



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

FOURTH SECTION

**CASE OF THE UNITED MACEDONIAN ORGANISATION
ILINDEN – PIRIN AND OTHERS v. BULGARIA (No. 2)**

(Applications nos. 41561/07 and 20972/08)

JUDGMENT

STRASBOURG

18 October 2011

FINAL

08/03/2012

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of the United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria (No. 2),

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Nicolas Bratza, *President*,

Lech Garlicki,

Ljiljana Mijović,

Päivi Hirvelä,

George Nicolaou,

Ledi Bianku,

Zdravka Kalaydjieva, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 27 September 2011,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in two applications (nos. 41561/07 and 20972/08) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 14 August 2007 and 11 April 2008 respectively. The principal applicant in both applications is the United Macedonian Organisation Ilinden – Party for Economic Development and Integration of the Population (“UMO Ilinden – PIRIN” or “the applicant party”), a political party founded in 1998 and dissolved by the Constitutional Court in 2000. The remaining applicants in the first application are Mr Ivan Iliev Singartiyski, Mr Stoyko Ivanov Stoykov, Mr Angel Ivanov Bezev and Mr Botyo Vangelov Tikov, Bulgarian nationals born in 1953, 1974, 1964 and 1956 and living in Musomishta, Sandanski and Koprivlen, who are members of the applicant party’s governing body, and Mr Stoyan Nikolov Georgiev, a Bulgarian national born in 1938 and living in Petrich, who is a member of the party. The applicants in the second application are the same as those in the first application, save for the sixth applicant.

2. The applicants were represented by Mr Y. Grozev, a lawyer practising in Sofia. The Bulgarian Government (“the Government”) were represented by their Agent, Ms M. Dimova, of the Ministry of Justice.

3. The applicants alleged that two refusals of the courts to register the applicant party had infringed their right to freedom of association, had deprived them of effective domestic remedies, had been discriminatory, and had been in breach of the Bulgarian State’s duty to abide by the final judgment of the Court in an earlier case.

4. On 3 June 2008 the President of the Fifth Section, to which the case had been allocated, decided to give priority to the applications under Rule 41 of the Rules of Court and to conduct the proceedings in the case simultaneously with those in *United Macedonian Organisation Ilinden and Others v. Bulgaria* (no. 2) (no. 34960/04), *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria* (no. 2) (no. 37586/04), and *Singartiyski and Others v. Bulgaria* (no. 48284/07) (Rule 42 (former 43) § 2 of the Rules of Court).

5. On 30 September 2008 the Court decided to join the two applications (Rule 42 (former 43) § 1) and to give notice of them to the Government. It was also decided to examine the merits of the applications at the same time as their admissibility (Article 29 § 1 of the Convention).

6. Following the re-composition of the Court's sections on 1 February 2011, the application was transferred to the Fourth Section.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Background to the case

7. The applicant party, based in south-west Bulgaria (in an area known as the Pirin region or the geographic region of Pirin Macedonia), was initially founded in 1998. It was declared unconstitutional by the Constitutional Court on 29 February 2000 and, as a result, dissolved.

8. The relevant developments up to February 2000 are described in detail in paragraphs 8-28 of the Court's judgment in the case of *United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria* (no. 59489/00, 20 October 2005). In that judgment the Court found that the applicant party's dissolution had been in breach of Article 11 of the Convention (*ibid.*, §§ 50-63).

B. The first attempt to have the applicant party re-registered

9. After the Court's judgment in the case of *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above) became final, on 20 January 2006, the applicant party's followers decided to apply for re-registration of the party, considering that this would be the best way of expunging the consequences of the violation of Article 11 (since under

Bulgarian law there is no possibility of reopening proceedings before the Constitutional Court).

10. On 9 June 2006, in line with the procedure envisaged in the 2005 Political Parties Act (see paragraph 43 below), the party's founding committee published a founding declaration in *Dnevnik*, a national newspaper, announcing that the party's founding meeting would be held on 25 June 2006.

11. The meeting took place as planned.

1. The proceedings before the Sofia City Court

12. On 20 September 2006 the applicant party's founders applied to the Sofia City Court ("*Софийски градски съд*") for registration. They enclosed with the application the original of the founding declaration and its published copy, a certificate attesting to the uniqueness of the party's name, minutes of the founding meeting, signed by the meeting's chairman and minute-taker, a copy of the party's constitution, notarised signature samples of the members of the party's representative body, notarised declarations vouching for the authenticity of the lists of the party's founders and members and of its constitution, a sample of the party's seal, a list of the founders having signed membership declarations and copies of those declarations, and a list of the party's members (5,778 individuals).

13. After the application was filed, a copy of the list of the party's founding members was apparently made available to the police and the prosecuting authorities in Gotse Delchev, Blagoevgrad, Sandanski, Petrich and some other localities in the Pirin region. The police started systematically checking the names, the identities and the personal data of the individuals concerned. They also summoned a large number of those individuals, questioned them about their involvement with the party, and obtained from some of them declarations denying any connection with the applicant party. Following this operation, the police drew up a detailed report pointing to a number of alleged irregularities in the party's formation, such as failures to indicate the full names, full and correct addresses and personal identity numbers of the founders in some membership declarations, as well as the facts that some founders were living abroad, were members of other parties, or were minors or mentally ill. It also contained allegations, based on interviews with the individuals concerned and other inquiries by the police, that they had been put on the list without their knowledge or against the payment of money.

14. The police additionally commissioned a graphology expert to check the texts of the membership declarations and the signatures featuring on them. On 17 October 2006 the expert drew up a detailed report which said that the texts of a number of declarations had been filled in by the same people, but that the signatures were those of separate people (all of whom he identified by name and citizen identification number). He also said that the

signatures of thirteen individuals on the membership declarations differed from the corresponding signatures on the list of members.

15. The Sofia City Court examined the application at a hearing held on 18 October 2006. A prosecutor of the Sofia City Prosecutor's Office, who participated in the proceedings *ex officio*, produced the above-mentioned reports, orders by the prosecuting authorities in Sandanski and Gotse Delchev for the carrying out of preliminary inquiries, and sixty-six declarations obtained during the earlier police operation and purportedly establishing that the individuals who had made them had no links with the applicant party.

16. Some of the declarations contained the following statements: "I am not and have never been a member of UMO Ilinden – PIRIN; I made the decision to sign [the membership declaration] off the top of my head, I have not received anything in return, and I was not coerced into doing it"; "I declare I have nothing to do with the anti-Bulgarian organisation UMO Ilinden – PIRIN. In no way do I support their separatist ideas. The fact that I signed the petition does not in any way mean that I support their ideas"; "I declare that I have never been a member and am not a member of the illegal UMO Ilinden".

17. Counsel for the party's founders requested an adjournment to acquaint himself with the newly presented evidence. The court turned the request down, allowing counsel to peruse the documents during a half-hour recess. When the hearing resumed, counsel for the party's founders objected to the admission of the two reports in evidence and sought leave to present additional evidence: the membership applications of the persons whose names featured in the declarations presented by the prosecutor, and the missing personal identity numbers and addresses of the founders. The court denied leave, saying that the evidence sought to be adduced was not required under the 2005 Political Parties Act (see paragraphs 42-46 below). It also said that it would rule on the admissibility of the prosecutor's evidence in its judgment.

18. In a memorial filed after the hearing the prosecutor argued that the registration request should be rejected as, firstly, most of the founders had not personally filled in, but merely signed, their membership declarations, as shown by the expert report. Secondly, some of the members of the party's governing bodies featured in the minutes of the founding meeting with two names only, which made it difficult to identify them. Thirdly, there was no indication that a properly constituted ballot committee had duly checked the number of participants in the founding meeting. All of this showed that the founding meeting had been irregular and its resolutions void. Moreover, the sixty-six declarations showed that a number of the purported founders of the party were in fact no such thing. There were also a number of technical irregularities in the founding instruments. Lastly, there were indications that a number of purported founders had agreed to

become members without really wanting to or understanding the implications. The party had therefore been founded in breach of, among other provisions, Article 11 of the Convention, which enshrined negative freedom of association.

19. In a counter-memorial counsel for the party's founders submitted, *inter alia*, that the facts the prosecutor sought to prove through the evidence he had adduced could be established only within the framework of separate contentious proceedings. Non-contentious registration proceedings were not a suitable forum for resolving such issues. Even if one were to admit that there were certain irregularities in the membership declarations or the lists, this was not reason enough to hold that the number of founders had not in fact been attained. The sixty-six declarations presented by the prosecutor had to be discounted, *inter alia* because their sincerity was highly doubtful as they appeared to have been made under pressure from the police. That could be seen from the content of some of the declarations. Most of the irregularities noted in the police report were trivial or irrelevant and, in view of the limited number of individuals concerned – fifty-eight – did not cast doubt on the fact that the party had more than five thousand members, as required by law. Lastly, there was no indication that the party's formation had been in breach of Article 11 of the Convention or Articles 11 and 44 of the Constitution (see paragraph 41 below); on the contrary, it was consonant with the Court's judgment in the case of *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above).

20. In a judgment of 30 October 2006 the Sofia City Court refused to enter the applicant party in the register of political parties. It held as follows:

“... In an application ... of 20 September 2006 the applicants Ivan Iliev Singartiyski, Stoyko Ivanov Stoykov, Angel Ivanov Bezev and Botyo Vangelov Tikov asked [this court] to enter in the register of political parties the newly founded party UMO Ilinden – PIRIN. ...

The certificate attesting to the uniqueness of the name, [issued by the registry of the Sofia City Court], shows that it was issued for a political party named UNITED MACEDONIAN ORGANISATION ILINDEN – PARTY FOR ECONOMIC DEVELOPMENT AND INTEGRATION OF THE POPULATION.

A founding declaration has been produced, as required under section 10(2) of [the 2005 Political Parties Act]. However, it cannot be individualised, as there is no information in the file about the ‘initiative committee’ of ‘at least 50 enfranchised Bulgarian citizens’ who have adopted it, as required under subsection 1 of this section. The declaration says that they are ‘a group’ but the evidence does not allow the court to ascertain their number. The declarations under section 11(3) of [the same Act] do not contain information about the membership of the initiative committee, i.e. such declarations are lacking.

It can be seen from the enclosed minutes of 25 June 2006 that on that date a founding meeting of the ‘political party UMO Ilinden – PIRIN’ was held. At the beginning of the meeting a ballot committee was elected, whose membership cannot

be ascertained, as the individuals mentioned feature with their first and family names only and there is no further information about them. In addition, there is no report by this committee relating its findings which are mentioned only in the minutes. The individualisation of persons with two names only also affects the procedures for electing a Leadership, a Central Council and an Audit Committee. The [citizen identification numbers] of the members are not set out either.

An uncertified copy of the [party's] constitution has been produced. It is not clear whether this is the constitution that was adopted at the founding meeting or the constitution mentioned in the notarised declaration vouching for its authenticity.

No graphic depictions of the symbols of the party have been submitted. They have merely been described in clause 3 of the constitution: 'the party's flag is red, with a golden sun and a golden inscription 'UMO Ilinden – PIRIN', and the party's sign, comprising two Pirin mountain peaks with a sun rising between them, yellow with a blue background, with a white edelweiss at the foot of the hills.

Lists and declarations of the founding members, said by the applicants to be 530 in number, have been presented, as required under section 15(3)(4) and (3)(5) in conjunction with section 11 [of the 2005 Political Parties Act]. The expert report presented by the [Sofia City Prosecutor's Office] shows that 116 of the declarations were filled in by the same 25 persons, so that it is logical to conclude that 91 founding members did not personally fill in their declarations, as required by law. The report was contested by counsel for the applicants. The court gives credence to this piece of evidence, as handwriting [recognition] demands special skills and, although it is clear to the naked eye that the declarations in volume 2, pages 1 to 9 [of the case file] have been filled in with the same handwriting, the court itself would not be able to make legally binding findings on this point, because this requires special qualifications and skills, which are in the experts' province. The court also gives credence to the expert report because it was made by the Ministry of Internal Affairs' Institute of Forensic Science and Criminology, bears the Institute's seal and the signature of Dr [S.B.] – head of the 'Documentary offences, photography and phonoscopy' department, and is thus an official document.

The court does not take into account the 66 individual declarations presented by [the Sofia City Prosecutor's Office], although they tend to show that the procedure for the formation of the party was not especially perfect. As correctly argued by counsel for the applicants in his brief, their number could not influence the number of the [party's] members required under section 15(3)(7) of [the 2005 Political Parties Act].

