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

FIRST SECTION

CASE OF THE UNITED MACEDONIAN ORGANISATION ILINDEN AND OTHERS v. BULGARIA

(Application no. 59491/00)

JUDGMENT

STRASBOURG

19 January 2006

This judgment will become final in the circumstances set out in 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,

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

Mr C.L. ROZAKIS, *President*,
Mr P. LORENZEN,
Mrs N. VAJIĆ,
Mrs S. BOTOUCHAROVA,
Mr A. KOVLER,
Mrs E. STEINER,
Mr K. HAJIYEV, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 13 December 2005,

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

PROCEDURE

1. The case originated in an application (no. 59491/00) 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") by the United Macedonian Organisation Ilinden ("Ilinden") and by several members of its management committee, Mr Yordan Kostadinov Ivanov, Mr Boris Georgiev Pavlov, Mr Atanas Dimitrov Urdev, Mr Lubcho Kirilov Popovchev, Mr Boris Atanasov Stankov, Mr Bozhidar Kostadinov Kirianov, Mr Velik Dimitrov Hristoskov, Mr Kiril Serafimov Tilev and Mr Alexander Velev Manchev, Bulgarian nationals who were born in 1932, 1938, 1929, 1949, 1926, 1954, 1933, 1951 and 1964 respectively and live in Sandanski, Krupnik, Blagoevgrad and Petrich ("the applicants"), on 28 March 2000.

2. The applicants were not legally represented. The Bulgarian Government ("the Government") were represented by their Agent, Ms M. Dimova, of the Ministry of Justice.

3. The applicants alleged that the refusal of the courts to register Ilinden in 1998-99 had been unjustified and the reason for that lay in the fact that its founders belonged to a minority.

4. The application was allocated to the First Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. By a decision of 9 September 2004 the Court (First Section) declared the application admissible.

6. The applicants, but not the Government, filed observations on the merits (Rule 59 § 1).

7. On 1 November 2004 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed First Section (Rule 52 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

8. Ilinden is an association based in south-west Bulgaria, in an area known as the Pirin region or the geographic region of Pirin Macedonia.

A. The 1990-91 refusal to register Ilinden

9. Ilinden was founded on 14 April 1990. Its aims, according to its articles of association and programme, were to "unite all Macedonians in Bulgaria on a regional and cultural basis" and to achieve "the recognition of the Macedonian minority in Bulgaria". Clauses 8 and 9 of the articles stated that the organisation would not infringe the territorial integrity of Bulgaria and "would not use violent, brutal, inhuman or unlawful means".

10. In 1990 Ilinden applied for, but was refused, registration. In the proceedings for registration, the Blagoevgrad Regional Court and the Supreme Court examined its articles of association, its programme and other written evidence.

11. In their decisions of July and November 1990 and March 1991 the courts found that Ilinden's aims were directed against the unity of the nation, that it advocated national and ethnic hatred and that it was dangerous for the territorial integrity of Bulgaria. Therefore, its registration would have been contrary to Articles 3, 8 and 52 § 3 of the Constitution of 1971, as in force at the time. In particular, the aims of the association included the "political development of Macedonia" and the "united, independent Macedonian State". Moreover, in its appeal to the Supreme Court, the association had stated that "the Macedonian people [would] not accept Bulgarian, Greek or Serbian rule". The formal declaration in its articles of association that it would not imperil the territorial integrity of Bulgaria appeared inconsistent with the remaining material.

12. The judgment of the Supreme Court of 11 March 1991 stated, *inter alia*:

> "[T]he lower courts have correctly established that the aims of [Ilinden] under its articles of association and programme were directed against the unity of the nation...

[The material in the case] demonstrates that [Ilinden] seeks to disseminate the ideas of Macedonianism among the Bulgarian population, especially in a particular geographical area. [Those ideas] presuppose the 'denationalisation' of the Bulgarian population and its conversion into a Macedonian population... It follows that [Ilinden] is directed against the unity of the nation and is therefore prohibited under Article 35 § 3 of the [1971] Constitution..."

