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Meeting: 1377th meeting (June 2020) (DH)

Communication from an NGO (Bulgarian Helsinki Committee) (16/04/2020) in the UMO Ilinden and Others group of cases v. Bulgaria (Application No. 59491/00) and response from the authorities (27/04/2020).

Information made available under Rules 9.2 and 9.6 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1377^e réunion (juin 2020) (DH)

Communication d'une ONG (Bulgarian Helsinki Committee) (16/04/2020) relative au groupe d'affaires UMO Ilinden et autres c. Bulgarie (requête n° 59491/00) et réponse des autorités (27/04/2020)

[anglais uniquement]

Informations mises à disposition en vertu des Règles 9.2 et 9.6 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE

DEPARTMENT FOR THE EXECUTION OF JUDGMENTS

1377 (DH) MEETING OF THE DELEGATES 2-4 JUNE 2020

16 April 2020



OBSERVATIONS

OF THE BULGARIAN HELSINKI COMMITTEE ON THE EXECUTION OF THE GROUP OF JUDGMENTS “UMO ILINDEN AND OTHERS V. BULGARIA”

This group of cases concerns successive refusals of the Bulgarian authorities to register associations, which explicitly state in their statutes that they had been formed to protect the rights of ethnic Macedonians in Bulgaria. The refusals were based on the alleged threat to national security, protection of public order, protection of the rights and freedoms of others, the prohibition of the citizens' associations to pursue political goals and to support independent candidates in elections. The real reasons for the refusals, which in the past were often not explicitly stated in judicial acts, is the denial of the existence of a Macedonian minority in Bulgaria. This has been the official policy of the Bulgarian authorities over the past 60 years, which was condemned by several Council of Europe bodies, most recently by the Commissioner for Human Rights in her report following her visit to Bulgaria in November 2019.¹

In its judgments on this group of cases the European Court of Human Rights (ECtHR, the Court) dismissed all justifications of the Bulgarian courts and found violations of Article 11 of the Convention. It held that the applicants had not advocated violence or other undemocratic means to achieve their goals; that the national courts' labeling of the applicants' prospective activities as “political” in order to deny them registration was excessively restrictive and arbitrary; and that their willingness to support independent candidates in elections is a legitimate means to achieve their goals and should not serve as a ground to deny them registration. It also held that in some cases the national courts had not based their judgments on a solid assessment of the material facts.

These observations are prepared by the Bulgarian Helsinki Committee (BHC), a human rights NGO, which provided legal assistance to the applicants in all the cases in this group, as well as to applicants who were victims in similar cases of restrictions of their freedom of association in Bulgaria. In these observations, the BHC focuses on the developments with the registration of the “UMO Ilinden” and other associations of Macedonians in Bulgaria since the last review of the execution of this group of judgments in September 2019. As regards the underlying

¹ Commissioner for Human Rights of the Council of Europe, Report following her visit to Bulgaria from 25 to 29 November 2019, 31 March 2020, §§ 24-26.

reasons for the refusals of the Bulgarian courts and the Registration Agency to register associations of ethnic Macedonians in Bulgaria, we refer to our observations submitted on 11 July 2019, which remain entirely valid in this respect for the current developments.

In the period under review, UMO Ilinden and several other organisations of Macedonians in Bulgaria made repeated requests for registration in the Registration Agency (RA). All these attempts failed except for one, that of the “Civil Association for the Protection of Fundamental Individual Rights”. Another group, “Ancient Macedonians”, was also registered, although in its statute it does not claim that it is a Macedonian organisation. Its aims are to study the relationships between the ancient and the modern Macedonians. Immediately upon their registration, on 19 November 2019, the Internal Macedonian Revolutionary Organisation (VMRO), a nationalistic political party, which is a coalition partner in the current government, appealed to the Prosecutor General against the registration of both associations. The signal was submitted personally by the Deputy Prime Minister and leader of the VMRO Krassimir Karakachanov. According to him, the two associations had “dangerous similarities to the activity carried out years ago by the OMO Ilinden – PIRIN, a political party, prohibited by the Constitutional Court, namely, dangerous propaganda activities that openly lead to separatism and to carrying out of processes leading to the formation of a minority, which contradicts the Constitution of the Republic of Bulgaria”.² The police and the State Agency for National Security (SANS) began immediate investigations, which included questioning of members of the associations as well as of the attorney who prepared the registration documents. At the same time, a number of pro-government media started a smear campaign against the two organisations without seeking the viewpoint of their representatives.

