



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

FOURTH SECTION

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

(Application no. 37586/04)

JUDGMENT

STRASBOURG

18 October 2011

FINAL

18/01/2012

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 and Ivanov 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 an application (no. 37586/04) 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”) by the United Macedonian Organisation Ilinden (“Ilinden”), an association based in south-western Bulgaria, in an area known as the Pirin region or the geographic region of Pirin Macedonia, and by Mr Yordan Kostadinov Ivanov, a Bulgarian national born in 1932 and living in Sandanski, who is its chairman (“the applicants”), on 6 October 2004.

2. The applicants were represented by the Bulgarian Helsinki Committee. The Bulgarian Government (“the Government”) were represented by their Agent, Ms M. Dimova, of the Ministry of Justice.

3. The applicants alleged that the authorities had on a number of occasions during the period 2004-09 interfered with their right to freedom of peaceful assembly.

4. On 3 June 2008 the President of the Fifth Section, to which the case had been allocated, decided to give priority to the application 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), *Singartiyski and Others v. Bulgaria* (no. 48284/07), and *United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria (no. 2)* (nos. 41561/07 and 20972/08) (Rule 42 (former 43) § 2 of the Rules of Court).

5. On 30 September 2008 the Court decided to give notice of the application to the Government. It was also decided to examine the merits of

the application at the same time as its 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 background to the case is described in detail in the Court's judgments in the cases of *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria* (nos. 29221/95 and 29225/95, ECHR 2001-IX) and *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria* (no. 44079/98, 20 October 2005).

B. Rallies organised by Ilinden between 2004 and 2009

1. *The events of March and April 2004 (Rozhen)*

8. On 30 March 2004 the second applicant and two other members of Ilinden notified the Mayor of Sandanski that the organisation intended to stage a rally between 10 a.m. and 4 p.m. on 18 April 2004 at the grave of Yane Sandanski near the Rozhen Monastery, to commemorate the anniversary of his "dastardly murder". The event would include laying flowers at the grave, making speeches about the life and the activity of Yane Sandanski, and a "cultural programme".

9. On 13 April 2004 the Mayor of Sandanski, without giving reasons for his decision, advised the organisers that Ilinden could hold a rally between 10 a.m. and 12 noon on 18 April 2004, and that it could include laying flowers on the grave of Yane Sandanski and making speeches about him.

10. On the morning of 18 April 2004 the organisers of the rally built a stage near the grave and started decorating it. According to them, at about 10.30 a.m. a plain-clothes police officer, accompanied by two uniformed police officers, approached and told them to stop decorating the stage, as the Mayor's permission was valid only until 12 noon, and after that they were to leave the area. That statement led to tension, with some of the participants reacting forcefully. After that the rally was allowed to proceed. The Government disputed that assertion. According to them, the rally took

place without incident and was attended by more than two hundred foreign guests, including representatives of the embassy of “the former Yugoslav Republic of Macedonia” and a number of Bulgarian and Macedonian journalists. According to the applicants, no other organisations held events at Yane Sandanski’s grave between 8 a.m. and 4 p.m. on that day.

11. According to the applicants, in the days before the rally the local radio and cable television stations reported that the rally had been banned and was not to be attended. The Government disputed that assertion.

2. The events of April and May 2004 (Blagoevgrad)

12. On 19 April 2004 Ilinden notified the Mayor of Blagoevgrad of its intention of staging a rally at 3 p.m. on 4 May 2004 in front of the monument to “the great Macedonian revolutionary” Gotse Delchev in Blagoevgrad, to commemorate the anniversary of his assassination by laying flowers. The rally would start in front of the American University in Blagoevgrad and make its way to Macedonia Square, where the monument was located.

13. In a letter dated 20 April and received by Ilinden on 24 April 2004 the Mayor of Blagoevgrad informed it that “[e]very citizen of the Republic of Bulgaria [had] the right to pay his respect to the memory of the national heroes and lay flowers at their monuments”. However, in the way it had been planned, the rally was in fact a procession. To proclaim Gotse Delchev a “Macedonian revolutionary” was “unconstitutional and provocative”. The rally was likely to stir unrest and breaches of public order, as had happened in the past. Moreover, the holding of rallies presupposed registration, proof of which Ilinden had not presented. Finally, the municipality had planned an event on Macedonia Square for the same date, to mark the “May holidays”, which made the holding of the rally impossible.

14. On 26 April 2004 Ilinden sought judicial review of the Mayor’s decision by the Blagoevgrad District Court (“*Благоевградски районен съд*”). It appears that the court instructed Ilinden to provide proof of registration, which it did not produce. In a decision of 4 May 2004 the court declared the application for judicial review inadmissible. It noted that on 18 November 2002 Ilinden had been refused registration as a non-profit association (see *United Macedonian Organisation Ilinden and Others v. Bulgaria (no. 2)*, no. 34960/04, §§ 12-16, 18 October 2011). In view of this and of the fact that the application concerned a rally which was due to take place on the day of the court’s decision – 4 May 2004 – it was obvious that the court’s instructions could not be complied with. The application was therefore defective and could not be examined.

15. In the meantime, on 3 May 2004, the police, relying on section 62 of the 1997 Ministry of Internal Affairs Act (see paragraph 108 below), ordered the head of Ilinden’s Blagoevgrad chapter not to organise “rallies by members of the organisation ... without permission by the Mayor of

Blagoevgrad and in breach of the [1990] Meetings and Marches Act”. The order further admonished him to “coordinate the members of Ilinden to prevent demonstrations with foreign ... flags and other symbols, or the display of placards ... with anti-Bulgarian slogans, which [was] likely to incite unrest and breaches of public order”. Another member of Ilinden was ordered not to commemorate the anniversary of the death of Gotse Delchev or “use propaganda materials against the Republic of Bulgaria and the Constitution of the Republic of Bulgaria”.

16. Nevertheless, on 4 May 2004 members of Ilinden were able to lay flowers on the monument, but were not allowed to carry flags or placards. According to the applicants, the municipality did not hold any event on that day. According to the Government, the municipality held the traditional celebration which was open to all comers, including members of Ilinden.

3. *The events of July and August 2004 (Samuilova Krepost)*

17. On 19 July 2004 the head of Ilinden’s chapter in Petrich notified the Mayor that the organisation intended to stage a rally in the area of Samuilova Krepost between 10.30 a.m. and 4 p.m. on 1 August 2004, to mark the anniversary of the Ilinden uprising.

18. In a letter of 22 July 2004 the Mayor of Petrich advised Ilinden that it did not have permission to hold the rally, as another organisation, VMRO¹, had already applied for and been granted permission to hold an event at the same place and at the same time.

19. On 29 July 2004 Ilinden sought judicial review of the Mayor’s decision by the Petrich District Court (“Петрички районен съд”). In a decision of 30 July 2004 the court discontinued the proceedings. It held that under the 1990 Meetings and Marches Act (see paragraph 107 below) the holding of rallies was not subject to permission by the Mayor. On the other hand, in certain limited cases the Mayor could ban a rally. The Mayor’s letter did not amount to a ban; it could be regarded as a mere proposal to alter the time and place of the rally. There was therefore no valid administrative decision to be reviewed and the application for judicial review was pointless.

20. On 1 August 2004 Ilinden held its rally in Samuilova Krepost, apparently without disturbance by the authorities or by hostile counter-demonstrators. According to the Government, the authorities did everything to ensure the smooth unfolding of the event, including asking VMRO to reschedule its event and instructing the management of the site not to collect the usual fees for visiting it. According to the applicants, VMRO did not have any real intention to hold an event at that date and had coordinated their request with the police.

1. “Вътрешна македонска револуционна организация” – “Internal Macedonian Revolutionary Organisation”.

4. *The events of August and September 2004 (Blagoevgrad)*

21. On 23 August 2004 Ilinden notified the Mayor of Blagoevgrad of its intention to hold a rally at 3 p.m. on 12 September 2004, “to commemorate the Macedonians who fell victim to State terrorism and genocide in Bulgaria”, by laying wreaths and making a short speech in front of Gotse Delchev’s monument on Macedonia Square.

22. In a letter dated 24 August 2004 and received by Ilinden on 3 September 2004 the Mayor said that the phrase “to commemorate the Macedonians who fell victim to State terrorism in Bulgaria” showed that the event Ilinden sought to organise would lead to breaches of public order and conflicts, as had happened in the past. Moreover, the holding of rallies presupposed registration, which had not been proved. Finally, the municipality had planned an event on Macedonia Square for the same date, to mark the beginning of the school year, which made the holding of the rally impossible.

23. Ilinden sought judicial review of the ban by the Blagoevgrad District Court. In a decision of 8 September 2004, notified to Ilinden on 10 September 2004, the court instructed it to provide evidence of, *inter alia*, its registration.