B. Events organised by Ilinden

13. Throughout the period 1990-2003 Ilinden tried to organise commemorations of historical events every year on certain dates in April, August and September, on various sites in Pirin Macedonia. Almost all of the commemoration gatherings were banned by the authorities, often on the basis of the organisation not been registered. In some instances the courts refused to examine appeals against such bans on the same ground (for the period 1994-97 see *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, §§ 21, 25, and 29-30, ECHR 2001-IX; for the period 1998-2003 see *The United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*, no. 44079/98, §§ 12-71, 20 October 2005).

C. The 1998-99 refusal to register Ilinden

14. On 26 October 1997 the applicants, together with seven, eight or nine other persons, held a meeting in Petrich. There are two versions of the minutes of this meeting. The first one states that eighteen persons adopted a resolution to re-apply for registration of Ilinden. The second one states that seventeen persons decided to found a non-profit-making association named Ilinden. Both versions state that the persons present adopted the articles and elected the management committee and the chairman of the association.

15. The relevant clauses of the articles of association of Ilinden adopted at that meeting read:

"1. [Ilinden] is a national Macedonian organisation, on ethnical basis and origin ... which is the successor and continuer of the national liberation struggle of the Macedonian nation ... and of the Macedonian fighters who have fallen victim to the Bulgarian State terrorism and genocide.

2(1). Ilinden recognises and respects the territorial integrity of the Republic of Bulgaria and its laws and Constitution, provided they are consistent with the international law and the international agreements on human rights, fundamental freedoms and the rights of minorities.

2(2). [Ilinden] supports the international law [rules providing that] borders between countries may be altered peacefully through negotiations.

3. The goals and objects of [Ilinden] ... [are] to express and defend the civil, political, national, social, and economic rights of Macedonians living on Macedonian land under Bulgarian occupation (jurisdiction) and of the Macedonians living in Bulgaria.

4(1). [Ilinden] will protect the Macedonians subjected to assimilation by the Bulgarian nationalistic policies.

4(2). [Ilinden will seek the r]ecognition of a status of cultural autonomy of Pirin Macedonia [in order to] halt the process of assimilation of the Macedonians.

...

4(5). [and the g]iving of autocephalous status of the Macedonian church in Pirin Macedonia with a view to cutting off the assimilation activities of the Bulgarian priests.

...

5. [Ilinden] will strive towards ... liberating the Macedonians from the feelings of fear of the discrimination and assimilation policies of the [Bulgarian State].

...

7(2). [The means employed by Ilinden for achieving its goals shall be] ... the holding of peaceful assemblies, meetings, marches and demonstrations...

7(3). Participation in elections through nomination of independent Macedonians candidates.

...

8(2). Every Macedonian, as well as a citizen of another ethnicity, may become a member of the organisation."

16. On 16 March 1998 the applicants lodged an application for the registration of Ilinden with the Blagoevgrad Regional Court. They submitted to the court a copy of the first version of the minutes of the 26 October 1997 meeting (see paragraph 14 above). Finding that one member of the management committee had not signed the application for registration and that the filed copy of the articles of association had not been signed either, the court invited the applicants to submit duly signed copies of the application and the articles. On 6 April 1998 one of the applicants filed a signed application and an unsigned copy of the articles. The court also instructed the applicants to produce a copy of the resolution for the founding of Ilinden. On 2 June 1998 an unsigned copy of the second version of the minutes of the October 1997 meeting (see paragraph 14 above), containing a resolution for the founding of Ilinden and the names of eighteen purported founders, was filed with the court. A hearing was held on 19 June 1998. On 10 July 1998 a copy of the second version of the

minutes (see paragraph 14 above), signed by fifteen persons, was filed with the court. At a hearing held on 29 September 1998 the applicants stated that this second version had been drafted by an attorney and had been signed by the founders before the first hearing on 19 June 1998. The court admitted the document in evidence.

