



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

FIFTH SECTION

**CASE OF THE UNITED MACEDONIAN ORGANISATION
ILINDEN AND OTHERS v. BULGARIA (No. 3)**

(Application no. 29496/16)

JUDGMENT

STRASBOURG

11 January 2018

FINAL

11/04/2018

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 Others v. Bulgaria (No. 3),

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

Angelika Nußberger, *President*,

Erik Møse,

André Potocki,

Síofra O’Leary,

Gabriele Kucsko-Stadlmayer,

Lətif Hüseyinov, *judges*,

Maiia Rousseva, *ad hoc judge*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 5 December 2017,

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

PROCEDURE

1. The case originated in an application (no. 29496/16) 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 27 April 2016. The applicants were the United Macedonian Organisation Ilinden (“Ilinden”), a non-governmental organisation based in south-west Bulgaria, in an area known as the Pirin region or the geographic region of Pirin Macedonia; Mr Yordan Kostadinov Ivanov, a Bulgarian national born in 1932 and living in Sandanski, who is Ilinden’s chairman; and Mr Ivan Dimitrov Hadzhiev, a Bulgarian national born in 1969 and living in Sofia, who is a member of Ilinden’s board of management.

2. The applicants were represented by Mr K. Kanev, chairman of the Bulgarian Helsinki Committee, a non-governmental organisation based in Sofia. On 15 January 2016 the President of the Section gave Mr Kanev leave to represent the applicants in all pending and future cases in which he personally acts as a representative (Rule 36 § 4 (a) *in fine* of the Rules of Court). The Bulgarian Government (“the Government”) were represented by their Agent, Ms M. Dimitrova, and by Ms B. Simeonova, junior expert, both of the Ministry of Justice.

3. The applicants alleged that the Bulgarian courts’ refusal to register Ilinden had been in breach of their right to freedom of association. They also alleged that the refusal, which had in their view been based on the Bulgarian State’s policy to deny the existence of a Macedonian minority in Bulgaria, had been discriminatory.

4. On 13 September 2016 Mr Yonko Grozev, the judge elected in respect of Bulgaria, withdrew from sitting in the case (Rule 28 § 3). Accordingly, on 19 October 2017 the President selected Ms Maiia Rousseva as *ad hoc* judge from the list of five persons whom the Republic of Bulgaria had designated as eligible to serve in that office (Article 26 § 4 of the Convention and Rule 29 § 1 (a)).

5. Meanwhile, on 30 August 2016 the Court decided to give priority to the application (Rule 41) and on 5 October 2016 decided to give the Government notice of it.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Background

6. The background to the refusal to register Ilinden at issue in this case has been set out in detail in the judgments in the following cases: *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, ECHR 2001-IX; *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*, no. 44079/98, 20 October 2005; *United Macedonian Organisation Ilinden-PIRIN and Others v. Bulgaria*, no. 59489/00, 20 October 2005; *Ivanov and Others v. Bulgaria*, no. 46336/99, 24 November 2005; *United Macedonian Organisation Ilinden and Others v. Bulgaria*, no. 59491/00, 19 January 2006; *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria (no. 2)*, no. 37586/04, 18 October 2011; *United Macedonian Organisation Ilinden and Others v. Bulgaria (no. 2)*, no. 34960/04, 18 October 2011; *Singartiyski and Others v. Bulgaria*, no. 48284/07, 18 October 2011; and *United Macedonian Organisation Ilinden-PIRIN and Others v. Bulgaria (no. 2)*, nos. 41561/07 and 20972/08, 18 October 2011.

B. The 2012 refusal to register Ilinden

7. On 27 September 2010 Ilinden's board of management applied to the Blagoevgrad Regional Court for it to be registered as an association. On 3 February 2012 the Blagoevgrad Regional Court refused the application, and on 23 April 2012 its decision was upheld by the Sofia Court of Appeal. A detailed account of those proceedings may be found in *Yordan Ivanov and Others v. Bulgaria* (no. 70502/13, §§ 8-18, 11 January 2018).

