

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

THIRD SECTION

CASE OF PETROVA v. BULGARIA

(Application no. 938/21)

DECISION

STRASBOURG

18 June 2026



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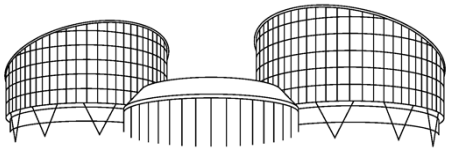
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EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

DECISION

Application no. 938/21
Mihaela Nikolaeva PETROVA
against Bulgaria
lodged on 18 December 2020

The European Court of Human Rights (Third Section), sitting on 19 May 2026 as a Chamber composed of:

Ioannis Ktistakis, *President*,
Peeter Roosma,
Lətif Hüseynov,
Diana Kovatcheva,
Úna Ní Raifeartaigh,
Mateja Đurović,
Vasilka Sancin, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:
the above application lodged on 18 December 2020; and
the parties' observations;
Having deliberated, decides as follows:

THE FACTS

1. The applicant, Ms Mihaela Nikolaeva Petrova, is a Bulgarian national who was born in 1985 and lives in Sofia. She was represented before the Court by Ms A. Kachaunova, a lawyer practising in Sofia.

2. The Bulgarian Government ("the Government") were represented by their Agents, Ms M. Kotseva and Ms S. Sobadzhieva of the Ministry of Justice.

A. Restrictions imposed in 2020 in connection with the spread of COVID-19

3. In an order of 13 March 2020 (see *заповед РД-01-124/13.03.2020 г.*), the Minister of Health imposed a range of restrictions intended to stop or slow

the spread of COVID-19. Those included (a) a prohibition on any visits to bars, restaurants and similar establishments; (b) an order to all employers to introduce teleworking to the extent compatible with the nature of the work; and (c) a ban on any "mass events". The measures were to apply until 29 March 2020. On 26 March 2020, the Minister extended those measures until 12 April 2020 inclusive (see *заповед РД-01-154/26.03.2020 г.*). On 10 April 2020, the Minister again extended those measures, until 13 May 2020 (see *заповед РД-01-195/10.04.2020 г.*). On 14 May 2020, the Minister repealed his earlier orders, but imposed similar restrictions, this time covering only the closed spaces of restaurants, bars and similar establishments, and banning "organised gatherings" of more than ten people (see *заповед РД-01-263/14.05.2020 г.*). He fine-tuned those restrictions on 15, 19 and 20 May 2020 (see *заповед РД-01-268/15.05.2020 г.*; *заповед РД-01-270/19.05.2020 г.*; and *заповед РД-01-272/20.05.2020 г.*). On 26 May 2020, the Minister lifted the ban on "organised gatherings" of more than ten people (see *заповед № РД-01-277/26.05.2020 г.*).

B. Effect of those restrictions on the applicant's employment

4. As a result of those restrictions, the applicant, who was employed as a restaurant waitress, was placed on unpaid leave from 14 March 2020 onwards.

C. The applicant's email to the media and her Facebook posts

5. On 8 April 2020 the applicant sent an email to various media outlets, in which she asked about, among other things, the parameters of no-interest loans allegedly promised by the authorities in connection with the anti-COVID-19 measures, and complained about the financial impact of those measures. She then posted the text of her email on her Facebook wall, allowing full public access to the post, and added that she would wait for a reply until 14 April 2020 and that, if she had not received one by then, she would go and stand in front of the Council of Ministers building wearing a mask and gloves and holding a poster displaying her questions.

6. The following day, 9 April 2020, the applicant posted a video in a Facebook group. She added a link to her post from the previous day. In the video she asked why, among other things, there was no financial support, or at least no-interest loans, in Bulgaria for people who had been forced to pause working or who had lost their jobs as a result of the anti-COVID-19 restrictions, and called on the authorities to tackle the problem, noting that in many other countries such supports did exist. She stated that if she did not get answers by the end of the week (that is, by 12 April 2020), she would go out to protest in front of the Council of Ministers building, wearing a mask and gloves, and called on others to do the same.

7. The following day, 10 April 2020, the applicant wrote on her Facebook wall, again allowing full public access to the post, that at 11 a.m. on 13 April 2020 she would stand in front of the Council of Ministers building to protest, wearing a mask and gloves and keeping the requisite distance, saying "the measures [were] important but [she] would protest". She invited anyone who wished to join her to do so.

8. The following day, 11 April 2020, the applicant wrote another post on her Facebook wall, in which she copied and pasted a call from someone else for a march to take place at 1 p.m. on 13 April 2020 from Sofia University to the Council of Ministers building, to protest against the anti-COVID-19 measures imposed by the authorities. The call invited all would-be participants to "show that they [were] citizens complying strictly with the anti-viral measures", and to participate in the march by moving in a single line and by keeping a distance of two to three metres between each other.

D. Police visit to the applicant's home and subsequent police interview

9. At 9.45 a.m. on 13 April 2020 two police officers from the Chief Directorate for Combatting Organised Crime came to the applicant's front door and admonished her in writing (see paragraph 29 below) "not to infringe the regulations, rules and measures issued to combat the spread of ... COVID-19 among humans", and informed her that pursuant to Article 355 § 1 of the Criminal Code (see paragraph 57 below) doing so was punishable by up to three years' imprisonment. They also admonished the applicant "not to carry out indecent acts seriously infringing public order and manifesting overt disregard for society", and informed her that pursuant to Article 325 § 1 of the same Code (see paragraph 56 below) doing so was punishable by up to five years' imprisonment.[1]

10. The officers also served on the applicant a summons for a police interview at 11 a.m. the same day (see paragraph 37 below). The applicant wrote on the summons that she could not go to the police station at 11 a.m.

11. She nonetheless appeared for the interview at 11 a.m. Police officers presented her with the Facebook post of 11 April 2020 (see paragraph 8 above) and asked her to explain the protest that she was planning. In her explanation, which the applicant wrote on the spot, she stated, in particular, that she had turned to calling for protests on Facebook as the sole means available to her of airing her grievances, namely losing her income as a result of the restrictive measures taken in connection with the spread of COVID-19 and not being able to obtain any financial assistance from the authorities. It is unclear how much time the applicant spent at the police station.

[1] The maximum punishment under that provision is actually two years' imprisonment (see paragraph 56 below).

E. Criminal investigation into the applicant's actions

12. On 23 April 2020, the Sofia district prosecutor's office opened a criminal investigation in respect of the applicant's Facebook post of 10 April 2020 (see paragraph 7 above). It found that there were grounds to suspect that the post had amounted to an overt call to infringe regulations and measures issued to combat the appearance or spread of a contagious disease affecting humans, contrary to Article 355 § 1 of the Criminal Code, and that it could therefore constitute an offence under Article 320 § 1 of the same Code (see paragraphs 55 and 57 below). It assigned the investigation to the Chief Directorate for Combatting Organised Crime.

13. On 7 May 2020, the investigator in charge of the case asked the municipality of Sofia whether the applicant had notified it of any intention to organise a public protest. On 14 May 2020, the municipality replied that she had not given any notice of an intention to organise a public protest.

14. In October 2020, police technicians prepared a transcript of two videos posted by the applicant on Facebook.

15. On 25 February 2021, the investigator interviewed three people who had interacted with the applicant's Facebook posts. All of them stated that they had not genuinely intended to heed her calls to go out and protest.

16. On 12 May 2021, the investigator, acting on instructions from the Sofia district prosecutor's office, interviewed the applicant. She stated, in particular, that neither she nor anyone else had gone out to protest in front of the Council of Ministers building at 11 a.m. on 13 April 2020.

17. On 14 June 2021, an officer of the Chief Directorate, acting on instructions by the Sofia district prosecutor's office, reported that research undertaken on the internet had not revealed any real-life public protest that had taken place as a result of the applicant's Facebook post.

18. On 21 June 2021, the investigator recommended that the investigation be discontinued, on the basis that the applicant's act had not amounted to an offence.