24. At about 2.30 p.m. on 12 September 2004 members and supporters of Ilinden gathered in front of the American University in Blagoevgrad, with a view to marching to Macedonia Square. They were surrounded by about twenty-five uniformed police officers. Two plain-clothes officers approached the leaders of the rally and asked them to leave the placards and banners they were carrying. At about 3 p.m. the participants in the rally marched to Macedonia Square, holding up one flag and three placards. They were surrounded by police, who apparently told them several times to put the flag and the placards down. About eighty metres from the monument a group of some forty police officers stopped the participants. A group of about fifteen counter-demonstrators from VMRO were assembled at the base of the monument, waving flags and shouting insults at the participants in the rally. According to the applicants, the counter-demonstrators had not notified the Mayor of their intention to hold an event.

25. According to the applicants, the police told the participants in Ilinden’s rally that, to be allowed to approach the monument, they had to put down their flags and placards, remove the ribbon from the wreath which they were carrying, and proceed one by one. As the participants refused to comply, they were not allowed to approach the monument.

26. According to the Government, Ilinden’s failure to take into account the reasons given by the Mayor sparked an angry reaction on the part of citizens around the monument. The police protected the participants in Ilinden’s rally from the angry bystanders and allowed them to approach the monument.

5. *The events of April 2005 (Rozhen)*

27. On 4 April 2005 Ilinden notified the Mayor of Sandanski that it intended to organise a rally at the grave of Yane Sandanski near the Rozhen Monastery, to take place between 10.30 a.m. and 3 p.m. on 23 April 2005.

28. In a letter of 5 April 2005 the Mayor said that an event had been planned for that date by a vocational training school, which had given notice of it on an earlier date – 10 March 2005 – and that Ilinden would therefore have to change the date, time and place of its rally.

29. On 8 April 2005 Ilinden objected, saying that they could not change the date and the time because according to Macedonian cultural tradition the dead had to be commemorated either on the day of their death or on the closest Saturday, and that, moreover, the grave had to be accessible to everyone. It also said that it could change the place of its rally from the front of a church located near the grave to the back of the church.

30. On 11 April 2005 Ilinden sought judicial review by the Sandanski District Court (“Сандански районен съд”), arguing that the Mayor’s refusal to allow its rally because of another event was unfounded, as there was enough room near the Rozhen Monastery for both to proceed. In a decision of 13 April 2005 the Sandanski District Court found that the application for judicial review was inadmissible. Only bans on rallies were subject to judicial review, whereas the Mayor’s letter did not amount to such a ban. Even assuming that it could be regarded as a ban, it had not been previously appealed before the municipal council, as required under section 12(4) of the 1990 Meetings and Marches Act (see paragraph 107 below). The decision was served on the second applicant on 13 April 2005.

31. At 10.30 a.m. on 23 April 2005 members and supporters of Ilinden assembled near Rozhen Monastery, building a stage with posters about three hundred metres from the grave of Yane Sandanski. The applicants asserted that at approximately 10.30 a.m. several police officers told them to remove the posters because at 11 a.m. a group of pupils would be coming to lay wreaths at the grave and on the posters they would see that Yane Sandanski was being proclaimed not as a Bulgarian, but as a Macedonian revolutionary. After the pupils left the scene, the participants in the rally were allowed to put the posters back up. According to the Government, Ilinden reneged on a previous undertaking to move its rally two hundred metres to the west. Despite Ilinden’s numerous breaches of the Mayor’s order, the police intervened only to allow the pupils of the vocational training school to commemorate Yane Sandanski. After that, the pupils were asked to leave the area, so as to avoid “physical and other” conflicts with Ilinden’s members and supporters. The applicants said that no “physical conflicts” had been likely because the participants in the rally had withdrawn to about two hundred metres from the grave and, moreover, knew and respected the teachers.

32. According to the applicants, during the rally several plain-clothes police officers had threatened participants with arrest.

6. The events of April and May 2005 (Blagoevgrad)

33. On 18 April 2005 Ilinden notified the Mayor of Blagoevgrad of its intention to hold a rally at 3 p.m. on 4 May 2005 on Macedonia Square, where it would lay wreaths on the monument to Gotse Delchev and make a short speech. The rally would start in front of the American University in Blagoevgrad and make its way to Macedonia Square, where the monument was located.

34. In a letter of 19 April 2005 the Mayor of Blagoevgrad informed Ilinden that “[e]very citizen of the Republic of Bulgaria [had] the right to pay his respects to the memory of the national heroes and lay flowers at their monuments”. However, in the way it had been planned, the rally was in fact a procession. It was likely to cause breaches of public order and unrest, as had happened in the past. Moreover, the holding of rallies presupposed registration, proof of which Ilinden had not presented. Finally, the municipality had planned an event on Macedonia Square for the same date: a children’s holiday, which made the holding of the rally impossible.

35. On 21 April 2005 Ilinden sought judicial review of the ban by the Blagoevgrad District Court. On the same day it also appealed against the ban to the Blagoevgrad Municipal Council.

36. In a letter of 22 April 2005 the chairman of the Municipal Council rejected the appeal, on the ground that the Mayor’s decision was lawful.

37. On 3 May 2005 the Blagoevgrad District Court instructed Ilinden to rectify its application for judicial review, by specifying which decision it sought review of and exactly what form of relief it was requesting.

38. On 3 May 2005 the police, relying on section 62 of the 1997 Ministry of Internal Affairs Act (see paragraph 108 below), ordered the head of Ilinden’s Blagoevgrad chapter not to organise a rally the following day. According to the applicants, on 4 May 2005 the second applicant was arrested and taken to a police station in the town of Simitli. On 5 May 2005 the police drew up a report accusing him of having unlawfully organised a prohibited rally.

39. The rally took place on 4 May 2005. According to the applicants, the participants were not allowed to approach Gotse Delchev’s monument.

7. The events of July 2005 (Samuilova Krepost)

40. On 4 July 2005 the head of Ilinden’s chapter in Petrich notified the Mayor that the organisation intended to stage a rally in the area of Samuilova Krepost at 10 a.m. on 2 August 2005, to mark the anniversary of the Ilinden uprising.

41. In a letter of 11 July 2005 the Mayor of Petrich advised Ilinden that he could not allow the rally, as VMRO (see paragraph 18 above) had already, on 20 June 2005, applied for and been granted permission to hold an event at the same place and at the same time.

42. On 18 July 2005 Ilinden sought judicial review of the Mayor's decision by the Petrich District Court. It did not receive a reply.

43. On 2 August 2005 Ilinden held its rally in Samuilova Krepost, allegedly accompanied by a heavy police presence. The police filmed the rally with a video camera. According to the applicants, this was done to identify new participants and bring pressure on them to make them refrain from taking part in similar rallies in the future. According to the Government, the police officers present were no more than the usual number dispatched to such events. They did not allow any breaches of public order, save for the consumption of alcohol by members of Ilinden and their foreign guests. Another factor which had served to prevent breaches had been VMRO's decision, at the authorities' request, to reschedule their event for another time.

8. The events of August and September 2005 (Blagoevgrad) and the ensuing complaints to the prosecuting authorities

44. On 23 August 2005 Ilinden notified the Mayor of Blagoevgrad of its intention to hold a rally in front of the monument to Gotse Delchev on Macedonia Square at 3 p.m. on 12 September 2005. In reply, the Mayor banned the event because it coincided with a children's celebration marking the opening of the school year. Ilinden apparently did not receive a copy of the Mayor's decision.

45. On 12 September 2005 the Blagoevgrad police, relying on section 62 of the 1997 Ministry of Internal Affairs Act (see paragraph 108 below), ordered the head of Ilinden's Blagoevgrad chapter and another of the organisation's leaders not to organise or take part in rallies involving the laying of wreaths and flowers in front of Gotse Delchev's monument.

46. At about 1 p.m. on 12 September 2005 members and supporters of Ilinden started gathering in front of the American University in Blagoevgrad with a view to marching to Macedonia Square. They were surrounded by approximately thirty uniformed and plain-clothes police officers who blocked their way, seized the flags and placards they were carrying and destroyed a wreath. According to the Government, the actions of the police were monitored by a public prosecutor, who did not note any abuse of their powers. After that the participants in the rally decided not to go to Macedonia Square. On their way back a group of participants from Sandanski laid flowers at a roadside monument near the village of Cherniche.

47. A few days later a Member of Parliament from VMRO, Mr B. Yachev, was reported by the press to have commented that the police

had acted properly, doing the job done in previous years by VMRO itself. The Mayor of Blagoevgrad was reported by the press to have said that he “would not allow the staging of anti-Bulgarian demonstrations by separatist associations”.