The presented list of the party's members is inaccurate and incorrect: for instance, in volume one of the evidence – pages 27, 28, 29, 40 and 41 – the names of 100 persons are listed, but without saying for what purpose their names and personal data are listed; pages 30 to 39, listing 141 persons, are presented as an uncertified copy and do not make it clear for what purpose the names and personal data are given; pages 45 to 59 and 71 to 77, concerning 308 people, are presented in an uncertified copy, on page 310 there are two persons with incomplete addresses, page 359 features one person identified by his first name only, without a [citizen identification number] and address, the same on pages 361 and 367, and so on.

On the basis of these findings of fact the court makes the following findings of law:

The application was made under Article 489 of [the 1952 Code of Civil Procedure] in conjunction with section 15 of [the 2005 Political Parties Act] and has given rise to non-contentious proceedings. In such proceedings the registering court must check whether the application is formally valid and whether it is well-founded.

Article 489 of [the Code] governs the registration of all types of legal persons which by law are required to be registered by a court. According to section 15 [of the Act], a political party is registered in the special register kept by the Sofia City Court on the basis of a special application by its representative body. To determine whether the application is well-founded, the registering court has to check whether the facts sought to be registered are indeed subject to registration and whether they have validly taken place.

The application is admissible, as it was filed by the members of the leadership of the political party UMO Ilinden – PIRIN, who, according to clause 41(4) of its constitution, represent it and are therefore the proper applicants.

The application is unfounded for the following reasons:

Section 11 of [the 2005 Political Parties Act] provides that each enfranchised Bulgarian citizen may join the subscription, up until the founding meeting, by personally filling in and signing an individual membership declaration, based on a model adopted by the initiative committee. Through this declaration the citizens express their personal wish to be members of the political party, and declare that they accept its main principles and goals, as set out in its founding declaration, and that they are not members of another political party. The [members of] the initiative committee must also fill in such a declaration...

For a valid membership to arise, there must be ‘an initiative of at least 50 enfranchised Bulgarian citizens who form an initiative committee’, which adopts the founding declaration to be signed by the founders. A founding declaration has been produced, but the available evidence does not show that the initiative committee consists of at least 50 Bulgarian citizens. The expression ‘group of citizens’, used in the declaration (page 6 of the case file) does not establish the characteristics of these individuals (enfranchised Bulgarian citizens) and thus the quorum required under section 10(1) of [the 2005 Political Parties Act]; moreover, section 11(3) [of the same Act] expressly requires the initiative committee to fill in the declaration as well. This court does not find it established that this formality, which is a necessary prerequisite for membership, has been completed.

Even assuming that the founding declaration is in compliance with the law, the model declaration adopted by the initiative committee should still be filled in and signed *personally* – section 11(1) of [the 2005 Political Parties Act]. At least 91 of the submitted 530 declarations have not been filled in personally, i.e. one of the two cumulative prerequisites, mandatory under the law, has not been complied with. The court would not comment on the authenticity of the signatures, about which there are doubts. The expert report says that there are differences between the signatures of the same persons in the declarations and in the lists featuring their names. This logically leads to the conclusion that there are only 441 proper founding declarations, in breach of the requirements of section 15, subsections (3)(4) and (3)(5), of [the 2005 Political Parties Act].

The above shows that the founding meeting was attended by far fewer than 500 founders and that there has been no *valid adoption of the [party's] constitution*, as required under section 13(1) of the [above-mentioned] Act. A quorum is established on the basis of these very founding declarations, as there is no legal requirement for each founder to personally fill in his name and personal data in the lists. It can be seen from the founding meeting's minutes that a ballot committee was elected, but it did not draw up a report; the minutes feature only the first and the family names of its members and for this reason they cannot be identified, nor their responsibility engaged. This is why the court cannot find that the statement in the minutes that a quorum was attained does not need to be proven.

A quorum establishes lawful representation; it is a prerequisite for a collective body validly to adopt resolutions. Each of the members is bound to all the others who have agreed to the [party's] constitution. This instrument binds the members of a legal person to act in a certain way, in pursuit of common goals. A legal person's resolutions are legal acts emanating from its bodies and entailing legal consequences for all members of a given community. A necessary prerequisite for the adoption of resolutions by collective bodies (in the instant case, a political party) is the quorum – the mandatory number of persons corresponding to the requirements of [the 2005 Political Parties Act] – of Bulgarian citizens who have capacity to act, who are not disenfranchised, and who have to be present to adopt a valid resolution. To be legitimate, resolutions of collective bodies have to comprise a certain number of identical acts by persons having capacity to act. The lack of the legally required quorum leads to resolutions which have not been adopted by consensus.

From a legal point of view, the entire procedure for duly forming a legal person has been vitiated.

The presence of this defect is in itself sufficient to deny the political party registration; moreover, it cannot be made good without calling and holding a new founding meeting.

To achieve precision and give full reasons for its ruling, this court considers that the remaining circumstances required for the lawful formation of a legal person must be analysed as well.

It is questionable whether the applicants have adduced in evidence a constitution. The enclosed copy of a constitution is *not certified* and there is no indication that it is indeed the authentic constitution of the party, as claimed in the notarised declaration of its Central Council.

Section 14 of the [2005] Political Parties Act enumerates the minimum contents of each party's constitution: the name, the symbols, the seat, the goals, the rules governing its organisation and activities, the manner of becoming a member and ceasing to be one, the rights and the obligations of the members, and the manner in which the party is to be wound up. The party's name or acronym cannot match those of another party. Nor is it possible to supplement these with words, letters, figures, numbers or other signs. Section 5 bars parties from using in their symbols the coat of arms or the flag of the Republic of Bulgaria or another State, or religious signs and images. In this connection, [the court must] verify compliance with both the [2005] Political Parties Act and, *mutatis mutandis*, the applicable provisions of the [2000] Non-Profit Legal Persons Act (as stated in paragraph 2 of the concluding provisions of the [2005] Political Parties Act).

Concerning the name. A certificate attesting to the uniqueness of the name UNITED MACEDONIAN ORGANISATION ILINDEN – PARTY FOR ECONOMIC DEVELOPMENT AND INTEGRATION OF THE POPULATION has been presented. This name has been written this way only in the founding declaration published in the newspaper *Dnevnik* and in clause 1 of the constitution. Everywhere else, in all evidence, the name features as UMO Ilinden – PIRIN. Counsel for the applicants ... says on page 3 of his brief that ‘there is a separate organisation UMO Ilinden, which, although having similar ideas to those of UMO Ilinden – PIRIN, is a separate organisation’. It can be seen from clause 3 of the constitution that the abbreviated version of the name will be written on the party’s symbol – its flag – and will also appear on the party’s seal. However, this name is contrary to section 7, subsections (1) and (2), of the [2000] Non-Profit Legal Persons Act, which provides that ‘the name must clearly show the legal person’s type’ and that it ‘must not be misleading’. There is a discrepancy between the unique name featuring on the Sofia City Court’s certificate and the name used in the evidence. The shortened name could confuse third parties, firstly because it concerns ‘a separate organisation UMO Ilinden’, secondly because the acronym PIRIN could be wrongly deciphered, and [finally because] a clear indication of the legal person’s type is missing.

Concerning the symbols. The failure to produce the graphic depictions of the symbols described in clause 3 of the constitution precludes a categorical conclusion about their conformity with the law. The seal, however, shows that the ‘sun’ mentioned in clause 3 is in fact the sixteen-ray stylised star known as the Star of Vergina or the Star of Kutlesh. It was discovered during archaeological excavations in the vicinity of the village of Vergina (formerly Kutlesh) in Northern Greece and was depicted on the golden larnax found in 1977 by Professor Manolis Andronikos in a royal tomb dating from the time of Ancient Macedonia. Professor Andronikos described the symbol as a ‘star’, a ‘starburst’ or a ‘sunburst’. Following the discovery of the larnax (box), the Star of Vergina was widely adopted by Greeks as a symbol of continuity between ancient Macedonian culture and modern Greece. Nowadays the symbol is popular in Greece. The Star of Vergina on a blue background is commonly used as an official emblem of the three peripheries, the prefectures and the municipalities of the region of Macedonia. Thus, the blue flag with the Star of Vergina appeared in the 1980s. The symbol was also adopted by the large Macedonian diaspora, and later, after the disintegration of Yugoslavia, the independent Republic of Macedonia displayed the Star of Vergina on its new flag. The Star of Vergina became a source of controversies both within the Republic of Macedonia and in its relations with neighbouring Greece. The flag – a red rectangle with the star in the middle – became a major issue and the subject of extensive political discussions between the two sides. Greek objections led to the flag being banned from use in a variety of international organisations, including the United Nations, the Olympic Games and the representations of the Republic of Macedonia in the United States of America and Australia. In February 1993 the Greek Parliament adopted a declaration designating the Star of Vergina as an official Greek national symbol. In July 1995 Greece lodged a request with the World Intellectual Property Organization (WIPO) for exclusive intellectual property rights to the Star of Vergina.

From a legal standpoint, the symbols described in clause 3 of the [party’s] constitution are contrary to section 5 of the [2005] Political Parties Act.

Concerning the rules governing the organisation and the activities of the political party – the [2005 Political Parties Act] does not lay down detailed regulations for this type of legal person. This calls for subsidiary application of the [2000 Non-Profit

Legal Persons Act]. Political parties are subject to all rules in chapters I and II, concerning the types of legal persons, and, more specifically, part one, concerning associations, as well as in chapter III, concerning associations acting in the public interest. In assessing the rules governing the [party's] organisation and activities, the court must equally take into account the provisions of the Constitution, which lay down guiding principles which are relevant for the specific areas of legal regulation or for the activities of those subject to the law.

Each corporate legal person has internal rules and they are one of its essential characteristics. The enclosed constitution sets out the main structures of the party and their manner of operation. The supreme body is the National Conference, consisting of delegates (clause 34), elected by the local sections (clause 34(4)). The calling of the meetings of this body is entrusted to the Central Council, which is in turn summoned by the Leadership or on the motion of half of its members. The founders intentionally avoided a clear exposition of the manner in which the National Conference may be called, with a view to [preventing] disputes on this point. The question of delegates is not well regulated in terms of what the delegate quota is, or [what part of] the membership, nor which delegates have been duly elected. Nor is it clear on the basis of what principle the Central Council fixes the territory of each section – clause 21(1) of the constitution. This in practice prevents the court from exercising the judicial scrutiny, required by section 25(4) and (6) of the [2000 Non-Profit Legal Persons Act], of the lawfulness of the supreme body's resolutions and their conformity with the [party's] constitution, pursuant to applications made under section 25(6) of the [same Act] by the party's members and bodies, or by the public prosecutor. In such proceedings, the court must of necessity review the procedure for calling [a meeting of the party's bodies] and must determine its lawfulness.

The [2000] Non-Profit Legal Persons Act provides that there must be a possibility of calling [a meeting of] the governing body on the direct initiative of one-third of the association's members. Where such a meeting has not been called, the Act lays down a judicial procedure for calling [a meeting of this body] pursuant to a written request by the members. The applicant party's constitution does not provide for such a possibility.

In his memorial counsel for the applicants says that *'the registration of the party UMO Ilinden – PIRIN would be in execution of a judgment of 20 October 2005 of the European Court of Human Rights, which became final on 20 January 2006 and in which the European Court analysed in detail all aspects of UMO Ilinden – PIRIN's activities prior to its dissolution and held that the party's dissolution had been unlawful as it was contrary to the essential principles of freedom of association'*.

In their memorial the Sofia City Prosecutor's Office submit that the breaches of Articles 11 § 3 and 44 of the [Constitution] have been unequivocally established; those provisions lay down the principle that parties facilitate the formation and the expression of the political will of the citizens, who have the right to freely associate. The prosecuting authorities argue that the evidence shows the applicant party is not based on the free will of the citizens, but that some have been made members against their will or without being aware for what purpose they had filled in declarations – i.e. without information, and in this sense *'the party in issue is not based on the free will of the citizens, nor does it form or express their political will'*. In the Prosecutor's Office's view, the facts point to a breach of Article 11 of the [Convention] which, when providing that everyone has the right to freedom of association, *'undoubtedly*

intends this to depend on the free will of the individual, not on the decisions of others to include him in a specific association, in this case a political party’.

Article 231 § 1 (h) of [the 1952 Code of Civil Procedure] provides that the judgments of the European Court of Human Rights may constitute grounds for reopening domestic proceedings which have ended in a final judgment. However, it is clear that the situation in the case at hand does not fall within the ambit of that provision.