19. On 1 July 2021, the Sofia district prosecutor's office discontinued the investigation. It found, in particular, that there was no evidence that the applicant's calls to go out and protest had in fact motivated anyone to do so, and that, upon closer analysis, her Facebook post could not be seen as an overt call to commit an offence. No offence had therefore been committed.

F. Attempts to obtain information about the investigation in respect of the applicant

20. On 4 May 2020, the applicant asked the Chief Directorate to inform her about the course of any investigation against her. She received no reply.

21. On 29 May 2020, a media outlet asked the Chief Directorate a series of questions relating to its actions in the applicant's case. The Ministry of

Internal Affairs replied to some of those questions on 10 June 2020, specifying, in particular, that twenty-eight people had been admonished in connection with online publications relating to COVID-19. It refused to comment specifically on any steps taken in the applicant's case, saying only that a criminal investigation had been opened on suspicion of an offence under Article 320 § 1 taken together with Article 355 of the Criminal Code (see paragraphs 55 and 57 below).

22. On 6 June 2020, the applicant's lawyer asked the Chief Directorate for copies of any documents relating to the visit to the applicant's home and of the summons issued to her, and for information about the grounds on which the applicant had been summoned for an interview and about the course of any investigation in respect of her. On 12 June 2020 the Chief Directorate replied that a criminal investigation had been opened in respect of the applicant on suspicion that she had called for an offence to be committed in the course of a pandemic and a state of emergency, contrary to Article 320 § 1 taken together with Article 355 of the Criminal Code (see paragraphs 55 and 57 below), and that only the supervising prosecutor could permit access to the file.

23. On 29 June 2020, the applicant's lawyer asked the Sofia district prosecutor's office for access to the file of the criminal investigation against the applicant. On 7 July 2020 the prosecutor in charge of the case refused the request, on the basis that those documents, including any documents from the preliminary investigation that had preceded the opening of a formal criminal one, were for the time being confidential, and that the applicant and her lawyer could inspect them only if and when charges were brought against her. Moreover, the applicant had not given a specific reason why she needed access to that material. The prosecutor also noted that up until that point no one had been charged in the criminal investigation relating to the applicant's call to protest on 13 April 2020.

G. Internal investigation into the actions of the police with respect to the applicant

24. On 10 June 2020 the applicant's lawyer asked the Inspectorate of the Ministry of Internal Affairs to look into the Chief Directorate's investigation concerning the applicant, and to check in particular on what grounds the Chief Directorate had been conducting that investigation and whether any officers had exceeded their powers in relation to that.

25. On 22 June 2020 the head of the Chief Directorate, to whom the Inspectorate had sent the request, appointed a three-member commission to carry out an internal investigation into the matter.

26. On 30 June and 6 July 2020 that commission obtained statements from the two police officers who had visited the applicant's home to admonish her and summon her for an interview (see paragraphs 9-10 above).

27. In its report, dated 31 August 2020, the commission expressed the view that the two officers had not exceeded their powers or acted unlawfully.

28. On 2 September 2020 the head of the Chief Directorate advised the applicant that the commission's investigation had not revealed any unlawful conduct by officers of the Chief Directorate.

RELEVANT LEGAL FRAMEWORK

A. Provisions and case-law relating to the powers of the police

1. Admonishment not to commit an offence or a breach of public order

29. If the police have enough information to suspect that someone might commit a criminal offence or breach public order, they may admonish him or her orally or in writing not to do so (section 65(1) of the Ministry of Internal Affairs Act 2014, which superseded the identically worded section 56(1) of the Ministry of Internal Affairs Act 2006, which had in turn superseded the almost identically worded section 63(1) of the Ministry of Internal Affairs Act 1997). A written admonishment must specify the punishment prescribed for the relevant offence or breach of public order (section 65(2) of the 2014 Act and its predecessors, section 56(2) of the 2006 Act and section 63(2) of the 1997 Act).

30. The Supreme Administrative Court has consistently held that such admonishments are not decisions amenable to judicial review because – unlike, for instance, police orders (see paragraph 31 below) – they do not in themselves give rise to rights or duties for their addressees, or affect in themselves the rights, freedoms or legal interests thereof (see, for instance, *опр. № 7489 от 20.06.2008 г. по адм. д. № 1584/2008 г., ВАС, III о.*, relating to the 1997 Act; *опр. № 10994 от 28.09.2010 г. по адм. д. № 12045/2010 г., ВАС, I о.*; *опр. № 2866 от 25.02.2011 г. по адм. д. № 2039/2011 г., ВАС, V о.*; *опр. № 699 от 13.01.2012 г. по адм. д. № 424/2012 г., ВАС, V о.*; *опр. № 11586 от 16.09.2013 г. по адм. д. № 12044/2013 г., ВАС, V о.*; and *опр. № 4174 от 26.03.2014 г. по адм. д. № 4051/2014 г., ВАС, V о.*, relating to the 2006 Act; and *опр. № 2696 от 12.03.2015 г. по адм. д. № 2759/2015 г., ВАС, V о.*; *опр. № 3277 от 25.03.2015 г. по адм. д. № 3063/2015 г., ВАС, V о.*; *опр. № 6339 от 30.05.2016 г. по адм. д. № 5741/2016 г., ВАС, V о.*; *опр. № 7619 от 23.06.2016 г. по адм. д. № 7187/2016 г., ВАС, V о.*; *опр. № 11332 от 26.09.2018 г. по адм. д. № 10453/2018 г., ВАС, V о.*; *опр. № 386 от 10.01.2019 г. по адм. д. № 14829/2018 г., ВАС, V о.*; *опр. № 8700 от 02.07.2020 г. по адм. д. № 6236/2020 г., ВАС, V о.*; and *опр. № 4279 от 05.05.2022 г. по адм. д. № 3955/2022 г., ВАС, V о.*, relating to the 2014 Act). The court adhered to that position in a case in which the claimant had been admonished not to take part in a rally (see *опр. № 3346 от 07.03.2019 г. по адм. д. № 1824/2019 г., ВАС, V о.*), and in two cases relating to potential

breaches of the anti-COVID-19 restrictions imposed in early 2020 (see *опр. № 8478 от 30.06.2020 г. по адм. д. № 5958/2020 г., ВАС, V о.*, and *опр. № 8983 от 07.07.2020 г. по адм. д. № 6342/2020 г., ВАС, V о.*). It has also held that such admonishments do not directly affect their addressee's right to move freely (see *опр. № 557 от 16.01.2014 г. по адм. д. № 392/2014 г., ВАС, V о.*), and has refused to accept that they produce any legal effects, and should hence be amenable to judicial review, merely because they might intimidate their addressees (see *опр. № 4311 от 28.03.2014 г. по адм. д. № 4196/2014 г., ВАС, V о.*).

2. Difference between a police admonishment and a police order

31. Under section 64(1) of the Ministry of Internal Affairs Act 2014, the police may give written orders to State authorities, legal persons and individuals whenever necessary in order to carry out their tasks. Those orders are binding unless they require the addressee to commit an obvious offence or imperil his or her life or health (section 64(4)). They are amenable to judicial review (section 64(7)).