48. On 30 October 2005 three of Ilinden’s leaders filed a complaint about the actions of the police with the Sofia Regional Military Prosecutor’s Office. In a decision of 1 December 2005 that Office refused to open a criminal investigation, reasoning that there was no indication that the police officers had acted unlawfully in preventing the rally – which had been banned by the Mayor – or in impounding the objects carried by the participants in it. Ilinden’s ensuing appeal was rejected by the Military Appellate Prosecutor’s Office on 16 January 2006.

9. The events of March and April 2006 (Rozhen)

49. On 30 March 2006 the second applicant and two other members of Ilinden notified the Mayor of Sandanski that the organisation intended to stage a rally between 10 a.m. and 3 p.m. on 23 April 2006 at the grave of Yane Sandanski near the Rozhen Monastery, to commemorate the anniversary of his “dastardly murder”. The event would include laying flowers at the grave, a speech about the life and the activity of Yane Sandanski, and a “cultural programme”.

50. In a letter of 18 April 2006 the Mayor of Sandanski informed Ilinden that it could lay flowers at the grave and organise a cultural programme between 10 a.m. and 12 noon on 23 April 2006.

51. On 23 April 2006 members and supporters of Ilinden gathered in front of Yane Sandanski’s grave. At about 12 noon they were interrupted by the police, who told them that the time allowed by the Mayor had expired and they should disperse. The participants complied and left the area. According to the Government, the interruption was necessary following the insistence of other organisations. According to the applicants, no other organisations held commemorative events near Rozhen Monastery on that day; the real reason for the interruption was the desire of the police to prevent visitors to the Monastery from seeing Ilinden’s event.

10. The events of April and May 2006 (Blagoevgrad)

52. On 25 April 2006 Ilinden notified the Mayor of Blagoevgrad of its intention to hold a rally at 4 p.m. on 4 May 2006 on Macedonia Square, laying wreaths on the monument to Gotse Delchev and making a short speech, to mark the anniversary of the death of this “Macedonian apostle revolutionary”. The rally would start in front of the American University in Blagoevgrad and then make its way to Macedonia Square, where the monument was located.

53. In a letter of the same date the Mayor of Blagoevgrad informed Ilinden that “[e]very citizen of the Republic of Bulgaria [had] the right to pay his respects to the memory of the national heroes and lay flowers at their monuments”. However, in the way it had been planned, the rally was in fact a procession. It was likely to cause breaches of public order and unrest, as had happened in the past. Moreover, the holding of rallies presupposed registration, proof of which Ilinden had not presented. Finally, the municipality had planned an event on Macedonia Square for the same date: a children’s holiday, which made the holding of the rally impossible.

54. On 4 May 2006 the police prevented the participants in the rally from moving towards Macedonia Square and, relying on section 55 of the 2006 Ministry of Internal Affairs Act (see paragraph 108 below), ordered them in writing to refrain from participating in assemblies “without permission from the Mayor of Blagoevgrad” and not to “use placards, banners and other visual materials featuring texts with anti-Bulgarian content”. According to the Government, the restrictions were necessary because of the simultaneous staging of a children’s celebration.

11. The events of July 2006 (Samuilova Krepost)

55. On 6 July 2006 the head of Ilinden’s chapter in Petrich notified the Mayor that the organisation intended to hold a rally in the area of Samuilova Krepost at 10 a.m. on 30 July 2006, to mark the anniversary of the Ilinden uprising.

56. In a letter of 14 July 2006 the Mayor of Petrich advised Ilinden that he authorised the rally.

57. The rally proceeded on 30 July 2006. It was attended by about two hundred and fifteen people. According to the Government, the only incident was an attempt by a member of Ilinden to damage the film camera of a local television station. According to the applicants, the same member of Ilinden was kicked three times in the legs by a police officer while trying to prevent the officer from entering a restaurant where the participants in the rally were dining.

12. The events of September 2006 (Blagoevgrad)

58. On 30 August 2006 Ilinden notified the Mayor of Blagoevgrad of its intention to hold a rally on Macedonia Square at 4 p.m. on 12 September 2006. It seems that on the same day the Mayor replied that the event could not proceed, as it might breach public order and infringe the rights of others.

59. On 4 September 2006 a member of Ilinden’s managing council once again notified the Mayor of Blagoevgrad of the organisation’s intention to hold the rally, to commemorate “the victims of the Macedonian nation following the Bulgarian governments’ acts of State terrorism and genocide”.

He added that for years on end the Mayor had prevented Ilinden from staging rallies, relying on bogus arguments.

60. In a letter of 5 September 2006 the Mayor replied that the notification could not be examined, as no documents proving that Ilinden had been registered had been produced. It was therefore impossible to identify the “members of the managing bodies of [the] event”. Moreover, the municipality had organised a school holiday at the same place and on the same date, which made the holding of the rally impossible.

61. On 7 September 2006 Ilinden sought judicial review of the ban by the Blagoevgrad District Court. In a final decision of 8 September 2006 the court rejected the application for judicial review. It held that the risk of breaches of public order had not been made out by the Mayor and that, in the light of the European Court of Human Rights’ judgments in a series of cases against Bulgaria, the lack of registration was not a sufficient ground to ban a rally. However, the holding of a school holiday prevented the parallel holding of Ilinden’s rally. In the court’s view, it was inopportune to allow adults and children to gather at the same time and place, to concurrently stage a school event and a political one, as “the children’s fragile minds should not be subjected to the political interventions and influences which would inevitably occur if the two events [were] allowed to proceed together. Children should on no account be burdened with the political passions and confrontations of adults and become the unwilling witnesses of acts which [were] perceived equivocally by Bulgarian society”.

62. On the same day, 8 September 2006, Ilinden notified the Mayor that, in view of the fact that the holding of the rally could not take place on 12 September, it was willing to reschedule it for 4 p.m. on 11 September 2006. On the same day the Mayor replied that the notification could not be examined, as no documents proving that Ilinden had been registered had been produced. It was therefore impossible to identify the “members of the managing bodies of [the] event”.

63. According to the applicants, as a result Ilinden decided not to hold an event; only one member laid flowers at the monument. According to the Government, the rally did take place without hindrance from the police.

*13. Ilinden’s request to use a municipal hall in October 2006
(Sandanski)*

64. On 12 September 2006 Ilinden sought permission from the Mayor of Sandanski to rent a municipal hall on 15 October 2006, to hold a founding meeting needed for the organisation’s registration as a political party. On 26 September 2006 the Mayor replied that Ilinden’s request could not be accommodated, as on 15 and 16 October 2006 the hall was due to host an international wrestling tournament. He also added that the hall was very often used for cultural events and was due to undergo repairs.

65. On 27 September 2006 Ilinden informed the Mayor that it had learned that the tournament would not take place and asked him to reconsider his decision, saying that there were no other suitable halls in the region. Failing that, it asked the Mayor to allow the founding meeting to be held in a square in front of the hall. On 29 September 2006 the Mayor replied that according to the information available to him, the tournament would take place as planned. As regards the staging of the meeting in the square, Ilinden had to submit an official notification, specifying the organiser of the event, its aim and its exact time and place.

66. On 2 October 2006 Ilinden reiterated its request to use the hall. It alternatively asked the Mayor to indicate another venue which could take up to five hundred people and allow its use. On 5 October 2006 the Mayor confirmed his initial statement that the hall would be in use on the requested date. He also said that no other venue of such a size existed.

67. Ilinden complained about the refusal to let it use the hall to the Commission for Protection against Discrimination and to the Blagoevgrad Regional Governor, but to no avail. It seems that as a result it did not hold the founding meeting as planned.

According to the applicants, on 15 October 2006 the municipal hall was not hosting a sports event, but was empty.

14. The incident of 19 December 2006 (Sandanski) and the ensuing complaints to the prosecuting authorities

68. According to the applicants, on 19 December 2006 three members of Ilinden were collecting declarations by persons who wished to become members of the political party at a stall in the centre of Sandanski. They were approached by two men, one of whom was the head of the Petrich chapter of the political party Attack (“*Amaka*”), who shouted insults at them. He threw the materials on the stall to the ground, hit one of the members of Ilinden in the face, tore apart an Ilinden poster, and then called the police. The police arrived and arrested the attacker. Later he was warned not to engage in violent actions and released.

69. On the same day the three members of Ilinden complained about the assault to the prosecuting authorities.

70. In a decision of 25 January 2007 the Sandanski District Prosecutor’s Office refused to open a criminal investigation, as the acts alleged in the complaint did not constitute publicly prosecutable offences. The bodily injuries suffered by the first Ilinden member were minor and therefore gave cause for a private prosecution, the destroyed property was not of great value, which made its destruction a trivial occurrence which should not be criminally prosecuted, and the proffering of insults also gave cause for a private prosecution only.