On 21.11.2019, the Prosecutor General announced that he had been approached by the SANS for the registration of one of the associations, the “Civil Association for the Protection of Fundamental Individual Rights”, which according to him had goals directed against the “unity of the nation” and posed a “threat to the national security”. Therefore, the Prosecutor General referred the inquiry from the SANS to the Blagoevgrad District Prosecutor's Office, which filed a petition for termination of the association. The petition was uploaded on the prosecutor's office's website.³ Normally, the prosecution would provide such a publicity for its acts very rarely and only in cases, which it considers to be of utmost significance. The petition seeks termination of the association for carrying out activities against the “unity of the nation” in violation of Article 44, para. 2 of the Constitution because it aims at protecting the rights of the Macedonians in Bulgaria, although “there is no Macedonian ethnic minority in Bulgaria”. In addition, according to the prosecution, the activity of the association contradicts Article 12, para. 2 of the Constitution, as it intended to “also address current international, domestic, economic and other issues”, which are essential for a political party. The case for termination of the “Civil Association for the Protection of Fundamental Individual Rights” is currently pending before the Blagoevgrad District Court and will probably be considered as soon as the court resumes its normal activities after the global health crisis. The action of the prosecution,

² „Каракачанов до главния прокурор: Опитват да правят македонско малцинство в България“, published on 19.11.2019, at: <https://www.24chasa.bg/novini/article/7886556>.

³ „Прокуратурата иска прекратяване на гражданско сдружение заради извършване на противоконституционна дейност“, accessed on 21.11.2019 at: <https://www.prb.bg/bg/news/aktualno/prokuraturata-iska-prekratjavane-na-grajdansko-108>.

combined with the hostile media campaign, had a chilling effect on all members of the organisation and on the other Macedonians.

In 2019, several other Macedonian organisations were denied registration on arbitrary and discriminatory grounds. In June, the Macedonian organisation, “Society of the Repressed Macedonians in Bulgaria, Victims of the Communist Terror”, made another unsuccessful attempt to obtain registration as a legal entity.⁴ In this case, too, the failure is because the association is of ethnic Macedonians. Immediately upon its re-establishment, the organisation applied for registration with the RA. On 20 June 2019, the agency refused registration on the ground that the statute of the association did not envisage commercial activities.⁵ The Law on Non-Profit Legal Entities allows Bulgarian non-profit organisations to carry out commercial activities but does not oblige them to do so. The association appealed the refusal in the Blagoevgrad Regional Court. With a decision of 5 August 2019, the court upheld the refusal, reiterating the lack of commercial activities in the statute and adding two more grounds – the fact that the association limited its activity to protecting only repressed Macedonians and that it provided for “organizing rallies and demonstrations” which, according to the court, was an activity essential for a political party. Therefore, according to the court, the association must re-register as a political party.⁶ The association appealed this decision. On 24 October 2019, the Sofia Court of Appeal (SCA) upheld the decision of the Blagoevgrad Regional Court, but completely ignored the grounds for the refusal of the regional court and substantiated its decision with other reasons. According to the SCA, the statute of the association contradicts Article 44, para. 2 of the Constitution, which prohibits associations whose activities are directed against the “unity of the nation”. According to the court, “an organisation for the protection of the interests of an ethnic minority, which is not historically structured and distinct in the territory of the Republic of Bulgaria, should be qualified as such”. The SCA further argues that, insofar as the association's statute contains claims for the existence of a Macedonian ethnic minority, which, according to the court, does not actually exist in Bulgaria, the “systematic” interpretation of the statute in the light of this constitutional provision leads to the conclusion that the promotion of a Macedonian minority leads to “[...] the cultivation among a certain part of the Bulgarian citizens of different ethnic consciousness, which was not formed naturally, and is therefore directed against the unity of the nation”. In addition, according to the SCA, the statutes of the association also sets political goals related to carrying out an activity, essential for a political party, which is not allowed by Article 12, para. 2 of the Constitution.⁷ The decision however does not specify for what political purposes it is concerned about and in what provisions of the statute of the organisation they are formulated.