C. The 2014-15 refusal to register Ilinden

8. On 23 March 2014 the second and third applicants and seven other people held a meeting at which they resolved to set up Ilinden as an association. They defined Ilinden's aims and the means that it would use to attain them, adopted its articles of association, and elected its board of management, which consisted of all nine of them.

9. Shortly after that, Ilinden's board of management applied to the Blagoevgrad Regional Court for it to be registered as an association.

10. In a decision of 30 June 2014 (реш. № 2768 от 30.06.2014 г. по ф. д. № 36/2014 г., БОС) the Blagoevgrad Regional Court refused the application. It first observed that even though Ilinden had declared that it intended to be an association which only served the interests of its members, its aims, as set out in its articles of association, showed that in reality it meant to serve broader public interests (see paragraph 23 below). The court went on to note that Ilinden's articles of association stated that it would strive for, *inter alia*, the introduction of the Macedonian language in schools, the protection of the right of Macedonians to refute propaganda about their history and culture, and the protection of Macedonian cultural heritage, which was being "subjected to ethnocide by Bulgarian cultural institutions". The articles of association also stated that Ilinden would organise seminars and press conferences to expose the reasons which underlay the "policy of forced assimilation and discrimination of, and xenophobia towards, Macedonians in Bulgaria". According to the articles of association, Ilinden was a "Macedonian organisation based on a Macedonian ethnic foundation and origin within the boundaries of Bulgaria", and it "would remind [people] of the terror perpetrated by Bulgaria, of the thousands of Macedonians killed, of the violence, the prisons and the deprivation of basic human rights and freedoms of Macedonians after 1913, which amounted to crimes under international law". For the court, all those statements gave the impression that Ilinden intended to stir up national and ethnic hatred, contrary to Article 44 § 2 of the Constitution (see paragraph 21 below). Moreover, the statements, combined with the existence, albeit brief, of a political party called the United Macedonian Organisation Ilinden-PIRIN, whose re-registration had recently been refused, and with the existence of organisations bearing the same or similar names, led to the conclusion that the intention was to mislead society and to obtain the registration of an organisation pursuing political aims (see paragraphs 18-20 below), or an organisation directed against the unity of the nation. This was also contrary to section 7(2) of the Non-Profit Legal Persons Act 2000 (see paragraph 24 below), which barred associations from having misleading names. Lastly, the association's intended name was not unique, as required by law.

11. Ilinden's founders appealed. They submitted that the court had misconstrued Ilinden's articles of association and had erred in finding that its activities would be political or directed against the unity of the nation. The real reason for the refusal to register Ilinden had been that it advocated views which were at odds with the official ones.

12. In a decision of 18 November 2015 (пеш. № 2272 от 18.11.2015 г. по ф. д. № 2968/2014 г., CAC, TO) a three-member panel of the Sofia Court of Appeal upheld the refusal to register Ilinden by two votes to one.

13. The court began by saying that when assessing the aims of an association seeking registration, it had to base itself chiefly on the articles of association. But since by law in registration proceedings the court had to examine the reality of the matter rather than carry out a mere formal check, it had to have regard not just to the aims set out in the articles of association, but to the entirety of the articles, and on that basis ascertain the founders' real aims and intentions. The court also had to bear in mind the traditions which the association purported to represent and the historical figures with which it identified, the past activities, if known, of its founders, leaders and supporters, as well as the positions they had advocated. All those elements had to be juxtaposed with the aims set out in the articles of association, with a view to verifying whether those aims were not in effect a cover for other aims. In doing so, and thus balancing the rights of the founders of the association against the rights of others and the public interest, the court could rely not only on the material in the case file but also on facts which were publicly known and of which it could therefore take judicial notice.

