



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

# Constitutional Case No. 11/2020

**LIMITATIONS TO THE FREEDOM OF MOVEMENT**

# SUCCESSFUL REFFERALS TO THE CONSTITUTIONAL COURT

## LIMITATIONS TO THE FREEDOM OF MOVEMENT



- The case was based on a complaint by the Ombudsman in the summer of 2020 when the Ministry of Interior launched large-scale checks at border crossings whether travellers to Greece for a holiday had outstanding fines. The Ombudsman challenged specific provisions of the Road Traffic Act, i.e., Article 171(1)(e) and Article 171(2)(k) setting out the involuntary administrative measures applied to ensure road safety and eliminate administrative violations, namely: temporary withholding of the driving licence of a driver with unpaid fines and temporary seizing of the vehicle of a such a driver until the fine due is paid.
- According to the Ombudsman, the disputed texts contradict the Constitution as follows: the principle of the rule of law (Article 4, paras 1 and 2); the constitutional guarantees the protection and inviolability of private property (Article 17, para 1 and 3); the right to inviolability of private life (Article 32, para 1); the right to free movement and exiting the territory of the country (Article 35, para 1); the inalienability of fundamental rights (Article 57, para 1 of the Constitution). For the Ombudsman an economic interest to collect receivables of the State (unpaid fines) cannot justify the infringement upon fundamental constitutional rights such as the right to free movement and exiting the country. These rights can only be restricted by law for the protection of national security, public health and the rights and freedoms of other citizens. The Ombudsman also notes that the involuntary administrative measures imposed by the contested provisions contradict the right to move and reside freely within the territory of EU Member States (Art. 21 of the TFEU) and the principle of good administration (Article 41 of the EU Charter) without it being justifiable on considerations related to public order, public security or public health.
- **Constitutional case No. 11/2020** was initiated upon the request.
- **By Decision No. 3 of 23 March 2021, the Constitutional Court held unanimously that suspending a driver's licence for unpaid traffic fines, removing number plates, and seizing vehicles at border crossings for unpaid fines constituted a violation of citizens' fundamental constitutional rights.**