71. On appeal by the three Ilinden members, on 5 February 2007 the Blagoevgrad Regional Prosecutor's Office upheld that decision, fully endorsing its reasoning.

15. The events of March and April 2007 (Rozhen)

72. On 16 March 2007 Ilinden notified the Mayor of Sandanski that it intended to stage a rally between 10.30 a.m. and 2 p.m. on 22 April 2007 at the grave of Yane Sandanski near the Rozhen Monastery, to commemorate the anniversary of his "dastardly murder". The event would include laying flowers at the grave, a speech about the life and the activity of Yane Sandanski, and a "cultural programme". On the same date the Mayor of Sandanski informed Ilinden that he could not agree to the rally, as he had already allowed a sister organisation, UMO Ilinden – PIRIN, to stage an event at the grave of Yane Sandanski between 10 a.m. and 4 p.m. on 22 April 2007.

73. On 26 March 2007 Ilinden informed the Mayor that they had learned that UMO Ilinden – PIRIN would in fact be holding their event in the town of Melnik, in front of Yane Sandanski's monument, between 10 a.m. and 4 p.m., and that only a small delegation would go to the grave near the Rozhen Monastery, to lay flowers between 10 and 11 a.m. They therefore proposed to stage their rally at the grave after 11 a.m. On the same day the Mayor informed Ilinden that the rally could take place between 11 a.m. and 12 noon, as the police did not have the means of protecting a longer event.

74. As a result, Ilinden decided to change the date of its rally to 21 April 2007 and notified the Mayor accordingly. On 27 March 2007 the Mayor replied that he could not accommodate its wish, as a vocational training school had already applied for, and been given, permission to stage an event at that time.

75. On 28 March 2007 Ilinden filed an application for judicial review with the Sandanski District Court. It argued that the Mayor's refusals to allow the rally as planned were unlawful, as Ilinden was willing to shift the timing of the event, but could not shrink it into the short timeframe allowed by the Mayor. It included a programme which needed time and it would not in any way disturb other events or visitors to Yane Sandanski's grave. Ilinden therefore asked the court to set aside the Mayor's decisions and allow the rally to be staged between 11 a.m. and 3 p.m. on 22 April 2007.

76. In a decision of 2 April 2007 the Sandanski District Court declared the application inadmissible. It held that the Mayor had not banned the rally, but merely proposed a change in its timing, as was his duty under section 12(1) of the 1990 Meetings and Marches Act (see paragraph 107 below). Only bans on rallies were reviewable by the courts, and only after such bans had been appealed against to the municipal council. Moreover, the Act did not give the courts jurisdiction to allow the holding of rallies.

77. On 6 April 2007 Ilinden appealed to the Blagoevgrad Regional Court, relying, *inter alia*, on the Court's judgment in the case of *Ivanov and Others v. Bulgaria* (no. 46336/99, 24 November 2005). It is unclear what the outcome of the proceedings was.

78. On 18 April 2007 the Regional Governor of Blagoevgrad, acting of his own motion, annulled the Mayor's letter of 26 March 2007 allowing the rally. He reasoned that it amounted to an administrative decision, creating legal rights for Ilinden, and that it was unlawful. Firstly, the organisation was not registered; on the contrary, in February 2007 the Supreme Court of Cassation had upheld the Sofia City Court's judgment turning down a request by UMO Ilinden – PIRIN to be registered as a political party (see *UMO Ilinden – PIRIN and Others v. Bulgaria (no. 2)*, no. 41561/07, §§ 8-19, 18 October 2011). Since it was accordingly unlawful under Bulgarian law, it had no standing to give notice of its intention to hold a rally. Secondly, the proposed rally would put public order at risk. The Rozhen Monastery was a place visited by many tourists, especially at weekends. It was therefore inappropriate to allow the staging of a rally there. Moreover, rallies and meetings were being organised at those locations at the same time by the local authorities and non-governmental organisations. As clashes between supporters of Ilinden and others had taken place in the past, it was necessary to ban its rally. Finally, the activities of the organisation were contrary to Bulgarian law, as they consisted in propaganda against the country's sovereignty and territorial integrity and aroused national and ethnic hatred.

79. According to the applicants, on 22 April 2007 many bus companies hired to transport participants in the rally to the Rozhen Monastery desisted, under pressure from the police. Two cars carrying materials for a stage to be erected at the site of the rally were stopped by the police and not allowed to continue. A bus transporting a group of singers was also diverted by the police. A number of other cars with participants were stopped and searched by the police while en route to Rozhen Monastery. The grave of Yane Sandanski was surrounded by about a hundred uniformed police officers and a number of plain-clothes ones, who did not allow the participants in the rally to approach it. No other organisations were present.

80. According to the Government, Ilinden was able to hold the rally, in the presence of many Macedonian journalists and representatives of the Ministry of Foreign Affairs of the "former Yugoslav Republic of Macedonia". The alleged difficulties with the transportation of the participants were overblown; the police had done nothing more than to ensure the smooth commemoration by various organisations of the anniversary of Yane Sandanski's death. It was not true that participants in the rally had been stopped and searched.

16. The events of April and May 2007 (Blagoevgrad)

81. On 26 April 2007 Ilinden notified the Mayor of Blagoevgrad of its intention to stage a rally on Macedonia Square, in front of Gotse Delchev's monument, at 4 p.m. on 4 May 2007. The event, which was to mark the anniversary of the assassination of the "Macedonian revolutionary", would consist of the laying of a wreath and flowers on the monument and a short speech. It would last one hour.

82. On the same day the Mayor replied that the notification could not be examined as Ilinden had not produced documents proving its official registration. It was thus impossible to identify the "managing bodies of [the] event". Moreover, on 4 May 2007 the municipality was organising children's games on Macedonia Square, so that the staging of Ilinden's event could not be allowed.

83. Ilinden filed an application for judicial review with the Blagoevgrad District Court. It argued, *inter alia*, that there was no risk that breaches of public order or traffic disturbances would occur. The place of the rally and the limited number of participants had been specifically chosen to avoid such eventualities. Macedonia Square was very large and Ilinden was planning to use only a small part of it for its rally. The ban was not justified under section 12(2) of the 1990 Meetings and Marches Act (see paragraph 107 below) or Article 11 § 2 of the Convention and was in breach of Ilinden's right to express its opinion, enshrined, *inter alia*, in Article 10 of the Convention.

84. In a final decision of 27 April 2007 the Blagoevgrad District Court dismissed the application. It held that, while the lack of registration did not amount to sufficient grounds to prohibit the rally, the risk that it could infringe the rights of others was enough to justify the ban. In the court's view, it was inopportune to allow adults and children to gather at the same time and place, to concurrently stage a school event and a political one, as "the children should not be subjected to the political interventions and influences which would inevitably occur if the two events [were] allowed to proceed together. Children should on no account be burdened with the political passions and confrontations of adults and become the unwilling witnesses of acts which [were] perceived equivocally by Bulgarian society".

85. On 3 May 2007 the police, relying on section 55 of the 2006 Ministry of Internal Affairs Act (see paragraph 108 below), ordered in writing a member of Ilinden's leadership not to organise or take part in a rally on the next day. According to the Government, in spite of that, on 4 May 2007, members of Ilinden laid flowers at the monument without being stopped by the police.

17. The events of July 2007 (Samuilova Krepost)

86. On 16 July 2007 the head of Ilinden's chapter in Petrich notified the Mayor that the organisation intended to stage a rally in the area of Samuilova Krepost at 10 a.m. on 29 July 2007, to mark the anniversary of the Ilinden uprising.

87. In a letter of 22 July 2004 the Mayor of Petrich advised Ilinden that VMRO (see paragraph 18 above) had already applied for and been granted permission to hold an event at the same place and at the same time.

88. On 20 July 2007 Ilinden sought judicial review of the Mayor's decision by the Petrich District Court. It argued that both events could proceed simultaneously. In a decision of 25 July 2007 the court declared the application for judicial review inadmissible. It held that the Mayor's letter did not amount to a ban, but merely to information that another rally had been planned for the same time and place. Under the 1990 Meetings and Marches Act, if a rally had not been banned within twenty-four hours of notice being given to the Mayor, it could proceed. Even if the Mayor did ban a rally, that decision first had to be appealed against to the municipal council and only then challenged by way of judicial review.

89. On 29 July 2007 about three hundred and fifty members and supporters of Ilinden approached Samuilova Krepost, carrying placards and banners – according to the Government, “in defiance of the orders of the municipality”. According to the applicants, they were stopped by the police before reaching the site and were ordered to put the placards and banners down. They obeyed and were allowed access to the site without the materials. The participants in the rally laid wreaths and flowers. A plain-clothes police officer removed the ribbons from the wreaths. Later the participants tried to erect a stage at their chosen place, but were stopped by the police and so erected it on the other side of a small river crossing the site. According to the Government, the police did not impose restrictions on the manner of commemorating the anniversary.

