

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

FIFTH SECTION

CASE OF SHYLINA v. UKRAINE

(Application no. 2412/19)

JUDGMENT

Art 1 P1 • Control of the use of property • Suspension of payment of a special monthly allowance to an internally displaced person (IDP) in Ukraine for failure to comply with legislative requirement to open a bank account in a designated State bank • Impugned measure did not impose individual and excessive burden on applicant • States' wide margin of appreciation in implementing social and economic policies • Interference lawful, pursued a legitimate aim and was not disproportionate Art 14 (+ Art 1 P1) • Discrimination • Applicant not in an analogous, or relevantly similar situation in comparison with other recipients of social benefits without IDP status • Special allowance intended for IDPs only • Possession or otherwise of bank account in a designated State bank not an identifiable characteristic or "status" within the meaning of Art 14 • Applicant did not demonstrate a difference in treatment as compared to other internally displaced persons • Manifestly ill-founded

Prepared by the Registry. Does not bind the Court.

STRASBOURG

15 February 2024

FINAL

15/05/2024

This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Shylina v. Ukraine,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Georges Ravarani*, President*,
Lado Chanturia,
Carlo Ranzoni,
Mārtiņš Mits,
María Elósegui,
Kateřina Šimáčková,
Mykola Gnatovskyy*, judges*,
and Victor Soloveytchik, *Section Registrar,*

Having regard to:

the application (no. 2412/19) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Ukrainian national, Ms Elvira Danysivna Shylina ("the applicant"), on 20 December 2018;

the decision to give notice to the Ukrainian Government ("the Government") of the complaints under Article 1 of Protocol No. 1 to the Convention and Article 14 of the Convention taken together with Article 1 of Protocol No. 1 to the Convention and to declare inadmissible the complaint under Article 6;

the parties' observations;

Having deliberated in private on 23 January 2024,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The present case concerns the applicant's complaints, to be examined under Article 1 of Protocol No. 1 to the Convention, taken alone and in conjunction with its Article 14, that the suspension of payments to her on the basis of provisions of a by-law which stated that, as of 1 July 2016, social benefits to internally displaced persons ("IDPs") could only be paid into accounts opened with a designated State bank, was discriminatory and interfered with her right to the peaceful enjoyment of her possessions.

THE FACTS

2. The applicant was born in 1973 and lives in Rivne. She was represented by Mr M. Glotov, Ms A. Martynovska and Mr M. Tarakhkalo.

3. The Government were represented by their Agent, most recently Ms M. Sokorenko from the Ministry of Justice.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

I. BACKGROUND INFORMATION

5. After Russia occupied and claimed jurisdiction over the Autonomous Republic of Crimea and the City of Sevastopol (hereinafter "Crimea") and owing to armed hostilities in certain parts of the Donetsk and Luhansk regions of Ukraine (see *Ukraine v. Russia (re Crimea)* (dec.) [GC], nos. 20958/14 and 38334/18, 16 December 2020, and *Ukraine and the Netherlands v. Russia* (dec.) [GC], nos. 8019/16 and 2 others, 30 November 2022), in 2014 and later many residents of those regions had to leave their homes and move to territories controlled by the Government. The majority of those who moved received the status of IDP which has been regulated by numerous legal acts. In particular, the legislation provided that IDPs were entitled to the same social benefits as other Ukrainian citizens, as well as to some special benefits to support them after their move. However, from 1 July 2016 onwards, in order to receive those benefits IDPs were required to have accounts with the Derzhavnyy Oshchadnyy Bank of Ukraine (the State Savings Bank – "Oshchadbank") and to undergo periodic physical identification therein (see paragraphs 17, 19 and 20 below).

II. CIRCUMSTANCES OF THE CASE

6. Having left Crimea in November 2014, the applicant and her family moved to Government-controlled territory and were registered as IDPs. In view of their status they were entitled to a special monthly allowance to cover their living expenses, including housing and municipal services, on the basis of the Cabinet of Ministers' Resolution no. 505 of 1 October 2014 (see paragraph 22 below). The applicant, as the family's representative, had until then been receiving the allowance into an account held with a private bank, R.

