

SECRETARIAT / SECRÉTARIAT

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRÉTARIAT DU COMITÉ DES MINISTRES

COMMITTEE
OF MINISTERS
COMITÉ
DES MINISTRES



Contact: Ireneusz Kondak
Tel: 03.90.21.59.86

Date: 13/02/2025

DH-DD(2025)175

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: 1521st meeting (March 2025) (DH)

Item reference: Addendum to an Action Plan (12/02/2025)

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

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 : 1521^e réunion (mars 2025) (DH)

Référence du point : Addendum au plan d'action (12/02/2025)

Communication de la Bulgarie concernant le groupe d'affaires UMO ILINDEN ET AUTRES c. Bulgarie (requête n° 59491/00) (*anglais uniquement*)

ADDENDUM TO THE ACTION PLAN*UMO Ilinden group of judgements*

The following addendum to the Action Plan provides updates on the execution of the *UMO Ilinden* group of judgements, in accordance with the Decision of the Committee of Ministers, taken in September 2024.

I. With regard to the recent registration procedures:**1. Recent registration request by “UMO Ilinden”, lodged on 8 August 2024**

The request for registration was thoroughly examined and on 9 August 2024, it was rejected on the following grounds:

- There was a discrepancy between the goals and means of the association, as they pertained to an unlimited number of individuals, and the self-determination of the association to operate for private benefit. The reasoning stated that determining goals and means to serve an undefined group of individuals, beyond the founding members, is typically associated with public benefit associations.

- There was a discrepancy in the submitted documents regarding the establishment of the association itself, leading to overall illegality and a lack of valid establishment. The court noted that the Minutes of the founding meeting of the association showed a meeting date of 08.04.2024, while the list of signatures of the founders was from a meeting on 04.08.2024.¹ This inconsistency did not align with the decision to establish the association and did not confirm that the signatories were indeed founders of the association. The registry official deemed these discrepancies as an independent reason for refusal.

- The scope of representative authority of the chair of the management board was not properly determined, causing the applicant to lack representative authority in relation to the association. The submitted documents did not clearly define scope of his powers.

The refusal was appealed to the **Blagoevgrad Regional Court**. In decision no. 125 dated 5 September 2024, the Blagoevgrad Regional Court upheld the refusal on the following grounds:

- The minutes of the founding meeting did not adequately support the establishment of the association for private benefit. There was no indication of the legally required unanimous agreement by the necessary number of founders on each agenda. Additionally, the minutes failed to specify the exact address and time of the meeting.

- There was a discrepancy between the selected organizational form and the goals and means of the association. While the founders label it as a private benefit association, the goals and means for achieving them were aimed at benefiting wide range of individual and legal entities. This description more closely resembled that of a public benefit association rather than a private benefit one.

¹ In Bulgaria the above mentioned dates are 8 April 2024 and the next is 4 August 2024

- There was no specific subject of economic activity outlined.
- Clear rules regarding the formation and termination of membership were lacking,

The court found that each of the established violations was significant and served as sufficient independent grounds for refusal of the requested registration. Therefore, further discussion of the remaining prerequisites was unnecessary.

The decision was appealed before the **Sofia Court of Appeal** (commercial case no. 804/24). By decision no. 673 of 21 November 2024, the Sofia Court of Appeal confirmed the Blagoevgrad Regional Court's decision on the following formal grounds:

- The documents attached to the application did not prove the existence of the c required circumstances for entry and compliance with the law;
- Proper minutes with the corrected technical error in the date of drafting the founding protocol were not submitted.
- The minutes did not specify the exact time and address of the founding meeting, which makes it challenging to prove the simultaneous expression will by the founders;
- The association's Statutes did not have clear rules regarding the establishment and termination of membership, as well as the procedure for resolving property relations upon membership termination;
- It was unclear from the association's Statutes at what point and as a result of which body's decision the membership relationship between the association and the individuals seeking to become members would begin.
- The chairperson's authority to represent the association was not clearly defined.

2. Registration request by "Society of the Repressed Macedonians in Bulgaria Victims of The Communist Terror" lodged on 29 October 2024

On 31 October 2024, a new request for registration was thoroughly reviewed and denied on the following formal grounds:

- The minutes did not specify the exact time and address of the founding meeting, making it difficult to prove the simultaneous expression of will by the founders.
- There was an inconsistency regarding the supreme assembly, as some texts referred to the Annual Meeting while others referred to the General Meeting.
- There was a contradiction in the Statutes regarding the election of the Chairperson of the Board of Directors - according to Art. 7 he/she is elected by the Annual Meeting, and according to Art. 8 - by the Board of Directors.
- In Art. 4 of the Statute, "subject of additional economic activity" was declared, and in Art. 14, it was again declared as "economic activity". The Statute of association must necessarily contain the "subject of the additional economic activity", and because the "economic activity" has an auxiliary function, it should be deleted.