14. In Ilinden's case, it had been common knowledge, sufficiently publicised in both Bulgarian and foreign media, that since 1990 some of its founders, leaders and supporters had in a persistent manner openly challenged both those who had opposed their views and the State authorities, which had led to a string of breaches of public order – clashes between Ilinden's supporters and their opponents on account of the views expressed by the former about Macedonian history – reported in the media. Seen against that background, the declaration in Ilinden's articles of association that people of any ethnicity could become members did not reflect the reality of the situation, which was that the organisation had been conceived as one based purely on Macedonian ethnicity. The same went for the declaration in the articles of association that Ilinden would only resort to peaceful means to achieve its aims. This had been belied by the organisation's record of provoking its opponents and the State authorities by making strongly worded statements about violence against Macedonians - such statements had featured in its articles of association as well - which had led to real public clashes. The court had to also take into account the complex ethnic and religious situation in some neighbouring countries, as well as the severe migrant crisis affecting all of Europe and Bulgaria in particular, as a front-line State of the European Union. That

crisis, coupled with the “recent, likewise commonly known, tragic events in Central European countries”, showed a categorical need to mobilise all available State and social resources.

15. In those circumstances, the application to register Ilinden had to be turned down for two reasons. Firstly, the pursuit of its real aims, seen against the backdrop of the heightened sensitivities of the population in Pirin Macedonia, where it was based, could have led to serious tensions and breaches of public order caused by, or involving, supporters of the organisation, as had happened in the past. In the tense situation facing Bulgaria and its neighbouring States, that had to be seen as a genuine possibility. Secondly, the realisation of Ilinden’s right to freedom of association would infringe the rights of all Bulgarians who did not support its aims or the means which it intended to use to attain those aims. All were entitled to believe that they were not citizens of a State which had committed international crimes, that they did not engage, in their capacity as Bulgarian citizens, in propaganda and manipulation of the history and culture of a neighbouring country and that they were not citizens of a State whose institutions had subjected the cultural heritage of part of its population to ethnocide. The Sofia Court of Appeal concluded that it was necessary to refuse the registration application, even though it recognised that it was also possible to dissolve an already registered association if it engaged in anti-constitutional or unlawful conduct. The refusal was a justified preventive measure.

16. The dissenting judge noted that Ilinden’s founders had complied with all formal requirements of the law. She went on to say that the registration regime was not to be used to hinder the exercise of the fundamental right to associate with others, and that the case called for the direct application of Article 11 of the Convention, which was part of Bulgarian law. She then noted how that Article had been construed by the European Court of Human Rights in several cases, including *United Macedonian Organisation Ilinden-PIRIN and Others* and *United Macedonian Organisation Ilinden and Others* (both cited above), and stated that, in her view, the fact that an association advocated a form of minority consciousness could not justify a restriction of its rights under that Article. The Court’s ruling on that point in *Stankov and the United Macedonian Organisation Ilinden* (cited above) had to be taken into account when examining the registration request at issue. There was, moreover, no evidence of actions by Ilinden’s founders which ran counter to the prohibition in Article 44 § 2 of the Constitution (see paragraph 21 below). The refusal to register it was thus disproportionate and unjustified.

17. Ilinden’s founders sought to appeal on points of law. On 22 February 2016 the judge-rapporteur of the Sofia Court of Appeal, who under the relevant rules of procedure had to check the appeal’s admissibility before forwarding it to the Supreme Court of Cassation, sent it back to the

appellants. He noted that under the applicable rules of procedure, as consistently construed by the Supreme Court of Cassation, no appeal lay against appellate decisions confirming refusals to register an association. In a final decision of 15 July 2016 (опр. № 317 от 15.07.2016 г. по ч. т. д. № 1062/2016 г., БКЦ, I т. о.) the Supreme Court of Cassation dismissed the founders' appeal against the judge-rapporteur's order. It likewise found that under the applicable rules of procedure, which it had already construed in several cases, the Sofia Court of Appeal's decision was not amenable to appeal.

II. RELEVANT DOMESTIC LAW AND PRACTICE

18. Pursuant to Article 12 § 2 of the Constitution of 1991, associations may not pursue political goals or carry out political activities that are characteristic solely of political parties.