17. The Blagoevgrad Regional Court gave judgment on 2 November 1998. It rejected the application in the following terms:

> "By section 136(1) of the Persons and Family Act [of 1949], the application for registration of a non-profit-making association must be accompanied by a resolution for its founding [and] its articles of association, signed by the founders...
>
> In their application for registration the members of the management committee state that in 1990 the organisation was denied registration ..., which may lead to the conclusion that the resolution for the founding of Ilinden was adopted ... at the latest in 1990. This conclusion is supported by the first version of the minutes of 26 October 1997. This version states that at a meeting held on 26 October 1997 in Petrich, with eighteen persons present, the question of the re-registration of Ilinden was discussed...
>
> In a letter of 30 April 1998 the court instructed the applicants to present a resolution for the founding of the association. Following this instruction the applicants submitted unsigned minutes dated 26 October 1997, which reflect a different agenda and different decisions. These new minutes contain an express resolution for the founding of Ilinden, for the adoption of its articles of association and the electing of a management committee. The heading of these minutes indicates that seventeen persons were founders. An additional, signed version of these minutes bears the signatures of fifteen persons. Three of the alleged founders ... have not signed the minutes of 26 October 1997, while the minutes state that the resolution for the founding of the association was adopted by unanimity. However, these persons have signed the [first version of the minutes], which contain the resolution to re-register Ilinden. [During the hearing] on 29 September 1998 the members of the management committee averred that there had only been one meeting, [which took place] on 26 October 1997. In view of these circumstances, the court considers that it has not been categorically established that a resolution for the founding of Ilinden was adopted on 26 October 1997. It is unclear who the founders were, because there are two versions of the minutes of the same date, signed by different persons and having different contents. Thus, one of the absolute prerequisites of section 136(1) of the [Persons and Family Act of 1949] – a resolution for the founding the association – is missing.
>
> The second mandatory attachment to the application for registration – articles of association signed by the founders – is likewise missing.
>
> When the applicants first applied for registration on 16 March 1998..., they were instructed to submit articles of association signed by the founders. This instruction has not been complied with. The articles ... dated 27 September 1997 are not signed. Alongside the articles the applicants have submitted a separate sheet, stating: 'The articles of association of Ilinden were discussed and adopted at the founding meeting on 26 October 1997'. Only the signatures of the members of the management committee follow. The presentation of articles of association signed by the founders is an absolute prerequisite for [registration]. On this ground alone – the failure to comply

with the requirements of section 136(1) of the [Persons and Family Act of 1949] – the registration of [Ilinden] must be refused.

The court considers it necessary to note that, alongside the above-mentioned [reasons to refuse registration], there are a number of serious discrepancies between the submitted articles of association and the laws of [Bulgaria], which render the registration inadmissible.

In clause 1 of its articles of association [Ilinden] defines itself as a 'Macedonian national organisation on ethnical basis and origin ... which is the successor and continuer of the national liberation struggle of the Macedonian nation ... and of the Macedonian fighters who have fallen victim to the Bulgarian State terrorism and genocide'.