18. The events of August and September 2007 (Blagoevgrad)

90. On 28 August 2007 Ilinden notified the Mayor of Blagoevgrad of its intention to stage a rally on Macedonia Square, in front of Gotse Delchev's monument, at 4.30 p.m. on 12 September 2007. The event, which was to mark the anniversary of “the genocide against the Macedonians”, would consist of the laying of a wreath and flowers on the monument and a short speech. It would last one hour.

91. On 29 August 2007 the Mayor replied that the notification could not be examined as Ilinden had not produced documents proving its official registration. It was thus impossible to identify the “managing bodies of [the] event”. Moreover, the municipality had planned an event on Macedonia Square for the same date, a children's holiday under the name “Hello,

school”, to mark the beginning of the school year, which made the holding of the rally impossible.

92. On 30 August 2007 Ilinden sought judicial review by the newly created Blagoevgrad Administrative Court (“*Благоевградски административен съд*”), reiterating the arguments raised in its previous applications. In a decision of 30 August 2007 the Blagoevgrad Administrative Court found that under the 1990 Meetings and Marches Act, which was *lex specialis* in relation to the general rules of administrative procedure, the court competent to examine an application for judicial review of a Mayor’s decision to ban a rally was the district court. It therefore sent the file to the Blagoevgrad District Court.

93. In a final decision of 5 September 2007 the Blagoevgrad District Court dismissed the application. It held that, while the lack of registration did not amount to sufficient grounds to prohibit the rally, the fact that another event, likely to draw a number of people, many of whom were children, was due to take place on the same date in Macedonia Square was enough to justify the ban. In the court’s view, it was inopportune to allow two wholly different events to be staged at the same time and place.

94. According to the applicants, no school event took place at 4 p.m. on 12 September 2007 on Macedonia Square. When a number of members and supporters of Ilinden gathered in front of the American University in Blagoevgrad at about 5 p.m., they were stopped by the police and a number of them were arrested. They were taken to a police station, held for about three hours and charged with committing administrative offences for having tried to take part in a banned rally.

95. On 22 October 2007 the deputy Mayor of Blagoevgrad imposed administrative punishments (fines of 200 Bulgarian leva (102.26 euros) each) on the second applicant and on a number of members of Ilinden for having taken part in a banned rally, in breach of a public-order regulation issued by the Blagoevgrad Municipal Council. All of them sought judicial review. In a series of judgments delivered on 18 and 19 February, 11 March, and 22 and 29 May 2008 the Blagoevgrad District Court annulled the fines. In some of the judgments it found that they were invalid, as under the applicable rules the deputy Mayor had no power to impose administrative punishments. In other judgments the court found that the deputy Mayor’s decisions were defective because they did not specify which administrative offences had been committed. In others it held that although the Mayor’s ban on the rally planned for 12 September 2007 was legally binding, the actions of the members of Ilinden on that date had not amounted to the staging of a rally, as they had been too few and had not tried to wave banners and make speeches, but merely to lay flowers on Gotse Delchev’s monument. The court went on to say that every person, regardless of their political convictions, had the right to honour the memory of national heroes in peace.

19. The events of March and April 2008 (Rozhen)

96. On 4 March 2008 Ilinden notified the Mayor of Sandanski that it intended to stage a rally between 10.30 a.m. and 3 p.m. on 20 April 2008 at the grave of Yane Sandanski near the Rozhen Monastery, to commemorate the anniversary of his murder. The event would include laying flowers at the grave, a speech about the life and work of Yane Sandanski, and a “literary and musical programme”. On 17 March 2008 the Mayor of Sandanski advised the organisation that its members could lay flowers on the grave of Yane Sandanski between 10.30 and 11 a.m. on 20 April 2008, but not carry out the remainder of their programme, as an event had been planned for that date by a vocational training school.

97. On 26 March 2008 Ilinden sought judicial review by the Sandanski District Court, arguing that there was enough room for both its and the school’s events and that, as on many previous occasions, the limitations imposed by the Mayor hindered the exercise of its right of peaceful assembly. In a decision of 17 April 2008 the Sandanski District Court found that the application for judicial review was inadmissible. It held that the Mayor had not banned the rally, but merely proposed a change in its timing, as was his duty under section 12(1) of the 1990 Meetings and Marches Act (see paragraph 107 below). Only bans on rallies were reviewable by the courts, and only after such bans had been appealed against to the municipal council. Moreover, the Act did not give the courts jurisdiction to allow the holding of rallies.

98. On 17 April 2008 the police, relying on section 55 of the 2006 Ministry of Internal Affairs Act (see paragraph 108 below), ordered the second applicant to abide by the limitations imposed by the Mayor of Sandanski, to ensure public order during the event, not to urge a violent change of the constitutional order, and not to incite the commission of offences through public speeches.

99. The applicants submitted that on 20 April 2008 the police stopped a number of cars travelling to Rozhen to take part in the rally. The grave of Yane Sandanski was surrounded by about thirty officers. One of them wanted to remove the ribbons from a wreath which members of Ilinden wished to lay on the grave, which sparked off a forceful verbal exchange.

20. The events of September 2008 (Blagoevgrad)

100. On 1 September 2008 Ilinden notified the Mayor of Blagoevgrad of its intention to stage a rally on Macedonia Square, in front of Gotse Delchev’s monument, from 5 p.m. to 6 p.m. on 12 September 2008, to commemorate “the genocide against the Macedonians perpetrated by Bulgarian State terrorism”. The rally would consist of the laying of a wreath and flowers in front of the monument, the making of a short speech, and the lighting of candles. The Mayor did not reply.

101. A number of members and supporters of Ilinden gathered in front of the American University in Blagoevgrad at about 4.40 p.m. on 12 September 2008. They carried two posters saying “UMO Ilinden” and “12 September – Day of the Genocide of the Macedonians of Bulgaria”. Several uniformed and plain-clothes police officers appeared on the scene ten minutes later. One officer told the participants that if they carried posters “which are against Bulgaria” the posters would be taken away. After that the police seized the second poster. The participants in the rally then headed towards Macedonia Square. On the way there, two men threatened one of the participants in the rally, saying “we will now fine you 200 [Bulgarian] levs each, I know your sons, we will fire them from work ...”. In Macedonia Square the members of Ilinden stood in front of Gotse Delchev’s monument, laid a wreath and flowers, and lit candles. One of them made a short speech. The police did not interfere with the event. However, they later arrested a member of Ilinden who was taking photographs, took his camera by force and exposed the film in it.

21. The events of April and May 2009 (Blagoevgrad)

102. On 24 April 2009 Ilinden notified the Mayor of Blagoevgrad of its intention to stage a rally on Macedonia Square, in front of Gotse Delchev’s monument, at 5 p.m. on 4 May 2009, to mark the anniversary of his death.

103. In a letter delivered to Ilinden’s chairman at 4.30 p.m. on 30 April 2009 the Mayor informed the organisation that they could join the laying of flowers in front of the monument at 10 a.m. on 4 May 2009, together with representatives of other political and civic organisations. In view of the short time until the date of the planned event, Ilinden did not seek judicial review of the Mayor’s decision.

104. The second applicant and two other members of Ilinden, who tried to approach Gotse Delchev’s monument at 2.40 p.m. on 4 May 2009, were arrested and taken to a police station. There they were issued orders under section 55 of the Ministry of Internal Affairs Act (see paragraph 108 below) not to take part in the rally prohibited by the Mayor. The police also seized a wreath with a ribbon saying “To Gotse from UMO Ilinden”.

22. The events of August and September 2009 (Blagoevgrad)

105. On 31 August 2009 Ilinden notified the Mayor of Blagoevgrad of its intention to stage a rally in Macedonia Square, in front of Gotse Delchev’s monument, between 12 noon and 1 p.m. on 12 September 2009, to mark the “day of the genocide against the Macedonian people”. The Mayor did not reply.

106. On 12 September 2009 members and supporters of Ilinden gathered in front of the monument, but were arrested and taken to a police station. There the police, relying on section 55 of the Ministry of Internal Affairs

Act (see paragraph 108 below), ordered the second applicant and six other members of Ilinden's leadership not to take part in rallies not authorised by the Mayor of Blagoevgrad. The police also seized from them several items: a ribbon bearing the inscription "12.IX. Day of the genocide against the Macedonian people"; a poster bearing the same inscription; and a red flag bearing the inscription "Macedonia" and depicting the "Star of Vergina"¹. On 14 September 2009 Ilinden requested the return of those items. The police acceded to the request on 15 September 2009.