32. The Supreme Administrative Court has held that the question of whether a document issued by a police officer is an admonishment under section 65(1) or an order under section 64(1) turns on the substantive content of the document, not on which of the two provisions has been cited in it – the distinguishing factor is whether it prescribes a specific course of conduct or simply draws attention to legal provisions proscribing certain acts (see *опр. № 9667 от 23.09.2015 г. по адм. д. № 10342/2015 г., ВАС, V о.*; *опр. № 8447 от 07.07.2016 г. по адм. д. № 5910/2016 г., ВАС, V о.*; *опр. № 10354 от 05.10.2016 г. по адм. д. № 10853/2016 г., ВАС, V о.*; *опр. № 16647 от 06.12.2019 г. по адм. д. № 13299/2019 г., ВАС, V о.*; *опр. № 3051 от 26.02.2020 г. по адм. д. № 2114/2020 г., ВАС, V о.*; *опр. № 8700 от 02.07.2020 г. по адм. д. № 6236/2020 г., ВАС, V о.*; *опр. № 11803 от 23.09.2020 г. по адм. д. № 9265/2020 г., ВАС, V о.*; *опр. № 10708 от 21.10.2021 г. по адм. д. № 10313/2021 г., ВАС, V о.*; *опр. № 4279 от 05.05.2022 г. по адм. д. № 3955/2022 г., ВАС, V о.*; *опр. № 8778 от 11.10.2022 г. по адм. д. № 8474/2022 г., ВАС, V о.*; *опр. № 10641 от 23.11.2022 г. по адм. д. № 10231/2022 г., ВАС, V о.*; *опр. № 1342 от 07.02.2023 г. по адм. д. № 960/2023 г., ВАС, V о.*; *опр. № 4744 от 16.04.2024 г. по адм. д. № 3748/2024 г., ВАС, V о.*; *опр. № 4909 от 18.04.2024 г. по адм. д. № 3614/2024 г., ВАС, V о.*; *опр. № 4952 от 18.04.2024 г. по адм. д. № 3993/2024 г., ВАС, V о.*; and *опр. № 2920 от 20.03.2025 г. по адм. д. № 1906/2025 г., ВАС, VII о.*).

33. In a judgment given in 2019, the Supreme Administrative Court held that a police warning not to breach public order or to call for public order to be breached, to comply with the legal provisions governing meetings, marches and rallies, not to organise such events unlawfully, and not to block public roads had amounted to an admonishment rather than an order (see

опр. № 3346 от 07.03.2019 г. по адм. д. № 1824/2019 г., ВАС, V о.). It held the same in a 2024 case (see *опр. № 10004 от 25.09.2024 г. по адм. д. № 8547/2024 г., ВАС, V о.*).

34. In a case it decided in 2020, the Supreme Administrative Court held that a police warning to a demonstrator to comply with the anti-COVID-19 restrictions prescribed by the Minister of Health and to put on a medical mask had in effect been an admonishment, since it had not given rise to obligations additional to those already in place (see *опр. № 8478 от 30.06.2020 г. по адм. д. № 5958/2020 г., ВАС, V о.*). It held the same in a decision handed down in 2023 (see *реш. № 2672 от 14.03.2023 г. по адм. д. № 7236/2022 г., ВАС, V о.*). In another decision of 2020, it held the same with regard to a police officer's warning to the visitor of an amusement park (see *опр. № 983 от 07.07.2020 г. по адм. д. № 6342/2020 г., ВАС, V о.*). In yet another decision of 2020, it held the same with regard to a police warning to visitors of a shop who had not put on medical masks as prescribed in an order of the Minister of Health (see *опр. № 8924 от 13.10.2022 г. по адм. д. № 8311/2022 г., ВАС, V о.*).

3. Cases concerning police orders directing people not to take part in rallies

35. In a case from 2019, judicial review was sought of a police order issued under section 64(1) of the Ministry of Internal Affairs Act 2014 directing a person not to breach public order, not to call for breaches of public order, not to organise events outdoors without permission from the mayor, and not to block public roads. The Blagoevgrad Administrative Court was satisfied that the police order was amenable to judicial review, both on account of its status in Bulgarian law (the court expressly distinguished it from a police admonishment) and because it had amounted to an interference with the claimant's right to freedom of assembly under Article 11 of the Convention. The court went on to set the order aside, on the basis that it had not cited the factual reasons for which it had been issued, that there was no evidence that the claimant had breached public order or taken part in an unlawful rally and that on the available evidence the order appeared disproportionate (see *реш. № 599 от 28.02.2019 г. по адм. д. № 949/2018 г., АдмС-Благоевград*, apparently final).

36. In a case from 2021, judicial review was sought of a police order issued under section 64(1) of the Ministry of Internal Affairs Act 2014 directing a person to, in particular, comply with a decree of the local mayor which had banned a protest planned by that individual (the mayor's decree was set aside three days after it had been issued, which was the very day on which the police order was issued), not to take actions breaching public order and not to block public roads or traffic. The Vidin Administrative Court set the police order aside. It held that, in so far as it had warned the claimant not to breach public order or block roads, it was more akin to a police

admonishment (although framed by the police as an order), and thus suffered from an internal contradiction. Nor had the order, which had interfered with the claimant's right to freedom of assembly under Article 11 of the Convention, cited the reasons of fact and law for which it had been issued. There was, moreover, no evidence that the claimant had breached public order or taken part in an unlawful rally, in particular because the mayor's decree had been set aside. Lastly, on the available evidence, the order appeared to have been disproportionate (see *реш. № 128 от 23.12.2021 г. по адм. д. № 218/2021 г., АдмС-Видин*, apparently final).

4. Summons by the police

37. To carry out their duties, the police may summon people to police premises (section 69(1) of the Ministry of Internal Affairs Act 2014). The summons must set out why it is sent, and where and when the people being summoned must appear, and be in writing, but in urgent cases it can be made by telephone or fax (section 69(2) and (3)). Failure to comply with such a summons without a valid excuse is punishable by an administrative fine (section 258(1) and (2) of the same Act).

38. In a decision from December 2018, apparently not appealed against, the Veliko Tarnovo Administrative Court held that a police summons was not amenable to judicial review, on the basis that it was a mere preliminary step in a procedure and did not in itself affect any rights or freedoms of its addressee (see *опр. № 455 от 12.11.2018 г. по адм. д. № 552/2018 г., АдмС-Велико Търново*). In a decision from January 2025, likewise apparently not appealed against, the Lovech Administrative Court held that such a summons was not amenable to judicial review because it merely sought to invite the person concerned to go to police premises, whereas the duty to do so flowed directly from the law (see *опр. № 95 от 17.01.2025 г. по адм. д. № 552/2024 г., АдмС-Ловеч*). The Dobrich Administrative Court held the same in a decision from March 2025 (see *опр. № 517 от 26.03.2025 г. по адм. д. № 615/2024 г., АдмС-Добрич*, not validly appealed against and thus final). However, a more recent decision to the same effect by the Targovishte Administrative Court (*опр. № 1315 от 28.07.2025 г. по адм. д. № 305/2025 г., АдмС-Търговище*) was quashed by the Supreme Administrative Court, on the basis that the summons in question had expressly specified that the attendance of the addressee was mandatory and that failure to appear would be punishable by an administrative fine (see *опр. № 10202 от 22.10.2025 г. по адм. д. № 9741/2025 г., ВАС, V о.*).

B. Claims for compensation against the police

1. Statutory basis

39. Section 1(1) of the State and Municipalities Liability for Damage Act 1988 ("the 1988 Act") provides that the State is liable for damage suffered by individuals or legal entities as a result of unlawful decisions, acts or omissions by State or municipal authorities or civil servants, committed in the course of or in connection with administrative action. Under Article 204 § 1 of the 2006 Code of Administrative Procedure, a claim relating to damage allegedly caused by an unlawful decision can only be made if that decision has been duly set aside. Under Article 204 § 2 of that Code, the compensation claim may be lodged jointly with the claim for judicial review of the decision. Article 204 § 4 of the Code provides that if the compensation claim relates to an unlawful act or omission, the unlawfulness of that act or omission may be established, as a preliminary point, by the court hearing the claim.

40. Claims under section 1(1) of the 1988 Act are a standard route for seeking compensation from the police in respect of excessive use of force (see *Krastanov v. Bulgaria*, no. 50222/99, §§ 18-37, 30 September 2004; *Pashov and Others v. Bulgaria*, no. 20875/07, §§ 19-25, 5 February 2013; and *Posevini v. Bulgaria*, no. 63638/14, §§ 39-40, 19 January 2017), police detention (see *Dzhabarov and Others v. Bulgaria*, nos. 6095/11 and 2 others, §§ 49-50, 31 March 2016) or the manner in which the police have carried out a search (see *Posevini*, cited above, §§ 37-38).