This SCA decision marks a new approach to the refusal to register Macedonian associations. So far, the courts have tried to conceal their true motives and to give their refusals some semblance of conformity with interpretations of the Constitution that are not directly discriminatory. The SCA's decision turns a blind eye to this approach and directly links the Macedonian character of the association to the constitutional provision prohibiting the associations whose activities are directed against “unity of the nation”. As the SCA decision is

⁴ This group has a pending application (no. 23702/15) before the ECtHR, which was communicated to the Bulgarian government in May 2019.

⁵ RA, Refusal no.20190618120551/20.06.2019.

⁶ BRC, Decision no. 3522/05.08.2019.

⁷ SCA, Decision no. 2333/24.10.2019.

final, the “Society of the Repressed Macedonians in Bulgaria, Victims of the Communist Terror” filed a new application in the ECtHR in December 2019.

In the period under review, the “UMO Ilinden” received several refusals from the RA to register. On 3 December 2019, after a long judicial battle on technicalities related to a previous application for registration, in the course of which the former President of the organisation, Mr. Yordan Kostaninov, died, the RA refused to register the organisation because it found impossible to enter into the register his name as a member of its board. The organisation filed a new application for registration and, without being given any instructions for correction of alleged irregularity, received a refusal on 9 January 2020. The refusal was motivated by a minor technical mistake in filling the form (putting the necessary information in a wrong section of the application form).⁸ The “UMO Ilinden” appealed against the refusal. On 27 January 2020, the Blagoevgrad Regional Court upheld the RA refusal.⁹ On 21 January 2020, the “UMO Ilinden” applied for registration again but again received a refusal without being given instructions to correct the alleged irregularity. In fact, there was no irregularity, the official of the RA just refused to accept that what the Non-Profit Legal Entities Act designates as “general assembly” - the supreme governing body of the association, may figure in its statute under a different name, in this case, “annual conference”.¹⁰ Such a practice is widely accepted and considered legal in the case of many other non-profit associations, but not for the Macedonian ones. The “UMO Ilinden” appealed the refusal in the Blagoevgrad Regional Court but the latter has not issued a decision yet.

On 14 February 2020 the “Society of the Repressed Macedonians in Bulgaria, Victims of the Communist Terror” filed a new application for registration in the RA. On 17 February 2020, it received a direct refusal, without instructions for rectifications.¹¹ According to the RA, the association, first of all, “seeks association not of the repressed persons by the communist regime in Bulgaria in general because of their activities related to the Macedonian question, but only of those that had “Macedonian self-consciousness and self-determination””. Secondly, the association’s statute envisages means for achieving its aims [organising rallies and demonstrations] that are “inherent in the activities of a classical political party”. For both reasons, according to the RA, the goals of the association and the means for their achievement were unlawful. The organisation appealed the refusal in the Blagoevgrad Regional Court. On 10 March 2020, the court upheld the refusal.¹² It held that the goals of the association contradict Article 44, para. 2 of the Constitution in that they are contrary to the sovereignty, territorial integrity and unity of the nation. Thus, the court reiterated the reasons of dozens of previous court decisions related to the registration of Macedonian groups, which in a number of judgments of the ECtHR were found to be manifestly contrary to Article 11 of the Convention. The Blagoevgrad Regional Court also held that the RA was right to declare unlawful the provision of the applicant’s statute, which envisages organizing rallies and demonstrations as a means to achieving the association’s goals. The association appealed this decision in the Sofia Court of Appeal, which has not issued a decision yet.

⁸ RA, Refusal no.20200108141823/09.01.2020.

⁹ BRC, Decision no. 371/27.01.2020.

¹⁰ RA, Refusal no.20200120095657/21.01.2020.

¹¹ RA, Refusal no.20200214133939/17.02.2020.

¹² BRC, Decision no. 1188/10.03.2020.