II. RELEVANT DOMESTIC LAW

107. The relevant provisions of the 1991 Constitution and of the 1990 Meetings and Marches Act are set out in paragraphs 48-51 of the Court's judgment in the case of *Stankov and the United Macedonian Organisation Ilinden* (cited above), in paragraphs 72-76 of the Court's judgment in the case of *United Macedonian Organisation Ilinden and Ivanov* (cited above) and in paragraphs 24-28 of the Court's judgment in the case of *Ivanov and Others v. Bulgaria* (cited above). For the purposes of the present case, particular mention needs to be made of section 12 of the 1990 Act, which at the material time provided as follows:

"(1) Where the time or the place of the meeting, or the itinerary of the march, would create a situation endangering public order or traffic safety, the President of the Executive Committee of the People's Council, or the mayor, respectively, shall propose their modification.

(2) The President of the Executive Committee of the People's Council, or the mayor, shall be competent to prohibit the holding of a meeting, demonstration or march, where reliable information exists that:

1. it aims at the violent overturning of Constitutional public order or is directed against the territorial integrity of the country;

2. it would endanger public order in the local community;

...

4. it would breach the rights and freedoms of others.

(3) The prohibition shall be imposed by a written reasoned act not later than twenty-four hours following the notification.

(4) The organiser of the meeting, demonstration or march may appeal to the Executive Committee of the People's Council against the prohibition referred to in the

1. In 1991 "the former Yugoslav Republic of Macedonia" designated the yellow sixteen-ray star symbol (the Vergina Sun, generally believed to belong to King Philip II of Macedonia) as its national symbol, and displayed it on its flag. It was removed from the country's flag in 1995.

preceding paragraph. The Executive Committee shall decide within twenty-four hours.

(5) Where the Executive Committee of the People's Council has not decided within [that] time-limit, the march, demonstration or meeting may proceed.

(6) If the appeal is dismissed the dispute shall be referred to the relevant district court which shall decide within five days. That court's decision shall be final."

The Meetings and Marches Act was adopted in 1990, when the 1971 Constitution was in force. Under that Constitution, the executive local State authorities were the executive committees of the people's councils in each district. The mayors referred to in some of the provisions of the Meetings and Marches Act were representatives of the executive committee acting in villages and towns which were under the jurisdiction of the respective people's councils. The 1991 Constitution abolished the executive committees and established the post of mayor, elected by direct universal suffrage, as the "organ of the executive power in the municipality" (Article 139).

108. Under section 62(1) of the 1997 Ministry of Internal Affairs Act, the police could, if necessary for the performance of their duties, issue orders to individuals or organisations. Those orders were binding unless they obviously imposed the commission of an offence (section 62(4)). Section 62(5) provided that such orders, when issued in writing, were subject to judicial review. The wording of section 55(1), (4) and (5) of the 2006 Ministry of Internal Affairs Act, which superseded the above provision on 1 May 2006 and is currently in force, is almost identical.

109. Under section 31(1) of the 1998 Administration Act, regional governors (a) carry out governmental policy and coordinate the operations of the branches of central government in their respective regions; (b) seek to achieve a balance between national and local interests and interact with the local authorities; (c) are responsible for safeguarding State property in their respective regions; (d) uphold legality in their regions and supervise the enforcement of administrative decisions; (e) control the lawfulness of the decisions and the actions of local authorities; (f) coordinate and control the operations of the territorial branches of ministries and other central authorities, as well as the enforcement of their decisions; (g) organise civil defence; (h) preside the regional security councils; and (i) carry out the region's international contacts.

110. Under Article 93 § 4 of the 2006 Code of Administrative Procedure, all mayoral decisions may be challenged before regional governors. Under section 32(2) of the 1998 Administration Act, regional governors may annul unlawful mayoral decisions. Their decisions to do so are subject to judicial review (section 32(3) of the Act).

111. Section 1(1) of the 1988 State Responsibility for Damage Caused to Citizens Act (on 12 July 2006 its name was changed to "State and

Municipalities Responsibility for Damage Act” – hereinafter “the 1988 Act”) provides that the State – and since 1 January 2006 municipalities – are liable for damage suffered by private persons as a result of unlawful decisions, actions or omissions by civil servants committed in the course of or in connection with the performance of their duties.

112. Article 169b of the 1968 Criminal Code makes it an offence to prevent someone, through violence, threats or other unlawful means, from exercising their “constitutional political rights”. The offence is aggravated if committed by officials during or in connection with the performance of their duties (Article 169c of the Code).

III. RELEVANT DOCUMENTS OF THE COMMITTEE OF MINISTERS

113. The Committee of Ministers concluded the examination of application no. 44079/98 (*United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*) and application no. 46336/99 (*Ivanov and Others v. Bulgaria*) on 8 June 2011, by adopting Resolution CM/ResDH(2011)46, which reads:

“The Committee of Ministers, ...

Recalling that the violations of the Convention found by the Court in these cases concern the infringement of the freedom of assembly of organisations which aim to achieve “the recognition of the Macedonian minority in Bulgaria” due to prohibitions of their meetings between 1998 and 2003 (violation of Article 11) and the lack of effective remedies to complain against these prohibitions (violation of Article 13) (see details in Appendix);

Recalling that a finding of violations by the Court requires, over and above the payment of just satisfaction awarded in the 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

– general measures preventing similar violations;

Having noted that two other applications presently pending before the European Court concern allegations relating to bans or to the holding of certain meetings of the applicants initially scheduled between March 2004 and September 2009;

Having considered, without prejudging the judgment the Court could deliver in respect of these applications, that in view of the positive trend observed concerning the holding of the applicants’ meetings in particular since 2008 and the absence of complaints from them as regards 2010, no further individual measure seemed required in these cases;

Having also examined 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);

Having satisfied itself that, within the time-limit set, the respondent state paid the applicants the just satisfaction provided in the judgments (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, paragraph 2, of the Convention in these cases and

DECIDES to close the examination of these cases.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

114. The applicants complained about a number of interferences with their right to freedom of peaceful assembly during the period 2004-09. They relied on Article 11 of the Convention, which provides as follows:

“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.”

115. In their observations in reply to those of the Government, filed with the Court on 1 June 2009, the applicants complained that the interferences with their right to freedom of assembly were also in breach of 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.”

116. The applicants submitted that it was particularly important for the Court to examine the complaint under Article 14 as well. Only a ruling under that provision would spur a real solution to the problem. Otherwise, the authorities would feel encouraged to continue their practice of searching for various pretexts to restrict the exercise of the applicants’ right to

freedom of peaceful assembly. In that relation, one had to bear in mind the general situation in the country in relation to the so-called “Macedonian question”. The interference with the applicants’ rights was a result of the lack of recognition of the Macedonian minority in Bulgaria and of the resulting infringement of that minority’s rights. The non-execution of a number of the Court’s judgments in previous cases concerning Ilinden showed that even now individuals asserting a Macedonian ethnic consciousness were being denied the right to freedom of assembly and association. The Macedonian minority was the only one not recognised by Bulgaria and, as a result, suffered diverse instances of discrimination. It was precisely the refusal to recognise the existence of a Macedonian minority that lay at the source of the systematic banning and hindering of Ilinden’s rallies.

117. The Court observes that the applicants’ grievance under Article 14 relates to the same facts as the one based on Article 11. Although the applicants insisted that their grievance under Article 14 merited separate consideration, the Court, having carefully reviewed their arguments, finds that it is more appropriately addressed under Article 11.

A. Admissibility

118. The Government submitted that the applicants had failed to exhaust domestic remedies. They could have brought a claim under section 1 of the 1988 Act and sought compensation for any pecuniary or non-pecuniary damage flowing from the alleged breaches of their right to freedom of peaceful assembly.

119. The applicants submitted that a claim under section 1 of the 1988 Act would have had no chance of succeeding, especially in view of the fact that all legal challenges to mayoral bans of rallies planned by Ilinden had been dismissed by the courts. Moreover, such a claim would have been examined months or even years after the planned events. They had used the only adequate remedy: the possibility to seek judicial review of mayoral bans under the 1990 Meetings and Marches Act.

120. The Court starts by noting that on many occasions the applicants sought judicial review of what they regarded as bans of their rallies. The possibility to do so, envisaged expressly by section 12(6) of the 1990 Meetings and Marches Act (see paragraph 107 above), comes across as the most adequate avenue of redress under the circumstances. However, the national courts, while on some occasions taking note of this Court’s rulings in previous cases concerning Ilinden, consistently found against the applicants, on varying grounds (see paragraphs 14, 19, 23, 30, 61, 76, 84, 88, 93 and 97 above). In that connection, the Court reiterates that, for the purposes of exhaustion of domestic remedies, an applicant is not required to try more than one avenue of redress when there are several available (see,

among other authorities, *Hyde Park and Others v. Moldova (nos. 5 and 6)*, nos. 6991/08 and 15084/08, § 33, 14 September 2010).