2. Case-law under section 1(1) of the 1988 Act in respect of police measures interfering with public protest

(a) Case concerning a public protest on 11 July 2020 decided at last instance in 2022

41. The Government referred to a case (set out in some detail in paragraphs 42-49 below) decided at the final instance in 2022, in which the administrative courts had examined a claim under the above-mentioned provision in respect of police measures interfering with public protest.

42. That case arose out of a public protest on 11 July 2020 in which the claimant had taken part.

43. The protest, organised by a political party, had been planned to be held on a public beach in order to challenge the presence there of the residence of the chairman of another political party which was alleged to be illegally obstructing that beach. The organisers had notified the municipality as required by law. At the same time, supporters of the other party had mobilised to gather in the area in support of their chairman. That counter-demonstration had not been notified to the municipality. To prevent disorder and clashes, the police had sealed off approaches to the area from the early morning. Supporters of the other party had allegedly been allowed to pass through and

reach the protest site, while those of the party that had organised the protest had been stopped several hundred metres away, with a buffer zone being formed between the two groups. Around noon, following some scuffles with the police, some demonstrators had managed to reach the beach by a forest path. The day had ended without clashes between the two groups; they had dispersed around 4 p.m. and 5 p.m. respectively.

44. The claimant, a supporter of the first party, had travelled by car from another town to join the protest. The police had stopped his car and instructed him to continue on foot. As a result, he had had to walk about fifteen kilometres, passing several police cordons, while observing buses carrying supporters of the other party being allowed through. He had arrived at the protest site around 1 p.m., well after the protest had begun.

45. In his claim, lodged in August 2020, he claimed that being prevented from arriving at the protest site on time had infringed his right to freedom of assembly, and sought compensation in respect of non-pecuniary damage.

46. The Shumen Administrative Court dismissed the claim. It held that the police had acted lawfully and within their powers to ensure public safety during two simultaneous gatherings. The claimant's right to freedom of assembly had not been violated since he had not been formally prohibited from participating and had, in principle, been free to reach the protest site. His late arrival there had been due to circumstances inherent in the organisation of security, not to an unlawful restriction to his right of assembly (see *реш. № 61 от 05.04.2021 г. по адм. д. № 311/2020 г., АдмС-Шумен*).

47. Following an appeal by the claimant, the Supreme Administrative Court quashed that judgment on the basis that the lower court had failed to clarify, in particular, whether the counter-demonstration had been lawful, had not taken evidence from the police chief about the specific reasons for which the police had opted to restrict road traffic, and had not examined adequately whether the measures had treated the two groups differently. The lower court had also failed to analyse the lawfulness of the actions of the police with reference to Articles 11 and 14 of the Convention and the relevant case-law of the European Court of Human Rights. Those actions had amounted to an interference with the claimant's right to freedom of assembly under Article 11, and the lower court had been under a duty to review whether that interference had been prescribed by law, had pursued a legitimate aim, and had been proportionate to that aim. Under the case-law of the European Court of Human Rights, the notion of interference was to be construed broadly, and could consist of all sorts of measures, including measures which did not formally ban an assembly but merely dissuaded people from taking part in it. The mere fact that the protest had in fact taken place did not exclude the existence of such an interference. Since the claimant had alleged that the police had treated the two groups of demonstrators differently on the basis of their political affiliations, the lower court had had to examine also whether the police had engaged in discrimination contrary to Article 14. The Supreme

Administrative Court directed the lower court that on remittal it had to have regard not only to the domestic law provisions, but also to those two Articles of the Convention (see *реш. № 1666 от 22.02.2022 г. по адм. д. № 8129/2021 г., ВАС, III о.*).

48. Having re-examined the case and taken additional evidence, the Shumen Administrative Court again dismissed the claim. It held, in particular, that the access restrictions had been carried out under a valid police order which had not been annulled or declared unlawful. That order, and the accompanying police operational plan, had been adopted to ensure public order during the two concurrent gatherings. The measures taken by the police – traffic diversion, roadblocks and cordons – had been necessary and proportionate. They had not prevented the claimant from participating in the protest in an absolute sense: he had been free to reach the protest site, albeit with some delay caused by the security organisation. However, the inconvenience of having to walk a long distance had not given rise to a breach of his right to freedom of assembly. Nor had the police discriminated between the two groups of demonstrators; the available evidence did not show that they had intentionally favoured the supporters of the other political party, or applied the measures selectively (see *реш. № 62 от 25.05.2022 г. по адм. д. № 53/2022 г., АдмС-Шумен*).

49. Following an appeal by the claimant, the Supreme Administrative Court upheld the lower court's judgment. It held that that court had complied with its instructions, and agreed that the police measures had been based on a valid order issued in response to a complex security situation involving two concurrent gatherings. The police measures had been necessary and proportionate for maintaining public order, even though the other gathering had not been notified to the municipality. The claimant had merely been required to park his car at a distance and continue on foot owing to the traffic restrictions, like many other demonstrators and the police themselves (see *реш. № 11638 от 14.12.2022 г. по адм. д. № 6947/2022 г., ВАС, III о.*).

(b) Case concerning police detention in connection with a public protest on 8 April 2022 decided at last instance in 2024

50. In a case before the courts in 2023 and 2024, which concerned a claim for compensation in respect of the police detention on 8 April 2022 of a protester who had sprayed red paint on the front door of the embassy of the Russian Federation in Sofia, the administrative courts likewise had regard to Articles 10 and 11 of the Convention, and awarded the detained protester – whose police detention had been declared unlawful in earlier judicial review proceedings – compensation in respect of non-pecuniary damage (see *реш. № 325 от 11.01.2024 г. по адм. д. № 8138/2023 г., АдмС-София*, upheld by *реш. № 11553 от 30.10.2024 г. по адм. д. № 5159/2024 г., ВАС, III о.*).

3. Case-law under section 1(1) of the 1988 Act in respect of police admonishments

51. In March 2013, the Ruse Administrative Court refused to examine a claim for compensation under section 1(1) of the 1988 Act in respect of a police admonishment, on the basis that it did not give rise to any rights or duties for its addressee (the claimant in the case), or affect his rights, freedoms or legal interests, and had therefore not amounted to a decision within the meaning of section 1(1) (see o*пр. № 7 от 11.03.2013 г. по адм. д. № 385/2012 г., АдмС-Русе*). Following an appeal by the claimant, the Supreme Administrative Court upheld the lower court's decision, agreeing that the admonishment had not amounted to a decision within the meaning of section 1(1) (see *опр. № 5557 от 22.04.2013 г. по адм. д. № 4749/2013 г., ВАС, I о.*).

52. In June 2016, the Burgas Administrative Court examined but dismissed on the merits a claim for compensation under section 1(1) of the 1988 Act by a person who had been taken to a police station and interviewed and admonished there. The court held, in particular, that the police admonishment had been lawful and necessary in the circumstances (see *реш. № 1095 от 06.06.2016 г. по адм. д. № 2195/2015 г., АдмС-Бургас*). Following an appeal by the claimant, the Supreme Administrative Court quashed the lower court's judgment and awarded compensation to the claimant. It held, in particular, that an admonishment did not necessarily have to be made in a police station (see *реш. № 367 от 10.01.2018 г. по адм. д. № 8907/2016 г., ВАС, III о.*).

53. In February 2021, the Sofia City Administrative Court examined but dismissed a claim for compensation under section 1(1) of the 1988 Act in respect of a border-police admonishment instructing the addressee not to attempt to travel abroad unless she verified that a travel ban imposed on her in connection with a criminal case had been lifted. The court held, in particular, that, based on the information visible in the relevant computer system, the border police had been correct to believe that the ban was still in force (see *реш. № 742 от 10.02.2021 г. по адм. д. № 8871/2020 г., АдмС-София*). Following an appeal by the claimant, the Supreme Administrative Court quashed that judgment, on the basis that the lower court had failed properly to elucidate the facts (see *реш. № 11725 от 17.11.2021 г. по адм. д. № 3739/2021 г., ВАС, III о.*). Having re-examined the case, the Sofia City Administrative Court allowed the claim, on the basis that the border police had in effect been made aware that the travel ban had been lifted, which meant that the admonishment that they had issued had been unlawful (see *реш. № 2024 от 25.03.2022 г. по адм. д. № 11756/2021 г., АдмС-София*). The Supreme Administrative Court dismissed the ensuing appeal of the border police, finding that the lower court had correctly applied section 1(1) of the 1988 Act (see *реш. № 679 от 20.01.2023 г. по адм. д. № 5291/2022 г., ВАС, III о.*).