Another, newly formed Macedonian organisation, the “Citizens’ Initiative for Recognition of a Macedonian National Minority in Bulgaria and the Protection of the Rights of the Bulgarian Citizens with Macedonian Self-Consciousness” applied for registration in the RA on 24 February 2010. On 25 February 2020, it received a refusal.¹³ The RA found numerous minor technicalities in filing the application. Some of them are curiosities, e.g. even though the organisation stated that it will not engage in any commercial activities, the RA speculated that some of the activities mentioned in the statute, such as publishing books and other printed materials may be commercial, which creates unclarity. It also, curiously and unprecedentedly, required from the organisation to present evidence that the founders are not deprived of their legal capacity. No institution in Bulgaria provides documents certifying that somebody has full or partial legal capacity. The organisation decided to resubmit its application but this will happen after the current health crisis.

CONCLUSION

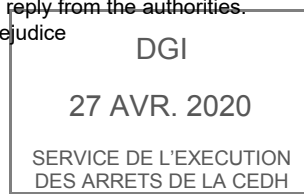
Since the last review of this group of judgments, the situation with the registration of the Macedonian organisations worsened. Both the RA and the courts issued refusals on grounds that have been considered by the ECtHR in a number of judgments and declared contrary to the Convention standards. Moreover, some of the new decisions used reasons for refusals that are openly discriminatory. The RA has been excessively and unusually vigilant on technicalities when reviewing the applications of the Macedonian organisations and used every opportunity, without providing instructions for correction, to refuse the application. Such a situation certainly merits interim resolution by the Committee of Ministers and, in case the Bulgarian authorities do not change their approach – infringement proceedings.

Krassimir Kanev, Chairperson

Bulgarian Helsinki Committee

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¹³ RA, Refusal no.20200224113537/25.02.2020.



RESPONSE OF THE BULGARIAN GOVERNMENT ON THE OBSERVATIONS OF THE BULGARIAN HELSINKI COMMITTEE ON THE EXECUTION OF THE GROUP OF JUDGMENTS “UMO ILINDEN AND OTHERS V. BULGARIA”

On 16 April 2020 the Bulgarian Helsinki Committee sent to the Committee of Ministers observations with regard to the execution of the case *UMO Ilinden vs. Bulgaria* (application 59491/00) (hereinafter referred to as “the Observations”).

The Bulgarian Government would like to avail themselves of the right to response pursuant rule 9 of the Rules of the CM.

The Committee of Ministers acknowledged the progress made so far by Bulgaria in the implementation of both individual and general measures, taking into account the new registration mechanism introduced by amendments in the Non-Profit Legal Entities Act (NPLEA), the Commercial Register Act and the Non-Profit Legal Entities Register in 2018.

The last updated Addendum of an Action plan was submitted to the Committee of Ministers on 13 April 2020.

On the proceedings for discontinuance of the registration of “Civil association of protection of fundamental individual human rights”

The Bulgarian Government wish to clarify, as concerns the request of the Prosecutor's Office for discontinuance of the registration of the association "Civil Association for the Protection of Fundamental and Individual Rights", that this procedure is regulated under Art. 13 of the Non-Profit Legal Entities Act. A possible ending of an association's registration significantly differs in its procedure from the registration itself. The registration process is initiated with the presentation of all legally specified documentation. In this case, the law provides for the association to be registered as long as its documentation fulfills the legal provisions of the Non-Profit Legal Entities Act (NPLEA). The ending of a registration significantly differs from this procedure, since it is initiated by petition filed in court and its argumentation is developed in an adversarial three instances court trial.

The burden of proof lies on the claimant as specified by the applicable law. Additionally, an irregularity at the registration stage does not automatically present a valid reason for ending the registration - the provisions in this case are specified in Art. 13 Par. 3 of Non-Profit Legal Entities Act, giving the legal entity a six-month period to correct the established irregularity as long as its founding and activity do not breach the Constitution, the laws or the good morals. As long as the irregularity is corrected within the given deadline, there can be no reason for discontinuance of the association's registration.

In the light of the above, the case at question has not been decided by the competent national court yet. Therefore any conclusion on the constitutionality or legality of a potential discontinuance of an organisation's registration would be premature and arbitrary.

We also point out the fact that the prosecution requested the discontinuance only with respect to the association "Civil Association for the Protection of Fundamental and Individual

Rights", but there has been no request for dissolution in respect of the other association "Ancient Macedonians".