This text clearly shows that the association considers itself a 'successor' and continuer of ... the 'national liberation struggle of the Macedonian nation'... The evoking of historical events in which the Bulgarian people fought for the protection of its national interests [and] for the restoration of the Bulgarian State is puzzling in the context of an activity which is to be carried out against this same State. It is not clear how an association may be a 'successor' of 'fighters fallen victim' but probably the applicants wanted to underscore that they intend to lead a 'national liberation struggle' on the territory of the Republic of Bulgaria through uprisings, which process is expected to lead to victims. Read this way, clause 1 of the articles raises serious doubts as to the peaceful means for the achievement of the goals of the association declared in clause 7. Clause 2(1) of the articles recognises the territorial integrity of the country, its laws and Constitution, but under a condition: 'if they are consistent with the international law and the international agreements on human rights, fundamental freedoms and the rights of minorities'. The reservations relating to respect for the territorial integrity of the country continue in clause 2(2) of the articles, which introduces the concept of modification of the borders through 'negotiations'. The association's goal – to achieve a modification of the borders of Bulgaria through taking of territory away – is clearly spelled out in clause 3 of the articles, which indicates that [Ilinden] 'expresses and defends the civil, political, national and social and economic rights of Macedonians living on Macedonian land under Bulgarian occupation (jurisdiction) and of the Macedonians living in Bulgaria'. The use of the term 'occupation' indicates that, according to the applicants, the Republic of Bulgaria includes forcibly annexed 'Macedonian' lands, for the liberation of which they will lead a 'national liberation struggle'. This idea is underscored in several other provisions of the articles. Thus, clause 4 speaks of protection against Bulgarian 'assimilation' through cultural autonomy of Pirin Macedonia, which takes as a given that the population there is not Bulgarian, clause 5 [speaks of] 'taking the Macedonians out' of the state of [being subjected to] 'discrimination and assimilation' by the Bulgarian State.

Clause 7 of the articles indicates that the association will organise peaceful assemblies, meetings, marches and demonstrations with demands for political rights, and that it will participate in elections through the nomination of candidates. Therefore, even though it claims to be a non-profit-making association, Ilinden proclaims that it will carry out a political activity within the meaning of Article 11 § 3 of the Constitution [of 1991] and section 13(3) of the Political Parties Act [of 1990].

Article 12 § 2 of the Constitution [of 1991] provides that associations may not pursue political goals and carry out political activities that are characteristic solely of

political parties. This prohibition is developed in section 13(1) and (5) of the Political Parties Act [of 1990]. An association which pursues political goals such as those clearly designated by the applicants here may not be registered [as such].

Apart from the political character of the goals and of the future activity [of the association], the aforesaid leads to the conclusion that [Ilinden] is an organisation directed against the sovereignty, the territorial integrity and the unity of the nation and towards the incitement of national hatred, and is not categorically excluding the use of violence.

Clauses 1, 2, 4, 6, and 7 of the articles of the association contain suggestions [that there exists] a Macedonian ethnos [constituting a] minority and deprived of the rights that the Constitution [of 1991] bestows upon all Bulgarian citizens.

There is no Macedonian minority in Bulgaria. There are no historical, religious, linguistic, or ethnical grounds for such an assertion. [Such an assertion], coupled with the declarations alleging 'assimilation, discrimination and xenophobia' in respect of the 'Macedonians', is in reality directed against the unity of the nation. Every organisation committed to such a political platform is prohibited by virtue of Article 44 § 2 of the Constitution [of 1991]. ..."

18. The management committee of Ilinden appealed to the Sofia Court of Appeals. They argued that the Blagoevgrad Regional Court had deliberately misconstrued the articles of association. Ilinden had no political goals and had never intended to dispute the territorial integrity and the sovereignty of Bulgaria, nor to incite violence or ethnic hatred. The court had refused registration because of its mistaken finding that the articles insinuated the existence of a Macedonian ethnos having a minority character. Also, as there had apparently been doubt about technical problems with the registration documents, the management committee submitted a fresh copy of the minutes of the association's founding meeting. It also submitted a list of signatures of the founders of Ilinden who were not members of the management committee, apparently with the purpose of remedying the deficiency noted by the Blagoevgrad Regional Court – that the articles of association bore the signatures of the members of the management committee only, not of all founders.

19. The Sofia Court of Appeals dismissed the appeal in a judgment of 28 April 1998. The relevant part of its opinion read:

"...this court finds that the prerequisites for entering [Ilinden] in the register of non-profit-making legal persons are missing. The first irregularity of the association is that the submitted articles are not signed by the founders, as required by section 136 of the Persons and Family Act [of 1949]. Furthermore, the articles contain a number of clauses which do not allow the registration of the association. Clause 1 indicates that [Ilinden] shall be 'a Macedonian national organisation [based] on ethnicity and origin', and clause 8 provides that 'only a Macedonian' may be a member of the organisation; such type of association is inadmissible and contrary to Article 6 § 2 of the Constitution [of 1991], which prohibits privileges based on 'nationality, ethnicity, origin'...

