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Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1318th meeting (June 2018) (DH)

Item reference: Revised addendum to action plan (12/04/2018)

Communication from Bulgaria concerning the case of UMO ILINDEN AND OTHERS v. Bulgaria (Application No. 59491/00)

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Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1318^e réunion (juin 2018) (DH)

Référence du point : Addendum révisé au plan d'action

Communication de la Bulgarie concernant l'affaire UMO ILINDEN ET AUTRES c. Bulgarie (Requête n° 59491/00) (**anglais uniquement**)

ADDENDUM TO THE ACTION PLAN

UMO Ilinden group of judgments

12 April 2018

DGI

12 AVR. 2018

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

In response to the request of Committee of Ministers to receive information by 29 March 2018 about the measures taken by the authorities for the execution of the abovementioned judgments, we note as follows:

On 8 September 2016, the National Assembly adopted a reform aimed at transferring the competence to register associations from the courts to the Registry Agency attached to the Ministry of Justice. The amendments entered into force on 1 January 2018.

The new provisions contain specific rules aimed at ensuring the impartiality and objectivity of the registration process. A request for registration of an association can be filed with any territorial unit of the Registry Agency and will be examined by an official chosen randomly among all officials working in all territorial units of the Agency. The possibility to submit an electronic request is also available irrespective of the territorial relation of the seat with the respondent territorial unit of the Agency.

The official who has received the request, must assess several circumstances:

- whether a proper application for the requested entry in the register has been submitted;
- whether the circumstance declared is subject to entry; whether the application originated from an authorised person;
- whether all necessary documents have been attached to the application;
- whether the existence of the circumstance declared for entry and its compliance with the law can be established from the documents submitted;
- whether there is a declaration stating that the declared circumstances are truthful;
- the uniqueness of the name of the organisation;
- whether the documents which have to be notarized under law have been submitted to the data base under the Notaries and Notarial Practice Act and
- whether these documents match the information in the data base; and whether the due state fee has been paid.

The Government recall that under Article 2 of the Non-Profit Legal Persons Act associations may freely choose their goals. If there is an omission to submit certain documents, the applicant will receive instructions to supplement his or her request. If, after a period of three days, the request is still incomplete, it will have to be rejected. However, the applicant is entitled to introduce a new request using the documents already submitted in a previous procedure.

In the event of a refusal to register an association, the applicant can lodge an appeal with the regional court within seven days. The appeal shall be examined *in camera* and the decision is appealable to the relevant court of appeal, whose decision shall be final. The decision of the Registry Agency to register an association is not subject to appeal.

In September 2017, an amendment to the Ordinance on keeping, storage and access to the commercial register by the Minister of Justice was issued, renaming the act to Ordinance on keeping, storage and access to the commercial register and the register of non-profit legal persons. New provisions were adopted which envision detailed rules on the forms of applications, the attachments thereto for each type of entry, expungement or disclosure according to the requirements of the law, as well as the format of the electronic documents with regard to the register of non-profit legal persons.

In March 2017, the authorities organised a seminar dedicated to Article 11 of the Convention in the context of the new administrative procedure before the Registry Agency. It was organised with the cooperation of the Department for the Execution of Judgments of the ECHR, the Registry of the European Court of Human Rights, the Ministry of Justice and the National Institute of Justice. The seminar targeted registration officials and judges from appellate and regional levels of jurisdiction, vested with the judicial review of the refusals for registration. The Registry Agency participated with 20 registration officials and the judiciary - with 19 judges.

The seminar aimed at clarifying the precise scope of the review of the lawfulness of the registration request of an association. The agenda of the seminar included the following presentations:

- Presentation of the aims of the reform provided by a member of the working group which had elaborated the reform;
- Presentation on the judicial review to be exercised in the area of administrative registration of associations, provided by a judge from the Sofia Appellate Court;
- Presentation of the ECtHR case-law on Article 11 and the Bulgarian cases as well as the procedure of the execution of the judgments, by representatives of the Registry of the ECHR and the Execution Department;
- Presentation of the Action plan on UMO Ilinden group of judgments.

The presentations were followed by discussions. The participants agreed that the exact scope of the check should be limited only to the presented by the applicant's documents and requirements according to Article 21 of the Commercial Register and Register of Non-Profit Legal Persons Act.

As a follow-up of this seminar and in response to a decision adopted at the 1265th (DH) meeting of the Committee of Ministers, held on 20-21 September 2016 (inviting the authorities to ensure full compliance of the new administrative mechanism for the registration of associations with Art. 11 of the Convention), a training material about the freedom of association guaranteed by Article 11 of the Convention and ECtHR's practice in cases against Bulgaria was drafted and published as well.

The material was prepared by the Directorate "Procedural Representation of the Republic of Bulgaria before the European Court of Human Rights" in relation to the commitments of the Bulgarian government under Art. 46 of the ECHR and the implementation of the group of judgments of the European Court of Human Rights UMO Ilinden and others v. Bulgaria.

In October 2017, the Ministry of Justice, with the cooperation of the Department for the Execution of the Judgments of the ECHR, organised a meeting with registration officials and judges from appellate and regional levels of jurisdiction vested with the judicial review of the refusals for registration. At the meeting, the requirements for registration of non-profit legal persons in light of the new legislation and the related practice of the ECHR, including the present case, were discussed.

According to latest information from the Registry Agency dated March 22, 2018 no application for registration has been submitted by UMO Ilinden.

By the most recent information received from the Registry Agency on 2 April 2018 after an inspection in the information system of the Commercial Register and the Register of Non-Profit Legal Entities it was established that on 19 March 2018, an application for registration has been lodged from the "Association of Repressed Macedonians in Bulgaria Victims of Communist Terror".

The application for registration was duly considered and it was rejected by a decision of 23/03/2018 on formal grounds (inaccuracies and uncertainties in the documents of the association, such as failure to (properly) fill in certain parts of the application, failure to indicate members of the governing body and to provide examples of their signatures, etc.). This refusal to register the "Association of Repressed Macedonians in Bulgaria Victims of Communist Terror" has not been appealed before the competent court.

The Committee of Ministers will be kept informed of any further developments.

12 April 2018
Sofia, Bulgaria