19. In a decision of 21 April 1992 (реш. № 4 от 21.04.1992 г. по к. д. № 1/1991 г., обн., ДВ, бр. 35/1992 г.) the Constitutional Court held, *inter alia*, that “political activities that are characteristic solely of political parties”, within the meaning of Article 12 § 2, were defined by Article 11 § 3 of the Constitution as those which facilitate “the formation of the citizens' political will” through “elections or other democratic means”. The court went on to say that “what was essential for this type of political activity [was] direct participation in the process of forming the bodies through which, according to the Constitution, the people exercise[d] power”. The court also held that the activities of a political party in connection with upcoming elections encompassed the holding of rallies, assemblies and other forms of public campaigning in support of the party and the candidates nominated by it, which were also activities aimed at “forming” the citizens' political will.

20. In January 2015 the plenary meeting of the Supreme Court of Cassation's Commercial Section asked the Constitutional Court to give a binding interpretation of Article 12 § 2. In a decision of 17 March 2015 (опр. № 1 от 17.03.2015 г. по к. д. № 1/2015 г., обн., ДВ, бр. 23/2015 г.), the Constitutional Court declined the request. It held that it had not been shown, as required under its case-law, that there were divergences in the application of that provision, and that it was only competent to give a binding interpretation of a constitutional provision if there was a duly established uncertainty in its meaning.

21. Pursuant to Article 44 § 2 of the Constitution, organisations whose activities are directed against the country's sovereignty or territorial integrity or against the nation's unity, or which aim to stir up racial, national, ethnic or religious hatred, or to violate the rights and freedoms of others, as well as organisations creating secret or paramilitary structures, or which seek to attain their goals through violence, are prohibited.

22. The Non-Profit Legal Persons Act 2000 governs the formation, registration, organisation, activities and winding-up of non-profit legal persons, such as associations and foundations.

23. Under section 2(1), non-governmental organisations can freely establish their aims and can define themselves as organisations pursuing public or private interests. Organisations which pursue the public interest enjoy tax privileges (section 4), but are in return subject to heightened regulation of their aims and the spending of their assets (sections 38(1) and 41), and to additional reporting and control requirements (sections 40 and 46).

24. Pursuant to section 7(2), the name of an association must not be misleading or run counter to good morals.

III. RELEVANT DECISIONS OF THE COMMITTEE OF MINISTERS

25. At its 1214th meeting from 2 to 4 December 2014, the Committee of Ministers of the Council of Europe examined the state of execution of the Court's judgments in *United Macedonian Organisation Ilinden and Others* and *United Macedonian Organisation Ilinden and Others (no. 2)* (both cited above). Taking into account, *inter alia*, the Blagoevgrad Regional Court's decision in the present case (see paragraph 10 above), as well as its earlier decision, as upheld by the Sofia Court of Appeal in its 2012 case (see paragraph 7 above), the Committee expressed regret that the awareness-raising measures taken by the Bulgarian authorities had proved insufficient to prevent the refusal to register Ilinden on grounds already criticised by the Court (point 1 of the decision), emphasised the importance of the present case, which was at that time pending before the Sofia Court of Appeal, being examined fully in line with the requirements of Article 11 of the Convention, as clarified by this Court in the two above-mentioned judgments (point 2 of the decision), and decided to place the execution of those judgments under enhanced supervision (point 4 of the decision).

26. At its 1265th meeting from 20 to 21 September 2016, the Committee again examined the state of execution of the two judgments. Taking into account, *inter alia*, the Sofia Court of Appeal's decision in the present case (see paragraphs 12-15 above), the Committee noted with concern that the 2014-15 refusal to register Ilinden had been based, at least in part, on grounds already criticised by this Court (point 1 of the decision).

27. At its 1288th meeting from 6 to 7 June 2017 the Committee once more examined the state of execution of the two judgments. Taking into account the Blagoevgrad Regional Court's and the Sofia Court of Appeal's decisions in the present case (see paragraphs 10 and 12-15 above), as well as their earlier decisions in the 2012 case (see paragraph 7 above), it expressed deep concern that since *United Macedonian Organisation Ilinden and Others* (cited above) had become final in 2006, Ilinden had been

refused registration on three occasions, in part on grounds already criticised by this Court (point 1 of the decision).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

28. The applicants complained that the Bulgarian courts' 2014-15 refusal to register Ilinden had been in breach of Article 11 of the Convention, which provides, in so far as relevant:

“1. Everyone has the right ... to freedom of association with others ...

