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

FOURTH SECTION

DECISION

Application no. 7921/20
M.G.
against Denmark

The European Court of Human Rights (Fourth Section), sitting on 7 February 2023 as a Committee composed of:

Tim Eicke, President,
Branko Lubarda,
Ana Maria Guerra Martins, *judges*,
and Veronika Kotek, Acting Deputy Section Registrar,

Having regard to:

the application (no. 7921/20) against the Kingdom of Denmark lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 8 January 2020 by a Danish national, Mr M.G., who was born in 1978 and lives in Birkerød ("the applicant") who was represented by Mr Jacob C. Jørgensen, a lawyer practising in Birkerød;

the decision to give notice of the application to the Danish Government ("the Government"), represented by their Agent, Mr Michael Braad, from the Ministry of Foreign Affairs, and their Co-Agent, Ms Nina Holst-Christensen, from the Ministry of Justice.

the decision not to have the applicant's name disclosed;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns in particular a complaint under Article 6 § 1 of the Convention about the lack of an oral hearing in proceedings on child maintenance payments.

2. The applicant divorced in 2012 and agreed orally to pay a certain fixed sum in child maintenance for his four children.

3. In November 2017 he requested, among other things, that the sum be reduced because his net income had decreased since July 2017. He also had three additional children to support.

4. His request was refused by the Agency of Family Law (*Statsforvaltningen)* on 29 June 2018, finding that the applicant had failed to substantiate that the oral agreement on child maintenance payments had been limited in time.

5. The applicant appealed against the decision to the National Social Appeals Board *(Ankestyrelsen*) maintaining, *inter alia*, that he had refused to sign a written agreement because he could not expect to maintain the high level of income he had at the time. Moreover, it should not be held against him that he had continued to pay the original amount until November 2017.

6. By virtue of acts nos. 1702 and 1711 of 27 December 2018, on 1 April 2019 the appeal proceedings were transferred to the Family Court (*Familieretten).*

7. In his pleadings of 20 May 2019, the applicant requested that an oral hearing be held, with a view to hearing the parties about their agreement on child maintenance of 2012 (see paragraph 2 above).

8. On 9 July 2019 the Family Court decided to apply the so-called simplified procedure (*forenklede familiesagsproces*) and to decide the case on the basis of the written case file (see paragraph 13 below).

9. On 12 July 2020 the Family Court upheld the decision by the National Social Appeals Board. Having regard to the fact that the applicant continued to have a high income, albeit lower than in 2012, it found no basis for revising the oral agreement under section 17 of the Maintenance of Children Act (*Lov om børns forsørgelse*, see paragraph 15 below). It noted that, under the usual principles for child maintenance, if the State Administration had been asked to decide on the amount, the applicant would have been ordered to pay no less than the standard amount with the addition of 200%, which would have corresponded more or less to the amount fixed under the oral agreement.

10. The applicant requested leave to appeal and relied on Article 6 of the Convention. His request was refused by the Appeals Permission Board (*Procesbevillingsnævnet*) on 9 September 2019.

THE COURT'S ASSESSMENT

11. The relevant principles were set out, *inter alia*, in *Ramos Nunes de Carvalho e Sá v. Portugal* ([GC], nos. 55391/13 and 2 others, §§ 187 et seq., 6 November 2018).

12. Since the proceedings at issue were decided on by a court of first and only instance, the crux of the matter is whether there were exceptional circumstances justifying dispensing with an oral hearing (ibid., § 188).

13. As a starting point, proceedings on child maintenance are oral, but the court may consider the matter under the simplified procedure in writing if it

finds it unobjectionable to refrain from oral arguments (section 452 (2) of the Administration of Justice Act).

14. By virtue of section 14 of the Maintenance of Children Act, child maintenance is fixed, in the best interests of the child, as standard amounts as set out in section 14 of the Child Allowance and Advance Payment for Child Act (*lov om børnetilskud og forskudsvis udbetaling af børnebidrag*), depending on the income and number of children. If the financial circumstances of the parent are favourable, child maintenance can be increased by between 100 and 300%. Guidelines are released annually. Child maintenance can be altered at any time subject to an application (section 16 of the Maintenance of Children Act).

15. If the parties have made an agreement on child maintenance, orally or in writing, such does not prevent a decision to a different effect if the agreement is deemed manifestly unreasonable, or when circumstances have changed significantly, or the agreement is contrary to the best interest of the child (section 17 of the Maintenance of Children Act). Accordingly, the applicant can bring the case before the courts anew, for example if his financial circumstances should deteriorate significantly.

16. As regards the present case, the Court notes that the applicant's income had been substantiated by objective evidence before the Family Court and was not disputed by him. It was in any event so high that it would have been possible to make a decision on the amount of child maintenance (see paragraph 14 above) which would have corresponded more or less to the amount originally fixed under the oral agreement of 2012 (see paragraph 2 above). The issues that the applicant wanted examined at an oral hearing would therefore not have changed the outcome of the proceedings to any significant extent.

17. In these specific circumstances, the Court is satisfied that there were no issues of credibility or contested facts which necessitated an oral hearing in the present case, and that the Family Court could fairly and reasonably decide it on the basis of the written case file (see, notably, *Ramos Nunes de Carvalho e Sá,* cited above, § 190).

18. Having regard to the foregoing, the Court finds that there were exceptional circumstances which justified dispensing with an oral hearing in the applicant's case.

19. The applicant also raised other complaints under Article 6 of the Convention.

20. The Court considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

21. It follows that the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 9 March 2023.

Veronika Kotek Acting Deputy Registrar	Tim Eicke President