On the developments in the system for registration of the non-profit organisations

The Bulgarian Government wish to clarify that the registry reform of 2016 implemented specific measures laid down in The Strategy for Supporting the Development of Civil Organisations in the Republic of Bulgaria 2012-2015 and the Strategy for the Development of the State Administration 2015-2020 adopted by the Council of Ministers. The main goal was to improve the legal framework guaranteeing the constitutional freedom of association and creating favourable conditions for the functioning of non-profit legal entities.

It is important to recall that the latter amendments in the Commercial Register and the Register of Non-Profit Legal Persons Act (CRRNPLP) were adopted in September 2016 and gave a green light to the NGO's regulatory reform changing the competent body for registration of non-profit legal entities and branches of foreign NGOs. The court was replaced by the Registry Agency as a registry authority. The main objective of the reform was to reduce the administrative burden for NGOs by faster procedures and shorter statutory deadlines for registration of new NGOs (to be done for 3 days), for entry and deletion of circumstances, optional digital filing of documents at low state fees etc.

The said reform was welcomed by the NGO sector. According to the Institute for Market Economics, "This [reform] has provided considerably simplified and far more expedient administrative services."

As the CM noted in its decision - CM/Del/Dec(2018)1331/H46-7 - the refusals under the new registration system appear to be part of a series of difficulties in beginning of the system's application, related to the formal requirements that must be met by the applications. The Government would like to point out that the ratio between the registrations and refusals delivered upon new application appears to be shifting with the relative number of refusals diminishing. While between January 2018 and 14 October 2018, the Registration Agency received 1,615 requests for initial registration of associations, adopted 805 refusals, between 15 October 2018 and June 2019 the number of registrations applications amount to 2281, while the number of the delivered refusals amounts to 880. Those numbers show that while for the first 9 and a half months after the introduction of the new system the number of refusals amounted to roughly 50 % of all application for the next 8 and half months that percentage diminished to roughly 38.6 %.

It, therefore, appears that contrary to the speculations made in the Observations there is no sufficient basis for a general conclusion that the situation of non-profit entities has changed for the worse. The analysis of the situation shows: 1) an increased number of requests for registration, which indicates that the associations actually start to benefit more from a cheaper and faster administrative procedure; and 2) a relatively lower number of refusals, which indicates that the initial difficulties in the application of the new procedure are being resolved.

Last but not least, it should be mentioned that on 17 June 2019 the official website of the Registry Agency published methodological instructions¹ on the work of the registration officials in order to ensure consistent practice on specific issues which had generated

¹ <https://www.registryagency.bg/bg/prestentor/novini/metodicheski-ukazaniya-za-rabotata-na-dlzhnostite/>

controversies concerning the correct application of the legal provisions on the procedure for entering and deleting circumstances and announcing acts in the commercial register and the register of non-profit legal entities.

Also, the Government is in process of implementation of the Committee's main recommendations on the preparation of supplemented methodological guidances for the Registry officials to cover the issues examined in this group of cases, and to prepare detailed, user-friendly instructions for associations on the requirements of the registration procedures.

Recent developments regarding the registration of UMO Ilinden and the Union of Repressed Macedonians

The Government notes, that in the BHC's observations there is a statement that several other Macedonian organisations were denied registration on arbitrary and discriminatory grounds, but that is an information concerning cases, which are not a subject to implementation under the OMO Ilinden group of judgments and these cases are not under the supervision of the Committee of Ministers.

As the CM recalled in its latest decision - CM/Del/Sep(2019)1355/ H46-5, as regards individual and general measures, that in December 2018 the Committee noted some progress with the assessment of goals of associations similar to UMO Ilinden, as in September 2018 the Sofia Court of Appeal considered that the goals pursued by such an association were lawful and compatible with public utility status.

The Government is in process of implementation of the Committee's main recommendations on the preparation of supplemented methodological guidances for the Registry officials to cover the issues examined in this group of cases, and to prepare detailed, user-friendly instructions for associations on the requirements of the registration procedures.

All the refusals made so far in respect of the Union of Repressed Macedonians and UMO Ilinden are based not only on formal grounds, but they are always followed by 2 levels of judicial control. Nether the court, nor the administrative body's decisions have *res judicata*. The new registration procedure compared to the previous one gives to the applicants much wider opportunities for receiving a legal status.