2. No restrictions shall be placed on the exercise of [this right] 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. ...”

A. The parties' submissions

29. The Government did not make submissions on the merits of the complaint. They invited the Court to rule in the light of the reasons given by the Bulgarian courts.

30. The applicants submitted that the reasons given by the Sofia Court of Appeal to uphold the refusal to register Ilinden had been arbitrary, insufficient and contrary to this Court's case-law under Article 11 of the Convention. The Sofia Court of Appeal had not properly explained the link between, on the one hand, the allegedly tense situation in some unidentified “neighbouring States” and the migrant crisis affecting Europe and, on the other hand, Ilinden's registration. Nor had it duly substantiated its finding that the applicants had caused breaches of public order, basing it on a mixture of speculation and hostile propaganda by the Bulgarian media. The applicants noted that it was them who had in the past fallen victim to provocations by nationalist groups and violent acts by law-enforcement officers. The Sofia Court of Appeal had also overstated the meaning of the statements contained in Ilinden's articles of association in relation to the treatment to which Macedonians had been subjected in the past. Ilinden had not levelled allegations in that respect against ordinary Bulgarians but against nationalist groups and the public authorities. Moreover, contrary to the position of the Sofia Court of Appeal, the mere inclusion of such statements in the articles of association had not restricted the possibility for others not to believe them. The approach of that court had been contrary to

pluralism and to the possibility, in a democratic society, to express opinions which offended, shocked and disturbed.

B. The Court's assessment

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

32. The refusal to register Ilinden amounted to a “restriction” of both its and its members’ right to freedom of association (see *United Macedonian Organisation Ilinden and Others* (no. 2), §§ 27 and 30, with further references).

33. There is no need to examine whether that restriction was “prescribed by law” or pursued a legitimate aim (*ibid.*, § 32) because, even assuming that it was and did, it was not “necessary in a democratic society”, for the following reasons.

34. The refusal, as upheld by the Sofia Court of Appeal, was based on two grounds: (a) the risk of tensions in the region where Ilinden was based in the event of its registration, and (b) the right of the majority of Bulgarians not to be exposed to its strong views, which they considered offensive (see paragraphs 10 and 12-15 above). The Court has previously found both of those grounds insufficient to justify bans on Ilinden’s rallies (see *Stankov and the United Macedonian Organisation Ilinden*, cited above, §§ 94 and 106-07). They are equally insufficient to justify a refusal to register it, and there have been no developments since that judgment that could cast doubt on the correctness of its findings.

35. Moreover, the Sofia Court of Appeal based its conclusions about the potential risks resulting from Ilinden’s registration on information, derived from unspecified media sources, of which it took judicial notice (see paragraphs 13 *in fine* and 14 above). It thus deprived the applicants of any opportunity to debate the reliability of that information or its significance for the well-foundedness or otherwise of Ilinden’s registration request. The court also did not explain why it regarded that information as correct and the unspecified media sources from which it had obtained it as reliable. Nor did it properly explain why it regarded the unspecified events and situations to which it referred – including the ethnic and religious tensions in unnamed neighbouring countries and the migrant crisis then affecting Europe – as so closely connected with the perceived risks resulting from Ilinden’s registration (see paragraph 14 *in fine* above). The Sofia Court of Appeal did not therefore base its decision to uphold the refusal to register Ilinden on an solid assessment of the relevant facts, or provide convincing and compelling reasons for that decision, as required under this Court’s case-law (see, among other authorities, *United Communist Party of Turkey and Others v. Turkey*, 30 January 1998, § 47 *in fine*, *Reports of Judgments and*

Decisions 1998-I; *Sidiropoulos and Others v. Greece*, 10 July 1998, § 40 *in fine*, *Reports* 1998-IV; and *United Macedonian Organisation Ilinden and Others*, cited above, § 62 *in fine*).