> In clause 7 of its articles the association sets itself political goals, which it may pursue only if registered [as a political party]. The formulated aims, such as 'participation in elections' [and] the holding of 'meetings, marches and demonstrations' run also against Article 12 § 2 of the Constitution [of 1991], which does not allow associations to perform political activities. The legal definition of the term 'political activity' set out in section 13(3) of the Political Parties Act [of 1990] indicates that it comprises precisely the holding of meetings, demonstrations, assemblies and other forms of public campaigning.
>
> Clause 4 of the articles provides that the association will carry out activities that are characteristic of a denomination ... : 'struggling to achieve an autocephalous status of the Macedonian church and cutting off the assimilation activities of the Bulgarian priests' [; such activities] may be carried out only by non-profit-making organisations registered under section 133a of the Persons and Family Act [of 1949] and the Denominations Act [of 1949].
>
> The proposition of the applicants is that the association should be registered because its articles do not set forth political aims and the association is not established on an ethnical or a national basis. These assertions are unfounded. On the one hand, the submitted articles of association have not been signed by the founders, which precludes the possibility of registration ... On the other hand, the activities the articles envisage ... may not be carried out by such a type of association. This indicates that the irregularities in the founding of the association may not be rectified through the additional presentation of evidence; the registration is therefore impossible."

20. The management committee of Ilinden appealed on points of law to the Supreme Court of Cassation. They argued that the Sofia Court of Appeals had erred in holding that the formation of an association could lead to discrimination. On the contrary, it was the exercise of a fundamental right. Also, Ilinden did not pursue any of the activities proscribed by Article 44 § 2 of the Constitution of 1991. As regarded the alleged political goals and activities of the association, they submitted that the Sofia Court of Appeals had misconstrued the term "political activity": the holding of meetings and marches was not the prerogative of political parties – they could be organised by any organisation or person. The statement of the court that the meaning of clause 4 of its articles of association was that Ilinden intended to engage in religious activities was tendentious and untrue. In addition, the applicants complained that the Sofia Court of Appeals had repeated the conclusion of the Blagoevgrad Regional Court that they had not submitted a duly signed copy of the articles of association, apparently disregarding the fresh documents they had presented together with their appeal from the latter's judgment.

21. The Supreme Court of Cassation gave judgment on 12 October 1999. It dismissed the appeal in the following terms:

> "...The appeal is ill-founded.
>
> The [Sofia] Court of Appeals found that the submitted articles of association have not been signed by the founders, as mandated by the imperative rule of section 136 of the [Persons and Family Act of 1949]. Secondly, the articles contain a number of

clauses precluding the registration of the association. Clauses 1 and 8 contravene Article 6 § 2 of the Constitution [of 1991], clause 7 [contravenes] Article 12 § 2 of the Constitution [of 1991] in conjunction with section 13(3) of the [Political Parties Act of 1990], [and] clause 4 [runs counter to] section 133a of the [Persons and Family Act of 1949].

The judgment of the [Sofia] Court of Appeals is correct. The finding that the legal requirements for the registration of the association have not been met corresponds to the documents in the case file and more specifically to the articles of association [of Ilinden].

An association is registered pursuant to an application by its management committee which must be accompanied by a resolution for its founding and its articles, signed by the founders. This means a signed copy of the articles and not separate lists and minutes. [In addition,] Article 6 § 2 of the Constitution [of 1991] does not allow privileges on the basis of nationality, ethnicity, origin, etc. By Article 12 § 2 of the Constitution [of 1991], associations may not pursue political goals and carry out political activities characteristic solely of political parties. Account should also be taken of section 13 of the [Political Parties Act of 1990]."

