charter consistently across Member States.¹⁶

The practical effectiveness of judicial protection suffers when judgments regarding compensation and residency rights fail to receive proper enforcement. The judicial system remains vital for protecting fundamental rights in trafficking cases, yet its effectiveness remains restricted because of

¹⁴ European Union, supra note 5.

¹⁵ European Court of Human Rights, supra note 10.

¹⁶ Court of Justice of the European Union, *Johnston v. Chief Constable of the RUC*, Case C-222/84, ECLI:EU:C:1986:206, Judgment (May 15, 1986), para. 18.



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inconsistent decisions, delayed proceedings, and insufficient focus on victims. The protection gap between legal protections and actual trafficking survivor outcomes requires stronger judicial training combined with better victim service coordination and faster remedy delivery.

Conclusion and Recommendations

Human trafficking stands as a severe infringement of essential rights that exists throughout modern Europe. Human trafficking violates basic human values of dignity, freedom, and equality while creating enduring breaches of victims' rights, which violate both European and international legal protections. This thesis studied the vital legal functions of the EU Charter of Fundamental Rights provisions through Articles 1, 4, and 47, which serve as essential instruments to fight trafficking and protect victims.¹⁷ The European Court of Human Rights established in *L.E. v. Greece*, *Rantsev v. Cyprus and Russia*, and *V.C.L. and A.N. v. the United Kingdom* cases that trafficking constitutes both a criminal offense and a human rights violation, which creates binding State obligations.¹⁸ The State must fulfil its obligations, which include identifying victims properly, providing support services, ensuring immunity from punishment for coerced crimes, and ensuring prompt and fair judicial procedures. Multiple legal instruments like Directive 2011/36/EU and the Council of Europe Convention exist, but judicial practice demonstrates major implementation deficiencies. Victims typically face denial of recognition alongside protection and effective remedies because their cases intersect with immigration enforcement and criminal prosecution. The combination of procedural delays, inadequate inter-institutional coordination, and insufficient victim-sensitive mechanisms obstructs victims' access to justice. To achieve effectiveness in anti-trafficking law, the foundation must rest on human rights principles as the primary consideration. States need to guarantee that their criminal justice systems serve dual purposes by punishing traffickers while also restoring dignity and autonomy to victims. States must uphold human rights obligations above all else, including security-driven and bureaucratic approaches. A human rights-based framework supported by the Charter requires strong judicial review to bridge the difference between legal principles and real-world experiences for trafficking survivors.

¹⁷ Charter of Fundamental Rights of the European Union, supra note 1

¹⁸ European Court of Human Rights, supra note 10



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