Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

16 May 2024*

(Reference for a preliminary ruling – Judicial cooperation in civil matters – Regulation (EU) No 1215/2012 – Jurisdiction and the enforcement of judgments in civil and commercial matters – Order for payment procedure – Concept of 'domicile' – National of a Member State having his or her permanent address in that Member State and his or her current address in another Member State – No possibility of changing or renouncing that permanent address)

In Case C-222/23,

REQUEST for a preliminary ruling under Article 267 TFEU from the Sofiyski rayonen sad (Sofia District Court, Bulgaria), made by decision of 7 April 2023, received at the Court on 7 April 2023, in the proceedings

'Toplofikatsia Sofia' EAD

THE COURT (Fourth Chamber),

composed of C. Lycourgos, President of the Chamber, O. Spineanu-Matei (Rapporteur), J.-C. Bonichot, S. Rodin and L.S. Rossi, Judges,

Advocate General: J. Richard de la Tour,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– the European Commission, by S. Noë and I. Zaloguin, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

* Language of the case: Bulgarian.

Judgment

1 This request for a preliminary ruling concerns the interpretation of the first paragraph of Article 18 TFEU and Article 21 thereof, the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter'), Article 4(1), Article 5(1) and Article 62(1) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2012 L 351, p. 1), and Article 7 and Article 22(1) and (2) of Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (OJ 2020 L 405, p. 40).

2 The request has been made in proceedings seeking the issue of an order for payment, brought by 'Toplofikatsia Sofia' EAD, a thermal energy supplier, against V.Z.A., a debtor customer, for a sum of money corresponding to the value of the heating supplied for that customer's apartment in Sofia (Bulgaria).

Legal context

European Union law

Regulation No 1215/2012

3 Recitals 13 and 15 of Regulation No 1215/2012 state:

'(13) There must be a connection between proceedings to which this Regulation applies and the territory of the Member States. Accordingly, common rules of jurisdiction should, in principle, apply when the defendant is domiciled in a Member State.

…

(15) The rules of jurisdiction should be highly predictable and founded on the principle that jurisdiction is generally based on the defendant's domicile. Jurisdiction should always be available on this ground save in a few well-defined situations in which the subject matter of the dispute or the autonomy of the parties warrants a different connecting factor. The domicile of a legal person must be defined autonomously so as to make the common rules more transparent and avoid conflicts of jurisdiction.'

4 Pursuant to Article 4 of that regulation:

'1. Subject to this Regulation, persons domiciled in a Member State shall, whatever their nationality, be sued in the courts of that Member State.

2. Persons who are not nationals of the Member State in which they are domiciled shall be governed by the rules of jurisdiction applicable to nationals of that Member State.'

5 Article 5(1) of that regulation provides:

'Persons domiciled in a Member State may be sued in the courts of another Member State only by virtue of the rules set out in Sections 2 to 7 of this Chapter.'

6 Article 7(1) of Regulation No 1215/2012 lays down:

'A person domiciled in a Member State may be sued in another Member State:

1. (a) in matters relating to a contract, in the courts for the place of performance of the obligation in question;
   (b) for the purpose of this provision and unless otherwise agreed, the place of performance of the obligation in question shall be:

   – in the case of the sale of goods, the place in a Member State where, under the contract, the goods were delivered or should have been delivered,

   – in the case of the provision of services, the place in a Member State where, under the contract, the services were provided or should have been provided;
   (c) if point (b) does not apply then point (a) applies'.

7 In accordance with Article 62 of Regulation No 1215/2012:

'1. In order to determine whether a party is domiciled in the Member State whose courts are seised of a matter, the court shall apply its internal law.

2. If a party is not domiciled in the Member State whose courts are seised of the matter, then, in order to determine whether the party is domiciled in another Member State, the court shall apply the law of that Member State.'

Regulation 2020/1784

8 Article 1 of Regulation 2020/1784, headed 'Scope', provides:

'1. This Regulation applies to the cross-border service of judicial and extrajudicial documents in civil or commercial matters. …

2. With the exception of Article 7, this Regulation does not apply where the address of the person to be served with a document is not known.

…'

9 In accordance with Article 7 of that regulation, entitled 'Assistance in address enquiries':

'1. Where the address of the person to be served with the judicial or extrajudicial document in another Member State is not known, that Member State shall provide assistance in determining the address in, at least, one of the following ways:

(a) providing for designated authorities to which transmitting agencies may address requests on the determination of the address of the person to be served;

(b) allowing persons from other Member States to submit requests, including electronically, for information about addresses of persons to be served directly to domicile registries or other publicly accessible databases by means of a standard form available on the European e-Justice Portal; or

(c) providing detailed information, through the European e-Justice Portal, on how to find the addresses of persons to be served.