D. The 2002-04 refusal to register Ilinden

22. On 21 October 2002 Ilinden lodged another application for registration with the Blagoevgrad Regional Court. In a judgment of 18 November 2002 the court refused to register the association. Its opinion read, as relevant:

"The evidence ... indicates ... that the activities of the organisation which seeks registration are directed against the sovereignty and the territorial integrity of the country and the unity of the nation. This is apparent from the main goals of the association ... and the means for their achievement...

The way they are formulated ... indicate[s] their political character. ...The organisation states that it is a successor and continuer of the 'national liberation struggle of the Macedonian nation', including the 'Macedonian fighters who have fallen victim to the Bulgarian State terrorism and genocide'[. Its articles of association] specify that [the organisation] will respect the territorial integrity of the Republic of Bulgaria, but only if '[it is] consistent with the international law and the international agreements on human rights, fundamental freedoms and the rights of minorities'; [that the organisation] will 'voice and protect the civil, social and economic rights of the Macedonians who live on Macedonian soil under Bulgarian occupation (jurisdiction) and of the Macedonians who live in Bulgaria'[. The articles also] insist that 'the process of assimilation in Pirin Macedonia must be stopped'. Obviously, the aim is to distort the historical truth and to ignore the Bulgarian character of certain geographical regions [and] to cause overt opposition of one part of the population to another. This also threatens the territorial integrity of the country, while Article 44 § 2 of the Constitution [of 1991] prohibits organisations engaging in such an activity.

Even if, despite [what was found] above, it is assumed that the activities of [Ilinden] do not run counter to the Constitution [of 1991], by Article 12 § 2 thereof associations

> may not pursue political goals and carry out political activities that are characteristic solely of political parties. The political character of the aims [of Ilinden] is clearly indicated by [its articles of association], while the [applicable law] provides that organisations seeking to engage in political, trade union or religious activities shall be regulated in a separate statute.
>
> All this leads to the conclusion that what is sought is the registration of an association whose aims are illegal. It cannot be accepted that what is at issue is an organisation seeking to preserve the historical traditions and the cultural riches of a specific community. ... The realisation of the true aims [of Ilinden] would no doubt be at the expense of the unity of the Bulgarian nation [and] the sovereignty and the territorial integrity [of the country], which is declared inviolable by Article 2 § 2 of the Constitution [of 1991]."

23. Ilinden's ensuing appeal was dismissed by the Sofia Court of Appeals in a judgment of 11 July 2003. The court held that the aims of Ilinden were political, which was impermissible for a non-profit-making association. It further held that the aims of Ilinden were directed towards a "twisting of the historical truths and towards ignoring the Bulgarian character of certain geographical regions, with a view to causing overt opposition of one part of the Bulgarian citizens against another, which imperil[ed] the territorial integrity of the country and the unity of the nation, in breach of the imperative rule of Article 44 § 2 of the Constitution [of 1991]". Finally, the court held that there had been an irregularity in the number of elected members of the association's management committee.

24. Ilinden's appeal on points of law to the Supreme Court of Cassation was likewise dismissed, in a final judgment of 12 May 2004. The court held that Ilinden's activity, which would include protecting the 'civil, social and economic rights of the Macedonians living on Bulgarian soil and of the Macedonians living in Bulgaria' ran counter to Article 44 § 2 of the Constitution of 1991. Even assuming that this was not the case, registration was impossible, because Ilinden's aims were in reality political, as indicated by its declarations that it was a continuer of the "national liberation struggle of the Macedonian nation" and that its founders were "spiritual successors of 'the Macedonian fighters which had fallen victim of the Bulgarian state terrorism and genocide'", which was impermissible for a non-profit-making association. Finally, the court endorsed the Sofia Court of Appeals' finding that there had been an irregularity in the number of elected members of the management committee.

II. RELEVANT DOMESTIC LAW

A. The Constitution of 1991

25. The relevant provisions of the Constitution of 1991 read as follows:

Article 2 § 2

"The territorial integrity of the Republic of Bulgaria shall be inviolable."