121. Turning to the avenue suggested by the Government, a claim under section 1(1) of the 1988 Act (see paragraph 111 above), the Court finds that it cannot, in the circumstances, be regarded as an effective remedy, for two reasons. First, the Government have not shown – by, for instance, citing relevant case-law – that such a claim would have had a reasonable prospect of success (see *Zeleni Balkani v. Bulgaria*, no. 63778/00, § 46, 12 April 2007, and *Hyde Park and Others (nos. 5 and 6)*, cited above, § 34 *in fine*). Secondly and more importantly, such a claim cannot be considered as providing sufficient redress in itself, because it can result solely in an award of compensation. In cases where, as here, the authorities, through deliberate actions, prevent a group of individuals or an organisation from holding a rally in the manner chosen by them, the alleged breach of Article 11 cannot be made good exclusively through such an award. If States were able to confine their response to such incidents to the mere payment of compensation, without putting in place effective procedures ensuring the possibility of staging such rallies, it would be possible in some cases for the authorities arbitrarily to deprive groups of individuals and organisations of their right to freedom of peaceful assembly. Were that to be the case, that right, which, along with the rights to freedom of expression and association, and the right to take part in free and fair elections, is one of the essential features of a vigorous and healthy democracy, would be ineffective in practice (see, *mutatis mutandis*, *Petkov and Others v. Bulgaria*, nos. 77568/01, 178/02 and 505/02, § 79, ECHR 2009-..., with further references). Indeed, where assemblies are concerned, and provided their organisers give timely notice to the authorities, the notion of an effective remedy implies the possibility of obtaining a determination of a legal challenge to a ban before the time of the planned event (see *Cisse v. France*, no. 51346/99, § 32 *in fine*, 9 April 2002; *Ivanov and Others*, cited above, § 74; *Zeleni Balkani*, cited above, §§ 44 and 45; *Bączkowski and Others v. Poland*, no. 1543/06, § 81, 3 May 2007; and *Alekseyev v. Russia*, nos. 4916/07, 25924/08 and 14599/09, § 98, 21 October 2010).

122. The Government's objection must therefore be dismissed.

123. The Court further considers that this 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.

B. Merits

124. The Government submitted that all rallies planned by Ilinden had in fact taken place. As the time and the place of those rallies had coincided with official ceremonies celebrating historical events, the authorities had tried to balance the rights of the applicants with those of the other

organisations and participants in those events. The authorities had complied with their positive obligations under Article 11 and had ensured that the events proceeded smoothly.

125. The applicants submitted that the Government's observations were almost entirely based on a report drawn up by the Blagoevgrad police. Given that it was precisely that police force who had on a number of occasions interfered with the applicants' rights and exerted pressure on Ilinden's members, the evidential value of that document was open to doubt. The applicants went on to say that the breaches of their right to freedom of peaceful assembly found by the Court in *Stankov and the United Macedonian Organisation Ilinden, United Macedonian Organisation Ilinden and Ivanov* and *Ivanov and Others* (cited above) had persisted during the period 2004-09. The Court's findings in those cases held good for the events in issue in the present case as well. The authorities had continued to give the same unspecific and repetitive grounds for interfering with Ilinden's rallies despite the fact that such grounds had already been found inadequate by the Court. On certain occasions, such as that on 12 September 2004, the authorities had failed to prevent aggressive counter-demonstrators from disrupting Ilinden's rallies.

126. The Court notes the differences between the parties' accounts of how the various rallies under consideration actually unfolded. It observes that on every occasion when Ilinden wished to hold a rally at Yane Sandanski's grave near the Rozhen Monastery, the Mayor of Sandanski imposed restrictions on the timing and manner of organisation of its events (see paragraphs 9, 28, 50, 72-74 and 96 above). In April 2007 the Regional Governor of Blagoevgrad imposed an outright ban on the rally (see paragraph 78 above). With the notable exception of a rally in July 2006 (see paragraph 56 above), the Mayor of Petrich systematically banned or imposed restrictions on the events which Ilinden sought to organise in the Samuilova Krepost area (see paragraphs 18, 41 and 87 above). In Blagoevgrad, between 2004 and 2007 the Mayor systematically banned the events planned by Ilinden (see paragraphs 13, 22, 34, 44, 53, 58, 60, 62, 82 and 91 above). On a number of occasions, the Blagoevgrad police issued orders to members and supporters of Ilinden not to organise or take part in rallies (see paragraphs 15, 38, 45, 54, 85, 104 and 106 above). On several occasions, the Blagoevgrad police arrested participants in rallies and seized materials from them (see paragraphs 46, 94, 104 and 106 above). On one occasion, participants in a rally were fined (see paragraph 95 above).

127. Those measures were clearly aimed at hindering or even altogether preventing the events planned by Ilinden. While in many cases not actually impeding the holding of those events, they undoubtedly had a chilling effect on the individuals concerned and on the other participants in the rallies and thus amounted, in themselves, to interferences with the applicants' right to freedom of assembly (see *Stankov and the United Macedonian*

Organisation Ilinden, §§ 79-80; *United Macedonian Organisation Ilinden and Ivanov*, § 101; and *Bączkowski and Others*, §§ 66-68, all cited above).

128. The Court observes in that connection that an interference does not need to amount to a outright ban, legal or *de facto*, but can consist in various other measures taken by the authorities. The term “restrictions” in Article 11 § 2 must be interpreted as including both measures taken before or during an assembly, and those, such as punitive measures, taken after that (see *Ezelin v. France*, 26 April 1991, § 39, Series A no. 202). For instance, a prior ban can have a chilling effect on the persons who intend to participate in a rally and thus amount to an interference, even if the rally subsequently proceeds without hindrance on the part of the authorities (see *Bączkowski and Others*, cited above, §§ 66-68). A refusal to allow an individual to travel for the purpose of attending a meeting amounts to an interference as well (see *Djavit An v. Turkey*, no. 20652/92, §§ 59-62, ECHR 2003-III). So do measures taken by the authorities during a rally, such as a dispersal of the rally or arrests of participants (see *Oya Ataman v. Turkey*, no. 74552/01, §§ 7 and 30, ECHR 2006-XIII, and *Hyde Park and Others (nos. 5 and 6)*, cited above, §§ 9, 13, 16, 41, 44 and 48), and penalties imposed for having taken part in a rally (see *Ezelin*, cited above, § 41; *Osmani and Others v. “the former Yugoslav Republic of Macedonia”* (dec.), no. 50841/99, ECHR 2001-X; *Mkrtchyan v. Armenia*, no. 6562/03, § 37, 11 January 2007; *Galstyan v. Armenia*, no. 26986/03, §§ 100-02, 15 November 2007; *Ashughyan v. Armenia*, no. 33268/03, §§ 75-77, 17 July 2008; and *Sergey Kuznetsov v. Russia*, no. 10877/04, § 36, 23 October 2008).

129. Such interference gives rise to a breach of Article 11 unless it can be shown that it was “prescribed by law”, pursued one or more legitimate aims as defined in paragraph 2 and was “necessary in a democratic society” to achieve those aims.

130. The Court has certain misgivings as to whether the interferences were “prescribed by law”, for several reasons. First, no legal basis has been cited for the arrests and seizures made by the police during certain rallies (see paragraphs 46, 94, 104 and 106 above, as well as, *mutatis mutandis*, *Djavit An*, cited above, § 66). Secondly, on a number of occasions the Mayor of Blagoevgrad relied on the fact that Ilinden was not registered to ban its rallies (see paragraphs 13, 22, 34, 53, 62, 82 and 91 above), even though this was not an express requirement of the law (see paragraph 107 above, as well as *Stankov and the United Macedonian Organisation Ilinden*, § 81, and *United Macedonian Organisation Ilinden and Ivanov*, § 108, both cited above). While on some occasions the domestic courts ruled that that did not amount to a valid ground for such bans (see paragraphs 61, 84 and 93 above), on others they required proof of Ilinden’s registration in order to accept for examination its legal challenges against the bans (see paragraph 23 above). Thirdly – with regard to the rally banned by the Regional Governor of Blagoevgrad (see paragraph 78 above) – the 1990 Meetings

and Marches Act envisages no role for regional governors in the policing of rallies (see paragraph 107 above); moreover, in banning the rally the Regional Governor likewise relied on some clearly irrelevant grounds, such as UMO Ilinden – PIRIN’s lack of registration. Fourthly, section 62(1) of the 1997 Ministry of Internal Affairs Act, which served as a basis for the orders issued by the police, was formulated very generally and gave no indication of the circumstances in which the police could use the power conferred on them (see paragraph 108 above and, *mutatis mutandis*, *United Macedonian Organisation Ilinden and Ivanov*, cited above, § 109). The same goes for section 55(1) of the 2006 Ministry of Internal Affairs Act, which superseded that provision on 1 May 2006. Lastly, the fines imposed by the mayor of Blagoevgrad were later annulled by the courts (see paragraph 95 above).