2. Each Member State shall provide the [European] Commission with the following information with a view to making it available through the European e-Justice Portal:

(a) the means of assistance which the Member State will provide in its territory pursuant to paragraph 1;

(b) where applicable, the names and contact details of the authorities referred to in points (a) and (b) of paragraph 1;

(c) whether the authorities of the Member State addressed submit, on their own initiative, requests to domicile registries or other databases for information about addresses in cases where the address indicated in the request for service is not correct.

Member States shall notify the Commission of any subsequent modification of the information referred to in the first subparagraph.'

10 Article 22 of that regulation, entitled 'Defendant not entering an appearance', provides:

'1. Where a document instituting proceedings or its equivalent has had to be transmitted to another Member State for the purpose of service under this Regulation and the defendant has not entered an appearance, judgment shall not be given until it is established that the service or the delivery of the document was effected in sufficient time to enable the defendant to enter a defence and that:

(a) the document was served by a method prescribed by the law of the Member State addressed for the service of documents in domestic actions upon persons who are within its territory; or

(b) the document was in fact delivered to the defendant or to the defendant's residence by another method provided for by this Regulation.

2. Each Member State may communicate to the Commission the fact that a court, notwithstanding paragraph 1, may give judgment even if no certificate of service or delivery of the document instituting proceedings or its equivalent has been received, provided that all the following conditions are fulfilled:

(a) the document was transmitted by one of the methods provided for in this Regulation;

(b) a period considered adequate by the court in the particular case, which shall not be less than six months, has elapsed since the date of the transmission of the document;

(c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain one through the competent authorities or bodies of the Member State addressed.

That information shall be made available through the European e-Justice Portal.

3. Notwithstanding paragraphs 1 and 2, in justified cases of urgency courts may order any provisional or protective measures.

4. Where a document instituting proceedings or its equivalent has had to be transmitted to another Member State for the purpose of service in accordance with this Regulation and a judgment has been given against a defendant who has not entered an appearance, the judge shall have the power to relieve the defendant from the effects of the expiry of the time for appeal from the judgment where both of the following conditions are fulfilled:

(a) the defendant, without any fault on the defendant's part, did not have knowledge of the document in sufficient time to enter a defence or did not have knowledge of the judgment in sufficient time to appeal; and

(b) the defendant has raised a prima facie defence to the action on the merits.

An application for such relief may be filed only within a reasonable time after the defendant has knowledge of the judgment.

Each Member State may communicate to the Commission the fact that an application for relief will not be admissible if it is filed after the expiry of a deadline set by the Member State in that communication. That deadline shall in no case be sooner than one year following the date of the judgment. That information shall be made available through the European e-Justice Portal.

5. Paragraph 4 shall not apply to judgments concerning the status or capacity of persons.'

Bulgarian law

The ZGR

11 Article 90(1) of the Zakon za grazhdanskata registratsia (Law on the register of civil status, DV No 67 of 27 July 1999), in the version applicable to the dispute in the main proceedings ('the ZGR'), provides:

'Any person subject to civil registration under this law shall be required to declare in writing his or her permanent and current address …'

12 Article 93 of the ZGR provides:

'1. "Permanent address" means the address in the locality chosen by the person in order to be entered in the population register.

2. The permanent address shall always be in the territory of the Republic of Bulgaria.

3. No one may have more than one permanent address.

4. Bulgarian nationals living abroad, who are not registered in the population register and cannot give a permanent address in Bulgaria, shall automatically be entered in the population register of the "Sredets" district of Sofia.

5. The permanent address of nationals is an address for correspondence with the State authorities and local authorities.

6. The permanent address of nationals shall be used to exercise or use rights or services in cases determined by law or by any other normative act.

7. The permanent address may be the same as the current address.'

13 In accordance with Article 94 of the ZGR:

'1. The current address shall be the address at which the person resides.

2. No one shall have more than one current address.

3. The current address of Bulgarian nationals whose domicile is abroad shall appear in the population register by reference only to the name of the State in which they reside.'

14 Under Article 96(1) of the ZGR:

'An individual shall make a declaration of address concerning his or her current address to the authorities referred to in Article 92(1). A Bulgarian national residing abroad shall make a declaration concerning his or her current address, that is to say, the State in which he or she resides, to his or her permanent address authorities referred to in Article 92(1).'

The KMChP

15 The Kodeks na mezhdunarodnoto chastno pravo (Code of Private International Law, DV No 42 of 17 May 2005), in the version applicable to the dispute in the main proceedings ('the KMChP'), provides, in Article 4 thereof:

'(1) The international jurisdiction of Bulgarian courts and other bodies exists where:

1. the habitual residence, registered office in accordance with its statutes or place of effective management of a defendant is situated in Bulgaria;

…'

16 Article 48(7) of the KMChP provides:

'For the purposes of this code, "habitual residence" of a natural person means the main place in which he or she lives, without that place necessarily being linked to registration or a residence or establishment permit. In order to determine that place, account must be taken, in particular, of the personal or professional circumstances of that person resulting from his or her lasting links with that place or his or her intention to build such links.'