7. In April 2016 the payment of the allowance to the applicant was suspended, in the absence of information indicating to the authorities that she had opened an account with Oshchadbank. Furthermore, the Department of Labour and Social Protection of the Executive Committee of the Rivne City Council ("the Department") informed her that it would not pay the allowance into an account with any bank other than Oshchadbank.

8. The applicant challenged the Department's decision to suspend the allowance. Her claims were granted by the courts as there had been no legal grounds for the suspension. The courts noted that until July 2016 the allowance could be paid through her current account with the bank R. According to the applicant, she received all the payments due to her for the period from April to June 2016 (2,400 Ukrainian hryvnas (around 80 euros) per month).

9. From July 2016 the payment of the applicant's allowance was again suspended on the basis of the Cabinet of Ministers' Resolution no. 637 of

5 November 2014 (see paragraphs 19 and 20 below) because of her refusal to open an account with Oshchadbank.

10. In July 2016 the applicant challenged the relevant provisions of Resolution no. 637 with subsequent amendments before the courts. She claimed that those provisions were discriminatory and were incompatible with other legal acts of higher legal force and should therefore be invalidated. The applicant referred, *inter alia*, to section 14 of the Law on Ensuring the Rights and Freedoms of Internally Displaced Persons of 2014 and section 6 of the Law on the Prevention of and Fight against Discrimination in Ukraine of 2012 (see paragraphs 17 and 18 below). She also relied on the Court's case-law in discrimination cases – in particular, the test the Court applies to establish whether discrimination took place. The applicant pointed to the difference in the treatment of people without IDP status who received benefit payments without having to open an account with Oshchadbank and people with IDP status who were required to open accounts with Oshchadbank in order to receive the allowance. She also submitted that there had been discrimination between the IDPs themselves, namely between those who had already had accounts with Oshchadbank and those who had not had such accounts.

11. On 24 May 2017 the Kyiv Circuit Administrative Court dismissed the applicant's claim in full. That court reasoned that the Cabinet of Ministers had acted within its competence when adopting the measure at issue and that the limitations in question had not deprived the applicant of any rights, but merely established the practical arrangements for implementing them. The first-instance court also concluded that the applicant's claim related exclusively to her unwillingness to open an account with Oshchadbank and that she had not advanced any convincing arguments in support of her complaints about discrimination.

12. The applicant appealed against that judgment, mainly reiterating her previous complaints. She also submitted that the first-instance court had failed to examine in detail her references to the Court's case-law and in particular to the test it applies when examining discrimination cases.

13. On 17 October 2017 the Kyiv Administrative Court of Appeal upheld the first-instance court's judgment. It endorsed the latter's findings regarding the lawfulness of the adoption of Resolution no. 637 and amendments to it. The appellate court also stated that the contested measure was aimed at "safeguarding the money due to socially unprotected [individuals] registered as internally displaced persons ...; ensuring the payment of pensions and other social benefits; the prevention of fraud and unlawful actions linked to the payment of such benefits and the prevention of the financing of terrorism". The court further noted that the measure at issue not only ensured the payment of social benefits to IDPs through the designated bank but also did not prevent them from withdrawing the money and depositing it with another bank of their choice. Further, with reference to domestic law and the Court's

judgment in *Pichkur v. Ukraine* (no. 10441/06, 7 November 2013), the appellate court concluded that the Government's actions were based on the domestic legislation and were not intended to discriminate on the basis of one's place of residence. Lastly, the appellate court stressed that by Resolution no. 689 of 13 September 2017, Resolution no. 637 had been amended in order to provide that the payment of social benefits to the IDPs was to be conducted via Oshchadbank with the option that further transactions (money transfers, payment or withdrawal) could be made to any other bank in Government-controlled territory (see paragraph 21 below). In that connection, the appellate court considered that the Cabinet of Ministers had thus "eliminated the violation of the claimant's rights".