4. Case-law under section 1(1) of the 1988 Act in respect of police summonses

54. It appears that the Bulgarian administrative courts have so far dealt with four claims for compensation against the police under section 1(1) of the 1988 Act for alleged breaches of the provisions governing police summonses. The first claim was dismissed (see *реш. № 167 от 14.06.2019 г. по адм. д. № 28/2019 г., АдмС-Перник*, upheld by *реш. № 12114 от 30.09.2020 г. по адм. д. № 8894/2019 г., ВАС, III о.*). The second claim was allowed at first instance, on the basis that the police had summoned the claimant to a police station to admonish her even though she had been seriously ill, but then was dismissed on appeal, on the basis that the claimant's illness had not in fact prevented her from going to the police station and that the police officer who had summoned her had not been aware of her medical condition. The Supreme Administrative Court went on to hold that the manner in which the police had admonished the claimant at the police station had not been unlawful (see *реш. № 146 от 28.06.2018 г. по адм. д. № 162/2017 г., АдмС-Кюстендил*, and *реш. № 2882 от 24.02.2020 г. по адм. д. № 9534/2018 г., ВАС, III о.*). The third claim was allowed on appeal, on the basis that the police had summoned the person concerned by telephone even though the case had not been urgent, thus failing to follow the proper procedure (see *реш. № 2011 от 02.03.2022 г. по адм. д. № 7934/2021 г., ВАС, III о.*, overturning *реш. № 3345 от 21.05.2021 г. по адм. д. № 11801/2020 г., АдмС-София*). The fourth claim was allowed (and that decision was upheld on appeal), likewise on the basis that that the police had summoned the person concerned by telephone even though the case had not been urgent, thus failing to follow the proper procedure (see *реш. № 1153 от 19.06.2023 г. по адм. д. № 557/2023 г., АдмС-Пловдив*, upheld by *реш. № 1231 от 02.02.2024 г. по адм. д. № 10051/2023 г., ВАС, III о.*).

C. Criminal offences in respect of which the applicant was admonished and investigated

55. Article 320 § 1 of the 1968 Criminal Code makes it an offence to call overtly in front of many people for the commission of an offence, or do so by distributing printed matter or in a similar way. The possible punishment is up to three years' imprisonment, but should be no more than the punishment prescribed for the offence whose commission is being urged.

56. Article 325 § 1 of the same Code makes it an offence (hooliganism) to carry out indecent actions which grossly infringe public order and show overt disrespect towards society. The punishment can be up to two years' imprisonment or probation, coupled with a public reprimand. If those actions are accompanied by resistance against a law-enforcement officer, or are characterised by exceptional cynicism or arrogance, the punishment can be up to five years' imprisonment (Article 325 § 2).

57. Article 355 § 1 of the same Code, as amended most recently in March 2020, makes it an offence to infringe regulations, rules or measures issued to combat the appearance or spread of a contagious disease affecting humans. The punishment can be up to three years' imprisonment and a fine ranging from 1,000 to 10,000 Bulgarian levs (BGN). If the offence is committed during an epidemic, pandemic or state of emergency related to deaths linked to the disease, the punishment can be up to five years' imprisonment or a fine ranging from BGN 10,000 to BGN 50,000 (Article 355 § 2).

D. Provisions governing the notification and prohibition of rallies

58. The organisers of a rally must inform the local mayor of it in writing and at least forty-eight hours in advance, but in urgent cases one day's notice is sufficient (section 8(1) and (2) of the Meetings, Rallies and Marches Act 1990 – "the 1990 Act"). The time-limits in respect of marches are seventy-two hours or, in urgent cases, two days (section 11(1) of the 1990 Act).

59. A rally or march not organised in advance or conducted in breach of the requirements of the 1990 Act may be stopped by the local mayor (section 13(1)), in which case the participants must disperse (section 13(2)).

COMPLAINTS

60. The applicant complained under Articles 10 and 11of the Convention that the police had admonished her not to hold a protest and had summoned her for an interview at the precise time when she had stated that she would hold a protest on 13 April 2020. She also appeared to complain that the prosecuting authorities had then opened a criminal investigation against her in relation to her calls for public protest, but later clarified that her complaint did not concern that investigation (see paragraph 63 below).

61. The applicant further complained under Article 13 of the Convention that she had not had an effective remedy in respect of the alleged interference with her rights to freedom of expression and assembly.

THE LAW

A. Complaint under Articles 10 and 11 of the Convention

62. In respect of her complaint that she had been prevented from protesting on 13 April 2020, the applicant relied on Articles 10 and 11 of the Convention. The relevant parts of those provisions read:

Article 10 (freedom of expression)

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority ...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

Article 11 (freedom of assembly and association)

"1. Everyone has the right to freedom of peaceful assembly ...

2. No restrictions shall be placed on the exercise of [this right] other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. ..."

1. Scope of the complaint

63. In the application form that she submitted to the Court at the outset of the proceedings, the applicant, though focusing on the admonishment and the summons addressed to her by the police on 13 April 2020, could be understood as having claimed that the subsequent opening of a criminal investigation in respect of her Facebook posts had likewise interfered with her rights under Articles 10 and 11. However, in paragraph 13 of her observations in reply to those of the Government, she clarified that her complaint did not concern that criminal investigation, but solely the actions of the police on 13 April 2020 – which had, she alleged, prevented her from carrying out the planned protest. The complaint, as thus elucidated, does not therefore relate to the subsequent criminal investigation (compare, *mutatis mutandis*, *Pal v. the United Kingdom*, no. 44261/19, § 40, 30 November 2021).

64. The Court's assessment will therefore be confined to the admonishment and summons that the police addressed to the applicant. The scope of the case "referred to" the Court in the exercise of the right of individual application under Article 34 of the Convention is determined by

the applicant's complaint, and the Court cannot base its decision on facts not covered by the complaint (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 123 and 126, 20 March 2018). The Court nevertheless accepts that such police measures, especially when accompanied by references to potential criminal liability, may be capable of discouraging participation in public protest.

65. In any event, and in so far as some submissions in the applicant's observations (in paragraphs 33-34 and 38) could be taken to imply that she does nevertheless complain also about the criminal investigation, it should be noted that the opening and pursuing of that investigation were not accompanied by a factor or a constellation of factors enabling it to be seen, in the specific circumstances of this case, as a separate interference with her rights under Article 10 or Article 11, for the reasons set out below.

66. It is true that under the Court's case-law criminal proceedings which have not (yet) culminated in a conviction may in some circumstances amount to an interference with the right to freedom of expression (see *Kalpachka v. Bulgaria* (dec.), no. 49163/99, 19 May 2005; *Döner and Others v. Turkey*, no. 29994/02, § 87, 7 March 2017; *Yefimov and Youth Human Rights Group v. Russia*, nos. 12385/15 and 51619/15, § 34, 7 December 2021; and *Pivkina and Others v. Russia* (dec.), nos. 2134/23 and 6 others, § 75, 6 June 2023), or with the right to freedom of assembly (see *Akimenkov v. Russia*, nos. 2613/13 and 50041/14, § 111, 6 February 2018).