The GPK

17 The Grazhdanski protsesualen kodeks (Code of Civil Procedure, DV No 59 of 20 July 2007), in the version applicable to the dispute in the main proceedings ('the GPK'), provides, in Article 38 thereof, entitled 'Address for service':

'Service shall be effected at the address appearing in the case file. Where the addressee is not found at that address, service shall be effected at his or her current address and, in the absence thereof, at his or her permanent address.'

18 Article 40 of the GPK, entitled 'Recipient of judicial documents', provides:

'(1) A party who stays or travels abroad for more than one month shall be required to provide the name of a person to the seat of the court for the purposes of service, that is to say, a recipient for judicial documents, if he or she does not have a representative in the proceedings in Bulgaria. The legal representative, guardian and agent are subject to the same obligation.

(2) Where the persons referred to in paragraph 1 do not specify such a recipient, all documents shall be added to the case file and considered to have been served. The court shall inform those persons of those consequences at the time of service of the first document.'

19 Article 41 of the GPK, entitled 'Obligation to provide information', lays down:

'(1) A party who is absent for more than one month from the address that he or she has given in the case or at which service has been effected on him or her shall be required to inform the court of his or her new address. The legal representative, guardian and agent are subject to the same obligation.

(2) In the event of failure to comply with the obligation referred to in paragraph 1, all documents shall be added to the case file and considered to have been served. The court shall inform the party of those consequences at the time of service of the first notification.'

20 Under Article 53 of the GPK, entitled 'Service on foreign nationals residing in the country':

'Service on foreign nationals residing in the country shall be effected at the address provided to the competent administrative authorities.'

21 Article 410 of the GPK, entitled 'Application for an order to take action', provides:

'(1) An applicant may apply for an order:

1. concerning monetary claims or claims to fungible goods, provided that the Rayonen sad [(district court)] has jurisdiction to hear the application;

…'

22 In accordance with Article 411 of the GPK, entitled 'Issue of an order to take action':

'(1) The application is brought before the Rayonen sad [(district court)] of the district of the debtor's permanent address or registered office; that court shall, of its own motion, review its territorial jurisdiction within three days. An application against a consumer must be brought

before the court of the district in which his or her current address is situated and, in the absence of a current address, his or her permanent address. If the court considers that the case does not fall within its jurisdiction, it shall immediately transfer it to the court having jurisdiction.

(2) The court shall examine the application at a hearing concerning procedural aspects and shall issue an order to take action within the period provided for in paragraph 1, except in cases where:

…

4. the debtor does not have a permanent address or registered office in the territory of the Republic of Bulgaria;

5. the debtor does not have his or her habitual residence or place of business in the territory of the Republic of Bulgaria.

(3) If it grants the application, the court shall issue an order to take action, a copy of which shall be served on the debtor.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

23 Toplofikatsia Sofia is a company incorporated under Bulgarian law for the distribution of thermal energy. On 6 March 2023, it brought proceedings before the Sofiyski rayonen sad (Sofia District Court, Bulgaria), which is the referring court, seeking an order for payment against V.Z.A., a Bulgarian national.

24 That company seeks from V.Z.A. payment of a sum of money in the amount of 700.61 leva (BGN) (approximately EUR 358), on the ground that he, the owner of an apartment situated in Sofia in a building in co-ownership, did not pay the invoice corresponding to his thermal energy consumption during the period from 15 September 2020 to 22 February 2023 for that apartment.

25 The referring court states that V.Z.A. is not yet a party to the main proceedings and that he will become one only after the order for payment applied for has been issued, provided that that court has jurisdiction to hear that application.

26 That court notes that it is apparent from the inquiries made of its own motion in the course of the main proceedings, in accordance with its obligations under Bulgarian law, that V.Z.A. has been registered, since 2000, in the national population register as having his permanent address in Sofia. However, on 6 March 2010, V.Z.A. declared his current address as being in a Member State other than the Republic of Bulgaria. In that regard, the referring court states that Bulgarian law does not allow a full current foreign address to be declared.

27 The referring court also refers to an interpretative decision, with binding force, delivered by the Varhoven kasatsionen sad (Supreme Court of Cassation, Bulgaria) on 18 June 2014 ('the decision of 18 June 2014'), concerning cases of refusal to issue an order, pursuant to Article 411(2)(4) and (5) of the GPK.