14. The applicant lodged a cassation appeal in which she mainly repeated her arguments. She also argued that the amendments to Resolution no. 637 mentioned by the appellate court had not resolved the problem because IDPs still had to open an account with Oshchadbank.

15. On 25 September 2018 the Supreme Court upheld the lower courts' decisions against the applicant. That court endorsed their findings as to the lawfulness of the actions of the Cabinet of Ministers. On the matter of discrimination, the Supreme Court noted that the lower courts had rightly concluded that there were no signs of discrimination and that on the contrary, the impugned measures had been intended to ensure the special protection of IDPs.

16. Meanwhile, in November 2017 the applicant requested the Department to close her personal file as a recipient of the allowance because she had become unemployed and was thus no longer entitled to receive it. The Department allowed her request, although the applicant still had not received the allowance payments for the period from July 2016 to November 2017 because of her refusal to open an account with the designated State bank. The Department subsequently resumed the payment of the allowance to the applicant's family when her husband opened an account with Oshchadbank.

RELEVANT LEGAL FRAMEWORK

1. *Law no. 1706-VII of 2014 on Ensuring the Rights and Freedoms of Internally Displaced Persons*

17. The relevant provisions of the law in force at the material time read as follows:

Section 1. Definition of [an] Internally Displaced Person

"1. An internally displaced person is a citizen of Ukraine who permanently resides in Ukraine, [and] who was forced or who voluntarily left his or her place of residence as a result of, or in order to avoid, the negative consequences of armed conflict, temporary

occupation, widespread manifestations of violence, violations of human rights or emergency situations of natural or anthropogenic origin.

..."

Section 7. Ensuring the Exercise of the Rights of Registered Internally Displaced Persons to Employment, Pensions, Compulsory State Social Insurance, Social Services and Education

"1. Registered internally displaced persons shall enjoy rights to undertake employment; to a pension; to compulsory state social insurance in case of unemployment, temporary disability, or a disability caused by industrial accidents or occupational diseases; and to receive social services in accordance with the legislation of Ukraine.

...

2. Ukraine takes all possible measures aimed at resolving issues related to the social protection of internally displaced persons, including the resumption of social benefit payments [due to them].

3. Elderly citizens, disabled people, disabled children and any other persons in difficulty who are registered as internally displaced persons are entitled to receive social benefits in accordance with the law currently in force at the place of registration of their actual place of residence.

..."

Section 14. Prohibition of discrimination

"1. Internally displaced persons shall enjoy the same rights and freedoms in accordance with the Constitution, laws and international treaties of Ukraine as other citizens of Ukraine residing in Ukraine. They shall not be discriminated against in the exercise of any rights and freedoms on the ground that they are internally displaced persons."

2. Law no. 5207-VI of 2012 on the Prevention of and the Fight against Discrimination in Ukraine

18. The relevant parts of this Law read as follows:

Section 6. Prohibition of discrimination

"1. In accordance with the Constitution of Ukraine, the generally recognised principles and norms of the international law and the international treaties to which Ukraine is a party, all persons, regardless of their specific characteristics, have equal rights and freedoms, as well as equal opportunities for their exercise.

2. Any form of discrimination on the part of the State authorities, the authorities of the Autonomous Republic of Crimea, local self-government authorities, their officials, legal entities of public and private law, as well as natural persons specified in section 5 of this Law shall be prohibited.

3. Actions that do not restrict the rights and freedoms of others and do not impede the exercise thereof shall not be considered discrimination, nor shall those that do not give undue advantage to persons and/or groups of persons on certain grounds to which affirmative action applies, namely:

- special protection by the State of certain categories of persons in need of such protection;

- implementation of measures aimed at preserving the identity of separate groups of persons, if such measures are necessary;

- granting privileges and compensation to certain categories of persons in cases provided for by the law;

- imposing State social guarantees for certain categories of citizens;

- special requirements provided for by legislation as to the exercise of certain rights."