A fortiori, the violations found by the [European Court of Human Rights] should not be allowed to occur in pending proceedings. Because the possibility that the final decision (which is the ultimate goal) of a set of proceedings will be set aside would render these proceedings meaningless.

The [Convention] has precedence over domestic (national) legislation that contravenes it – Article 5 § 4 of [the Constitution]. It should however not run counter to the present wording of [the Constitution]. This is because Article 85 § 4 (until 2005, § 3) of [the Constitution] provides that the concluding of international treaties requiring amendments to [the Constitution] has to be preceded by such amendments. This follows from the reasons given by the Constitutional Court in its decision no. 7 of 2 July 1992.

The European Court is not competent to give instructions to the States to take specific measures to comply with their obligations under [the Convention] – [see] the judgments in the cases of *Corigliano [v. Italy]*, 10 December 1982, Series A no. 57], *Castells [v. Spain]*, 23 April 1992, Series A no. 236], *Bozano [v. France]*, 18 December 1986, Series A no. 111], etc.

The [European Court’s] judgments analyse a specific case (whether specific facts amount to a violation of [the Convention]). For this reason, the court does not consider that those judgments may directly determine the outcome of a future case. The instant judgment is based on new facts and evidence, gathered in line with the requirements of [the 1952 Code of Civil Procedure] in the present proceedings. In other words, only the principles emerging from the [European Court’s] judgments are binding and the applicants cannot request automatic registration merely because their fundamental rights have been restricted in the past, for which they have been awarded just satisfaction.

In conclusion, freedom of association is guaranteed by [the Constitution], but only if the legal requirements for association in its various forms – [under the 1991] Companies Act, [the 2000] Non-Profit Legal Persons Act, [and the 2005] Political Parties Act – have been complied with.

In view of the foregoing, the court finds that the political party has not been duly formed and for this reason its application for registration is to be denied as unfounded.”

2. The proceedings before the Supreme Court of Cassation

21. On 13 November 2006 the applicants appealed to the Supreme Court of Cassation (“*Върховен касационен съд*”). They argued, *inter alia*, that the admission of the expert report in evidence had been a serious breach of

the rules of procedure, as any doubts about the authenticity or the probative value of the documents submitted in support of the registration request should have been resolved in separate contentious proceedings. The Sofia City Court's denial of leave to the applicants to adduce further evidence had also been in breach of the rules of procedure, had rendered the proceedings unfair, and had prevented them from proving they had complied with the requirements of the 2005 Political Parties Act. These procedural errors had had a material impact on the Sofia City Court's findings of fact. Furthermore, that court's ruling that membership declarations must be filled in by the member in person was too rigid and unduly restrictive of the freedom of association of the party's founders.

22. After hearing the appeal on 8 February 2007, in a final judgment of 14 February 2007 (реш. № 87 от 14 февруари 2007 г. по т. д. № 726/2006 г., ВКС, I т. о.) the Supreme Court of Cassation upheld the Sofia City Court's judgment in the following terms:

“... [This court] considers ... that the Sofia City Court erred by admitting in evidence the expert report contested by the applicants. This report is in fact a private expert report and not an official document, as wrongly held by the [Sofia City Court]. This entailed a breach of the rules of evidence. ... However, that breach was not material, as it was not the only ground which led to the [Sofia City Court's] refusal to register [the party]. That court found that the produced *founding declaration* – the first element of the complex of events leading to a political party's formation ... – was vitiated. The founding declaration cannot be *individualised*, as it does not emanate from at least fifty enfranchised Bulgarian citizens, as required by the law (section 10 [of the 2005 Political Parties Act]), but from a ‘*group of citizens*’, and that ‘group of citizens’ cannot be individualised, nor their number ascertained. There is no information in declarations under section 11(3) of [the same Act] about the size and the membership of the initiative committee, because such declarations are lacking. Therefore, [the Sofia City Court's] *decisive* conclusion that the [applicant party] was not validly formed was based on lapses in the founding declaration presented, which fails to meet the imperative requirements of the law – sections 10(1) and 11(1)-(3) [of the 2005 Political Parties Act]. The incompleteness of the lists, noted by the [Sofia City Court], was an additional and not a decisive ground for the refusal, and for this reason its being based on a breach of the rules of procedure is not material and does not vitiate the impugned judgment. By the same token, [this court] finds unavailing the arguments in the appeal about the rigid application of the rule in section 11 [of the Act] in relation to the handwritten declarations, which allegedly led to a restriction of the exercise of basic political rights. Section 11's requirement for a personally filled in and signed declaration does not restrict or discriminate against illiterate or blind individuals, as the law deals with such eventualities in Article 151 [of the 1952 Code of Civil Procedure], which is also applicable in the instant proceedings... If the law requires personally filled in and signed declarations under section 11 [of the 2005 Political Parties Act], the court is bound to apply it correctly and uniformly – Article 4 § 2 [of the above Code]. [The Sofia City Court] did precisely that; therefore, the complaints that it erred in the application of section 11 [of the Act] are unfounded.

The complaints that [the Sofia City Court] breached the rules of procedure by refusing the applicants leave to adduce further evidence rectifying the irregularities in the initially submitted documents, such as wrong or incomplete addresses, [citizen

identification numbers], [and] proof of the truth of circumstances required by law to be declared, are unfounded. It is true that the proceedings are non-contentious, and that the court has to check of its own motion whether the prerequisites for issuing the decision sought are in place. It is also true that the court may of its own motion gather evidence, and instruct the applicants to produce evidence in corroboration of their claims (Article 427 [of the 1952 Code of Civil Procedure]). However, the instant case concerns omissions of the *founders*, which may not be rectified subsequently.

The complaints that the impugned judgment was wrong on the merits are likewise unfounded. As already noted, the requirement of section 11 [of the 2005 Political Parties Act] that the declarations be personally filled in and signed is a *requirement of the law*, and the court is bound to apply the law as it is, correctly and uniformly – Article 4 § 2 [of the above-mentioned Code]. Regardless of what has been said above, [this court] reiterates that the decisive ground for refusing registration stems from the vitiated declaration of the founding committee, found defective partly because of the lack of declarations personally made by [the party's] members. The lack of such declarations and the vitiated lists and the ensuing lack of proof that the meeting had a quorum are thus not, in themselves, independent grounds for a refusal. The lack of graphic symbols and of a report of the ballot committee are not independent grounds for the refusal [either] – they were noted by [the Sofia City Court] in addition to its decisive conclusion about the lack of a founding declaration. It is a separate issue that [the Sofia City Court] found further omissions in the [party's] formation which were not mentioned or commented upon in the appeal.

In view of the foregoing and having dealt with all grounds of appeal [raised by the applicants], [this court] finds that [the Sofia City Court's] conclusions that [the applicant party] was not validly formed and that its registration request was unfounded are correct. For this reason, the impugned judgment is to be upheld...”

3. Domestic and international public discussions of the applicant party's re-registration attempt

23. On 3 November 2006, a few days after the Sofia City Court gave its judgment, there was a meeting in Sofia between the Macedonian and Bulgarian Ministers of Foreign Affairs. The news agencies reported that during the meeting Bulgaria's then Foreign Minister, Mr Ivaylo Kalfin, said: “[T]he judgment of the European Court of Human Rights in Strasbourg does not entail the registration of a party. Bulgaria was ordered to pay a fine; it paid it and there are no further legal consequences. I believe that Bulgaria has fully executed the prescriptions of the Human Rights Court and there are no outstanding matters”.

24. In November 2006 the group of the Greens/European Free Alliance in the European Parliament proposed an amendment to the report on Bulgaria's accession to the European Union, suggesting that it should include text calling on the Bulgarian authorities “to prevent any further obstruction to the registration of the political party of the ethnic Macedonians and to put an end to all forms of discrimination and harassment *vis-à-vis* that minority”. A number of Bulgarian observer members of the European Parliament objected to that amendment. The

political party Attack (“*Amaka*”) proposed a draft declaration, to be adopted by Bulgaria’s National Assembly and saying that the proposal of the Group of the Greens was a gross provocation and amounted to meddling in the country’s internal affairs. Attack’s leader, Mr Volen Siderov, was reported by the press to have said on 1 November 2006 that he saw a problem in the fact that UMO Ilinden – PIRIN’s registration request had been turned down by the courts on technical grounds. In his view, “UMO Ilinden ha[d] to be rejected because of their separatism and anti-constitutional activities, not because of formalities”.

25. In a statement published on 14 November 2006 a member of Bulgaria’s Parliament for Blagoevgrad said that “[t]he Bulgarian court showed that no Macedonian parties may be registered in Bulgaria. And in a country ruled by law judicial decisions have to be complied with.”

C. The second attempt to have the applicant party re-registered

1. The founding meeting

26. In early July 2007 the second applicant, Mr Singartiyski, and another member of the applicant party approached in turn the mayors of the towns of Gotse Delchev and Sandanski with requests to rent a municipal hall in which to hold the party’s founding meeting. After initially showing willingness to accommodate their request, in a letter of 9 July 2007 the mayor of Gotse Delchev turned it down, saying that the hall in question did not meet the safety requirements set by the local fire department. The mayor of Sandanski did not reply to the request.

27. The applicant party’s founders then decided to hold the founding meeting outdoors. It took place on 15 July 2007 in the area *Popovi livadi*, located in the territory of the municipality of Gotse Delchev. According to the applicants, it was attended by six hundred and eighty-five people, all of whom filled in declarations stating that they wished to join UMO Ilinden – PIRIN.

2. The proceedings before the Sofia City Court

28. On 27 July 2007 the applicant party applied for registration to the Sofia City Court. It presented the founding declaration, the minutes of the founding meeting, the party’s constitution, membership declarations signed by six hundred and eighty-five founding members, a list of those founding members, the list of 5,778 members compiled in 2006 (see paragraph 12 above), and a notarised declaration of the members of the party’s management body to the effect that those lists were authentic. It also produced a copy of a letter of 11 July 2007 from the Committee of

Ministers' Secretariat to the permanent representative of Bulgaria to the Council of Europe.

29. The Sofia City Court examined the application at a hearing held on 21 August 2007. The prosecutor who was present *ex officio* argued that the application should be refused because the party's goals were not those of a political party, but rather those of an ordinary association. He also said that the list of members was not authentic, as it was the same as the one presented in the previous re-registration proceedings, and that the minutes of the founding meeting had not been signed by all six hundred and eighty-five persons present.

30. In a judgment of 23 August 2007 the Sofia City Court refused the application in the following terms:

"... In the course of the proceedings the court noted that the applicants have not complied with the requirements of [the 2005 Political Parties Act, whose] section 10 provides that [a political party] can be founded on the initiative of at least fifty enfranchised Bulgarian citizens, who have to form an initiative committee. This [committee] has to adopt a written founding declaration. The founding declaration of 1 July 2007 presented was signed by seventy-six people, who did not however personally fill in and sign declarations under section 11 [of the above Act]. Moreover, according to section 11(1) [of this Act], the declaration has to be drawn up by the initiative committee. Since evidence to that effect has not been produced, the court cannot be certain that this initiative committee has indeed held meetings and that such resolutions have in fact been adopted. The minutes of the founding meeting of 15 July 2007 say that [it] was attended by 685 adult Bulgarian citizens who had personally filled in and signed declarations under section 11(1) [of the above Act]. The court fails to see how it was possible to obtain 685 declarations by adult enfranchised Bulgarian citizens in less than fifteen days (that is, from the committee's declaration of 1 July 2007 to 15 July 2007), so as to allow the holding of the founding meeting on 15 July 2007. It is true that section 12(1) of [the Act] provides that a political party is formed at a founding meeting held in the territory of Bulgaria not later than three months after the date on which the founding declaration has been adopted. However, in the instant case the court cannot accept that 685 people who had personally filled in their declarations under section 11(1) [of the Act] were able to get together to hold a [founding meeting] in such a short time. Moreover, the minutes are signed by the president of the meeting and the minute-taker, whereas they should have been personally signed by all founders. As noted above, there is no evidence, under section 11(1) [of the Act], that [the initiative committee] has adopted a model declaration whereby each enfranchised Bulgarian citizen may, by personally filling it in and signing it, join the party. This declaration has to be ready before the holding of the founding meeting. It should contain the information required under section 11(2) [of the Act]. The presented lists of three names, [citizen identification numbers] and addresses do not demonstrate to the court that the persons who feature thereon are members of the party, as the lists are not accompanied by personally filled in and signed declarations (see the presented list of party founders). This court does not know whether these persons are aware that they are members of this party, or whether this is simply a list intending to prove before the court that the requirements of section 15(3)(7) [of the Act] have been complied with. It must here be noted that [the court] received from [the Ministry of Justice] a letter informing it that [the Ministry] had received a letter from the head of the department for the execution of the judgments of the European Court of Human Rights, [Ms M.], in which she asked

whether it was possible for the court to accept, when examining the application for the [applicant party's] registration, the list of 5,000 members presented in [the previous registration proceedings] in which the court, whose judgment was upheld by [the Supreme Court of Cassation], refused to register the party. This letter leads the court to conclude that the list produced in the instant proceedings is the same as the one presented [in the previous registration proceedings]. The use of the same list is in breach of Articles 11 § 3 and 44 of the [Constitution, which provide that] parties facilitate the formation and expression of the political will of citizens, who may freely associate. Each application for inclusion in the register of political parties means, first, sharing the ideas of a group of enfranchised citizens who use democratic ways and means for attaining their political goals, set out in [the political party's] platform, and, second, that the [party's] formation, resolutions [and] activity should be in conformity with the law. The use of the same evidence in separate cases cannot therefore be accepted by the court. The evidence presented in [the previous registration proceedings] cannot be used in the instant proceedings.