28 According to the decision of 18 June 2014, so far as concerns an application for the issue of an order under Article 411 of the GPK, the existence of a permanent address or habitual residence in the territory of the Republic of Bulgaria must be verified at the date of service of the order once

issued, notwithstanding the fact that, in accordance with Article 411(2)(4) and (5), in the absence of a permanent address or habitual residence in that territory, the issue of such an order should be refused.

29 In accordance with the decision of 18 June 2014, where it is found that a court has issued an order against a debtor who does not have a permanent address in the territory of the Republic of Bulgaria, that order is invalidated by that court of its own motion. By contrast, where it is found that that debtor does not have a habitual residence in the territory of the Republic of Bulgaria, the order issued cannot be invalidated by the court which issued it. In this last situation, when serving that order, that court must ascertain whether the debtor has a permanent address in Bulgaria and, if that is the case, that order is regarded as having been duly served either by informing a person in the household of that debtor thereof or by the display of a notice. Consequently, the application of Article 411(2)(5) of the GPK may only be relied on by way of an objection on appeal.

30 The referring court states that the decision of 18 June 2014 was delivered before Article 411(1) of the GPK was amended in that the court seised is now required to ascertain of its own motion whether it has territorial jurisdiction on the basis of, inter alia, the debtor's permanent address.

31 According to that court, it follows from Article 411 of the GPK, as interpreted by the Varhoven kasatsionen sad (Supreme Court of Cassation), that an order for payment will always be issued against a debtor, who is a Bulgarian national and whose permanent address remains registered in Bulgaria, even if that debtor has an address abroad which is also listed in the population register. Such an interpretation could undermine the rule laid down in Article 5(1) of Regulation No 1215/2012, according to which a debtor domiciled in a Member State may, in principle, be sued only in the courts of that Member State.

32 The referring court also notes that, in accordance with Article 93 of the ZGR, the permanent address of Bulgarian nationals remains in the territory of Bulgaria and cannot be changed in the event of a move to another Member State. That would constitute an obstacle to the exercise of the right to freedom of movement and to the choice of the place of residence of Bulgarian nationals, guaranteed in Article 21 TFEU.

33 Moreover, Bulgarian nationals who have exercised their right to freedom of movement are potentially in a situation of reverse discrimination, based on nationality, in infringement of Article 18 TFEU. In accordance with Article 53 of the GPK, the service of documents on nationals of other EU Member States who reside permanently in Bulgaria is effected at the address declared to the immigration authorities. If they cease to reside in the Bulgarian territory, the Bulgarian courts no longer have jurisdiction over them, in accordance with the jurisdiction criterion relating to domicile. By contrast, Bulgarian nationals cannot cancel the registration of their permanent address and are required at all times to have a recipient willing to accept service on their behalf in Bulgaria.

34 Furthermore, according to the referring court, it follows from Article 94(3) of the ZGR, read in conjunction with Article 93(2) thereof, that a Bulgarian national may not register a full address outside Bulgaria, the only reference registered by the authorities in that regard being that of the State to which that national has moved. That is the reason why Article 4 of the KMChP lays down, as a criterion of jurisdiction, in relationships governed by private international law to which EU law does not apply, the habitual residence of the defendant.

35 In that context, the referring court asks, first of all, whether Article 5(1) of Regulation No 1215/2012 precludes the international jurisdiction of a court seised of an application for an order for payment from being established by taking into account the concept of 'domicile', as it results from the national legislation relevant in the main proceedings. That court states that, even though it cannot be ruled out that it may base its international jurisdiction on the second indent of Article 7(1)(b) of Regulation No 1215/2012, since the contract from which the claim results relates to the supply of thermal energy for immovable property situated in Sofia, the question of the determination of the domicile remains relevant.

36 Next, the referring court is uncertain as to whether the prohibition for the courts, stemming from the decision of 18 June 2014, of relying on the current address of the debtor in order to establish that he or she is not habitually resident in the territory of the Republic of Bulgaria is compatible with Article 18 TFEU, inasmuch as that prohibition constitutes reverse discrimination.

37 In so far as national law does not allow it to determine the debtor's address outside Bulgaria, the referring court asks, lastly, whether it may rely in that regard on the possibility, provided for in Article 7 of Regulation 2020/1784, of having recourse to the assistance of the Member State concerned.

38 In those circumstances, the Sofiyski rayonen sad (Sofia District Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Is Article 62(1) of Regulation [No 1215/2012], read in conjunction with [the first paragraph of Article 18 TFEU and Article 21 thereof], to be interpreted as precluding the concept of a natural person's "domicile" from being derived from national legislation which provides that the permanent address of nationals of the forum State is always situated in that State and cannot be transferred to another place in the European Union?