3. Resolution of the Cabinet of Ministers no. 637 of 5 November 2014 on welfare payments to persons displaced from the temporarily occupied territory of Ukraine and the anti-terrorist operation area (with amendments)

19. The relevant provisions of section 1 of Resolution no. 637, as worded at the time of its adoption in 2014, stated that the social benefits due to IDPs were to be paid at the place of such a persons' registration, which should be confirmed by the IDP certificate.

20. After the amendments introduced by Resolution no. 167 of 14 March 2016 and Resolution no. 365 of 8 June 2016, it was envisaged that from 1 July 2016 onwards the payment of all social benefits to the IDPs should be made solely through the accounts and the network of offices and devices of Oshchadbank. In order to identify those recipients of social benefits who are IDPs and to ensure the payment of these benefits to them, payment cards were to be issued. IDPs had to undergo physical identification in an Oshchadbank office every six months on the first two occasions, and every twelve months subsequently. If an IDP failed to undergo the identification, the bank was required to suspend outgoing transactions from the person's current account and to inform the social security department which had issued the IDP registration certificate and the Ministry of Finance.

21. The amendments introduced by Resolution no. 689 of 13 September 2017 provided that while all social welfare payments to IDPs still had to be made via Oshchadbank, IDPs could also receive cash and carry out non-cash transactions through the network of offices and devices of any bank located on Government-controlled territory.

4. Resolution of the Cabinet of Ministers no. 505 of 1 October 2014 on providing a monthly targeted allowance to internally displaced persons to cover their living expenses, including housing and municipal services (with amendments)

22. Resolution no. 505 approved the Procedure for providing a monthly targeted allowance to IDPs to cover the costs of accommodation, including housing and municipal services. The relevant provisions of the Procedure, as worded at the material time, provided that the allowance for IDPs was to be

granted to the family and paid to one of its members, subject to written consent in any form from the other family members. Oshchadbank was designated as an authorised bank, meaning that the allowance would be credited to accounts opened by IDPs with it. Cash benefits were to be paid by transfer to a current account opened with the Oshchadbank in accordance with the Procedure for the payment of social benefits through current accounts in banks.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

23. The applicant complained that the suspension of the allowance payments interfered with her right to peaceful enjoyment of her possessions and created an excessive burden for her. The applicant relied on Article 8 of the Convention and Article 1 of Protocol No. 1. The Court considers that the complaint falls to be examined solely under the latter provision, which reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

24. The Government did not raise any objections in respect of the admissibility of the applicant's complaints under Article 1 of Protocol No. 1 to the Convention.

25. The Court notes that these complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

26. The applicant did not deny that the interference with her property right had some legal basis. However, according to the applicant, the relevant provisions of the resolutions of the Cabinet of Ministers were not sufficiently clear and were incompatible with other legal acts of higher legal force. More

specifically, in accordance with Resolution no. 505, a failure to open an account with Oshchadbank was not among the grounds for the termination of the allowance payments. Moreover, the resolutions at issue did not stipulate that the refusal by an IDP to open a new account with Oshchadbank (assuming that he or she did not already have one) would lead to the deprivation of social benefits. Thus, the applicant considered that the interference with her right to the peaceful enjoyment of her possessions was not based on law.

27. The applicant pointed out that the Government had failed to provide any data on fraud cases to support their claims that the stated goals of the relevant resolutions of the Cabinet of Ministers were being achieved; nor had they explained how the obligation to receive social benefits only through Oshchadbank would counteract fraudulent schemes or illegal actions. The applicant concluded that the relevant restrictions were intended not to protect the rights of IDPs, but to significantly reduce the number of people receiving the allowance, which she claimed was confirmed by statistics from competent public authorities.

28. The applicant also stated that the Government had failed to examine other, less intrusive alternatives to the measure at issue or to explain why the supposed State control over social payments to IDPs could not be ensured by other banks operating in Ukraine (including other State-owned ones) or by the relevant State authorities, instead of Oshchadbank, which, according to the applicant, offered a very low level of services and protection to its clients. The applicant emphasised that because of her refusal to open an account with Oshchadbank payment of the allowance, an important means of support for her family, had been suspended. That had been an excessive reaction which had severely impacted her family. In particular, it had made it significantly harder to cope with their living costs, especially given that they did not own their housing, and that her daughter was a minor and her husband had a disability.