The presented constitution [of the party] does not make clear its political goals and tasks. The ones mentioned in clauses 4 and 5 of the constitution do not characterise the organisation as a political party within the meaning of [the 2005 Political Parties Act] and the [Constitution]. Political parties are citizens' organisations through which they take part in the political life of the Republic of Bulgaria. The thing which sets them apart from other citizens' associations is, according to Article 12 § 2 of the [Constitution], that only they may pursue political goals or carry out political activities. These activities are defined by Article 11 § 3 of the [Constitution] and section 1 [of the 2005 Political Parties Act] as ones facilitating the formation of the citizens' political will, which is the citizens' will to participate in government. The carrying out of political activities is the main criterion for distinguishing [political parties] from other citizens' associations. In this connection, it should be observed that in their constitutions political parties must clearly declare their goals and tasks and the ways of attaining them. The goals and tasks outlined in the [applicant party's] constitution are limited, have an optional character and do not comply with the above-mentioned requirements. For the court, the goals set out in clause 4 of the constitution are rather those of a non-profit association ..., not of a political party... It should [also] be noted that a political party bearing the same name and having the same goals was registered by the Sofia City Court in a judgment of 12 February 1999... After that [, in 2000, the Constitutional Court] declared that party unconstitutional and it was struck out of the register. The [Constitutional Court's] judgment shows that not only the name and the political goals of this party are identical to those stated by the applicants in the instant proceedings, but that the [party's] leadership consists of the same individuals. The court cannot therefore be sure that, having the same political goals and leaders, the party will not meet the same fate, that is, be faced with an application [for its banning] to [the Constitutional Court]. The court observes that the constitutionality of a political party must be judged on the basis of its activities. The political goals set out in clause 4 of the constitution show that this is a party which is active in a specific part of the territory of the Republic of Bulgaria, which runs counter to both the [2005 Political Parties Act] and the [Constitution] (see clause 4, points 7 and 8 of the [party's] constitution). Moreover, clause 4, point 6 of the political goals of the party mentions good neighbourly relations in the Balkans, in Europe and in all countries inhabited by ethnic Macedonians. There is no distinct Macedonian ethnos in the Republic of Bulgaria. The same goes for the party's name.

To enter a party in the register this court requires precise and clear political goals, as well as ways and means of attaining them. Moreover, [a party] must produce in evidence at least 5,000 personally filled in and signed declarations under section 11(2) [of the 2005 Political Parties Act] fully to convince the court that these citizens are truly aware that they are members of a specific political party, that they share its political goals, express their personal will to be its members and declare that they accept the party's main principles and goals, as set out in its founding declaration, and that they are not members of another political party. These requirements apply without exception to all political parties.

For these reasons, the [applicant party's] application must be rejected and the court refuses to enter it in the special register."

3. *The proceedings before the Supreme Court of Cassation*

31. On 30 August 2007 the applicant party appealed to the Supreme Court of Cassation. In a brief filed on 16 September 2007 it argued, *inter alia*, that its registration would be consonant with the Court's judgment in the case of *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above). In that connection, it made reference to the relevant decisions of the Council of Europe's Committee of Ministers.

32. After hearing the appeal on 5 October 2007, in a final judgment of 11 October 2007 (реш. № 762 от 11 октомври 2007 г. по т. д. № 753/2007 г., ВКС, II т. о.) the Supreme Court of Cassation upheld the Sofia City Court's judgment in the following terms:

"...The impugned judgment is correct and is to be upheld.

Having reviewed the evidence in the case, [this court] finds that the refusal to register [the applicant party] was lawful. Section 15 [of the 2005 Political Parties Act] contains an exhaustive list of the documents which need to be filed with the court for the registration of an association of Bulgarian citizens founded for the purpose of forming and expressing the people's political will through elections or through other democratic means – section 2 [of the Act]. [This court] finds that by presenting a list of 5,000 members which was compiled during a previous founding meeting of [the applicant party] and was produced in [the previous proceedings for its registration], the applicants in the instant case failed to comply with the requirements of section 15(3)(7) of [the Act]. ... [T]he reason why the law requires a minimum number of documents to be produced for the registration of a political party is to allow the registering court to check whether the procedure for its formation has been followed and whether it has the minimum number of members to guarantee that [it can be] a real player on the political scene, whose goals, as endorsed by its members, have public significance and warrant its existence on the country's political scene.

[The case file of the previous registration proceedings] has not been enclosed with the present case file, but the possible similarity or even match between the goals and the principles adopted at that previous founding meeting and those laid down in the party's constitution produced in the instant proceedings cannot warrant the conclusion that the list produced in the course of [the previous registration proceedings] shows that the requisite number of members of the party seeking registration has really been attained. The underlying idea of the above-cited provision is doubtlessly to ensure that

the required number of members who have declared their wish to join the effort to attain the goals set out in the party's constitution, adopted at the same founding meeting, has really been attained. From this vantage point, the list of members compiled during a previous founding of the party does not serve the law's purpose. The membership of an organisation, including a political one, is a dynamic value, which may increase but also decrease, due to changes in political views – something characteristic of every individual. This dynamic, which doubtlessly also reflects natural biological processes, requires [the founders] to establish before the registering court the requisite number of members at the time of the party's founding, or at the time when the application for its registration is lodged. It is obvious that in the instant case those requirements of section 15(3)(7) have not been complied with owing to the lack of information about the number of persons who have expressed their wish to become members of [the applicant party and work] for the attainment of its goals, as agreed at the founding meeting held on 15 July 2007 and laid down in the constitution adopted by the founders.

The rule in section 15 of [the 2005 Political Parties Act] is imperative. Failure to comply with even one of its requirements constitutes sufficient grounds to refuse registration, as the impugned judgment did. Since this court shares the final conclusions at which [that judgment] arrived, it considers that it should be upheld."

D. The third attempt to have the applicant party re-registered

33. On 19 October 2008 UMO Ilinden – PIRIN held a national conference. On the same day the second, third, fourth, fifth and sixth applicants lodged with the Sofia City Court a request for amendments in the party's registration. The request was based on the premise that, since this Court had found the dissolution of the party in 2000 to be in breach of Article 11 of the Convention, the party had never ceased to exist.

34. The Sofia City Court held a hearing on 9 December 2008. On 19 December 2008, apparently treating the request as a normal registration request, it turned it down. It found that the party's founders had not enclosed all the necessary documents (such as a founding declaration, individual membership declarations personally signed by the founders, and notarised samples of the signatures of the party's representatives) showing that the party had been duly formed. It went on to say that this Court's judgment in the case of *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above) had no bearing on the registration proceedings and could not serve as grounds for finding that the party had never ceased to exist.

35. The second applicant, Mr Singartiyski, appealed on points of law. He argued that the Sofia City Court had erred by not giving UMO Ilinden – PIRIN the opportunity to produce all the elements missing from its founding process. The court's failure to do so, coupled with its ensuing refusal to register the party, had been in breach of Bulgaria's obligation to abide by this Court's judgment in *United Macedonian Organisation Ilinden – PIRIN*

and Others (cited above) and to heed the instructions given in that connection by the Council of Europe's Committee of Ministers.

36. After hearing the appeal on 18 May 2009, in a final judgment of 19 May 2009 (реш. № 66 от 19 май 2009 г. по гр. д. № 193/2009 г., БКС, I т. о.) the Supreme Court of Cassation upheld the Sofia City Court's judgment in the following terms:

"The subjective registration right is the legally guaranteed possibility to request facts which are subject to registration (and the changes in such facts) to be entered in the relevant register. Concrete rights and duties in that respect can arise and evolve only in the manner envisaged by the special statutes governing such matters. In the case at hand, the [2005] Political Parties Act lays down certain requirements which need to be met before an application to register a political party can succeed. One of those requirements is the obligation under section 15 [of the Act] for the applicants to enclose certain documents with their application. Those documents must be produced in order to allow the registering court to ascertain whether the application is admissible and well-founded. It is the applicants' duty to produce them, and they directly relate to the ascertaining of a series of legal acts leading to the formation of a political party. Therefore, the making of an irregular application – such irregularity stemming from a failure to produce the enclosures required by law – is tantamount to a failure to comply with the duty to make a proper application. Moreover, some of the irregularities cannot be rectified in the manner and time-limits envisaged by Article 129 [of the 2007 Code of Civil Procedure], because they are indicative of such failures of the [party's] founders as make the application for its registration ill-founded. Although non-contentious proceedings follow the general rules of civil procedure, their specificity requires the court to assess whether the irregularities [in the application] can be rectified, and thus make the application successful, because the law requires all prerequisites for the registration of a political party to be in place. The lack of even one such prerequisite makes the application ill-founded. In the case at hand, the [lower] court found that the imperative requirements of the law had not been complied with (there is no founding declaration; that declaration has not been published in a daily newspaper[, as required by] section 10 the [2005] Political Parties Act; the mandatory requirements of sections 11 and 12 [of that Act] have not been complied with). Although in their appeal the applicants said that they were ready to adduce fresh evidence, the above defects cannot be rectified in the manner and within the time-limit envisaged by Article 129 [of the 2007 Code of Civil Procedure], because they presuppose the occurring of concrete facts at the time when the party was being founded. They thus relate to the application's well-foundedness, not to its admissibility. Besides, [Mr] Tikov's assertion at the hearing on 9 December 2008 that the applicants do not have any documents other than those already produced leads directly to the conclusion that the appeal is ill-founded, because it conflicts with the applicants' position before the [lower] court, where they had to make the requisite procedural steps. Therefore, the [lower] court has not breached the rules of procedure and has correctly assessed the application's well-foundedness based on the enclosures submitted by the applicants.

The appellants argued that the above-mentioned breach of the rules of procedure was directly related to the Bulgarian authorities' obligation, in cooperation with the Council of Europe's Committee of Ministers, to determine appropriate ways of 'registering' the political party 'UMO Ilinden – PIRIN'. They maintained that the Bulgarian Government was bound to execute the European Court of Human Rights judgment of 29 October 2005. As that judgment had still not been executed, it was

necessary to take individual measures allowing the political party to be registered. The applicants' position was that the Sofia City Court's refusal [to register the party] was in breach of the European Court of Human Rights judgment and the mandatory instructions of the Council of Europe's Committee of Ministers.

The complaint is ill-founded.

The European Court of Human Rights' judgment of 29 October 2005 related, as correctly pointed out by the [Sofia City Court], to a breach of Article 11 of the European Convention on Human Rights flowing from the Constitutional Court's finding in its judgment of 29 February 2000 that the political party UMO Ilinden – PIRIN was unconstitutional. That has no bearing on the case at hand, because the refusal to register [the party] was based on its failure to comply with the formal requirements of the [2005] Political Parties Act. Those requirements apply to all, not only to the appellant. Therefore, the [lower] court was right to conclude that the European Court of Human Rights' judgment is irrelevant to the registration request in the case at hand. One of the main principles of the law of registration, flowing directly from Article 4 of the Constitution, is the principle of lawfulness. It requires the authorities examining registration requests to comply strictly with their duties, and requires those who lodge registration requests to comply strictly with theirs. The application of that principle is guaranteed by the strict rules governing the facts which need to be registered, the manner of their registration, the possibility of appealing against the rulings of the registering authorities and the sanctions for failures to comply with registration obligations. Therefore, the ones responsible for complying with registration obligations are the applicants, regardless of their identity, and not other persons, and their failure to do so leads to a refusal to register the requested fact."