36. There has therefore been a breach of Article 11 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION

37. The applicants complained that the refusal to register Ilinden, which had in their view been based on the Bulgarian State's policy to deny the existence of a Macedonian minority, had been discriminatory. They relied on Article 14 of the Convention, which provides:

"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."

A. The parties' submissions

1. The Government

38. The Government submitted that the applicants had failed to exhaust domestic remedies. They had not attempted to bring proceedings under the Protection Against Discrimination Act 2003 to seek a declaration that they had been discriminated against and damages. In the Government's view, the fact that the alleged discrimination had resulted from a judicial decision had not been a bar to relief under the 2003 Act. In the applicants' case the decisions of the Blagoevgrad Regional Court and the Sofia Court of Appeal had been given in non-contentious registration proceedings, and under Bulgarian law did not enjoy *res judicata*, as illustrated by the fact that those decisions had not precluded further registration requests by the same organisation. A claim under the 2003 Act in relation to those decisions had hence not been inconceivable. Mere doubts as to whether a domestic remedy was likely to be effective was not an excuse to eschew it.

39. The Government went on to say that if the Court were to find the complaint admissible, it should follow its previous rulings in similar cases and hold that there was no need to examine it separately.

2. The applicants

40. The applicants submitted that although the Commission for Protection Against Discrimination and the administrative courts routinely reviewed decisions of the administrative authorities, and although they could conceivably deal with grievances concerning logistical and similar issues relating to courts, such as access to court buildings for disabled

people, it was unimaginable, and against the principle of legal certainty, that they would review the merits of a court decision.

41. The applicants went on to argue that the only reason for the violation of their right to freedom of association had been their Macedonian ethnicity. That was evident from the broader context, and in particular, two elements. The first was the systematic restrictions of their rights under Article 11 of the Convention, as well as the rights of other ethnic Macedonians, during the past two and a half decades, and the second element was the Bulgarian State's policy of denying the existence of a Macedonian ethnic identity in Bulgaria (see *Kiril Ivanov v. Bulgaria*, no. 17599/07, §§ 66-67, 11 January 2018).

B. The Court's assessment

42. The complaint relates to the same facts as the one based on Article 11 of the Convention: the refusal of the Blagoevgrad Regional Court, upheld by the Sofia Court of Appeal, to register Ilinden. Although the applicants insisted that their grievance under Article 14 required separate consideration, especially when seen against the overall background to which they referred, the Court, having carefully reviewed their arguments, does not find this to be the case.

43. In general, the Court examines complaints under Article 14 in addition to those under the substantive Article in conjunction with which it is being relied on only if a clear inequality of treatment in the enjoyment of the right in question is a fundamental aspect of the case and a separate examination is necessary (see, among other authorities, *Airey v. Ireland*, 9 October 1979, § 30, Series A no. 32; *Dudgeon v. the United Kingdom*, 22 October 1981, § 67, Series A no. 45; *X and Y v. the Netherlands*, 26 March 1985, § 32, Series A no. 91; *Chassagnou and Others v. France* [GC], nos. 25088/94 and 2 others, § 89, ECHR 1999-III; *Aziz v. Cyprus*, no. 69949/01, § 35, ECHR 2004-V; *Timishev v. Russia*, nos. 55762/00 and 55974/00, § 53, ECHR 2005-XII; *Moscow Branch of the Salvation Army v. Russia*, no. 72881/01, § 100, ECHR 2006-XI; and *Oršuš and Others v. Croatia* [GC], no. 15766/03, § 144, ECHR 2010).