131. However, the Court does not consider it necessary to determine whether the interferences were “prescribed by law” or pursued a legitimate aim, as it finds, for the reasons set out in the following paragraphs, that they cannot be regarded as being “necessary in a democratic society” (see *Alekseyev*, cited above, § 69).

132. On that point, the Court starts by noting that in three consecutive judgments it has found interferences almost identical to those in the present case not to be necessary in a democratic society and thus to be in breach of Article 11 (see *Stankov and the United Macedonian Organisation Ilinden*, §§ 91-112; *United Macedonian Organisation Ilinden and Ivanov*, § 113-17; and *Ivanov and Others*, §§ 63-65, all cited above).

133. The instances in which the authorities in effect banned the rallies which Ilinden wished to hold during the period 2004-09 present no material difference. The mayors of Blagoevgrad and Petrich relied on essentially the same grounds as those given to ban such rallies previously: the organisation’s unregistered status, conjectural threats to public order, the holding of events of other organisations and/or the authorities at the same time and place, and lastly, Ilinden’s controversial statements on issues perceived as sensitive (see paragraphs 13, 18, 22, 34, 41, 44, 53, 58, 60, 62, 82, 87 and 91 above). On at least three occasions the courts, while acknowledging the right to freedom of assembly in principle, also relied on such grounds (see paragraphs 61, 84 and 93 above). So did the Regional Governor of Blagoevgrad (see paragraph 78 above). The fact that the national authorities should rely on grounds which the Court had, at the time when those authorities made their decisions, already found problematic is indicative of a troubling disregard for the Court’s judgments and the applicants’ right to freedom of peaceful assembly (see, *mutatis mutandis*, *Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (no. 2)* [GC], no. 32772/02, §§ 83-88, ECHR 2009-..., and *United Macedonian Organisation Ilinden and Ivanov*, cited above, § 116).

134. On those occasions when the mayors did not ban the rallies, but only imposed restrictions as to their time, duration, place and manner, they either did not give any reasons, or briefly referred to the holding of other events at the same time and place without specifying why the simultaneous holding of two events would be impossible or why the specific restrictions envisaged were considered necessary (see paragraphs 9, 28, 50, 72-74 and 96 above, as well as *Hyde Park and Others v. Moldova* (no. 2), no. 45094/06, § 26, 31 March 2009, and *Hyde Park and Others v. Moldova* (no. 4), no. 18491/07, § 53, 7 April 2009). Likewise, on a number of occasions the police, without giving any reasons, ordered members and supporters of Ilinden to refrain from organising or taking part in commemorative rallies (see paragraphs 46, 94, 104 and 106 above and, *mutatis mutandis*, *Ivanov and Others*, cited above, § 63). Even if there was a risk of clashes between participants in Ilinden's rallies and counter-demonstrators, it was the task of the police to stand between the two groups and to ensure public order, as was shown in fact to be possible. That reason for interfering with the applicants' right to freedom of assembly could not therefore be considered as relevant and sufficient (see *Stankov and the United Macedonian Organisation Ilinden*, cited above, §§ 94 and 107, and *Christian Democratic People's Party v. Moldova* (no. 2), no. 25196/04, § 28, 2 February 2010).

135. The Court further notes with concern that in September 2007 and in May and September 2009 the police in Blagoevgrad toughened their approach, arresting participants in Ilinden's rallies without citing any grounds for the arrests and without any violent behaviour warranting such measures, and, on one occasion, fining them (see paragraphs 46, 94, 95, 104 and 106 above). While the fines were later set aside by the courts (see paragraph 95 above), they doubtlessly had a chilling effect and discouraged those concerned from taking part in similar rallies in the future (see, *mutatis mutandis*, *Balçık and Others v. Turkey*, no. 25/02, § 41, 29 November 2007, and *Nurettin Aldemir and Others v. Turkey*, nos. 32124/02, 32126/02, 32129/02, 32132/02, 32133/02, 32137/02 and 32138/02, § 34, 18 December 2007).

136. The above leads the Court to conclude that, with several exceptions, the authorities persisted with the practice of imposing bans on Ilinden's rallies, and that those bans were not necessary in a democratic society (see *Stankov and the United Macedonian Organisation Ilinden*, § 109, and *United Macedonian Organisation Ilinden and Ivanov*, § 114, both cited above).

137. There has therefore been a violation of Article 11 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

138. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

139. The applicants claimed 9,000 euros (EUR) in respect of the non-pecuniary damage flowing from the alleged breach of their right to freedom of peaceful assembly. They submitted that that amount, which was fifty percent higher than the amounts awarded in *Stankov and the United Macedonian Organisation Ilinden* and *United Macedonian Organisation Ilinden and Ivanov* (both cited above), was justified in view of the systemic and persistent nature of the breach of their right to freedom of assembly, which had lasted more than twenty years and had continued unabated – and had even intensified – despite two judgments of the Court. The applicants further claimed EUR 3,000 in respect of the alleged breach of their right not to be discriminated against. They requested that any amounts awarded under those heads be paid into the bank account of the second applicant.

140. The Government submitted that the finding of a violation would amount to sufficient just satisfaction, and that the amounts claimed by the applicants were exorbitant. In their view, the amount of any award should not exceed the sums awarded in similar cases and should take into account the living standard in Bulgaria.

141. The Court observes that the only violation found in the present case was that of Article 11 of the Convention. An award of just satisfaction can therefore be based only on the fact that the applicants were hindered in the exercise of their right to freedom of assembly (see, *mutatis mutandis*, *Zanghi v. Italy* (Article 50), 10 February 1993, § 12, Series A no. 257-A). That said, it cannot be overlooked that there was a series of such interferences during a period of five years that followed two judgments in which the Court found that previous similar interferences had been in breach of Article 11 of the Convention. The applicants therefore had reason to feel a heightened sense of distress and frustration (see, *mutatis mutandis*, *Burdov v. Russia (no. 2)*, no. 33509/04, § 156, 15 January 2009). In these circumstances, the Court awards the amount claimed by them in that respect (EUR 9,000) in full. To that amount is to be added any tax that may be chargeable.

B. Costs and expenses

142. The applicants sought reimbursement of EUR 800 incurred in fees for twenty hours of work by employees of their representative on the proceedings before the Court, at EUR 40 per hour. They submitted a fee agreement between them and their representative and a time sheet. They also sought reimbursement of 866.09 Bulgarian leva (BGN) incurred for the translation of their observations into an official language. They requested that any amount awarded under those heads be paid directly into the bank account of their representative.

143. The applicants further sought reimbursement of BGN 203 incurred for the translation of documents, BGN 96.43 for postage, and BGN 93 for transportation in connection with the proceedings for judicial review of the fines imposed on them on 22 October 2007. They submitted invoices, postal receipts and transportation tickets. They requested that any amount awarded in respect of those items be paid into the bank account of the second applicant.

144. The Government submitted that the fees claimed were excessive. Only expenses duly supported by documents were to be allowed.

145. According to the Court's case-law, costs and expenses can be awarded under Article 41 only if it is established that they were actually and necessarily incurred and are reasonable as to quantum. In the present case, having regard to the information in its possession and the above criteria, the Court considers it reasonable to award the applicants the full amount claimed by them. Converted into euros, it comes to EUR 1,443.47. To that amount should be added any tax that may be chargeable to the applicants. EUR 1,242.82 of it is to be paid into the bank account of the applicants' representative, the Bulgarian Helsinki Committee, and the remaining EUR 200.65 into the bank account of the second applicant, Mr Y. Ivanov.

C. Default interest

146. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 11 of the Convention;

3. *Holds*

(a) that the respondent State is to pay the applicants, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Bulgarian levs at the rate applicable on the date of settlement:

(i) EUR 9,000 (nine thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 1,443.47 (one thousand four hundred and forty-three euros and forty-seven cents), plus any tax that may be chargeable to the applicants, in respect of costs and expenses, EUR 1,242.82 (one thousand two hundred and forty-two euros and eighty-two cents) of which is to be paid into the bank account of the applicants' representative, the Bulgarian Helsinki Committee, and the remaining EUR 200.65 (two hundred euros and sixty-five cents) into the bank account of the second applicant, Mr Y. Ivanov;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicants' claim for just satisfaction.

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