

Press release issued by the Registrar

CHAMBER JUDGMENT
ASSOCIATION OF CITIZENS RADKO & PAUNKOVSKI v.
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Association of Citizens “Radko” & Paunkovski v. “the former Yugoslav Republic of Macedonia”* (application no. 74651/01).

The Court held, by six votes to one, that there had been a **violation of Article 11** (right to freedom of association) of the European Convention on Human Rights on account of the national authorities’ dissolution of the applicant association.

Under Article 41 (just satisfaction) of the Convention, and by six votes to one, the Court awarded the applicants, jointly, 5,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,000 for costs and expenses. ([The judgment is available in English and French.](#))

1. Principal facts

The applicants are the Association of Citizens “Radko”, and its Chairman, Boris Paunkovski, a national of “the former Yugoslav Republic of Macedonia” and of Bulgaria, who was born in 1954 and lives in Ohrid (“the former Yugoslav Republic of Macedonia”).

The case concerned the dissolution of the applicant association for being unconstitutional and for inciting national or religious hatred and intolerance.

The association, named after Ivan Mihajlov-Radko (leader of the Macedonian Liberation Movement from 1925 to 1990), was officially registered in May 2000. Its articles of association defined it as an independent, non-political and public organisation with the aim of “popularising the objectives, tasks and ideas of the Macedonian Liberation Movement” and/or promoting “the Macedonian cultural space and traditional, ethical and human values”. A leaflet describing the association’s activities stated that the association aims to, among other things, “raise and affirm the Macedonian cultural space, having as its priority the cultural and historical identity of the Slavs from Macedonia who have appeared as Bulgarians throughout the centuries”. The association intended to achieve those aims through its own

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

newspaper, publications, library and website and by organising seminars, conferences and forums.

There was a high-profile campaign in the media against the association, both before and after its official launch on 27 October 2000. Daily newspapers accused the association of fostering terrorism and fascism as advocated by Hitler's collaborator, Vančo Mihajlov (otherwise known as Ivan Mihajlov-Radko). In particular, the then President of "the former Yugoslav Republic of Macedonia", Boris Trajkovski, allegedly stated to the press that "there is no place here for a man who claims that Macedonians are (ethnic) Bulgarians".

In or about October 2000 three lawyers from Skopje, a political party and the Association of War Veterans from the Second World War filed a petition with the Constitutional Court which challenged the constitutionality of the association's articles and programme and the lawfulness of the decision to register the association.

On 21 March 2001 the Constitutional Court annulled the association's articles and programme, finding in particular that "affirmation of the ideas of the Macedonian Liberation Movement, according to the Association, in fact means relief from "Macedonianism", as a Serb-communist doctrine, and from the "imagined Macedonian nation" which was used as an open door for the accession of the whole of Macedonia to Yugoslavia." The Constitutional Court concluded that the programme and the articles of the association "were directed towards the violent destruction of the state order; hindrance of free expression of the national affiliation of the Macedonian people, i.e. negation of its identity and incitement to national or religious hatred or intolerance."

On 16 January 2002 Ohrid Court of First Instance dissolved the association. On 11 February 2002 that decision was upheld on appeal.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 30 July 2001. A hearing on admissibility and the merits took place in public in the Human Rights Building, Strasbourg, on 19 June 2008.

Judgment was given by a Chamber of seven judges, composed as follows:

Peer **Lorenzen** (Denmark), *President*,
Rait **Maruste** (Estonia),
Karel **Jungwiert** (Czech Republic),
Renate **Jaeger** (Germany),
Mark **Villiger** (Liechtenstein),
Isabelle **Berro-Lefèvre** (Monaco),
Mirjana **Lazarova Trajkovska** ("the former Yugoslav Republic of Macedonia"), *judges*,

and also Claudia **Westerdiek**, *Section Registrar*.

3. Summary of the judgment¹

¹ This summary by the Registry does not bind the Court.

Complaints

The applicants complained about the Constitutional Court's decision, claiming that their activities, articles and programme did not advocate violence or the use of anti-democratic or unconstitutional means. They relied on Article 11 (right to freedom of association). Mr Paunkovski further relied on Article 10 (freedom of expression), complaining that the dissolution of the association took away from him the possibility to express his views on the ethnic origin of certain segments of the population and that the then President had been referring to him in his statement to the media.

Decision of the Court

Article 11

The Court noted that the Constitutional Court had not characterised the applicant association as "terrorist" or concluded that it or its members would use illegal or anti-democratic means to pursue their aims. Indeed, there had been nothing in the association's founding acts to indicate that it advocated hostility. In addition, the Constitutional Court had not explained why it had considered a negation of Macedonian ethnicity to be tantamount to violence, especially to violent destruction of the constitutional order, as found in its decision to dissolve the association. Nor had the Government presented any evidence that the applicants had used or had intended to use violent or destructive means for the constitutional order.

On the other hand, it was undisputed that the creation and registration of the association had generated a degree of tension in Macedonian society because of the public's particular sensitivity to the ideology of the association's founder. Naming the Association "Radko", with the offensive connotations that that name implied for the majority of the population, had therefore been likely to arouse hostile feelings.

However, the Court found that the naming of the association after an individual who had been perceived negatively by the majority of the population could not in itself have been considered a present and imminent threat to public order. It considered that there was no concrete evidence to show that the association, by using "Radko" as a name, had opted for a policy that had represented a real threat to Macedonian society or the State and therefore concluded that the dissolution had not been justified, in violation of Article 11.

Article 10

The Court held by six votes to one that it was not necessary to examine separately Mr Paunkovski's complaints under Article 10 as they were closely connected to and difficult to separate from those under Article 11.

Judge Lazarova Trajkovska expressed a dissenting opinion, which is annexed to the judgment.

The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

Press contacts

Tracey Turner-Tretz (telephone: 00 33 (0)3 88 41 35 30)

Paramy Chantalangsy (telephone : 00 33 (0)3 90 21 28 30)

Kristina Pencheva-Malinowski (telephone : 00 33 (0)3 88 41 35 70)

Céline Menu-Lange (telephone : 00 33 (0)3 9021 58 77)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.