EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

DECISION

Application no. 50271/21
Dimitar Lyubenov ATANASOV
against Bulgaria

The European Court of Human Rights (Third Section), sitting on 27 January 2026 as a Committee composed of:

Peeter Roosma*, President*,

Diana Kovatcheva,

Canòlic Mingorance Cairat*, judges*,

and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 50271/21) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 30 September 2021 by a Bulgarian national, Mr Dimitar Lyubenov Atanasov ("the applicant"), who was born in 1982, lives in Plovdiv and was represented by Ms S. Lateva-Zaharieva, a lawyer practising in Plovdiv;

the decision to give notice of the complaint, concerning the authorities' failure to provide effective protection to the applicant by effectively investigating his allegations of having been ill-treated by a private individual, to the Bulgarian Government ("the Government"), represented by their Agent, Ms I. Stancheva-Chinova, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns, essentially, the applicant's complaint under Article 8 of the Convention about the authorities' failure to effectively investigate his allegations of ill-treatment by a private individual.

2. On 17 October 2020 the applicant got into a brawl with another individual, D.

3. Medical certificates issued to the applicant respectively on the same day, two days later and on 23 October 2020 recorded that he had sustained bruises in the chest area and the head, in the right lumbar region and upper limbs, tenderness in the left knee area, and that he was suffering from a post-traumatic stress disorder.

4. Medical certificates issued to D. on 17 and 19 October 2020 recorded that D. had sustained surface trauma to the lips and mouth, and bruising of the upper lip, the left temple, the back and the upper limbs.

5. The applicant and D. each brought private criminal proceedings against the other, alleging light bodily harm; they also lodged claims for damages in those proceedings.

6. In the criminal proceedings opened against the applicant, the Plovdiv District Court, at first instance, heard the parties represented by lawyers of their choice, admitted evidence (including the medical certificates mentioned above), heard witnesses requested by both parties, ordered a forensic medical expert report in order to determine the type of bodily harm suffered by each party and allowed the parties to question, in open court, the medical expert who had produced that report. The court concluded that both the applicant and D. had caused each other light bodily harm, namely that proscribed under Article 130 § 2 of the Criminal Code. Finding that the applicant had acted in self-defence, the court acquitted him on 17 February 2021.

7. Upon an appeal by D., the Plovdiv Regional Court, in a final judgment of 1 April 2021, found the applicant guilty under Article 130 § 2 of the Criminal Code. However, the court found it "categorically established that the applicant had sustained, at the same time and in the same place, the same type of bodily harm", namely under Article 130 § 2 of the Criminal Code, as a result of D.'s wilful actions. Applying the institute of "retaliation" (*реторсия*) under Article 130 § 3 of the Criminal Code, the court absolved the applicant of punishment and held that he had to pay 500 Bulgarian levs (BGN, equivalent to around 250 euros (EUR)) to D. in damages. The court observed that the correspondence between the nature and degree of injuries of the complainant (D.) and the defendant (the applicant), given the clearly established mutual exchange of blows, provided grounds for application of the institute of retaliation. It reasoned that retaliation was based on the premise of the equal position in which the victim and the defendant had placed themselves before the law, and that it was an exception to the general principle in criminal law that every offence committed by a criminally-liable individual attracted a corresponding punishment.

8. The criminal proceedings brought by the applicant against D. were terminated in a final decision of 13 July 2021 by the Plovdiv Regional Court which upheld the lower court's findings. Specifically, referring to the judgment of 1 April 2021 (see paragraph 7 above), the lower court had found that a final sentence had been delivered in respect of the same acts complained of by the applicant, as well as in respect of their authors, and that precluded

a new examination and determination. The examination of the applicant's civil claim was discontinued, the court stating that the applicant could bring separate proceedings before a civil court.

9. Following the application's communication to the Government, they informed the Court in December 2024, submitting also related documents, that in November 2022 the applicant had brought separate civil proceedings against D., seeking damages from D. in relation to the brawl of 17 October 2020. In his civil claim the applicant argued that: the judgment of 1 April 2021 (see paragraph 7 above) had unequivocally established D.'s guilt for inflicting light bodily harm on him; final criminal judgments were mandatory for civil courts as regards whether the offence had been committed and if it was punishable, as well as concerning the perpetrator's guilt; and that absolving D. from criminal punishment did not preclude his related civil liability.

10. In a final judgment of 10 January 2024 the Plovdiv Regional Court granted the applicant's claim. The court observed that the judgment of 1 April 2021, having mandatory force in respect of related civil proceedings, had established the act committed by D., its unlawfulness, D.'s related guilt and the direct causal link between D.'s act and the damage caused to the applicant, and the type of damage caused. The court explicitly noted the negative effects of the damage on the applicant's psychological state. In view of the applicant's contributory fault, the court awarded him half of what he had sought, namely BGN 1,750 (around EUR 875) in damages, and ordered him to pay BGN 198.66 (about EUR 100) in costs and expenses to D.

THE COURT'S ASSESSMENT

11. The applicant complained under Articles 8 and 13 of the Convention.

12. The Government argued that the applicant (1) had lost his victim status as a result of the damages he had been awarded in the civil proceedings (see paragraph 10 above); and (2) had abused the right of application since he had not disclosed those proceedings to the Court.