(b) The Government

29. The Government noted that the requirement that IDPs receive their social benefits only through accounts opened with Oshchadbank had been provided for by national legislation, namely by the respective provisions of the resolutions of the Cabinet of Ministers (see paragraphs 20 and 21 above). According to the Government, the by-law in question was sufficiently accessible and foreseeable. Therefore, they considered that the interference with the applicant's right to the peaceful enjoyment of possessions was in line with the requirements of the principle of "lawfulness".

30. Referring to an explanatory note on the contested Cabinet of Ministers resolutions, the Government drew the Court's attention to the aims of the legislative requirement that the payment of social benefits to IDPs could only be made via accounts opened with a designated State bank, namely

"safeguarding the money due to socially unprotected [individuals] registered as internally displaced persons ...; ensuring the payment of pensions and other social benefits; the prevention of fraud and unlawful actions linked to the payment of such benefits and the prevention of the financing of terrorism". Relying on certain media publications and information obtained from the law-enforcement authorities, the Government also pointed to the practice, which it submitted was widespread, of receiving social benefits for deceased IDPs and to the illegal misappropriation of budget funds by people pretending to be IDPs who repeatedly travelled back and forth between the temporarily occupied territory of Ukraine and Government-controlled territory. It was for this reason that it had been decided to make welfare payments to IDPs only through accounts with Oshchadbank, the offices of which registered IDPs were obliged to attend for physical identification once every six months on the first two occasions and every twelve months thereafter (see paragraph 20 above). The Government concluded that the relevant legislative amendments had been introduced not to limit IDPs, but to ensure the proper payment of social benefits due to them and State control over those payments via Oshchadbank. Thus, in the Government's view, the requirement that IDPs receive social benefits through a designated State bank pursued a legitimate aim.

31. Finally, the Government pointed out that the obligation for IDPs to open an account with Oshchadbank in order to receive social benefits could not have placed an excessive burden on the applicant since the obligation served as a kind of safeguard and was a necessary step to ensure the further payment of social benefits. In particular, the Government emphasised that she had refused to open an account with the designated State bank to receive the allowance for her family and that her entitlement to the allowance had subsequently ended because she had become unemployed. The payment of the allowance to the applicant's family had nevertheless been resumed when her husband had opened an account with Oshchadbank (see paragraph 16 above).

2. The Court's analysis

32. The Court notes at the outset that there is no dispute between the parties that the suspension of the payment of social benefits (the allowance) due to the applicant amounted to an interference with her right to the peaceful enjoyment of possessions guaranteed by Article 1 of Protocol No. 1 to the Convention. In the Court's view, the applicant's complaints are to be examined from the standpoint of the second paragraph of Article 1 of Protocol No. 1 to the Convention regarding control of the use of property (see *Croitoru v. Romania* (dec.), no. 3205/03, 14 September 2010).

(a) General principles

33. According to the Court's well-established case-law, to be compatible with Article 1 of Protocol No. 1 to the Convention the impugned measure must fulfil three conditions: it must be lawful, pursue a legitimate aim and strike a fair balance between the general interest of the community and the individual's fundamental rights (see *Beyeler v. Italy* [GC], no. 33202/96, §§ 108-14, ECHR 2000-I).

34. The existence of a legal basis in domestic law does not suffice, in itself, to satisfy the principle of lawfulness which, in addition, presupposes that the applicable provisions of domestic law are sufficiently accessible, precise and foreseeable in their application (see, among other authorities, *Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], no. 38433/09, § 187, ECHR 2012, and *Vistiņš and Perepjolkins v. Latvia* [GC], no. 71243/01, § 96, 25 October 2012). The lack of a sufficiently precise and foreseeable statutory provision may be remedied by the domestic courts by giving a clear and precise interpretation of the provision (see *Vijatović v. Croatia*, no. 50200/13, § 54, 16 February 2016). Unless the interpretation is arbitrary or manifestly unreasonable, the Court's role is confined to ascertaining whether the effects of that interpretation are compatible with the Convention (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 149, 20 March 2018, with further references).