44. Furthermore, in several cases not materially different from the present one – some of which concerned interferences with the rights of persons asserting an ethnic minority consciousness – the Court, having found a violation of the substantive Convention right at issue, saw no need additionally to deal with the complaint under Article 14 (see, among other authorities, *Sidiropoulos and Others*, cited above, § 52; *Freedom and Democracy Party (ÖZDEP) v. Turkey* [GC], no. 23885/94, § 49, ECHR 1999-VIII; *Emek Partisi and Şenol v. Turkey*, no. 39434/98, § 31, 31 May 2005; *Ivanov and Others*, cited above, § 78; *United Macedonian Organisation Ilinden and Others*, cited above, § 84; *Bekir-Ousta and Others*

v. Greece, no. 35151/05, § 51, 11 October 2007; *Emin and Others v. Greece*, no. 34144/05, § 37, 27 March 2008; *Tourkiki Enosi Xanthis and Others v. Greece*, no. 26698/05, § 63, 27 March 2008; *United Macedonian Organisation Ilinden and Others (no. 2)*, cited above, § 49; and *National Turkish Union and Kungyun v. Bulgaria*, no. 4776/08, § 52, 8 June 2017).

45. The Court sees no reason to depart from that approach in this instance. Having regard to its findings in paragraphs 32-36 above, it finds no need to examine separately the admissibility or merits of the complaint under Article 14 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

46. 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

47. The applicants claimed jointly 20,000 euros (EUR). They pointed out that this was the fourth refusal of the Bulgarian authorities to register Ilinden, and that they had also suffered other breaches of their right to freedom of assembly in relation to their involvement with the organisation.

48. The Government submitted that any award in respect of non-pecuniary damage should be at the same level as those awarded in the previous cases in which Ilinden and its founders had complained of the refusals to register it.

49. The Court notes that an award of just satisfaction must be based on the fact that there has been an unjustified restriction of the applicants' right to freedom of association. Nonetheless, this is the fourth occasion on which Ilinden has been refused registration, on grounds found insufficient by the Court (see *United Macedonian Organisation Ilinden and Others*, §§ 64-79; *United Macedonian Organisation Ilinden and Others (no. 2)*, §§ 35-41; and *Yordan Ivanov and Others*, §§ 41-42, all cited above). In these circumstances, the Court awards the applicants jointly EUR 12,000, plus any tax that may be chargeable.

B. Costs and expenses

50. The applicants sought reimbursement of 430 Bulgarian leva (the equivalent of EUR 220) incurred for the services of their lawyer in the domestic proceedings. They also sought reimbursement of EUR 2,789 in respect of the fees charged by their representative in the proceedings before

the Court for thirty-four of hours of work on the case, at EUR 80 per hour. They requested that any award under this head be made directly payable to the Bulgarian Helsinki Committee. In support of their claim, they submitted two legal fee agreements with their lawyer in the domestic proceedings, a time-sheet for the work of their representative in the proceedings before the Court, and a conditional fee agreement between the first applicant and the Bulgarian Helsinki Committee.

51. The Government submitted that the claim was excessive, especially since the case only raised issues on which the Court's case-law was well-established.

52. According to the Court's settled case-law, costs and expenses are recoverable under Article 41 of the Convention if it is established that they were actually and necessarily incurred and are reasonable as to quantum.

53. Having regard to these principles and the material in its possession, the Court considers it appropriate to award the applicants EUR 220 in respect of the costs which they incurred in the domestic proceedings, and EUR 1,000 in respect of the costs which they incurred in the proceedings before the Court, plus any tax that may be chargeable to them. As requested by the applicants, that latter sum is to be paid directly into the bank account of the Bulgarian Helsinki Committee, where their representative works, and the sum awarded with respect to the domestic costs is to be paid to the applicants.

C. Default interest

54. The Court considers it appropriate that the default interest rate 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 complaint concerning the restriction of the applicants' right to freedom of association admissible;
2. *Holds* that there has been a violation of Article 11 of the Convention;
3. *Holds* that there is no need to examine the admissibility or merits of the complaint under Article 14 of the Convention;

4. *Holds*

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

(i) EUR 12,000 (twelve thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 1,220 (one thousand two hundred and twenty euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses, EUR 1,000 of which is to be paid directly into the bank account of the Bulgarian Helsinki Committee, and the remainder to the applicants;

(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;

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

Done in English, and notified in writing on 11 January 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Angelika Nußberger
President