II. RELEVANT DOCUMENTS OF THE COMMITTEE OF MINISTERS

37. During its 997th meeting, on 5 and 6 June 2007, the Committee of Ministers noted the continuing problems with the registration of the party and invited its Secretariat to "examine, in co-operation with the Bulgarian authorities and the applicants, the avenues at the applicants' disposal with a view to obtaining [the party's] registration" (CM/Del/Dec(2007)997).

38. During its 1007th meeting, held on 17 October 2007, the Committee of Ministers "took note of the complaints of the applicants in the case of UMO Ilinden – PIRIN concerning the outcome of the new proceedings concerning the registration of the political party", "noted the different problems still raised by the issue of the individual measures in the latter case" and "invited the Bulgarian authorities in cooperation with the Secretariat to examine possible solutions to these problems within the framework of the Bulgarian legal order" (CM/Del/Dec(2007)1007).

39. The Committee of Ministers concluded the examination of application no. 59489/00 (*United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria*) during its 1072nd meeting, on 3 December 2009, by adopting Resolution CM/ResDH(2009)120, the relevant parts of which read:

“...Recalling that the violation of the Convention found by the Court in this case concerns an infringement of the freedom of association of an organisation which aims to achieve ‘the recognition of the Macedonian minority in Bulgaria’ due to the dissolution in 2000 of its political party, based on considerations of national security (alleged separatist ideas) when the applicants had not hinted at any intention to use violence or other undemocratic means to achieve their aims (violation of Article 11) (see details in Appendix);

Recalling that a finding of violations by the Court requires, over and above the payment of just satisfaction awarded by the Court in its judgments, the adoption by the respondent state, where appropriate:

- of individual measures to put an end to the violations and erase their consequences so as to achieve as far as possible *restitutio in integrum*; and
- of general measures preventing similar violations;

Recalling that the obligation of the respondent state regarding the individual measures in this case, implies allowing the applicants to ask for a new registration of their political party in the framework of proceedings which are in accordance with the requirements of the Convention and in particular of Article 11 (for further details see the information document CM/Inf/DH(2007)8);

Recalling that following the Court’s judgment, the applicants requested on three occasions before the domestic courts the registration of their political party and that the Committee of Ministers followed the proceedings in question up to their outcome;

Recalling that it has expressed concerns more particularly as regard the fact that the decision of the first-instance court on the second request for registration of the applicants’ political party reiterated grounds incriminated by the Court;

Stressing in this respect that the judicial decisions relating to the applicants’ third request for registration do not reiterate such grounds and are exclusively based on the non-compliance with the law of the material acts for the constitution of the party and of the related documents to be submitted;

Having noted with satisfaction the declaration of the government according to which it ‘sees no obstacle to the applicants’ obtaining the registration of their organisation as a political party on the condition that the requirements of the Constitution of the state and the formal requirements of the Political Parties Act are met, without any grounds such as those incriminated by the European Court being opposed to the applicants’;

Underlining in this context that the [2005] Political Parties Act, as modified in January 2009, reduced from 5,000 to 2,500 the level of members required to form a political party and that this new level seems, in addition, likely to resolve the problems encountered by the applicants in forming their party in conformity of the requirement of the 2005 Political Parties Act;

Having considered that in view of the above considerations, it seems that the applicants can at present apply for the registration of their party in proceedings which are in conformity with Article 11 of the Convention;

Having examined also the general measures and in particular the awareness-raising measures taken by the Bulgarian authorities to ensure that applicable domestic law is interpreted in conformity with the Convention and thus to prevent violations similar to that found by the European Court (see details in Appendix);

Noting that the government undertook to continue to organise awareness-raising activities in the field of application of Article 11 of the Convention, including visits to the Council of Europe of judges in particular from the competent courts;

Having satisfied itself that the respondent state paid the applicants the just satisfaction provided in the judgment (see details in Appendix),

DECLARES, having examined the measures taken by the respondent state (see Appendix), that it has exercised its functions under Article 46 § 2 of the Convention in this case and

DECIDES to close the examination of this case.”

40. In an appendix to the Resolution the Committee described the developments set out in paragraphs 33-36 above, the amendment to the 2005 Political Parties Act reducing the membership requirement for a party from five to two and a half thousand members (see paragraph 47 below), and the Government’s declaration cited in the Resolution. The appendix also contained a description of the general measures taken by the Government. Those consisted in the publication and the dissemination of the Court’s judgment and of a manual describing the Court’s case-law in the area of freedom of association, and in the organising of several training sessions for judges and prosecutors on that topic.

III. RELEVANT DOMESTIC LAW

A. The Constitution

41. The relevant provisions of the 1991 Constitution read as follows:

Article 4 § 1

“The Republic of Bulgaria is a State governed by the rule of law. It shall be governed in accordance with the Constitution and the laws of the country.”

Article 5 § 4

“International treaties which have been ratified in accordance with the constitutionally established procedure and promulgated, and have entered into force with respect to the Republic of Bulgaria, are part of the country’s domestic law. They shall have precedence over any provisions of domestic legislation which contravene them.”

Article 11 §§ 3 and 4

“3. Parties shall facilitate the formation of the citizens’ political will. The manner of forming and dissolving political parties, as well as the conditions pertaining to their activity, shall be established by law.

4. No political parties shall be formed on an ethnic, racial, or religious basis, nor parties which seek to accede to power by force.”

Article 12

“1. Citizens’ associations shall serve to further and safeguard their interests.

2. Associations ... may not pursue political goals or carry out political activities that are characteristic solely of political parties.”

Article 38

“No one may be persecuted or restricted in his rights because of his views, nor detained or forced to provide information about his or another’s convictions.”

Article 44

“1. Citizens may freely associate.

2. Organisations whose activities are directed against the country’s sovereignty or territorial integrity or against the nation’s unity, or which aim at stirring up racial, national, ethnic or religious hatred, or at violating the rights and freedoms of others, as well as organisations creating secret or paramilitary structures, or which seek to attain their goals through violence, shall be prohibited.

3. The law shall specify which organisations are subject to registration, the manner of their dissolution, as well as their relations with the State.”

B. The 2005 Political Parties Act

42. The 2005 Political Parties Act (*“Закон за политическите партии”*), which came into force on 1 April 2005 and superseded the 2001 Political Parties Act, which had in turn superseded the 1990 Political Parties Act, regulates the formation, registration, organisation, activities and dissolution of political parties (section 1).

43. The procedure for the formation of a party is laid down in sections 10-19 of the Act. A party is formed on the initiative of at least fifty enfranchised Bulgarian citizens (section 10(1)). They must set up an initiative committee, which adopts a written founding declaration setting out the party’s main goals and principles (section 10(2) and (3)). The committee then publishes this declaration in at least one national daily newspaper and

opens a subscription for founding members (section 10(4)). Every enfranchised Bulgarian citizen may join the subscription by personally filling in and signing an individual membership declaration whose model must be approved by the initiative committee (section 11(1)). In these membership declarations (not to be confused with the founding declaration) prospective members express their wish to become members of the party and declare that they accept its main goals and principles, as set out in the founding declaration (section 11(2)). They must also declare that they are not members of another party (*ibid.*), as an individual cannot participate in the formation of a party if he or she is already a member of another party (section 8(1) and (2)). The initiative committee's members must also fill in and sign such membership declarations (section 11(3)). After the subscription is closed, the party is founded at a founding meeting, which must be held in the territory of Bulgaria not later than three months after the adoption of the founding declaration (section 12(1)). The meeting must be attended by at least five hundred Bulgarian citizens who have signed a membership declaration (section 12(2)). The founding meeting adopts the party's constitution and elects its managing and controlling bodies (section 13(1) and (2)).

44. The party's constitution must set out, along with other matters, its name and symbols; its goals and the ways of attaining them; its managing and controlling bodies, the manner of calling meetings of these bodies; their appointment, removal and powers; the way to become a member and cease to be one; and the members' rights and obligations (section 14(1)). The party's name and symbols cannot be identical to those of another party, even if words, letters, figures, numbers or other signs have been added to them (section 14(2)). Also, the parties' symbols cannot contain or resemble the coat of arms or the flag of the Republic of Bulgaria or of another State, or religious signs or representations (section 5(1)).

45. Not later than three months after the founding meeting the party has to apply to be entered in a special register kept by the Sofia City Court. The application must be made by the party's managing and representative body (section 15(1) and (2)). With the application must be enclosed (a) the founding declaration; (b) the minutes of the founding meeting; (c) the party's constitution; (d) a list containing the three names, citizen identification numbers, permanent addresses and handwritten signatures of at least five hundred founding members; (e) the individual membership declarations; (f) notarised samples of the signatures of the party's representatives; (g) a list containing the three names, citizen identification numbers and permanent addresses of at least five thousand members; (h) a notarised declaration by the party's leadership to the effect that the constitution and the two lists are authentic; and (i) a certificate of uniqueness of the party's name, to be obtained from the Sofia City Court's registry (section 15(3) and (4)).

46. The Sofia City Court has to examine the application not later than one month after it has been lodged, at a public hearing attended by the applicants and a public prosecutor. It must then rule within fourteen days, by means of a judgment (section 16). This judgment is subject to appeal before the Supreme Court of Cassation (section 18(1)), which has to dispose of the appeal within fourteen days, by means of a final judgment (section 18(2)). The party is entered in the register seven days after the judgment allowing its registration has become final (section 18(3)). At that point it becomes a legal person (section 18(4)). The judgment allowing registration is published in the State Gazette (section 19).

47. In January 2009 an amendment to section 15(1) reduced to two and a half thousand the number of people who have to feature on the list of members that needs to be enclosed with the application for registration (see paragraph 45 (g) above).

48. Paragraph 28 of the amendment's transitional and concluding provisions provided that until 31 March 2009 the prosecuting authorities had to conduct inquiries and seek the dissolution of any political party which did not meet the requirements of section 40(1)(1)-(4) of the Act. Under that section, a political party has to be dissolved if (a) its activities systematically breach the Act's requirements, (b) its activities are contrary to the Constitution, (c) for more than five years after its latest registration it has not taken part in parliamentary, presidential or local elections, or (d) if it has failed, for two consecutive years, to submit the requisite financial reports to the Court of Auditors.

C. The 2000 Non-Profit Legal Persons Act

49. The 2000 Non-Profit Legal Persons Act ("*Закон за юридическите лица с нестопанска цел*"), which entered into force on 1 January 2001 and superseded parts of the 1949 Persons and Family Act ("*Закон за лицата и семейството*"), and whose provisions govern all matters not covered by the 2005 Political Parties Act (paragraph 2 of the transitional and concluding provisions of this Act), regulates the formation, registration, organisation, activities and winding up of non-profit legal persons, such as associations and foundations (section 1). Its Chapter I lays down certain general rules and principles applying to all types of non-profit legal persons, its Chapter II prescribes more detailed rules for associations, and its Chapter III deals with non-profit legal persons acting in the public interest.

50. According to section 7(1) and (2), a legal person's name has to clearly designate its type, and must not be misleading or contrary to good morals.

51. Section 26(1) provides that an association's general meeting may be called at the request of one-third of the members, if need be through an application to the competent court.

52. The general meeting's resolutions are subject to judicial review for lawfulness and conformity with the association's rules (section 25(4)). Applications for judicial review may be lodged by any member or body of the association, or by the public prosecutor (section 25(6)).

D. The Code of Civil Procedure

53. At the relevant time the 1952 Code of Civil Procedure, along with some statutes, regulated the procedure for entering legal persons, such as companies, associations, foundations and political parties, in special registers kept by the regional courts and the Sofia City Court. Such registration was made after non-contentious proceedings instituted on the application of the representatives of the legal person concerned (Articles 489 and 494). In the course of such proceedings the court could gather evidence of its own motion and take into account facts not mentioned by the applicant (Articles 427 and 429). On 1 March 2008 the Code was superseded by the 2007 Code of Civil Procedure.

IV. RELEVANT COUNCIL OF EUROPE MATERIALS

54. The European Commission for Democracy through Law ("the Venice Commission") made the following recommendations in its Guidelines and explanatory report on legislation on political parties: some specific issues (CDL-AD(2004)007rev, 15 April 2004):

"B. Registration as a necessary step for recognition of an association as a political party, for a party's participation in general elections or for public financing of a party does not *per se* amount to a violation of rights protected under Articles 11 and 10 of the European Convention on Human Rights. Any requirements in relation to registration, however, must be such as are 'necessary in a democratic society' and proportionate to the objective sought to be achieved by the measures in question. Countries applying registration procedures to political parties should refrain from imposing excessive requirements for territorial representation of political parties as well as for minimum membership. ...