35. The Court further notes that any interference by a public authority with the peaceful enjoyment of possessions can only be justified if it serves a legitimate public (or general) interest. Because of their direct knowledge of their society and its needs, the national authorities are in principle better placed than an international judge to decide what is "in the public interest". Under the system of protection established by the Convention, it is thus for the national authorities to make the initial assessment as to the existence of a problem of public concern warranting measures interfering with the peaceful enjoyment of possessions. The Court finds it natural that the margin of appreciation available to the legislature in implementing social and economic policies should be a wide one and will respect the legislature's judgment as to what is "in the public interest" unless that judgment is "manifestly without reasonable foundation" (see, *mutatis mutandis*, *Wieczorek v. Poland*, no. 18176/05, § 59, 8 December 2009, and *Gogitidze and Others v. Georgia*, no. 36862/05, § 96, 12 May 2015).

36. The remaining question for the Court to determine is whether there was a reasonable relationship of proportionality between the means employed by the authorities to achieve the stated legitimate aim and the protection of an applicant's right to the peaceful enjoyment of his or her possessions. The requisite balance will not be achieved if the person concerned has had to bear an individual and excessive burden (see *Perdigão v. Portugal* [GC], no. 24768/06, § 67, 16 November 2010, and *Béláné Nagy v. Hungary* [GC], no. 53080/13, § 115, 13 December 2016). In examining the proportionality

of an interference, the Court has also had particular regard to factors such as the extent of the loss of benefits, whether there was an element of choice, and the extent of the loss of means of subsistence (see *Fábián v. Hungary* [GC], no. 78117/13, § 73, 5 September 2017).

(b) Application of the above principles to the present case

(i) Whether the interference was lawful

37. The Court notes that the requirement that IDPs have an account with Oshchadbank in order to receive their social benefits was explicitly provided for by the provisions of the relevant resolutions of the Cabinet of Ministers (see paragraphs 20 and 21 above). The by-law at issue appears to be sufficiently clear, accessible and foreseeable in its application. As to the applicant's submission that the contested by-law did not provide for the termination of the allowance payments in case of a failure to open an account with Oshchadbank, the Court notes that, as it appears from the case file, the payment of her social benefits was not terminated but merely suspended until the legislative requirement was complied with.

38. The Court further observes that even assuming a lack of certainty in the contested statutory provisions, the domestic courts in their decisions reasoned that the special legislation (in particular, Resolution no. 637) clearly provided for the payment of social benefits due to IDPs only into accounts opened with Oshchadbank, so the suspension of payment of the allowance for the applicant's family was found lawful (see paragraphs 11, 13 and 15 above). The Court does not consider such an interpretation arbitrary or manifestly unreasonable.

39. In view of the above considerations, the Court concludes that the interference with the applicant's property rights was based on law.

(ii) Whether the interference pursued a legitimate aim

40. Bearing in mind the wide margin of appreciation of the State in implementing social and economic policies (see paragraph 35 above), the Court finds no reason to doubt that the legislative requirement that IDPs have accounts with Oshchadbank to receive their social benefits served the "public interest". In particular, the Court is ready to agree with the Government that the provisions of the relevant resolutions of the Cabinet of Ministers limiting IDPs' right to choose a bank through which to receive social benefits were aimed at ensuring the proper payment of those benefits to IDPs while ensuring State oversight of such payments via the designated State bank. The Court thus cannot accept the applicant's allegations that the proclaimed goals were not legitimate or that they were based on assumptions of abuse without evidentiary justification.

41. The foregoing considerations are sufficient to enable the Court to conclude that the interference with the applicant's property rights pursued a legitimate aim.