The Government note that the Observations misquote the reasons for the Registry Agency's refusal of 20 June 2019 to register the "Union of Macedonians from Bulgaria who experienced repression, victims of the communist terror". The application for registration was rejected on formal grounds – the inadequacies in the application for registration, i.e. the refusal actually states that the statutes do not meet the requirements of Art. 3, para. 3 and 4 of the Law for Commercial Register and the Register of Non-Profit Legal Entities, as they do not establish what the main subject of activity is, and do not determine the additional economic activity. The statutes also lack the definition of the type of activity according to Art. 2, para. 1 of the Law for Commercial Register and the Register of Non-Profit Legal Entities. No evidence of a paid state fee was attached.

On 05 August 2019, with a decision the Blagoevgrad Regional Court confirmed the refusal of the Registration Agency.

On 24 October 2019, with a decision the Sofia Court of Appeal accepted that the refusal was correct and lawful and should be upheld. The court concluded that there were no preconditions for the association to be registered due to the interference with the constitutionally established restrictions on the right of association, in view of the formulated goals of the association and the means for their achievement.

On 14 February 2020, new application for registration has been lodged by “Society of the Repressed Macedonians in Bulgaria, Victims of the Communist Terror”.

The application for registration was rejected on grounds – related to inadequacies in the application. In particular, the official of the Registration Agency gave the following reasons: The means and the goals for their achievement specified in in the Statute are unlawful. In the statutes presented, the activity of the association is determined in private favor and the means and the goals for their achievement reveal non-compliance with the requirements for the activity for private benefit under art. 2, para. 1 of the law. Also some of the means for achieving the goals are activities inherent to the activities of the classical political party, and according to § 2 of the Law on Non-profit Organizations, the organizations aimed at carrying out political activity are governed by a separate law.

On 10 March 2020 the Blagoevgrad Regional Court confirmed the motives stated in the refusal of the Registration Agency. The court accepted that the refusal was correct and lawful and should be upheld.

On 12 March 2020, “Society of the Repressed Macedonians in Bulgaria, Victims of the Communist Terror”, filed an appeal against the decision of the Blagoevgrad District Court. At that moment, the appeal has not been administrated and forwarded to the Sofia Court of Appeal due to the imposed state of emergency.

As the case at question has not been decided by the competent supreme national court yet, any conclusion on the development of the proceedings would be premature.

In any case, the appeal of refusal for registration does not prevent the submission of a new application for registration in the meantime by the applicant.

As regards the refusal for registration of UMO Ilinden on 20 May 2019 it should be noted that that refusal found two shortcomings of the registration request: 1) that the decision to set up an association was not in compliance with the requirements for relevant signatures; and 2) that the application should contain a copy of the decision to set up an association in which personal data, other than those required by law, is deleted, as required by law, but the current application contains a decision to set up an association - subject to disclosure, enclosing all the personal data of the founders (identification number, address and ID card number).

In this regard, it should be noted that under the Article 22, paragraph 5 of the law the registration official shall instruct the applicant to correct the omissions in the application in two situations – 1. in the absence of a supporting document required by law and 2. in the absence of a paid state fee. Such possibility is not provided where the submitted documents do not comply with the requirements of form.

On 03 June 2019, the Blagoevgrad Regional Court gave a decision partly confirming the refusal of the Registration Agency. The court observed that in the refusal of the official of the Registration Agency it was explicitly stated that the inadequacies did not constitute a lack of a document which has to be enclosed with the application, which is why the provision of Art. 22 para. 5 of the Law for Commercial Register and the Register of Non-Profit Legal Entities was not applicable and instructions to the applicant could not be given.

On 01 August 2019, Sofia Court of Appeal gave a decision by which it quashed the Blagoevgrad Regional Court's decision, instructing the Registration Agency to give directions to the applicant to correct the irregularity found and to pronounce on the merits of the request.

As a result, the Registry Agency officially re-entered the application for registration under a new reference number, but concerning the same request, on the basis of the same documents filed for the initiation of the registration proceedings. On 06 August 2019 the Registration Agency issued instructions and published them on the Commercial Register and the Register of Non-Profit Legal Entities website (page dedicated to « documents unrelated to a specific registration file »; this page is used in similar situations for technical reasons). The applicant was instructed to correct the irregularity found as required by art. 22, para. 5 of the Law for Commercial Register and the Register of Non-Profit Legal Entities, i.e. to submit copy of the decision to set up an association, in which personal data, other than those required by law, were deleted.