...

a. Registration of political parties

10. ... many countries view registration as a necessary step for recognition of an association as a political party, for participation in general elections or for public financing. This practice – as the Venice Commission has stated before in its *Guidelines on Prohibition and Dissolution of Political Parties* – even if it were regarded as a restriction of the right to freedom of association and freedom of expression, would not *per se* amount to a violation of rights protected under Articles 11 and 10 of the European Convention on Human Rights. The requirements for registration, however, differ from one country to another. Registration may be considered as a measure to inform the authorities about the establishment of the party

as well as about its intention to participate in elections and, as a consequence, benefit from advantages given to political parties as a specific type of association. Far-reaching requirements, however, can raise the threshold for registration to an unreasonable level, which may be inconsistent with the Convention. Any provisions in relation to registration must be such as are necessary in a democratic society and proportionate to the object sought to be achieved by the measures in question.”

55. A report adopted by the Venice Commission on 16 February 2004 on the establishment, organisation and activities of political parties on the basis of the replies to a questionnaire (CDL-AD(2004)004) reads, in so far as relevant:

“23. Some countries impose on political parties an obligation to go through a registration process. Almost all countries mentioned in the first group in paragraph 2.1 have to go through a registration process or at least through deposition of their articles of association with the competent authorities of their country. This process is justified by the need of formal recognition of an association as a political party. Some of these additional requirements can differ from one country to another:

a) convocation of the assembly on the establishment of the party (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina and Romania);

b) establishing articles of association/charter (Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Estonia, Lithuania and Romania);

c) drafting of a programme (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Canada, Croatia, Czech Republic, Estonia, Germany, Latvia, Lithuania, Romania and Slovakia);

d) minimum membership (Azerbaijan, Bosnia and Herzegovina, Canada, Croatia, Czech Republic, Estonia, Georgia, Germany, Greece, Kyrgyzstan, Latvia, Lithuania, Russian Federation, Slovakia and Turkey);

e) election of the board/presidency/permanent committee (Albania, Armenia, Croatia, Cyprus, Romania and United Kingdom);

f) permanent address of its offices/leaders (Armenia, Azerbaijan, Canada, Croatia, Cyprus, Romania, Russian Federation and United Kingdom);

g) principles of internal organisation (Czech Republic, Germany, Lithuania, Poland, Romania, Russian Federation, Spain and Turkey);

h) payment of the registration fee (Armenia and Azerbaijan);

i) signatures attesting certain territorial representation (Moldova, Russian Federation, Turkey and Ukraine); and

j) publication of information on the establishment of the party in mass media (Austria).

24. After these requirements are met, a competent body (Ministry of Justice, for example) proceeds with official registration. In the case of such countries as, for

example, Austria and Spain, the Charter (articles of association) are just submitted to the competent authority in order to be added to a special State register.

...

28. Most countries consider registration as a necessary step for recognition of an association as a political formation. However, some countries, as it has been already mentioned, consider that State registration is a pure formality. For example, in Austria, the Ministry of the Interior cannot refuse the deposition or a registration of the Charter of a party.

29. There is another criteria of distinction as to the status given to a party. In some countries registration of such associations is required in order to give a full legal personality to such association. If such registration is not carried out, a party cannot have bank accounts, receive founding from public funds or hold property (Azerbaijan, Croatia, Georgia and Ukraine).

30. Certain States have a stricter rule as to the registration process. For example, in Moldova, current legislation on political parties imposes a duty on political parties to provide the Ministry of Justice with its membership lists every year for having its registration re-effected.”

V. EXPLANATORY REPORT TO PROTOCOL No. 14

56. The explanatory report to Protocol No. 14 (CETS No. 194) reads, in so far as relevant:

“98. Rapid and full execution of the Court’s judgments is vital. It is even more important in cases concerning structural problems, so as to ensure that the Court is not swamped with repetitive applications. For this reason, ever since the Rome ministerial conference of 3 and 4 November 2000 (Resolution I), it has been considered essential to strengthen the means given in this context to the Committee of Ministers. The Parties to the Convention have a collective duty to preserve the Court’s authority – and thus the Convention system’s credibility and effectiveness – whenever the Committee of Ministers considers that one of the High Contracting Parties refuses, expressly or through its conduct, to comply with the Court’s final judgment in a case to which it is party.

99. Paragraphs 4 and 5 of Article 46 accordingly empower the Committee of Ministers to bring infringement proceedings in the Court (which shall sit as a Grand Chamber – see new Article 31, paragraph b), having first served the state concerned with notice to comply. The Committee of Ministers’ decision to do so requires a qualified majority of two thirds of the representatives entitled to sit on the Committee. This infringement procedure does not aim to reopen the question of violation, already decided in the Court’s first judgment. Nor does it provide for payment of a financial penalty by a High Contracting Party found in violation of Article 46, paragraph 1. It is felt that the political pressure exerted by proceedings for non-compliance in the Grand Chamber and by the latter’s judgment should suffice to secure execution of the Court’s initial judgment by the state concerned.

100. The Committee of Ministers should bring infringement proceedings only in exceptional circumstances. None the less, it appeared necessary to give the Committee of Ministers, as the competent organ for supervising execution of the Court's judgments, a wider range of means of pressure to secure execution of judgments. Currently the ultimate measure available to the Committee of Ministers is recourse to Article 8 of the Council of Europe's Statute (suspension of voting rights in the Committee of Ministers, or even expulsion from the Organisation). This is an extreme measure, which would prove counter-productive in most cases; indeed the High Contracting Party which finds itself in the situation foreseen in paragraph 4 of Article 46 continues to need, far more than others, the discipline of the Council of Europe. The new Article 46 therefore adds further possibilities of bringing pressure to bear to the existing ones. The procedure's mere existence, and the threat of using it, should act as an effective new incentive to execute the Court's judgments. It is foreseen that the outcome of infringement proceedings would be expressed in a judgment of the Court."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

57. The applicants complained under Articles 11 and 46 of the Convention that the first and the second refusals of the courts to enter UMO Ilinden – PIRIN in the register of political parties had been in breach of their right to freedom of association and of the Bulgarian State's duty to abide by the final judgment of the Court in the case of *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above).

58. Articles 11 and 46 of the Convention provide as follows:

Article 11

"1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights 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. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

Article 46

"1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.

2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.”

59. Article 16 of Protocol No. 14 to the Convention (CETS No. 194), which entered into force on 1 June 2010, added three new paragraphs to Article 46 of the Convention. The new paragraphs 4 and 5 provide:

“4. If the Committee of Ministers considers that a High Contracting Party refuses to abide by a final judgment in a case to which it is a party, it may, after serving formal notice on that Party and by decision adopted by a majority vote of two thirds of the representatives entitled to sit on the Committee, refer to the Court the question whether that Party has failed to fulfil its obligation under paragraph 1.

5. If the Court finds a violation of paragraph 1, it shall refer the case to the Committee of Ministers for consideration of the measures to be taken. If the Court finds no violation of paragraph 1, it shall refer the case to the Committee of Ministers, which shall close its examination of the case.”

A. Scope of the case

60. The Court considers it necessary to emphasise at the outset that the scope of the present case is confined to the applicants’ complaints that in 2006-07 and again later in 2007 the Bulgarian courts refused to register UMO Ilinden – PIRIN. It will nonetheless take into account evidence concerning other events, in so far as it might be relevant to the complaints before it (see *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, § 59, ECHR 2001-IX, and *United Macedonian Organisation Ilinden and Others v. Bulgaria*, no. 59491/00, §§ 30 and 31, 19 January 2006).

B. Admissibility

1. Alleged lack of jurisdiction ratione materiae

61. The Government firstly submitted that the application was inadmissible because the Court was not competent to rule on allegations of breaches committed in the process of execution of its judgment in the case of *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above). They pointed out that under the terms of Article 46 § 2 of the Convention, the final judgment of the Court is transmitted to the Committee of Ministers, which supervises its execution. The matter was still pending before that Committee.

62. The applicants submitted that the Court was clearly competent to examine the implementation of its judgments. Under Article 32 of the Convention, the Court’s jurisdiction extended to all matters concerning its interpretation and application, including the execution of judgments. In

recent times, the Court had on a number of occasions analysed the application of Article 46 § 1 and the contents of the States' obligations under that provision, going as far as specifying the individual and/or general measures necessary for the execution of its judgments. In the present case, there existed good reasons why the Court should examine whether Article 46 § 1 had been breached. It had in several judgments found various breaches of the Article 11 rights of persons asserting a Macedonian ethnic consciousness, and was currently faced with five similar applications. That was indicative of a systemic violation which could justify the indication of specific measures to the respondent State. The persistent nature of the breaches had been noted by the Council of Europe's Committee of Ministers, whose Secretariat had sought to remedy the situation by giving indications to the Bulgarian authorities in connection with UMO Ilinden – PIRIN's efforts to obtain re-registration. However, those indications had remained unheeded, and the Bulgarian courts had again refused to register the party. That was indicative of complete disregard for the Committee of Ministers' decisions and of a deliberate policy of denying the applicants' rights to freedom of assembly and association and refusing to comply with the Court's judgment in *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above), and amounted to a breach of Article 46 § 1. In those circumstances, it would be appropriate for the Court to indicate the individual measures that would remove the consequences of the repeated violations mentioned above. In the instant case, there was no real choice as to the measures required to remedy the breach. In October 2007 the Supreme Court of Cassation refused to register UMO Ilinden – PIRIN solely because it did not accept the validity of the list of 5,778 party members. Since that issue had been examined in the course of the proceedings before the Committee of Ministers, and since there existed no further obstacles to the party's registration, it was necessary to reopen those proceedings and register the party on the basis of the documents already submitted, including that list.

63. The Court observes that it was faced with a similar objection in the recent case of *Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland* (no. 2), where it held that the Committee of Ministers' role in the sphere of execution of the Court's judgments does not prevent the Court from examining a fresh application concerning measures taken by a respondent State in execution of a judgment if that application contains relevant new information relating to issues undecided by the initial judgment (see *Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland* (no. 2) [GC], no. 32772/02, §§ 61-63, ECHR 2009-...).

64. Unlike that case and other similar cases (see *Fischer v. Austria* (dec.), no. 27569/02, ECHR 2003-VI; *Lyons v. the United Kingdom* (dec.), no. 15227/03, ECHR 2003-IX; *Krčmář v. the Czech Republic* (dec.), no. 69190/01; *Hakkar v. France* (dec.), no. 43580/04, 7 April 2009;

Steck-Risch and Others v. Liechtenstein (dec.), no. 29061/08, 11 May 2010; and *Öcalan v. Turkey* (dec.), no. 5980/07, 6 July 2010), the present case does not concern reopening of domestic proceedings, but two fresh sets of proceedings in which the applicant party sought to be registered anew. Both ended in refusals. In a number of cases the Court has treated such refusals in themselves as interferences with the right to freedom of association (see *Sidiropoulos and Others v. Greece*, 10 July 1998, § 31, *Reports of Judgments and Decisions* 1998-IV; *APEH Üldözötteinek Szövetsége and Others v. Hungary* (dec.), no. 32367/96, 31 August 1999; *Gorzelik and Others v. Poland* [GC], no. 44158/98, § 52, ECHR 2004-I; *Partidul Comunistilor (Nepeceristi) and Ungureanu v. Romania*, no. 46626/99, § 27, 3 February 2005; *United Macedonian Organisation Ilinden and Others*, cited above, § 53; *Tsonev v. Bulgaria*, no. 45963/99, § 43, 13 April 2006; *Moscow Branch of the Salvation Army v. Russia*, no. 72881/01, § 71, ECHR 2006-XI; *Ramazanov and Others v. Azerbaijan*, no. 44363/02, § 60, 1 February 2007; *Zhechev v. Bulgaria*, no. 57045/00, § 37, 21 June 2007; *Bekir-Ousta and Others v. Greece*, no. 35151/05, § 40, 11 October 2007; and *Emin and Others v. Greece*, no. 34144/05, § 37, 26 March 2008). In one of those cases the Court specifically noted that although it could have regard to earlier or later registration proceedings, in so far as they could be relevant to the complaints before it, such proceedings fell outside the scope of the case (see *United Macedonian Organisation Ilinden and Others*, cited above, §§ 30 and 31). Thus, although the applicant party's attempts to obtain re-registration were undoubtedly connected with the execution of the Court's judgment in *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above), in the light of the cases just cited they can be regarded as a distinct situation containing relevant new information relating to issues undecided by that judgment (see, *mutatis mutandis*, *Verein gegen Tierfabriken Schweiz (VgT)* (no. 2), cited above, §§ 64-67, as well as *Mehemi v. France* (no. 2), no. 53470/99, §§ 43 and 44, ECHR 2003-IV; and *Wasserman v. Russia* (no. 2), no. 21071/05, §§ 32-37, 10 April 2008).

