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

SECOND SECTION

DECISION

Application no. 15313/19
Vera IVANOVA
against North Macedonia

The European Court of Human Rights (Second Section), sitting on 21 May 2024 as a Committee composed of:

Diana Sârcu*, President*,
Jovan Ilievski,
Gediminas Sagatys*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 15313/19) against the Republic of North Macedonia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 11 March 2019 by a Macedonian/citizen of the Republic of North Macedonia, Ms Vera Ivanova ("the applicant"), who was born in 1970, lives in Skopje and was represented by Mr H. Davidovikj, a lawyer practising in Skopje;

the decision to give notice of the application to the Government of North Macedonia ("the Government"), represented by their Agent, Ms D. Djonova;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the temporary freezing of the applicant's bank account by an order of 12 November 2018 ("the freezing order") issued by the Skopje Court of First Instance ("the trial court") in the context of an investigation that had been launched in respect of her and of which she had allegedly been unaware at the time. The order was based on a public prosecutor's request which indicated that the applicant had sold shares of her company to a foreign company for 3,275,000 euros (EUR) and that there was a suspicion that she had committed money laundering. In reply to the applicant's request that a copy of the order be served on her, on

28 November 2018 a pre-trial judge of the trial court informed her that it was not possible to divulge any information, owing to the secrecy of the investigation.

2. On 13 March, 11 April and 16 May 2019 the prosecutor heard the applicant and informed her of her right to inspect the case file. On 24 April 2019 the pre-trial judge dismissed an application lodged by the applicant on 11 April 2019 in which she had sought the revocation of the freezing order because she needed to pay taxes. The judge found that the investigation against the applicant was still pending and that the payment of taxes from her account could amount to putting unlawfully obtained monetary funds into circulation. On 9 May 2019 a three-judge panel of the trial court confirmed the decision of 24 April 2019.

3. In April 2021 the applicant was indicted. In February 2023 the trial court convicted her and confiscated the full amount specified in the freezing order (see paragraph 1 above) from her bank account. No information is available as to the subsequent developments in the criminal proceedings.

4. The applicant complained under Articles 6 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention that she had not been able to challenge the freezing order, which had not been served on her.

THE COURT'S ASSESSMENT

5. The Court, being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 114, 20 March 2018) and bearing in mind the procedural requirements inherent in Article 1 of Protocol No. 1, finds it appropriate to examine the applicant's complaint under Article 1 of Protocol No. 1 to the Convention alone (see, *mutatis mutandis*, *Călin v. Romania*, no. 54491/14, § 53, 5 April 2022).

6. The Court considers that it is not necessary to examine the Government's objection concerning abuse of the right to application (related to the applicant's failure to inform the Court about factual developments in her case) and non-exhaustion of domestic remedies as the application is in any event inadmissible for the reasons elaborated below.

7. The relevant general principles regarding the protection provided by Article 1 of Protocol No. 1 in the context of the freezing of assets in criminal proceedings and the procedural requirements to be met in that regard were recently summarised by the Court in *Shorazova v. Malta* (no. 51853/19, §§ 103-05 and 113, 3 March 2022).

8. In the present case, the freezing order was imposed in the context of criminal proceedings for money laundering against the applicant in which she was indicted and convicted at first instance (contrast ibid., § 112). It amounted to an interference with the applicant's possessions consisting of a control of the use of her property for the purposes of the second paragraph of Article 1

of Protocol No. 1. There is nothing to suggest that the order was unlawful in terms of domestic law and it aimed at securing the enforcement of a possible confiscation order, which is in the general interest (compare *Apostolovi v. Bulgaria*, no. 32644/09, §§ 90-94, 7 November 2019). As for the proportionality of the order, the applicant did not argue that the scope of the freezing order was excessive in relation to the pecuniary gain allegedly obtained by her (contrast *Džinić v. Croatia*, no. 38359/13, §§ 51 and 75-76, 17 May 2016).

9. As regards the applicant's complaint that the freezing order was not served on her, the Court, examining whether the order was attended by sufficient procedural safeguards to ensure that it is not arbitrary or disproportionate, recalls that it has previously held that such a procedure does not in itself raise an issue in terms of safeguards (see *Apostolovi*, cited above, § 98). As to the question of whether the applicant had an opportunity to challenge the asset-freezing, the Government argued among others that an application for lifting the freezing order was available to the applicant at any given time and for an unlimited number of times (compare *Benet Czech, spol. s r.o. v. the Czech Republic*, no. 31555/05, § 49, 21 October 2010). The applicant did not effectively counter that argument. Indeed, in April 2019 she lodged such an application, in which she requested that the State Revenue Office be provided with access to her funds in order to honour her tax obligations. Her arguments were dismissed on the merits by the trial court, at two levels of jurisdiction, in decisions that were devoid of arbitrariness. Therefore, the applicant had a reasonable opportunity to put her case regarding the freezing order in adversarial proceedings before a judicial authority with a view to enabling it to strike a fair balance between the competing interests at stake (see *Piras v. San Marino* (dec.), no. 27803/16, §§ 59-60, 27 June 2017). No other arguments were raised by her before the Court which would render the review of the freezing order incompatible with the requirements of Article 1 of Protocol No. 1 (contrast *Apostolovi*, cited above, §§ 103-04, in which the applicant argued that he had needed to tend to the medical expenses of his disabled son).

10. This application is therefore inadmissible as being manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected pursuant to Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 13 June 2024.

Dorothee von Arnim Deputy Registrar	Diana Sârcu President