As the instructions given have not been fulfilled by the applicant, on 09 August 2019 the application for registration was rejected. By the instruction given to the applicant and by the ruling on the application submitted, the Registration Agency fulfilled the decision of the Sofia Court of Appeal from 01 August 2019.

The refusal was appealed on 20 August 2019 before the Blagoevgrad Regional Court and on 27 December 2019, the Blagoevgrad Regional Court gave a decision by which it quashed the Registration Agency's second refusal for registration from 09 August 2019, issued after the fulfillment of the instructions given with the Sofia Court of Appeal's decision from 01 August 2019. With that judgment the Blagoevgrad Regional Court required from the Agency to pronounce on the merits of the application from 17 May 2019 in accordance with the instructions given by Sofia Court of Appeal in its decision from 01 August 2019, i.e. to instruct the applicants to correct the irregularity found and to pronounce on the merits of the request. This judgment is final.

After the Blagoevgrad Regional Court's decision from 27 December 2019, the registration procedure before the Registration Agency has been terminated. The Registration Agency gave several reasons:

- Firstly, it had already fulfilled the instructions given by Sofia Court of Appeal in its judgment no. 1999/01 August 2019, i.e. to instruct the applicants to correct the irregularity found and to pronounce on the merits of the request;

- Secondly, in order to comply with the operative part of the Blagoevgrad Regional Court's decision from 27 of December 2019, it would have been necessary to carry out the procedure for the third consecutive time in the same way, i.e. with an official entry of the same application and receiving a third different number, with the same documents. This would have been done, but there were changes in the factual circumstances which led to the termination of the procedure. In particular, it was established that carrying out the same procedure for the third time would not lead to the desired result for the applicant, since on 23 August 2019, the death of one of the founders of the association occurred and this obstructs any possibility for registration of the association on the basis of the same documents, and namely the Founding Protocol, which contains the name of one deceased person - a founder. This circumstance was probably not known to the Blagoevgrad Regional Court at the time of its judgment of 27 December 2019, and it was not taken into account.

To achieve the desired result, new constituent assembly must be held. This is also the basis on which the proceedings resulting from the judgment of 27 December 2019 were terminated.

On 20 January 2020 another application for registration has been lodged by "UMO Ilinden" at the Registration Agency and on 21 January 2020 it was rejected on formal grounds - inadequacies in the application for registration. In particular, the officer of the Registration Agency gave the following reasons:

According to Art. 23, para. 1 of the Law on Non-profit Organizations, the supreme body of the association is the General assembly, which is not stated in the presented statutes and it is not claimed for registration. A board of directors and an "annual conference" have been requested for registration, but the term "annual conference" means an annual meeting to discuss specific issues and therefore cannot be identified with a legally defined and required supreme authority for the associations - the "General assembly". Therefore, there is a contradiction with the imperative norm of the law, respectively - the absence of one of the obligatory prerequisites for registration - the one under Art. 21, item 5 of the law.

The inadequacies did not constitute a lack of a document which has to be enclosed with the application, which is why the provision of Art. 22, para. 5 of the Law for Commercial Register and the Register of Non-Profit Legal Entities was not applicable and instructions to the applicant could not be given.

The refusal was appealed on 31 January 2020 before the Blagoevgrad Regional Court through the Registration Agency. On 5 February 2020 the Blagoevgrad Regional Court opened a

commercial case and now it is under examination. The decision is now awaited. Again, as the case at question has not been decided by the competent national court yet, any conclusion on the development of the proceedings would be premature.

CONCLUSION

In conclusion, the Bulgarian Government points out that Republic of Bulgaria is a State Party to all main international human instruments in the field of human rights, including those of the United Nations, the Council of Europe and the European Union. All necessary legal and institutional guarantees are established in the country for the effective realisation of human rights and fundamental freedoms, as well as for right of association guaranteed by Art. 11 of the Convention, as well as by the Constitution of the Republic of Bulgaria.

Veselina Hristova

Government Agent