The refusal was appealed to the **Blagoevgrad Regional Court**. By decision no. 164 dated 4 December 2024 (commercial case no. 242/2024), the Blagoevgrad Regional Court upheld the Agency's refusal on the following formal grounds:

- The minutes did not specify the exact time and address of the founding meeting, making it difficult to prove the simultaneous expression of will by the founders.

- There was an inconsistency regarding the supreme assembly, as some texts referred to the Annual Meeting, while others referred to the General Meeting.

- The Statutes of the association lacked clear rules regarding the establishment and termination of membership, as well as the procedure for resolving property relations upon termination of membership.

The decision was appealed to the **Sofia Court of Appeal**. The SCA has not yet made a ruling on the appeal.

3. Registration request by “Macedonian Club for Ethnic Tolerance” lodged on 13 December 2024

On 16 December 2024, a new request for registration was carefully reviewed and denied on the following formal grounds:

- The Statute did not clearly specify if members of the association could only be individuals or if legal entities were allowed.

- It was unclear who the competent authority was for accepting new members.

The refusal was appealed to the **Blagoevgrad Regional Court**, but a decision has not yet been issued.

4. Registration request by “UMO Ilinden - Plovdiv” lodged on 1 March 2024

On 6 March 2024, a new request for registration was carefully reviewed and denied on the following formal grounds:

- The Statute did not specify the competent authority to represent the association before third parties, whether it be the management board and/or the chairperson.

- The provision in the Statute, that governed property relations between former members and the association, was unclear and contradictory to the law's provisions.

The refusal was appealed to the **Plovdiv Regional Court**. By decision no. 124 of 15 March 2024 (commercial case no. 167/2024), the Plovdiv Regional Court, applying a “full review”, upheld the Agency's refusal on the following grounds:

- The minutes did not specify the exact time and address of the founding meeting, making it difficult to prove the simultaneous expression of will by the founders.

- According to the Statute, the management board took decisions on disposal of the association's property. However, according to the law of associations for public benefit, this authority lies solely with the supreme collective body with a qualified majority.

- The Statute did not include a requirement for an independent financial audit.

- The activity was contrary to the Constitution as it aimed to carry out political activity and contradicted the unity of the nation.

- The Statute did not clarify the representation of the association.

The decision was then appealed to the **Plovdiv Court of Appeal**. By decision no. 194 of 15 May 2024 (commercial case no. 225/2024), the Plovdiv Court of Appeal upheld the decision of the Plovdiv Regional Court but based on different grounds and did not agree with some of its reasoning. For example, the requirement to specify the exact time and address of the founding assembly was not shared. However, the denial of registration was confirmed on the following grounds:

- The Statute and the minutes did not contain an indication in the name of the association regarding the type of the legal entity it constituted;
- The Statute of the association did not contain/regulate the procedure for determining the amount and manner of payment of property contributions;
- The procedure for resolving property relations upon termination of membership was not properly addressed in the Statute;
- There was a contradiction with legal norms regarding the authority of the association's bodies to accept and exclude members.

5. Registration request submitted by "Macedonian Cultural Club "Nikola Vaptsarov"-Blagoevgrad" lodged on 29 May 2024

On 31 May 2024, a new request for registration was carefully reviewed and denied on the following grounds:

- Uncertainty regarding the representation of the association was noted.
- The minutes failed to specify the exact time of the founding meeting, making it challenging to prove the simultaneous expression of will by the founders.
- Citizen identification numbers of the founders were not included in the minutes.
- A decision by the founding meeting outlining the means to achieve the goals.

The refusal was appealed before the **Blagoevgrad Regional Court**. By decision no. 126 of 10 September 2024 (commercial case no. 170/2024), the Blagoevgrad Regional Court stated that it was not bound by the reasons presented by the Agency and carried out a comprehensive ex officio inspection of the documents presented. The court agreed with the Agency on the lack of the exact time in the minutes of the founding meeting, and confirmed the Agency's refusal on the following formal grounds, different from that of the Agency:

- The Statutes of the association lacked clear rules regarding the termination of membership;
- There was a lack of a decision of the governing body regarding the determination of the representative power of the chairperson;
- There was a lack of clarity of who exactly represented the association –the chairperson of the club council independently or jointly with the other members of the governing body.

The decision was appealed to the **Sofia Court of Appeal**. By decision no. 597 of 16 October 2024 (commercial case no. 777/24), the Sofia Court of Appeal upheld the Blagoevgrad Regional Court's decision. The court justified its decision on the following grounds different from those of the lower instance:

- Some of the described activities and means for achieving the goals were formulated unclearly
- There was a confusion regarding the source of financing.