67. In the present case, however, there are no circumstances capable of leading to the conclusion that the mere opening or pursuing of a criminal investigation in respect of the applicant could, regardless of its outcome, have interfered with her rights under Article 10 or Article 11. She was neither charged with an offence nor subjected to any restrictive measures in connection with the investigation, which lasted approximately fourteen and a half months before it was discontinued on the ground that her acts had not constituted an offence (rather than for technical or procedural reasons). In the course of the investigation, the applicant was only interviewed once (see paragraphs 12-19 above). Nor was the investigation part of a wider series of criminal proceedings in relation to her (compare *Metis Yayıncılık Limited Şirketi and Sökmen v. Turkey* (dec.), no. 4751/07, §§ 31-36, 20 June 2017, and contrast *Veysel Turhan v. Turkey*, no. 53648/00, § 19, 20 September 2005; *Yaşar Kaplan v. Turkey*, no. 56566/00, § 35, 24 January 2006; *Dilipak v. Turkey*, no. 29680/05, §§ 48-51, 15 September 2015; *Semir Güzel v. Turkey*, no. 29483/09, § 30, 13 September 2016; *Döner and Others*, cited above, § 88; *Fatih Taş v. Turkey (no. 3)*, no. 45281/08, § 28, 24 April 2018; *Fatih Taş v. Turkey (no. 4)*, no. 51511/08, § 33, 24 April 2018; *Fatih Taş v. Turkey (no. 5)*, no. 6810/09, §§ 36-37, 4 September 2018; *Ali Gürbüz v. Turkey*, nos. 52497/08 and 6 others, §§ 64-69, 12 March 2019; *Selahattin Demirtaş v. Turkey (no. 3)*, no. 8732/11, §§ 25-26, 9 July 2019; *Gürbüz and Bayar v. Turkey*, no. 8860/13, § 31, 23 July 2019; *Kaboğlu and Oran*

v. Turkey (no. 2), no. 36944/07, §§ 110-16, 20 October 2020; *Pal*, cited above, § 44; *Yefimov and Youth Human Rights Group*, cited above, §§ 35-39; and *Ayuso Torres v. Spain*, no. 74729/17, §§ 42-45, 8 November 2022).

2. Legal characterisation of the complaint

68. It is open to question whether the complaint ought to be viewed more from the perspective that the authorities reacted to the applicant's call for a rally, or from the perspective that they sought to prevent her from carrying out that rally, and, accordingly, whether the complaint falls to be considered under Article 10, under Article 11, or under both. Another question is whether the protest envisaged by the applicant was a solo demonstration, in which case the complaint ought to be examined under Article 10 (see *Novikova and Others v. Russia*, nos. 25501/07 and 4 others, § 91, 26 April 2016) or a rally, in which case it ought to be examined under Article 11.

69. In the light of the findings below, there is, however, no need to resolve those points. In any event, under the Court's settled case-law Article 11, despite its autonomous role and particular sphere of application, must be considered in the light of Article 10 (see, among other authorities, *Ezelin v. France*, 26 April 1991, § 37, Series A no. 202; *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, § 86, ECHR 2015; and *Navalnyy v. Russia* [GC], nos. 29580/12 and 4 others, § 102, 15 November 2018).

3. Exhaustion of domestic remedies

(a) The parties' submissions

70. The Government submitted that the applicant had not exhausted the domestic remedies. In their view, she could have sought judicial review of the actions taken by the police with respect to her – namely the admonishment, summons and interview – on the basis that they had amounted to an unwarranted and disproportionate interference with her Convention rights to freedom of expression and assembly. She could have also sought compensation under section 1(1) of the 1988 Act (see paragraph 39 above). As demonstrated by their judgments in comparable cases (see paragraphs 41-49 above), the Bulgarian courts were willing to consider Convention-based arguments when dealing with claims of that sort. It was true that the case-law under that provision in relation to alleged breaches of the Convention was not abundant, but mere doubts about the prospects of a remedy which was not obviously futile were not a valid reason not to attempt it.

71. The applicant replied that in her case a claim for compensation under section 1(1) of the 1988 Act (see paragraph 39 above) would have been destined to fail because the police had summoned her in writing, as prescribed by the law. In the light of the specific situation to do with the pandemic and the emergency health measures that the authorities had taken to counter it, it

was unlikely that the Bulgarian courts would have seen that summons as unlawful. Nor would it have been possible for her to obtain a judicial decision in a short enough time to be able to go ahead with her planned protest. In cases such as the present one, only a remedy capable of removing the obstacles to the intended assembly prior to its planned date and time could be regarded as effective; the applicant could not have had at her disposal a remedy enabling her to obtain the quashing of the police summons within an hour and a quarter. The Court had already held that where the authorities deliberately prevented someone from holding a rally in the manner chosen by him or her, the alleged breach of Article 11 of the Convention could not be made good exclusively through an award of compensation under section 1(1) of the 1988 Act. Moreover, under Bulgarian law it was impossible to claim that the actions of an administrative authority did not pursue a legitimate aim; they could only be challenged as to their lawfulness, which was a narrower concept. In any event, the Bulgarian courts had been free to apply the relevant legal principles on their own initiative; she had not deprived them of that opportunity.

(b) The Court's assessment

(i) General principles

72. The general principles governing the requirement under Article 35 § 1 of the Convention for applicants to exhaust domestic remedies were set out in detail in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014). They were reiterated more recently in *Duarte Agostinho and Others v. Portugal and 32 Others* ((dec.) [GC], no. 39371/20, § 215, 9 April 2024) and *Mansouri v. Italy* ((dec.) [GC], no. 63386/16, § 84, 29 April 2025), and, specifically in relation to a complaint under Article 11 about a ban on public gatherings imposed in 2020 to tackle the COVID-19 pandemic, in *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* ([GC], no. 21881/20, §§ 138-46, 27 November 2023).

73. There is no need to re-state them fully here, but four of the principles, which are of particular relevance to the present case, need to be mentioned:

(a) applicants are only required to use remedies which are available;

(b) applicants are only required to use remedies which are sufficient, that is, capable of adequately redressing the alleged violation(s) of the Convention or the Protocols thereto;

(c) applicants must use a remedy (if one is available) enabling the competent domestic authorities or courts to address, at least in substance, the claim that the Convention right(s) in question has been breached; and

(d) only remedies which offer a reasonable prospect of success need to be resorted to.

(ii) Application of those principles

74. Since the Government claimed that there were two domestic remedies that the applicant could have pursued – a claim for judicial review of the actions taken by the police with respect to her and a claim for compensation under section 1(1) of the 1988 Act (see paragraph 39 above), the Court will examine whether either of the two would have been effective (compare the approach in *Gherghina v. Romania* (dec.) [GC], no. 42219/07, § 103, 9 July 2015, and *Mansouri*, cited above, § 102).

(α) Claim for judicial review of the admonishment and the summons

75. Under Bulgarian law, police admonishments under section 65(1) of the Ministry of Internal Affairs Act 2014 are not amenable to judicial review. The case-law of the Supreme Administrative Court on that point is consistent, including in respect of admonishments, such as the one in the present case, which concerned potential breaches of the anti-COVID-19 restrictions imposed in early 2020 (see paragraphs 29-30 above). The case-law of the Supreme Administrative Court further shows that an admonishment of the type addressed to the applicant (see paragraph 9 above) is exceedingly likely to be seen as such rather than as a police order which can be judicially reviewed (see paragraphs 32-34 above).

76. It cannot therefore be accepted that it was open to the applicant to seek judicial review of the admonishment issued to her.

77. By contrast, the case-law of the Bulgarian administrative courts in respect of police summonses, including in the period subsequent to the relevant facts in the present case, appears less settled. Three first-instance decisions, given in December 2018 and January and March 2025, held that such summonses are not amenable to judicial review, but a more recent first-instance decision to the same effect was quashed by the Supreme Administrative Court in October 2025 (see paragraph 38 *in fine* above). In the light of that recent ruling, which appears to be the only one by the Supreme Administrative Court on the point, it can be accepted that a claim for judicial review by the applicant against the summons of 13 April 2020 would have been accepted for examination.