65. The Government's objection of lack of jurisdiction *ratione materiae* must therefore be dismissed.

66. That said, the Court observes that it is very doubtful whether Article 46 § 1 may be regarded as conferring upon an applicant a right that can be asserted in proceedings originating in an individual application. Although the Court can, as just noted, examine whether measures taken by a respondent State in execution of one of its judgments are compatible with the substantive clauses of the Convention (see *Verein gegen Tierfabriken Schweiz (VgT)* (no. 2), cited above, §§ 61-68 and 78-98), it has consistently ruled that it does not have jurisdiction to verify, by reference to Article 46 § 1, whether a Contracting Party has complied with the obligations imposed on it by one of the Court's judgments (see *Akdivar and Others v. Turkey* (Article 50), 1 April 1998, § 44, *Reports* 1998-II; *Mehemi* (no. 2), cited

above, § 43; *Haase and Others v. Germany* (dec.), no. 34499/04, 7 February 2008; *Wasserman (no. 2)*, cited above, § 31 *in fine*; *Burdov (no. 2)*, cited above, § 121; and *Kafkaris v. Cyprus* (dec.), no. 9644/09, 21 June 2011). So has the former Commission (see *Times Newspapers Ltd. and Others v. the United Kingdom*, no. 10243/83, Commission decision of 6 March 1985, DR 41, p. 123; *Ruiz-Mateos and Others v. Spain*, no. 24469/94, Commission decision of 2 December 1994, DR 79-B, p. 141; and *Oberschlick v. Austria*, nos. 19255/92 and 21655/93, Commission decision of 16 May 1995, DR 81-A, p. 5). The new paragraphs 4 and 5, added to Article 46 by Article 16 of Protocol No. 14 (see paragraphs 56 and 59 above), seem to confirm that as well.

67. In view of those considerations, and noting that in any event the issues that might arise under Article 46 § 1 of the Convention are closely intertwined with those arising under Article 11 of the Convention, the Court will examine the complaint solely by reference to the latter provision (see, *mutatis mutandis*, *Olsson v. Sweden (no. 2)*, 27 November 1992, §§ 93 and 94, Series A no. 250; *Aydın v. Turkey*, 25 September 1997, § 120, *Reports* 1997-VI; and *Johansen v. Norway* (dec.), no. 12750/02, 10 October 2002).

2. Alleged failure to exhaust domestic remedies

68. The Government secondly submitted that the applicants had not exhausted domestic remedies. They had brought a third application for the applicant party to be registered; that application had been turned down by the Sofia City Court for failure to comply with the statutory requirements. In his ensuing appeal against that court's decision the second applicant, Mr Singartiyski, had acknowledged that the party's founders had failed to present all the necessary documents, and the case was still pending before the Supreme Court of Cassation. The applicants could not therefore complain about the party's lack of registration.

69. The applicants submitted that they had exhausted all remedies relating to their first and second attempts to re-register UMO Ilinden – PIRIN, which formed the subject matter of the present case. While the third attempt to re-register the party could, if successful, have put an end to the continued breach of their right to freedom of association, it was unconnected with the first and second attempts. In those proceedings, the applicants had used all available avenues of appeal. In any event, even the third re-registration attempt was unsuccessful.

70. The Court observes that the present case concerns two refusals of the national courts to register UMO Ilinden – PIRIN in 2006-07 and again later in 2007 (see paragraphs 20, 22, 30 and 32 above). As noted in paragraph 64 above, the Court has in a number of cases treated such refusals as separate interferences, and has even observed that earlier or later registration proceedings fall outside the scope of the case (see *United Macedonian*

Organisation Ilinden and Others, cited above, §§ 30 and 31). Such other registration proceedings are therefore of no relevance for the exhaustion of domestic remedies in the case at hand. Indeed, to hold otherwise might erect a permanent barrier to bringing such matters before the Court, because, as correctly pointed out by the Government, in Bulgaria a refusal to register a political party does not preclude the possibility of making further applications for registration an indefinite number of times (see, *mutatis mutandis*, *Guzzardi v. Italy*, 6 November 1980, § 80, Series A no. 39; *Nenov v. Bulgaria*, no. 33738/02, § 38, 16 July 2009; and *Naydenov v. Bulgaria*, no. 17353/03, § 58, 26 November 2009). Moreover, the possibility of requesting an authority to reconsider the decision taken by it does not as a rule constitute an effective remedy (see *Granger v. the United Kingdom*, no. 11932/86, Commission decision of 9 May 1988, Decisions and Reports (DR) 56, p. 199, and *Roseiro Bento v. Portugal* (dec.), no. 29288/02, ECHR 2004-XII (extracts)).

71. It follows that the complaint cannot be dismissed for failure to exhaust domestic remedies.

72. That said, the possibility for fresh re-registration attempts may be taken into account when examining the merits of the applicants' complaint (see *Lajda and Others v. the Czech Republic* (dec.), no. 20984/05, 3 March 2009).

3. *The Court's decision on admissibility*

73. The Court further finds that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

D. Merits

1. *The parties' submissions*

74. The Government submitted that in January 2009 the 2005 Political Parties Act had been amended, reducing the membership requirement for political parties to two and half thousand members. It was beyond doubt that that amendment had been favourable for the applicants. Under the terms of paragraph 28 of the amendment's transitional and concluding provisions, the prosecuting authorities had until 31 March 2009 to verify whether the existing political parties met the requirements of section 40(1)(1)-(4) of the Act and seek their dissolution if they did not. That had been another measure benefiting the applicants. Lastly, the Government categorically stated that if the applicants complied with the Act's requirements, UMO Ilinden – PIRIN would be registered as a political party.

75. The applicants submitted that the legislative amendments described by the Government were relevant for the general measures which Bulgaria was bound to adopt in execution of the judgment in *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above), but had no bearing on the interferences in issue in the present case. Those interferences had been neither lawful nor necessary in a democratic society. During UMO Ilinden – PIRIN's first re-registration attempt the Sofia City Court had failed to give them instructions concerning the purported irregularities in the party's registration documents and had refused to allow them to adduce additional evidence. In view of the trivial nature of the irregularities on which the court had based its decision and of its earlier refusal to allow the applicants to rectify those irregularities, its refusal to register the party had been excessive. Moreover, the proceedings had been accompanied by a hostile campaign by the authorities against the party's registration. The applicants and about five thousand other members of the party had been targeted in an unprecedented campaign of harassment by the police; some of them had been intimidated into signing declarations renouncing their membership. As a result, the authorities had obtained and had submitted to the Sofia City Court sixty-six such declarations. During the second re-registration attempt the national courts had not taken into account the binding effect of this Court's judgment in *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above). The Sofia City Court had in part relied on reasons that had been found problematic in that judgment. The Supreme Court of Cassation had based the refusal to register the party on the lack of an up-to-date list of members, contrary to the express indications given by the Committee of Minister's Secretariat, and had not clearly disavowed the problematic reasoning given by the Sofia City Court.

2. The Court's assessment

76. The two refusals to re-register the applicant party clearly amounted to interferences with its and its leaders' and members' right to freedom of association (see paragraph 64 above).

77. Such interferences give rise to a breach of Article 11 unless it can be shown that they were "prescribed by law", pursued one or more legitimate aims as defined in paragraph 2, and were "necessary in a democratic society" to achieve those aims.

78. The Court considers that in view of the similarities between the two refusals, their compliance or otherwise with those requirements should be examined together.

79. Before embarking on its inquiry, the Court finds it necessary to determine, as a preliminary point, whether it should, as the applicants seem to suggest, have regard to both the reasons given by the Sofia City Court and those given by the Supreme Court of Cassation, or only to the latter. This point appears to be of importance for the assessment of both the

lawfulness and the necessity of the interferences, because while the Sofia City Court gave a number of reasons why re-registration of the applicant party should be refused, the Supreme Court of Cassation discounted most of those and upheld the refusals on much narrower grounds. For instance, in the first re-registration proceedings the Supreme Court of Cassation held that the Sofia City Court had wrongly admitted in evidence an expert report based on information obtained by the authorities in the Pirin region through highly questionable means (see paragraphs 20 and 22 above); the Court will revert to that point later (see paragraph 88 below). Moreover, the Supreme Court of Cassation did not take up the Sofia City Court's lines of reasoning concerning the applicant party's symbols, the feasibility of its goals, or the prospect of it being banned again on account of having the same goals and the same leadership as the one that had been dissolved in 2000; it even openly expressed disagreement with some of those points (see paragraphs 20 and 22 above, and contrast *Sidiropoulos and Others*, § 13, and *United Macedonian Organisation Ilinden and Others*, § 21, both cited above). It is a matter of regret that the Sofia City Court engaged in a protracted historical analysis of the applicant party's symbols and the feasibility of its goals, saying that it "require[d] precise and clear political goals" in order to register a political party. Such reasoning bears a close resemblance to that given earlier for the refusal to register an association closely connected with the applicant party, a refusal which was later found to be in breach of Article 11 (see *United Macedonian Organisation Ilinden and Others*, cited above, §§ 17, 19 and 70-79). It is also to be regretted that in the second re-registration proceedings the Sofia City Court expressed the view that, if registered, the applicant party would be banned on account of having the same goals and the same leadership as the one whose dissolution in 2000 was found by this Court to be in breach of Article 11 of the Convention (see paragraphs 7, 8 and 30 above). That said, it cannot be overlooked that to uphold the two refusals to register the applicant party, the Supreme Court of Cassation had regard solely to its failure to observe certain content-neutral legal requirements concerning its formation process. In the first proceedings, it took issue with shortcomings in the party's founding declaration, specifying that the other problems noted by the Sofia City Court did not amount to independent grounds to refuse registration (see paragraph 22 above). In the second proceedings, it found a problem in the absence of an up-to-date list of the party's founding members (see paragraph 32 above).

80. According to the Court's case-law, a higher or the highest court might, in some circumstances, make reparation for an initial violation of one of the Convention's provisions: this is precisely the reason for the existence of the rule of exhaustion of domestic remedies, contained in Article 35 § 1 of the Convention (see *De Cubber v. Belgium*, 26 October 1984, § 33, Series A no. 86; *De Haan v. the Netherlands*, 26 August 1997, § 54, *Reports*

1997-IV; and *Okkali v. Turkey*, no. 52067/99, § 77, ECHR 2006-XII (extracts)). The Court therefore finds that in assessing the lawfulness and the necessity of interferences it should take into account solely the reasons upheld by the Supreme Court of Cassation (see, *mutatis mutandis*, *Adolf v. Austria*, 26 March 1982, §§ 38-41, Series A no. 49). Naturally, since it must look at the interference in the light of the case as a whole (see, among other authorities, *Gorzelik and Others*, cited above, § 96), it will also have regard to the manner in which the two sets of re-registration proceedings unfolded, and the broader context. The Court will also have regard to the fact that the re-registration proceedings were, as evident from the proceedings before the Committee of Ministers (see paragraphs 37-40 above), connected with the execution of the Court's judgment in *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above).

81. Concerning the lawfulness of the interferences, the Court observes that the Supreme Court of Cassation upheld the two refusals by reference to failures of the applicant party's founders to comply with certain requirements of the law: shortcomings in the party's founding declaration and the absence of an up-to-date list of its founding members (see paragraphs 22 and 32 above). Its rulings do not appear arbitrary. In those circumstances, and noting that it is primarily for the national courts to interpret and apply domestic law, the Court is satisfied that the interferences in question were "prescribed by law".

82. It remains to be determined whether the refusals were "necessary in a democratic society" for the attainment of a legitimate aim.

