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

THIRD SECTION

DECISION

Application no. 28854/17
Kalina Ivanova DIMITROVA
against Bulgaria

The European Court of Human Rights (Third Section), sitting on 20 February 2024 as a Committee composed of:

Ioannis Ktistakis*, President*,
Yonko Grozev,
Andreas Zünd*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 28854/17) 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 7 April 2017 by a Bulgarian national, Ms Kalina Ivanova Dimitrova ("the applicant"), who was born in 1983 and was represented by Mr K. Krastev, a lawyer practising in Burgas;

the decision to give notice of the application to the Bulgarian Government ("the Government"), represented by their Agents, Ms R. Georgieva and Ms M. Dimitrova, from the Ministry of Justice;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns access to a court. A bank initiated order-for-payment proceedings against the applicant, and notice was sent to the applicant's registered address in Bulgaria. She was not found there, but the notice was still deemed served as no other address was known. The bank thus obtained an order for payment and a writ of execution, both dated 4 January 2016, for 11,126 Bulgarian levs (BGN), equivalent to about 5,690 euros (EUR).

2. In September 2016, when she learned about the order, the applicant objected against it. Under domestic law, namely Article 423 of the Code of

Civil Procedure, the objection could be accepted if the applicant could show that at the time when service had been attempted she had permanently established herself abroad. However, the competent Burgas Regional Court found, in a final judgment of 25 October 2016, that this was not proven to be the case, despite the applicant having shown that she had spent time in the United Kingdom.

3. The applicant complained to the Court under Article 6 § 1 and Article 13 of the Convention that she had been denied access to a court to participate in the order-for-payment proceedings.

4. It transpired eventually that in the ensuing enforcement proceedings initiated by the bank a bailiff concluded that the applicant had no sequestrable assets. The enforcement proceedings were discontinued on 12 November 2018, without any part of the debt having been paid.

THE COURT'S ASSESSMENT

5. The Government argued that the applicant had failed to exhaust available domestic remedies, and that she was herself to be blamed for the situation obtained, in particular because she had failed to declare to the authorities any intention to establish herself abroad. The applicant did not comment.

6. The Court is of the view that it does not have to answer the Government's arguments, because the application is in any way inadmissible for the reasons below.

7. Article 35 § 3 (b) of the Convention provides that an application may be dismissed as inadmissible if

> "the applicant has not suffered a significant disadvantage, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits."

8. In the case, in the impugned proceedings the applicant was ordered to pay BGN 11,126, but did not pay anything of that sum, and eventually the enforcement proceedings against her were discontinued (see paragraphs 1 and 4 above). Accordingly, the Court cannot conclude that any undue restriction on the applicant's right to access to a court in the order-for-payment proceedings had a serious adverse effect on her life (see *Ladygin v. Russia* (dec.), no. 35365/05, 30 August 2011, and *Martinez Lopez-Puigcerver v. Spain* (dec.), no. 45367/16, §§ 40-41, 20 April 2021).

9. The above means that the applicant did not suffer any significant disadvantage as a result of the alleged violations of the Convention.

10. In addition, the Court has examined cases where applicants were deprived of access to a court due to the authorities' failure to duly serve on them notice of civil proceedings (see, among others, *Dilipak and Karakaya v. Turkey*, nos. 7942/05 and 24838/05, 4 March 2014; *Gyuleva v. Bulgaria*, no. 38840/08, 9 June 2016; *Bacaksız v. Turkey*, no. 24245/09, 10 December

2019; *Berestov v. Russia*, no. 17342/13, 18 May 2021), and its case-law is clear and established. Accordingly, respect for human rights as defined in the Convention and its Protocols does not require the examination of the application on the merits.

11. In view of the considerations above, the application must be declared inadmissible under Article 35 §§ 3 (b) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 21 March 2024.

Olga Chernishova Deputy Registrar	Ioannis Ktistakis President