II. With regard to the general measures taken in response of the latest CM recommendations

In response to the recommendation in point 6 of the Decision of the Committee of Ministers CM/Del/Dec(2024)1507/H46-7 of September 2024, the Government has already sent to the Department for the Execution of Judgments of the ECtHR (DEJ) a draft of the analysis prepared by the Registry Agency. The analysis was finalised on 11 February 2025 and sent to the Execution Department.

In response to the CM request for the Bulgarian authorities to handle associations registration requests in line with Art. 11 of the ECHR, the Working Group under the Ministry of Justice has developed several alternative proposals in order to enhance further the safeguards in the national legislation regarding the right to freedom of association. These proposals are to be presented to the newly appointed political leadership of the Ministry of Justice.

III. Conclusion

The Constitution of the Republic of Bulgaria and the relevant laws guarantee the freedom of association of all Bulgarian citizens, without any discrimination. The national legislation is in full compliance with the international legal obligations. Every applicant who meets the respective legal requirements can register a civil association, without any discrimination or privilege. All applicants can use legal assistance, file an unlimited number of applications and appeal the Registration Agency's decisions at the court.

In order to execute the ECtHR judgements of this group of cases, the Republic of Bulgaria undertook a major legislative reform with the aim to better guarantee the right of association of all its citizens. In 2018 the judicial registration procedure was replaced by a simplified administrative one. This procedure is among the most liberal and straightforward in the Council of Europe area. Despite the Covid pandemic and the related restrictions, the frequent change of governments since 2021 and the energy and economic challenges related to the ongoing conflicts in the vicinity of the EU, the Bulgarian authorities successfully conducted numerous measures in order to ensure the smooth and effective functioning of the registration procedure introduced with the 2018 reform. These measures included, among others, provision of the necessary staff and equipment, training of the relevant officials, information campaigns for the potential applicants and preparation of various training and information tools. The DEJ has been informed in detail over the years about these actions of the Bulgarian authorities.

The examination of the registration applications of associations is fully in accordance with Article 11 of the Convention. The statistics related to the work of the Registration Agency, already provided on several occasions to the DEJ, clearly demonstrate the lack of any discrimination of the applicants as well as the gradual improvement in the overall functioning of the registration procedure.

The court decisions confirming the refusals of the registration officials at the Registration Agency are delivered by different judges at various courts in several cities in

the Republic of Bulgaria. This completely excludes the possibility of any biased or discriminatory attitude towards the applicants.

The applicants in the group of cases “UMO Ilinden and Others v. Bulgaria” never submitted the necessary registration documents in due order, despite being assisted and/or represented by competent lawyers. This raises the question whether the applicants really want to register their civil associations or to keep the issue open.

It should be reiterated that civil associations of Bulgarian citizens with identical goals, and sometimes even with the same founders, have been registered in the Republic of Bulgaria. This information has been provided already on several occasions to the DEJ. Countless other civil associations with various goals are registered and have been functioning for decades by Bulgarian citizens of all ethnic and religious backgrounds. This clearly proves that there is no discrimination against the applicants and that the Bulgarian authorities have successfully guaranteed the right to association to all Bulgarian citizens, thus effectively eliminating the root causes, which led to the ECtHR judgements in the group of cases “UMO Ilinden and Others v. Bulgaria”.

At the same time, the Bulgarian authorities note with regret and concern, that the execution of judgements in this group of cases continues to be politicized routinely by the Republic of North Macedonia, including at the highest state and government level. This politicization is reproduced in the public space and includes the spread of brutal disinformation about the substance, scope and execution of the ECtHR judgements. This is combined with media, diplomatic, logistic and financial support for the applicants by various official and non-official entities and individuals from the Republic of North Macedonia.

In this context, it should be underlined that the Republic of North Macedonia is not and has never been a party to this group of cases.

The Republic of Bulgaria already presented to the DEJ more detailed information on the politicization of this group of cases by the Republic of North Macedonia in the addendum to the Action Plan of 27 December 2024. The instrumentalization by the Republic of North Macedonia for political purposes of the execution of the ECtHR judgements is in contradiction with the letter and spirit of the European Convention on Human Rights. It is unacceptable and undermines the whole Convention system. The political abuse of the mechanisms for the protection of human rights erodes the rule of law and democracy in general. The Bulgarian authorities call upon the DEJ to take into consideration the politicization of this group of cases by the Republic of North Macedonia and not to assist it anyway.

The Republic of Bulgaria has implemented all necessary individual and general measures related to the group of judgements “UMO Ilinden and Others v. Bulgaria”. Nothing more is necessary or could be done to implement the ECtHR judgements of this group. The DEJ should consider objectively the facts and direct the supervision of the execution of these ECtHR judgements towards its successful closure.

12 February 2025, Sofia, Bulgaria