13. The relevant principles concerning abuse of the right to an individual application have been set out in *Gross v. Switzerland* ([GC], no. 67810/10, § 28, ECHR 2014, with further references). What is of importance is whether the information at issue concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information. For a behaviour to qualify as abuse of the right of application, it must be intentional, and this intention must be established with sufficient certainty (see *Gross*, cited above, § 28, and *Bencheref v. Sweden* (dec.), no. 9602/15, § 37, 5 December 2017).

14. The applicant's complaint is about the failure of the authorities to protect his physical and moral integrity from ill-treatment by a private party, since the criminal proceedings which the applicant had brought had been

terminated without the court establishing the facts or identifying the perpetrator and punishing him.

15. The Court recalls that the choice of the means calculated to secure compliance with Article 8 of the Convention in the sphere of the relations of individuals between themselves is in principle a matter that falls within the Contracting States' margin of appreciation. There are different ways of ensuring respect for private life, and the nature of the State's obligation will depend on the particular aspect of private life that is in issue (see *Khadija Ismayilova v. Azerbaijan*, nos. 65286/13 and 57270/14, § 115, 10 January 2019, with further references).

16. In the present case, the criminal proceedings brought by the applicant had indeed been terminated without a final decision on the merits (see paragraph 8 above). However, this happened as a result of the relevant court's finding that a final sentence had been delivered in respect of the same acts complained of by the applicant, as well as in respect of their authors, in the other set of proceedings initiated by D. (ibid.).

17. In those other proceedings the courts at both instances carried out a thorough examination of the facts related to the brawl of 17 October 2020 (see paragraphs 6 and 7 above). Significantly, the courts looked not only into the acts which the applicant had been accused of, but also examined in detail his arguments about him having been the victim of violence. Therefore there was no failure to establish the facts.

18. The court in those proceedings absolved the applicant of punishment because it found that D. had himself inflicted on him hits and blows, causing the applicant light bodily harm not affecting his health. It cannot be said that the perpetrator of the violence against the applicant had not been established.

19. It is further a consistent position of the Court that the Convention does not guarantee the right to secure the conviction of a third party (see *Perez v. France* [GC], no. 47287/99, § 70, ECHR 2004-I, and *Bakoyanni v. Greece*, no. 31012/19, § 65, 20 December 2022). Although in cases of grave actions negatively affecting private life a breach of Article 8 cannot be remedied only by an award of compensation to the victim (see *Khadija Ismayilova*, cited above, §§ 115-17), in the present case, as established above, it cannot be said that the authorities failed in their obligation to carry out an effective investigation into the applicant's complaint. The sole path remaining to him after the criminal proceedings had ended was to seek damages in civil proceedings from the established perpetrator, for which the State had provided a legal framework, and of which possibility he was informed (see paragraph 8 above).

20. The applicant brought such civil proceedings against D., in late 2022 after the criminal proceedings had ended. He explicitly argued in them that the judgment of 1 April 2021 had unequivocally established D.'s guilt for inflicting light bodily harm on him. He was legally represented in those proceedings. The court found D.'s guilt to have been established and awarded

the applicant damages, directly relying on the outcome of the criminal proceedings (see paragraph 10 above).

21. Consequently, the information about these civil proceedings concerned the very core of the case. Being apprised of the fact that the applicant had successfully pursued these civil proceedings was clearly important for the Court to be able to rule on the case in full knowledge of the facts. Under Rule 47 § 7 of the Rules of Court applicants are required to keep the Court informed of important new developments in the case, if and as those occur.

22. However, the applicant did not provide to the Court any information about the civil proceedings he had pursued.

23. While he initiated those proceedings after he had lodged his application with the Court, by the time the application was communicated to the Government in May 2024, the civil proceedings had ended with a final judgment in his favour (see paragraph 10 above). The applicant's silence on the matter persisted.

24. In a letter of September 2024 the Court reminded the applicant that he had to continue informing the Court of any major developments in his case or any further relevant internal decisions. The applicant did not do so either.

25. After information about the civil proceedings had been disclosed to the Court by the Government with their observations in December 2024, the applicant argued that those proceedings were irrelevant for his complaint before the Court. However, as noted above (see paragraph 19 above), in the circumstances of this case, those proceedings were not only relevant but represented a key development. The applicant's explanation cannot be thus accepted. Moreover, the final decision in those proceedings was also relevant for the question whether he could still claim to be a victim of an alleged violation of Article 8.

26. The Court reiterates that lawyers must not, even negligently, misuse the Court's resources and must show a high level of professional cooperation with the Court (see, *mutatis mutandis*, *Bekauri v. Georgia* (preliminary objection), no. 14102/02, § 24, 10 April 2012). Once proceedings before it have been instituted, they have to meticulously abide by all the relevant rules of the procedure and urge their clients to do the same (ibid.)

27. The Court considers that the conduct of the applicant and his representative was intentional and constituted an abuse of the right of individual application.

28. It follows that the application is inadmissible pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 19 February 2026.

Olga Chernishova Deputy Registrar	Peeter Roosma President