78. The decisions of the Bulgarian administrative courts on claims for compensation in respect of police summonses (see paragraph 54 above) also tend to indicate that they would have engaged with arguments about the necessity of the summons, even though the cases decided so far have focused on procedural matters. However, it has not been shown that a judicial review challenge directed solely against the summons, viewed in isolation from the preceding police admonishment and the surrounding circumstances, would have enabled the courts to deal properly with the Convention issues arising in the case and to provide the applicant with complete redress (see, *mutatis mutandis*, *Van Oosterwijck v. Belgium*, 6 November 1980, § 29, Series A

no. 40). The Court is therefore not convinced that this remedy would have been effective in the applicant's case.

79. It is therefore necessary to review more closely the other domestic remedy suggested by the Government.

(β) Claim for compensation under section 1(1) of the 1988 Act

– *Availability*

80. As demonstrated by several cases before the Bulgarian administrative courts (see paragraphs 52-54 above), it is possible to claim compensation from the police under section 1(1) of the 1988 Act in connection with admonishments and summonses issued by them. It is true that in a 2013 case those courts refused to examine such a claim relating to an admonishment (see paragraph 51 above). However, in two more recent cases, decided at last instance in 2018 and 2023, they did examine such claims (see paragraphs 52-53 above).

– *Adequate redress*

81. Under the Court's case-law, the question of whether the redress that a remedy can provide is adequate – and whether that remedy is thus sufficient – depends on the nature of the right under the Convention or its Protocols alleged to have been breached, as well as on the nature of the alleged breach (see *Zlatanov v. Bulgaria* (dec.), no. 53050/21, §§ 176-78, 30 January 2024, with further references). The Court's case-law further demonstrates that it is the nature of the alleged breach rather than the nature of the right alleged to have been infringed which is normally the leading consideration in the assessment of what sort of remedy would be sufficient (see *Tsaava and Others v. Georgia* [GC], nos. 13186/20 and 4 others, § 262, 11 December 2025, with further references; for two recent examples, see *Ninova v. Bulgaria* (dec.), no. 10351/18, §§ 52-53, 5 March 2024, and *Cannavacciuolo and Others v. Italy*, nos. 51567/14 and 3 others, § 273, 30 January 2025).

82. The question which arises under this heading in the present case is whether a claim for compensation under section 1(1) of the 1988 Act (see paragraph 39 above) would have been capable of providing adequate redress for the alleged breach of Article 10 or 11 of the Convention, and whether it thus constitutes a sufficient remedy in that respect.

83. The applicant disputed that that was so on two grounds: (a) that such a claim could not have been determined in a short enough time for her to be able to go ahead with her planned protest, and (b) that the breach could not be made good exclusively through an award of compensation.

84. As regards the first point, it should be noted that the applicant did not duly and in good time notify the authorities of the planned protest (see paragraphs 13 and 58 above). She merely posted on Facebook about it (see

paragraphs 5-8 above). In the particular circumstances prevailing during the first phase of the COVID-19 pandemic, and having regard to the absence of any formal notification of the intended protest, the applicant could not reasonably expect the availability of an accelerated judicial remedy capable of producing a ruling before the planned time of the gathering (compare *Stowarzyszenie "Poznańska Masa Krytyczna" v. Poland* (dec.), no. 26818/11, § 44, 22 October 2013, and contrast *Ivanov and Others v. Bulgaria*, no. 46336/99, § 74, 24 November 2005; *Baczkowski and Others v. Poland*, no. 1543/06, §§ 81-83, 3 May 2007; *Alekseyev v. Russia*, nos. 4916/07 and 2 others, § 98, 21 October 2010; *Genderdoc-M v. Moldova*, no. 9106/06, §§ 36-37, 12 June 2012; *Lashmankin and Others v. Russia*, nos. 57818/09 and 14 others, §§ 345-55, 7 February 2017; and *Stowarzyszenie Wietnamczyków W Polsce 'Solidarność i Przyjaźń' v. Poland* [Committee], no. 7389/09, § 43, 2 May 2017). The requirement that judicial review take place prior to the date set for an intended public event is not absolute; it enters into play only if the organisers comply with the time-limits laid down in the domestic law and if the planned date of the event is of crucial importance for them (see *Communauté genevoise d'action syndicale (CGAS)*, cited above, § 154). This conclusion should not be understood as excluding Convention protection for spontaneous assemblies as such.

85. As regards the second point made by the applicant, the analysis should start with the observation, made in *Zeleni Balkani v. Bulgaria* (no. 63778/00, § 43, 12 April 2007) – which concerned a complaint under Article 11 about the banning of a rally sought to be organised by a non-governmental organisation for the protection of the environment – that, as a general rule, a claim for compensation could provide an effective remedy in respect of cases of alleged unlawfulness or negligence by public authorities.

86. It is true that in the subsequent cases of *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria (no. 2)* (no. 37586/04, § 121, 18 October 2011), *Singartiyski and Others v. Bulgaria* (no. 48284/07, § 36, 18 October 2011) and *Kiril Ivanov v. Bulgaria* (no. 17599/07, § 61, 11 January 2018) the Court held that a claim under section 1(1) of the 1988 Act could not be regarded as an effective remedy in respect of an alleged breach of the right to freedom of peaceful assembly under Article 11. It did so on the basis that such a claim could only result in an award of compensation, whereas in cases where the authorities, through deliberate actions, prevented a group of individuals or an organisation from holding a rally in the manner chosen by them, the breach of Article 11 could not be made good exclusively through such an award. The Court added that if States could confine their response to such incidents to the mere payment of compensation, without putting in place effective procedures ensuring the possibility of staging such rallies, it would be possible for the authorities arbitrarily to deprive groups of individuals and organisations of their right to freedom of peaceful assembly, and that right would be ineffective in practice.

87. Those rulings must, however, be read in their proper context.

88. In all three of those cases (and several related ones: *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, ECHR 2001-IX; *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*, no. 44079/98, 20 October 2005; and *Ivanov and Others*, cited above), the Court was dealing with systematic bans of rallies sought to be organised by an association (the United Macedonian Organisation Ilinden) or a sibling political party thereof (the United Macedonian Organisation Ilinden-PIRIN), or their members and supporters, in a specific regional and political context, and was faced with a consistent practice of the national authorities of prohibiting such rallies over a period of many years, coupled with their repeated refusals to register that association (see *United Macedonian Organisation Ilinden and Others v. Bulgaria*, no. 59491/00, 19 January 2006; *United Macedonian Organisation Ilinden and Others v. Bulgaria (no. 2)*, no. 34960/04, 18 October 2011; *Yordan Ivanov and Others v. Bulgaria*, no. 70502/13, 11 January 2018; *United Macedonian Organisation Ilinden and Others v. Bulgaria (no. 3)*, no. 29496/16, 11 January 2018) and the dissolution and subsequent refusal to re-register that political party (see *United Macedonian Organisation Ilinden-PIRIN and Others v. Bulgaria*, no. 59489/00, 20 October 2005, and *United Macedonian Organisation Ilinden-PIRIN and Others v. Bulgaria (no. 2)*, nos. 41561/07 and 20972/08, 18 October 2011). In its admissibility decision in one of the cases from that series, the Court even found that there had existed, in the courts in the region concerned, a firm and multi-year trend of dismissing Ilinden's legal challenges against bans of its rallies (see *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria* (dec.), no. 44079/98, 9 September 2004).

89. The Court's observations about the inadequacy of compensation as the sole form of redress in respect of the alleged breaches of Article 11 in those cases were closely connected to that background. The Court's concern was that, in the context of deliberate and recurrent obstruction of rallies sought to be held by the United Macedonian Organisation Ilinden or its members or supporters, a remedy which could result only in an award of compensation could enable the authorities to perpetuate the practice of breaching the Article 11 rights of the persons concerned, and thus empty those rights of their content.

90. Similar concerns underpinned the recent ruling in *Tsaava and Others* (cited above, §§ 263-64) that the applicants in that case had not been required to resort to a claim for compensation to exhaust domestic remedies in respect of a complaint under Article 11 concerning the indiscriminate, and possibly intentional, firing of kinetic impact projectiles (colloquially known as rubber bullets) by the police against peaceful demonstrators on a massive scale. As demonstrated by the Court's reasoning, in that case the nature of the alleged

breach – which had involved an excessive use of force by the authorities to bring a demonstration to an end – was of crucial importance.