(2) Is Article 5(1) of Regulation [No 1215/2012], read in conjunction with [the first paragraph of Article 18 TFEU and Article 21 thereof], to be interpreted as permitting national legislation and national case-law under which a court of a State may not refuse to issue an order for payment against a debtor who is a national of that State and in respect of whom there [are reasonable grounds to believe] that the court lacks international jurisdiction because the debtor is likely to be domiciled in another EU [Member] State, which is apparent from the debtor's declaration to the competent authority that he has a registered address in that State? In such a case, is the date on which that declaration was made relevant?

(3) Where the international jurisdiction of the court seised is derived from a provision other than Article 5(1) of Regulation [No 1215/2012], must [the first paragraph of Article 18] TFEU, read in conjunction with Article 47(2) of the [Charter], be interpreted as precluding national legislation and national case-law under which an order for payment may be issued only against a natural person who is habitually resident in the forum State, but a finding that the debtor, if a national of that State, has established that he is resident in another State cannot be based solely on the fact that he has given the first State a registered address ("current" address) that is in another State of the European Union, if the debtor is unable to demonstrate that he has entirely moved to that other State and has no address in the territory of the forum State? In this case, is the date on which the declaration concerning the current address was made relevant?

(4) If the answer to the first part of the third question is that the issue of an order for payment is permissible, is it permissible under Article 4(1) of Regulation [No 1215/2012], read in conjunction with Article 22(1) and (2) of Regulation [2020/1784], as interpreted in the judgment [of 19 December 2012, *Alder* (C-325/11, EU:C:2012:824)], and in conjunction with the principle of effective application of EU law in the exercise of national procedural autonomy, for a national court of a State in which nationals cannot give up their registered addresses in the territory of that State and cannot transfer them to another State, when it receives an application for an order for payment in proceedings in which the debtor is not involved, to obtain information in accordance with Article 7 of Regulation [2020/1784] from the authorities of the State in which the debtor has a registered address about the debtor's address in that State and the date of registration there, in order to determine the debtor's actual habitual residence before the final decision is given in the case?'

Admissibility of the request for a preliminary ruling

39 It is settled case-law that the procedure provided for in Article 267 TFEU is an instrument of cooperation between the Court of Justice and the national courts, by means of which the Court provides the national courts with the points of interpretation of EU law which they need in order to decide the disputes before them and that the justification for a reference for a preliminary ruling is not that it enables advisory opinions on general or hypothetical questions to be delivered, but rather that it is necessary for the effective resolution of a dispute (judgment of 9 January 2024, *G. and Others (Appointment of judges to the ordinary courts in Poland)*, C-181/21 and C-269/21, EU:C:2024:1, paragraph 62 and the case-law cited).

40 As is apparent from the very wording of Article 267 TFEU, the preliminary ruling sought must be 'necessary' to enable the referring court to 'give judgment' in the case before it (judgment of 9 January 2024, *G. and Others (Appointment of judges to the ordinary courts in Poland)*, C-181/21 and C-269/21, EU:C:2024:1, paragraph 63 and the case-law cited).

41 The Court has thus pointed out that it is apparent from both the wording and the scheme of Article 267 TFEU that a national court or tribunal is not empowered to bring a matter before the Court by way of a reference for a preliminary ruling unless a case is pending before it, in which it is called upon to give a decision which is capable of taking account of the preliminary ruling (judgment of 9 January 2024, *G. and Others (Appointment of judges to the ordinary courts in Poland)*, C-181/21 and C-269/21, EU:C:2024:1, paragraph 64 and the case-law cited).

42 In the present case, the referring court is required to verify of its own motion whether it has jurisdiction to issue an order for payment, in accordance with Article 411(1) of the GPK. To that end, it referred four questions concerning the interpretation of Regulation No 1215/2012 and Regulation 2020/1784 and the interpretation of the first paragraph of Article 18 TFEU, Article 21 TFEU and the second paragraph of Article 47 of the Charter to the Court for a preliminary ruling.

43 So far as concerns, in the first place, the interpretation sought of the second paragraph of Article 47 of the Charter, it is in no way apparent from the request for a preliminary ruling that that interpretation is objectively required for the decision to be taken by the referring court (see, to that effect, judgment of 9 January 2024, *G. and Others (Appointment of judges to the ordinary courts in Poland)*, C-181/21 and C-269/21, EU:C:2024:1, paragraph 65 and the case-law cited).

The referring court does not state the connection which it establishes between that provision and the dispute in the main proceedings or the reasons why, in its view, an interpretation of that provision is necessary in order to resolve that dispute.

44 As regards, in the second place, the interpretation requested of Article 22 of Regulation 2020/1784, it should be noted that that article governs, as is apparent from its title, the obligations of the national court where the defendant does not enter an appearance. That article applies where the originating application or an equivalent document has already been transmitted to another Member State for the purpose of service and relates to adversarial proceedings subsequent to the main proceedings in which the debtor has not yet become a party. Accordingly, Article 22 of Regulation 2020/1784 is based on a premiss which is merely hypothetical in the present case, namely the defendant's failure to enter an appearance.