83. A summary of the principles relevant for the determination of those points in relation to the registration of political parties can be found in paragraphs 48-52 of the Court's judgment in the case of *Tsonev* (cited above). Since the re-registration proceedings were, as evident from the proceedings before the Committee of Ministers (see paragraphs 37-40 above), connected with the individual measures required to implement the Court's judgment in *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above), regard must also be had to the principles concerning the execution of the Court's judgments, as recently set out in *Verein gegen Tierfabriken Schweiz (VgT) (no. 2)* (cited above, §§ 83-90). It should in particular be emphasised that, as held in that judgment, domestic procedures whose purpose is to allow the execution of a Court's judgment should afford the authorities of the respondent State the opportunity to abide by that judgment's conclusions and spirit (*ibid.*, § 90). It must in addition be noted that States are entitled – subject to the condition of proportionality – to require organisations seeking official registration to comply with reasonable legal formalities (see *Movement for Democratic Kingdom v. Bulgaria*, no. 27608/95, Commission decision of 29 November 1995, unreported; *Baisan for "Liga Apararii Drepturilor Omului din România" v. Romania*, no. 28973/95, Commission decision of 30 October 1997,

DR 91-A, p. 29; *Ertan and Others v. Turkey* (dec.), no. 57898/00, 21 March 2006; *Tebieti Mühafize Cemiyeti and Israfilov v. Azerbaijan*, no. 37083/03, § 72, 8 October 2009; *Hayvan Yetiştiricileri Sendikası v. Turkey* (dec.), no. 27798/08, 11 January 2011; *AGVPS-Bacău v. Romania*, no. 19750/03, § 68, 9 November 2010; and *Republican Party of Russia v. Russia*, no. 12976/07, § 87, 12 April 2011). However, such requirements should not be used to hinder the freedom of association of groups disliked by the authorities or advocating ideas that the authorities would like to suppress. Therefore, in cases where the circumstances are such as to raise doubts in that regard, the Court must verify whether an apparently neutral measure interfering with a political party's activities in effect seeks to penalise it on account of the views or the policies that it promotes (see *Basque Nationalist Party – Iparralde Regional Organisation v. France*, no. 71251/01, § 33 *in fine*, ECHR 2007-VII, as well as, *mutatis mutandis*, *Tănase v. Moldova* [GC], no. 7/08, §§ 168-69 and 177-79, 27 April 2010). This is because the Convention is intended to guarantee rights that are not theoretical or illusory, but practical and effective (see, among many other authorities, *Artico v. Italy*, 13 May 1980, § 33, Series A no. 37, and *United Communist Party of Turkey and Others v. Turkey*, 30 January 1998, § 33, Reports 1998-I). Indeed, Article 18 of the Convention provides that any restrictions permitted to the rights enshrined in it must not be applied for a purpose other than those for which they have been prescribed.

84. The Court will scrutinise the aims and the necessity of the two refusals in the light of those principles.

85. The first question that needs to be elucidated is whether the Supreme Court of Cassation's rulings in effect sought to penalise the applicant party on account of the views or the policies that it promotes.

86. It is true that the two refusals to re-register the applicant party were preceded by its dissolution (see *United Macedonian Organisation Ilinden – PIRIN and Others*, cited above) and by two unwarranted refusals to register an association closely connected with it (see *United Macedonian Organisation Ilinden and Others*, cited above, and *United Macedonian Organisation Ilinden and Others v. Bulgaria* (no. 2), no. 34960/04, 18 October 2011), and were set against the backdrop of the persistent efforts of the local authorities in the Pirin region to hinder the holding of rallies by the party and by that association (see *Stankov and the United Macedonian Organisation Ilinden*, cited above; *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*, no. 44079/98, 20 October 2005; *Ivanov and Others v. Bulgaria*, no. 46336/99, 24 November 2005; *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria* (no. 2), no. 37586/04, 18 October 2011; and *Singartiyski and Others v. Bulgaria*, no. 48284/07, 18 October 2011).

87. It is also true that the context in which the two sets of proceedings unfolded shows the reluctance of a number of official figures to see the

applicant party registered. Various politicians, including the Minister of Foreign Affairs and some members of Parliament, spoke against its registration (see paragraphs 23-25 above). In July 2007 the local authorities in the towns of Gotse Delchev and Sandanski refused to provide a venue for its founding meeting (see paragraph 26 above).

88. Most significantly, in September and October 2006, while the party's first re-registration request was pending before the Sofia City Court, the prosecuting authorities and the police in the towns of Gotse Delchev, Blagoevgrad, Sandanski and Petrich, and some other localities in the Pirin region, mounted an operation against the party, seeking to establish irregularities in its formation and – as evident from the content of some of the declarations obtained during that campaign – putting pressure on a number of individuals to deny involvement with the party (see paragraphs 13, 15, 16 and 18 above). Naturally, a political party's formation should be based on the free and unfettered wishes of its founders, and that in a democratic society no person should be coerced or tricked into becoming a member of a party (see, concerning the negative impact of compulsory membership on personal views and opinions, *Young, James and Webster v. the United Kingdom*, 13 August 1981, § 57, Series A no. 44; *Sigurður A. Sigurjónsson v. Iceland*, 30 June 1993, § 37, Series A no. 264; *Chassagnou and Others v. France* [GC], nos. 25088/94, 28331/95 and 28443/95, § 114, ECHR 1999-III; and *Sørensen and Rasmussen v. Denmark* [GC], nos. 52562/99 and 52620/99, §§ 54 and 63, ECHR 2006-I). In a recent case against the Czech Republic concerning the registration of a religious denomination, the Court accepted as legitimate an inquiry on the part of the registration authority as to the genuineness of the consent of a number of adherents (see *Lajda and Others*, cited above). However, there are important differences with the present case. In *Lajda and Others*, the inquiry was carried out by means of letters sent by the registration authority to the purported adherents, whereas here it appears that the police in the Pirin region systematically summoned purported members of the applicant party, questioned them about the genuineness of their wish to join it, and in some cases elicited from them declarations to the effect that their wish was not genuine (see paragraphs 13, 15 and 16 above). In a democratic society, the use by the authorities of such tactics is rather disquieting and worryingly reminiscent of past infamous persecutions. However, it cannot be overlooked that the Supreme Court of Cassation expressly held that the Sofia City Court had erred in admitting in evidence the expert report produced on the basis of the information gathered as a result of that operation, and that the operation thus had no bearing on the ultimate decision to refuse re-registration (see paragraph 32 above).

89. In the Court's view, the above elements do not call into question the justification for the interferences given by the Supreme Court of Cassation. There is no indication that the judges in that court were influenced by any of

them in reaching their decisions to uphold the two refusals to re-register the applicant party. As evident from the reasons for its two judgments (see paragraphs 22 and 32 above), that court had regard to deficiencies in the party's formation process. The legal requirements that, in that court's view, the party's founders had failed to comply with were purely content-neutral, and were not specifically aimed at the party. The Court is therefore not persuaded that the two refusals sought to penalise the party on account of the views or the policies that it promotes. This conclusion is not altered by the fact that the two attempts to re-register the party were connected with the execution of the Court's judgment in the case of *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above). When closing the examination of that case in December 2009 the Committee of Ministers expressed the view that refusals that are exclusively based on failures to comply with the formal requirements of the law do not raise issues in that regard (see paragraph 39 above); the Court sees no reason to depart from that view. This conclusion is not altered by the failure of the applicant party's third re-registration attempt either: that attempt was based on the obviously erroneous premise that the party had never lost its legal personality (see paragraph 33 above) and was thus bound to fail (see paragraph 36 above).

90. In view of the above considerations, the Court accepts that the two refusals may be regarded as seeking to prevent disorder and to protect the rights and freedoms of others.

91. It remains to be established whether the two refusals to re-register the party were proportionate to the aims sought to be realised. In particular, the Court must determine whether the formal requirements highlighted by the Supreme Court of Cassation were reasonable and whether the consequences of the failure of the party's founders to comply with them were proportionate.

92. On the first point, the Court considers that it is not unreasonable for a State to condition the formation of a political party on the carrying out, in a specific order, of certain steps that are not unduly onerous (see the cases cited in paragraph 83 above). Such formalities may vary in line with the historical and political factors peculiar to each country, and States have a certain margin of appreciation in laying them down. Indeed, there is a considerable variety of regulatory regimes in that domain in the various Member States of the Council of Europe (see the Venice Commission materials quoted in paragraphs 54 and 55 above). In view of the specificity of the subject matter, it is also within a State's margin of appreciation to refuse to allow serious defects in those steps, which by their nature have to be carried out in a particular order, to be cured subsequently (see, *mutatis mutandis*, *Edificaciones March Gallego S.A. v. Spain*, 19 February 1998, §§ 35-36, *Reports* 1998-I). In the instant case, the Supreme Court of Cassation specifically found that the founding declaration, which was the

first step in the applicant party's formation process and had an impact on all subsequent steps, was defective. It spelled out clearly why it considered that the declaration fell short of the requirements of the 2005 Political Parties Act, and explained why it regarded those defects as significant and incapable of being remedied in the course of the registration proceedings (see paragraph 22 above, and contrast *United Macedonian Organisation Ilinden and Others*, §§ 67-68, and *Tsonev*, § 55, both cited above).

93. Nor is it unreasonable, in itself, to require a political party to enclose with its request for official registration an up-to-date list of its founding members. The Supreme Court of Cassation explained that the underlying rationale of that requirement was to ensure that the requisite number of founding members had really been attained at the time when the party was being founded (see paragraph 32 above). It is true that, in the particular circumstances of the applicant party, that requirement could have been more difficult to comply with. However, it cannot be said that the Supreme Court of Cassation's refusal to carve out an exception reflecting the difficulties that might be encountered by a particular party fell foul of Article 11, even if account is taken of the fact that the registration proceedings were connected with the execution of this Court's judgment in the case of *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above). Indeed, that was the position ultimately adopted by the Committee of Ministers, which was fully apprised of all domestic developments (see paragraphs 39 and 40 above, and contrast *Verein gegen Tierfabriken Schweiz (VgT) (no. 2)*, cited above, § 90).

94. On the second point, the Court observes that in the recent case of *Tebieti Mühafize Cemiyyeti and Israfilov* it held that States are entitled to insist on the observance of certain formalities in the internal management of associations. However, it went on to find that the sanction that the Azerbaijani authorities had imposed on an association for its failure to observe such formalities – forced dissolution – had been too severe, and that less draconian measures could have been envisaged (see *Tebieti Mühafize Cemiyyeti and Israfilov*, cited above, §§ 70-83). However, the same logic cannot automatically be transposed to the initial registration of associations or political parties. While both the refusal to register an association or a political party and its dissolution are radical in their effects (see *Gorzelik and Others*, § 105; *Tsonev*, § 63; and *Zhechev*, § 58, all cited above), the latter is a particularly far-reaching measure that could be justified only in strictly limited circumstances. The former has more limited consequences and can more easily be remedied through a fresh application for registration (see, *mutatis mutandis*, *Movement for Democratic Kingdom*, and *Lajda and Others*, both cited above). In that connection, the Court cannot overlook that, as pointed out by the Government, it is open to the applicant party to re-apply for registration, provided that it complies with all formal requirements of the law. In as much as the main hurdle to its successful

registration appears to be the high number of founding members – five thousand – required under section 15(1) of the 2005 Political Parties Act, the Court observes that with the amendment of that provision in January 2009 that number was halved and currently stands at two and a half thousand (see paragraph 47 above and, *mutatis mutandis*, *Lajda and Others*, cited above, where the Court was faced with a similar reduction of the number of adherents required for the registration of a religious association). That was noted by the Committee of Ministers in its final resolution in the case of *United Macedonian Organisation Ilinden – PIRIN and Others* (cited above) (see paragraph 39 above).

95. There has therefore been no violation of Article 11 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

96. The applicants further complained that the two refusals to register UMO Ilinden – PIRIN had amounted to breaches of Article 13 of the Convention, which provides as follows:

“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.”

97. The parties did not address that complaint separately in their observations.

98. The Court finds that this complaint is linked to the one examined above and must therefore likewise be declared admissible. However, having regard to its findings under Article 11, it considers that it is not necessary to examine whether there has also been a violation of Article 13.

III. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION

99. In their first application (no. 41561/07) the applicants complained that the 2006-07 refusal to register UMO Ilinden – PIRIN had been motivated by the Bulgarian State’s policy of suppressing the organised activities of persons asserting Macedonian national consciousness. They relied on Article 14 of the Convention, which provides as follows:

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

100. Neither the applicants nor the Government made any submissions in relation to that complaint.

101. The Court finds that the complaint is linked to the ones examined above and must therefore likewise be declared admissible. However, having

regard to its findings under Article 11 of the Convention, it does not find any indication that the refusal to register the applicant party was made on discriminatory grounds.

102. There was therefore been no violation of Article 14 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been no violation of Article 11 of the Convention;
3. *Holds* that there is no need to examine separately the complaint under Article 13 of the Convention;
4. *Holds* that there has been no violation of Article 14 of the Convention.

Done in English, and notified in writing on 18 October 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President