91. Those concerns do not arise in a situation, such as the one in the present case, in which the alleged interference with the right to freedom of peaceful assembly was a one-off (rather than repetitive), consisted of an admonishment and a summons to appear for a police interview, and occurred in the very specific circumstances in which Bulgaria, like all other Contracting States, found itself following the outbreak of the COVID-19 pandemic in early 2020 (see *Communauté genevoise d'action syndicale (CGAS)*, cited above, § 162).

92. It follows that in the circumstances of the present case, a claim for compensation under section 1(1) of the 1988 Act can be regarded as a remedy capable of offering adequate redress, and thus as a sufficient one.

– *Examination of the substance of the complaint*

93. There is nothing to suggest that the Bulgarian administrative courts would be unable or unwilling to deal properly with the allegations on which the applicant based her complaint under Article 10 and 11 of the Convention.

94. In Bulgaria, the Convention is part of domestic law, is directly applicable, and takes precedence over any conflicting provisions of domestic law (see *Neshkov and Others v. Bulgaria*, nos. 36925/10 and 5 others, §§ 95-97, 27 January 2015; *Stefanov v. Bulgaria* (dec.), no. 51127/18, §§ 50-52, 8 September 2020; and *Zlatanov*, cited above, §§ 196 and 228). The applicant could have therefore relied on it in the Bulgarian courts and complained that it had been breached in her case (compare *Van Oosterwijck*, cited above, § 33; *Ahmet Sadık v. Greece*, 15 November 1996, § 31, *Reports of Judgments and Decisions* 1996-V; and *Azinas v. Cyprus* [GC], no. 56679/00, § 39, ECHR 2004-III).

95. That was not a merely theoretical possibility. In the case relating to police measures interfering with public protests cited by the Government (see paragraphs 41-49 above), the Supreme Administrative Court specifically insisted that compensation claims of that sort were to be analysed with reference to Article 11 of the Convention and the relevant case-law of this Court (see paragraph 47 above). There is no reason to doubt that the Bulgarian administrative courts would have done so had the applicant brought such a claim (see, *mutatis mutandis*, *Stefanov*, cited above, § 77). Indeed, in recent years the Bulgarian courts have tended to engage more broadly with arguments based on the Convention, including in proceedings under the 1988 Act (ibid., § 80). It has been held by them either to regulate directly the relations between private persons and the authorities or, at least, to constitute an aid to the interpretation of domestic-law provisions (see *Zlatanov*, cited above, § 196, with further references). The two cases concerning police orders directing people not to take part in rallies, the first decided in 2019, and the second decided in 2021, both apparently with final effect (see

paragraphs 35-36 above) are further evidence in that respect; so is the case decided at last instance in 2024 case for compensation in respect of the police detention of a protester (see paragraph 50 above).

96. Although the judgments in the case relating to the police measures interfering with the public protest of 11 July 2020 cited by the Government were delivered after the events in the present case and after the lodging of the application (see paragraphs 46-49 above), they demonstrate to a sufficient degree of certainty that the Bulgarian administrative courts, ruling on the basis of section1(1) of the 1988 Act, are capable of holding the police to account for actions interfering with the right to freedom of assembly, and, where appropriate, may award compensation to make good any damage sustained as a result of such actions (compare, *mutatis mutandis*, *Gherghina*, § 100, and *Mansouri*, § 98, both cited above).

– *Prospect of success*

97. The second question is whether a claim under section 1(1) of the 1988 Act offered a sufficient prospect of success.

98. The fact that in the case cited by the Government concerning police measures interfering with a public protest the claim was ultimately dismissed owing to the courts' assessment of the proportionality of the interference with the claimant's right to freedom of assembly (see paragraphs 41-49 above) does not necessarily mean that a similar claim by the applicant would have been bound to fail. The courts' rulings in that other case turned on the facts of that particular case; they cannot be seen as a consistent line of adverse precedents precluding any possibility of success in the applicant's case. It cannot be speculated how the courts would have assessed the circumstances of her case, which differed in several respects from those of the other case relied on by the Government (see, *mutatis mutandis*, *Stefanov*, cited above, § 77; see also *Dimcho Dimov v. Bulgaria (no. 2)*, no. 77248/12, § 75, 29 June 2017). The possibility of conflicting court decisions, which the Court has accepted as an inherent trait of any judicial system, did not in the present case make recourse to such a claim obviously futile (see, *mutatis mutandis*, *Fartunova and Kolenichev v. Bulgaria* (dec.), no. 39017/12, § 58 *in fine*, 16 June 2020).

99. Nor does the absence of further case-law examples cast doubt on the prospects of that remedy (see, *mutatis mutandis*, *Tsonev v. Bulgaria* (dec.), no. 9662/13, § 64, 30 May 2017). That absence could be explained by the fact that the remedy, although neither new nor special, has not been used often in this particular context (compare, *mutatis mutandis*, *Stefanov*, § 80 *in fine*, and *Mansouri*, § 99, both cited above). By applying to the appropriate court on the basis of section 1(1) of the 1988 Act, the applicant would have created an opportunity for the development of domestic case-law on the issues raised by the present case, and this would have potentially been beneficial to anyone

else in a similar or comparable situation (ibid., § 99 *in fine*, citing *Gherghina*, cited above, § 106).

100. Mere doubts about the prospects of a remedy which appears to offer a reasonable possibility of redress are not a sufficient ground to eschew it (see, among many other authorities, *Zlatanov*, cited above, § 192). In other words, if there are doubts about the effectiveness of a remedy, the point must be tested in domestic proceedings (see *Svoboden Zheleznicharski Sindikat "Promyana" v. Bulgaria* (dec.), no. 5044/04, § 54 *in fine*, 28 May 2013, with further references).

– *Conclusion*

101. It follows that, by not attempting to bring a claim for compensation under section 1(1) of the 1988 Act, the applicant failed to exhaust domestic remedies. There are no special circumstances capable of dispensing her from having recourse to that remedy. In particular, she benefited from legal assistance from the early stages of her case (see paragraphs 22, 23 and 24 above and compare, *mutatis mutandis*, *Mansouri*, cited above, § 108).

(γ) Overall conclusion

102. The complaint must therefore be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

4. Other admissibility issues

103. In view of the above conclusion, there is no need to consider the Government's objection that the complaint was manifestly ill-founded, or to examine whether the complaint was lodged within the time-limit laid down in Article 35 § 1 of the Convention.

B. Complaint under Article 13 the Convention

104. In respect of her complaint that she had not had an effective remedy in respect of the alleged breach of Articles 10 or 11 of the Convention, the applicant relied on Article 13 of the Convention, which provides:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

1. The parties' submissions

105. The Government argued that since the complaint under Articles 10 and 11 was manifestly ill-founded, the applicant had no arguable claim under Article 13. She had, in any event, had an effective remedy available to her in respect of her complaint.

106. The applicant submitted that only a remedy enabling her to challenge the lawfulness of the measures interfering with her rights under Article 10 and Article 11 and capable of restoring the *status quo ante* (rather than simply resulting in an award of compensation) could be seen as effective in her case.

2. The Court's assessment

107. There is no need to analyse whether the applicant's complaint under Articles 10 and 11 of the Convention was arguable. It has already been established that she had at her disposal an apparently effective domestic remedy with regard to her complaint under those Articles that she did not use (see paragraphs 80-101 above). In view of the close affinity between Article 35 § 1 and Article 13 of the Convention, that finding is equally valid with regard to the present complaint (see, among other authorities, *Stefanov*, § 87, and *Ninova*, § 67, both cited above).

108. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

109. In view of this conclusion, there is no need to examine whether the complaint was lodged within the time-limit laid down in Article 35 § 1 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 18 June 2026.

Milan Blaško Registrar	Ioannis Ktistakis President