45 It follows that, in so far as the request for a preliminary ruling concerns the interpretation of the second paragraph of Article 47 of the Charter and Article 22(1) and (2) of Regulation 2020/1784, it bears no relation to the actual facts of the main action or its purpose and is, therefore, inadmissible.

Consideration of the questions referred

The first to third questions

Preliminary observations

46 As regards, in the first place, the interpretation of the relevant provisions of Regulation No 1215/2012, as a preliminary point, the question arises as to whether the dispute in the main proceedings is covered by that regulation, since the application of that regulation requires the existence of an international element. In the present case, even though the debtor concerned is not yet a party to the main proceedings, the fact remains that the application for an order for payment is brought against that debtor whose place of residence is in another Member State, which constitutes a sufficient foreign element for that regulation to apply.

47 So far as concerns, in the second place, the interpretation of Article 18 TFEU, it must be recalled that that article is intended to apply independently only to situations governed by EU law for which specific rules on non-discrimination do not exist (see, to that effect, judgments of 10 February 2011, *Missionswerk Werner Heukelbach*, C-25/10, EU:C:2011:65, paragraph 18, and of 28 September 2023, *Ryanair* v *Commission*, C-321/21 P, EU:C:2023:713, paragraph 98 and the case-law cited).

48 In the present case, as regards the issue raised, in essence, by the questions referred, namely that of the difference in the detailed rules for determining domicile according to whether Bulgarian nationals or foreign nationals residing in Bulgaria are concerned, Article 4(2) of Regulation No 1215/2012 lays down a prohibition of discrimination in so far as that provision prohibits any difference in treatment on grounds of nationality as regards the application of the rules of jurisdiction established by that regulation. Therefore, there is no need to apply Article 18 TFEU independently or, consequently, to interpret it separately.

49 In the third place, it must be observed that, in so far as Regulation No 1215/2012 repealed and replaced Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1), which itself replaced the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters (OJ 1978 L 304, p. 36), as amended by successive conventions on the accession of new Member States to that convention, the Court's interpretation of the provisions of the two latter legal instruments also applies to the interpretation of Regulation No 1215/2012 whenever those provisions may be regarded as 'equivalent' to those of that latter regulation (judgment of 9 July 2020, *Verein für Konsumenteninformation*, C-343/19, EU:C:2020:534, paragraph 22 and the case-law cited).

The first question

50 By its first question, the referring court asks, in essence, whether Article 62(1) of Regulation No 1215/2012 must be interpreted as precluding national legislation under which nationals of a Member State who reside in another Member State are deemed to be domiciled at an address which remains at all times registered in the first Member State.

51 In that regard, it should be noted at the outset that the concept of 'domicile' is essential in the scheme of Regulation No 1215/2012, since it is the general connecting factor for establishing the international jurisdiction of a court under Article 4(1) of that regulation, which refers to the defendant's domicile, whatever his or her nationality (see, to that effect, judgment of 19 December 2013, *Corman-Collins*, C-9/12, EU:C:2013:860, paragraphs 22 and 23).

52 As is apparent from the report by Mr P. Jenard on the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters (OJ 1979 C 59, p. 1), whose comments on the justification for choosing the domicile criterion also apply to the interpretation of Regulation No 1215/2012, the choice of the EU legislature to favour that criterion over that of nationality was dictated by the need to facilitate the uniform application of the rules of jurisdiction in order to avoid different jurisdictional rules depending on whether the disputes involve (i) nationals of a Contracting State, (ii) a national of a Contracting State and a foreign national, or (iii) two foreign nationals.

53 Like the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters and Regulation No 44/2001, Regulation No 1215/2012 does not define the concept of 'domicile'. Thus, Article 62(1) of that regulation refers to the internal law of the Member State whose courts have been seised in order to determine whether a party is domiciled in that Member State. Under Article 62(2) of Regulation No 1215/2012, if a party is not domiciled in the Member State whose courts have been seised of the matter, in order to determine whether that party is domiciled in another Member State, the court is to apply the law of that Member State.

54 Therefore, the Member States have, in principle, the competence to determine the domicile of a natural person according to their own law.

55 However, it is settled case-law that the application of national rules must not undermine the effectiveness of an EU measure. As the Court has, in essence, held with regard to Regulation No 44/2001, in case-law which can be transposed to the interpretation of Regulation No 1215/2012, the application of a Member State's procedural rules may not impair the

effectiveness of the scheme laid down by the latter regulation by frustrating the principles laid down therein (see, to that effect, judgment of 28 April 2009, *Apostolides*, C-420/07, EU:C:2009:271, paragraph 69 and the case-law cited).