(iii) Whether the interference was proportionate to the legitimate aim pursued

42. First of all, the Court agrees with the applicant that, in principle, there were probably other measures which could have been introduced to ensure State oversight of social payments due to IDPs, such as allowing them to receive social benefits through banks other than Oshchadbank (including State-owned ones) or via the relevant State institutions. However, whereas the availability of alternative solutions constitutes a relevant factor when determining whether the means chosen may be regarded as reasonable and suited to achieving the legitimate aim being pursued, it does not in itself render the interference with the right unjustified (see, *mutatis mutandis*, *Borzhonov v. Russia*, no. 18274/04, § 61, 22 January 2009). That is why the Court will proceed with the examination of the interference with the applicant's property rights in the light of other proportionality criteria, such as whether she had to bear an excessive burden.

43. The Court notes that the applicant received a special allowance for her family to help cover their living expenses as IDPs, which was aimed at supporting their adaptation during the relocation period. The applicant's refusal to open an account with the designated State bank in order to obtain the allowance resulted in the suspension of the relevant monthly payments (until the legislative requirement was complied with) and did not mean the loss of the entitlement to those benefits. Ultimately, the applicant lost her right to the allowance because she became unemployed; she did not receive the payments for the suspension period because she had not opened an account with Oshchadbank. Nevertheless, her husband managed to receive subsequent payments of the allowance by complying with the requirements of the contested by-law (see paragraph 16 above).

44. The Court further observes that the applicant did not argue that there were any objective difficulties that prevented her from opening an account with the designated State bank, as required by the by-law at issue. Instead, she relied mainly on the alleged low quality of services offered by Oshchadbank to explain her refusal to open an account there. Such reasons, even if they were justified, are not sufficient to be considered an excessive burden on the applicant (see and compare *Croitoru* (cited above) where legal provisions compelling the applicant in that case, a Romanian citizen living abroad who had lost all contact with his native country, to appoint a proxy to collect pension payments due to him – which he could do without having to travel to Romania – were not found to be manifestly excessive for the applicant).

45. Finally, the Court has sufficient grounds to consider that there was no risk that the applicant and her family would lose their means of subsistence

since, objectively speaking, they were able to put an end to the suspension of the allowance payments at any time by opening an account with the designated State bank.

46. In the light of the above, the Court concludes that the obligation for the applicant to open an account with Oshchadbank in order to receive social benefits cannot be considered as having imposed an individual and excessive burden on her (compare *Dukmedjian v. France*, no. 60495/00, §§ 55-59, 31 January 2006).

(iv) Conclusion

47. Having regard to the above considerations and the wide margin of appreciation enjoyed by the State in implementing social and economic policies, the Court considers that the interference with the applicant's right to the peaceful enjoyment of her possessions was lawful, pursued a legitimate aim and was not disproportionate.

48. There has accordingly been no violation of Article 1 of Protocol No. 1 to the Convention.

II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION TAKEN TOGETHER WITH ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

49. The applicant complained of the alleged discriminatory nature of the obligation imposed on her to receive social benefits through Oshchadbank as compared to other persons without IDP status who could receive similar payments through any bank. She also complained that there had been discrimination between IDPs who already had or who had opened accounts with a designated State bank – Oshchadbank – and those who refused to do so. The applicant relied on Article 14 of the Convention and on Article 1 of Protocol No. 12. The Court considers that the above complaints fall to be examined solely under the former provision, which reads as follows:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

A. The parties' submissions

1. The Government

50. The Government submitted that Article 14 of the Convention could only be applied if there was a violation of rights and freedoms guaranteed by one of the Articles of the Convention. They argued that there had been no violation of Article 1 of Protocol No. 1 to the Convention in the present case and that, therefore, Article 14 of the Convention could not be applied.

51. The Government further acknowledged that discrimination was treating differently individuals in the same situation, but argued that, while IDPs had the same rights as others, it was necessary to take into account the peculiarities of their status and the difficulties that might arise in connection with their internal displacement. The Government noted that the applicant had not been subjected to any requirements for receiving social benefits due to her other than those applied to all IDPs. Thus, the Government concluded that the fact that the requirement that IDPs had accounts with Oshchadbank to receive social benefits applied to all IDPs meant that it was not discriminatory in the sense of Article 14 of the Convention.

52. The Government also indicated that the applicant had received a special allowance for her family to help cover their living expenses, which was targeted exclusively at IDPs and aimed at supporting their adaptation during the relocation period. The Government emphasised that persons without IDP status were therefore not entitled to and did not receive this allowance at all, so there was no appearance of discrimination of IDPs on this ground.

2. The applicant

53. The applicant disagreed with the Government's submissions. More specifically, referring to the Court's relevant case-law, she noted that the application of Article 14 of the Convention – read in conjunction with a substantive provision – did not necessarily presuppose the violation of one of the substantive rights guaranteed by the Convention and to that extent it was autonomous.

54. The applicant further submitted that she had been treated differently by the State as compared to other persons without IDP status receiving similar social payments, who were free to choose the bank through which they wished to receive their payments. Therefore, she considered that she had been discriminated against on the ground of her being an IDP – an "other status" within the meaning of Article 14 of the Convention.

55. The applicant also insisted that she had been treated differently from other IDPs who had opened accounts with Oshchadbank as required by the relevant by-law.

B. The Court's analysis

56. The Court has consistently held that Article 14 of the Convention has no independent existence since it has effect solely in relation to "the enjoyment of the rights and freedoms" safeguarded thereby. Although the application of Article 14 of the Convention does not presuppose a breach of those provisions – and to this extent it is autonomous – there can be no room for its application unless the facts at issue fall within the ambit of one or more

of them (see, among many other authorities, *Molla Sali v. Greece* [GC], no. 20452/14, § 123, 19 December 2018).

57. Turning to the present case, the Court reiterates that there has been no violation of the applicant's rights guaranteed by Article 1 of Protocol No. 1 to the Convention, which is, however, not decisive for the determination of the applicability of its Article 14 in view of the aforementioned case-law of the Court. It also reiterates that the applicant's complaints under Article 1 of Protocol No. 1 to the Convention have been found admissible, and that she was undoubtedly entitled to the allowance at issue, which constituted her possessions. That is sufficient to render Article 14 of the Convention clearly applicable to the present case and the relevant applicant's complaints admissible *ratione materiae*. The Government's objection in this regard must therefore be rejected.

58. The Court has established in its case-law that only differences in treatment based on an identifiable characteristic, or "status", are capable of amounting to discrimination within the meaning of Article 14 of the Convention (see *Fábián*, cited above, § 113). Moreover, in order for an issue to arise under Article 14 of the Convention, there must be a difference in the treatment of persons in analogous, or relevantly similar, situations (see *Molla Sali*, cited above, § 133).

59. Concerning the first limb of the Article 14 complaint, the Court notes that it is uncontested by the parties that the applicant was entitled to a special allowance intended for IDPs only. It follows that she did not find herself in an analogous, or relevantly similar, situation in comparison with other recipients of social benefits without IDP status (see, for a similar approach, *Tsezar and Others v. Ukraine*, nos. 73590/14 and 6 others, § 77, 13 February 2018).

60. Regarding the second limb of the Article 14 complaint, the applicant claimed that she had been discriminated against as compared to other IDPs who had accounts with Oshchadbank and who had therefore received the allowance. The Court stresses in this connection that the possession or otherwise of account with Oshchadbank is not an identifiable characteristic or "status" within the meaning of Article 14 of the Convention.

61. The foregoing considerations are sufficient to enable the Court to conclude that the applicant, as an IDP, was not in an analogous, or relevantly similar, situation in comparison with other recipients of social benefits without IDP status, and that she did not demonstrate a difference in treatment between IDPs themselves.

62. In the light of the above, the Court considers that the applicant's complaints under Article 14 of the Convention in conjunction with Article 1 of Protocol No. 1 to the Convention are manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Article 1 of Protocol No. 1 to the Convention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been no violation of Article 1 of Protocol No. 1 to the Convention.

Done in English, and notified in writing on 15 February 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik Registrar	Georges Ravarani President