56 As is apparent from paragraph 51 of the present judgment, the system established by Regulation No 1215/2012 is founded on the choice of the EU legislature to base the uniform rules of jurisdiction on the domicile criterion and not on that of the nationality of the defendant. Consequently, as the Commission also submits in its written observations, a Member State cannot alter that fundamental choice by applying national rules according to which its nationals are necessarily domiciled in its territory.

57 In the present case, it is apparent from the order for reference that Bulgarian law draws a distinction, so far as concerns its nationals, between their permanent address and their current address.

58 Each Bulgarian national has a sole permanent address in the territory of the Republic of Bulgaria corresponding to the address entered in the population register; that address remains situated in that territory at all times. Bulgarian nationals residing abroad who cannot provide a permanent address in Bulgaria are registered automatically in the population register of the Sredets district of Sofia. By contrast, the current address corresponds to the address at which the person concerned resides. For Bulgarian nationals established abroad, that address is merely the mention, in the population register, of the name of the State in which they live without there being, according to the referring court, any way for such nationals to register a full address outside of Bulgaria. As specified by that court, Bulgarian nationals are therefore required to have a permanent address in Bulgaria, irrespective of where they actually reside.

59 Subject to the checks which it will be for the referring court to carry out, Bulgarian legislation, as described by that court, considers the domicile of Bulgarian nationals as being their permanent address, which is always in Bulgaria, irrespective of whether they reside in Bulgaria or abroad, and does not allow those nationals to register a full address situated in another Member State even if they reside therein permanently and can therefore be regarded as being domiciled in that Member State under its legislation which is applicable in accordance with Article 62(2) of Regulation No 1215/2012.

60 It should also be noted that it will be for the referring court alone to determine the scope of the concept of 'domicile' in national law. However, in so far as national legislation automatically links that concept to a permanent, mandatory and sometimes fictitious address registered for any national of the Member State concerned, such legislation undermines the effectiveness of Regulation No 1215/2012, since it amounts to replacing the domicile criterion, on which the rules of jurisdiction laid down by that regulation are based, with the criterion of nationality.

61 In those circumstances, there is no need to examine whether Article 21 TFEU also precludes national legislation such as that described in the preceding paragraph.

62 In the light of all the foregoing, the answer to the first question is that Article 62(1) of Regulation No 1215/2012 must be interpreted as precluding national legislation under which nationals of a Member State who reside in another Member State are deemed to be domiciled at an address which remains at all times registered in the first Member State.

The second and third questions

63 According to settled case-law, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to decide the case before it. To that end, the Court of Justice should, where necessary, reformulate the questions referred to it (judgment of 30 January 2024, *Direktor na Glavna direktsia 'Natsionalna politsia' pri MVR – Sofia*, C-118/22, EU:C:2024:97, paragraph 31 and the case-law).

64 In the present case, the second and third questions, which it is appropriate to examine together, arise from the fact that, as is apparent from the request for a preliminary ruling, the referring court states that it is required, in accordance with Article 411 of the GPK, as interpreted in the decision of 18 June 2014, to issue an order for payment against a debtor, a Bulgarian national, whose permanent address is in Bulgaria, even though there are reasonable grounds to believe that that debtor was domiciled, on the date on which that application for an order for payment was made, in the territory of another Member State and that, consequently, that court does not have international jurisdiction to hear such an application, in accordance with Article 4(1) of Regulation No 1215/2012.

65 According to the referring court, it cannot be ruled out that it may base its jurisdiction on another provision, namely the second indent of Article 7(1)(b) of that regulation in Section 2 of Chapter II thereof. However, it queries whether Article 5(1) of that regulation precludes it from being under an obligation to issue an order for payment against a debtor whose current address is in another Member State. In that context, the referring court also raises the question of the relevance of the date on which a current address was registered by the debtor concerned.

66 Consequently, it must be held that, by the second and third questions, the referring court asks, in essence, whether Article 4(1) and Article 5(1) of Regulation No 1215/2012 must be interpreted as precluding national legislation, as interpreted in national case-law, from conferring on a court of a Member State jurisdiction to issue an order for payment against a debtor in respect of whom there are reasonable grounds to believe that he or she is domiciled in another Member State.

67 As noted in paragraph 51 of the present judgment, Article 4(1) of Regulation No 1215/2012 establishes the general rule of jurisdiction on which that regulation is based, which is that of the defendant's domicile, whatever the nationality of that defendant.

68 Under Article 5(1) of Regulation No 1215/2012, persons domiciled in a Member State may be sued in the courts of another Member State only by virtue of the rules in Sections 2 to 7 of Chapter II of that regulation. Those sections contain rules of special jurisdiction, rules of jurisdiction in matters relating to insurance, consumer contracts, individual contracts of employment, and rules of exclusive jurisdiction and rules on prorogation of jurisdiction.

69 It follows from those sections that it is only possible to consider that a court of a Member State has international jurisdiction to hear a case against a defendant domiciled in another Member State in situations governed by those sections.

70 In the present case, the referring court should be able to issue an order for payment against a debtor, in respect of whom there are reasonable grounds to believe that he or she was domiciled, on the date on which the application for an order for payment was made, in a Member State other than the Republic of Bulgaria, if it can base its jurisdiction to hear such an application on one of the rules of jurisdiction set out in Sections 2 to 7 of Regulation No 1215/2012.

71 The circumstances to be taken into consideration for the purposes of determining jurisdiction are therefore those which existed on the date on which the application for an order for payment in question was made.

72 In the light of all the foregoing, the answer to the second and third questions is that Article 4(1) and Article 5(1) of Regulation No 1215/2012 must be interpreted as precluding national legislation, as interpreted in national case-law, from conferring on a court of a Member State jurisdiction to issue an order for payment against a debtor in respect of whom there are reasonable grounds to believe that he or she was domiciled, on the date on which the application for an order for payment was made, in the territory of another Member State, in situations other than those provided for in Sections 2 to 7 of Chapter II of that regulation.

The fourth question

73 By its fourth question, the referring court asks, in essence, whether Article 7 of Regulation 2020/1784 must be interpreted as precluding a court of a Member State, which has jurisdiction to issue an order for payment against a debtor where there are reasonable grounds to believe that he or she is domiciled in the territory of another Member State, from seeking assistance from the competent authorities of that other Member State and using the means it makes available to identify the debtor's address for service of that order for payment.

74 As a preliminary point, it must be observed that, should the referring court conclude that it has jurisdiction to hear the case in the main proceedings on the basis of one of the rules of jurisdiction laid down in Sections 2 to 7 of Chapter II of Regulation No 1215/2012 and, consequently, that it is entitled to issue the order for payment applied for against the debtor concerned, even if the latter is domiciled in another Member State, it is required to serve that order on that debtor.

75 In that regard, in accordance with the case-law of the Court, where the person to be served with a judicial document resides abroad, the service of that document comes, in principle, within the scope of Regulation 2020/1784 and must be carried out by the means put in place by that regulation, with the exception, in particular, of the situation in which the domicile or place of habitual residence of that addressee is unknown (see, by analogy, judgment of 19 December 2012, *Alder*, C-325/11, EU:C:2012:824, paragraphs 24 and 25).

76 In that last situation, however, there is, in accordance with Article 1(2) of that regulation, which refers to Article 7 thereof, an obligation to provide assistance in determining the address of the person to be served with the document.

77 Under Article 7 of Regulation 2020/1784, where the address of the person to be served with the judicial or extrajudicial document in another Member State is not known, that other Member State shall provide assistance in determining that address either by designating authorities to which transmitting agencies may address requests for that purpose, or by allowing requests for

information concerning that address by means of a standard form available on the 'European e-Justice portal' to be made directly in domicile registries or other databases, or by providing information through that portal on how to find that address.

78 Consequently, a court of a Member State which must serve a judicial or extrajudicial document in another Member State may use all the means made available under Article 7 of Regulation 2020/1784 in order to determine the address of the person to be served with the document.

79 In the light of all the foregoing, the answer to the fourth question is that Article 7 of Regulation 2020/1784 must be interpreted as not precluding a court of a Member State, which has jurisdiction to issue an order for payment against a debtor where there are reasonable grounds to believe that he or she is domiciled in the territory of another Member State, from seeking assistance from the competent authorities of that other Member State and using the means it makes available to identify the debtor's address for service of that order for payment.

Costs

80 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fourth Chamber) hereby rules:

1. **Article 62(1) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters**

   must be interpreted as precluding national legislation under which nationals of a Member State who reside in another Member State are deemed to be domiciled at an address which remains at all times registered in the first Member State.

2. **Article 4(1) and Article 5(1) of Regulation No 1215/2012**

   must be interpreted as precluding national legislation, as interpreted in national case-law, from conferring on a court of a Member State jurisdiction to issue an order for payment against a debtor in respect of whom there are reasonable grounds to believe that he or she was domiciled, on the date on which the application for an order for payment was made, in the territory of another Member State, in situations other than those provided for in Sections 2 to 7 of Chapter II of that regulation.

3. **Article 7 of Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents)**

   must be interpreted as not precluding a court of a Member State, which has jurisdiction to issue an order for payment against a debtor where there are reasonable grounds to believe that he or she is domiciled in the territory of another Member State, from seeking assistance from the competent authorities of that other Member State and

using the means it makes available to identify the debtor's address for service of that order for payment.

[Signatures]