Article 6 § 2

"All citizens shall be equal before the law. There shall be no privileges or restriction of rights on the grounds of race, nationality, ethnicity, sex, origin, religion, education, opinion, political affiliation, personal or social status, or property status."

Article 11 § 3

"Parties shall facilitate the formation of the citizens' political will..."

Article 12 § 2

"Associations ... may not pursue political goals or carry out political activities that are characteristic solely of political parties."

Article 43 § 1

"Everyone shall have the right to peaceful and unarmed assembly at meetings and marches."

Article 44

"1. Citizens may freely associate.

2. Organisations whose activities are directed against the sovereignty [or] the territorial integrity of the country and the unity of the nation, towards the incitement of racial, national, ethnical or religious enmity ... as well as organisations which seek to achieve their goals through violence are prohibited.

3. The law shall specify the organisations which are subject to registration, the manner of their dissolution, as well as their relations with the State."

B. The Persons and Family Act of 1949 („Закон за лицата и семейството“)

26. At the material time this Act, the relevant provisions of which were subsequently superseded by the Non-Profit-Making Legal Persons Act of 2000 (see paragraph 29 below) and some other statutes, regulated the formation, status and dissolution of non-profit-making legal persons. Its pertinent provisions were:

Section 133a

"Non-profit-making legal entities carrying out an activity characteristic of a denomination or performing a religious or a religious educational activity shall be registered ... after assent being given by the Council of Ministers."

Section 134

"An association shall acquire legal personality after its entry in the register [kept by] the Regional Court."

Section 136(1)

"An association shall be registered pursuant to an application by [its] management committee [to which shall be enclosed] a resolution for its founding and its articles of association, signed by the founders..."

Section 138

"Associations shall be managed in accordance with [their] articles of association, which must contain provisions in respect of [their] name, goals, means..."

Section 146(1)

"...An association may be dissolved by decision of the Regional Court if ... its functioning is contrary to law, its articles or the state and public order..."

C. The Political Parties Act of 1990 („Закон за политическите партии“)

27. This act, which was superseded by new legislation in 2001, regulated the formation, registration, functioning and dissolution of political parties. Its relevant provisions read as follows:

Section 13

"1. A public organisation which has not been registered as a political party may not carry out the activity of a political party.

2. A [public organisation] which has not been registered as a political party may not carry out organised political activities [on the premises of] enterprises, government agencies and organisations.

3. 'Organised political activities' shall mean the holding of meetings, demonstrations, assemblies and other forms of campaigning in favour of or against a political party or an election candidate.

4. If a public organisation ... clearly carries out the activity of a political party, the regional prosecutor shall offer that it be dissolved or register as a political party within one month.

5. If the organisation under the foregoing subsection does not cease its political activity or register as a political party, it shall be dissolved..."

D. The Meetings and Marches Act of 1990 („Закон за събранията, митингите и манифестациите")

28. The relevant provisions of this Act read as follows:

Section 2

"Meetings, rallies and marches may be organised by individuals, associations, political or other civic organisations."

E. The Non-Profit-Making Legal Persons Act of 2000 („Закон за юридическите лица с нестопанска цел")

29. Under section 13(1)(3)(b) of this Act, which came into force on 1 January 2001 and at present regulates, *inter alia*, non-profit-making associations, the competent regional court may dissolve any association which carries out an activity which is contrary to the law, the public order or morality. By section 13(2) of the Act, the court may act pursuant to the request of any interested person or the public prosecutor.

THE LAW

I. SCOPE OF THE CASE

30. The Court starts by noting that what is at issue in the present case is solely the refusal of the authorities to register Ilinden in 1998-99, not the earlier refusal to do so in 1990-91, a complaint in respect of which was declared inadmissible by the former Commission as being incompatible

ratione temporis with the provisions of the Convention (see *Stankov, Trayanov, Stoychev, the United Macedonian Organisation Ilinden, Mechkarov and Others v. Bulgaria*, nos. 29221/95, 29222/95, 29223/95, 29225/95 and 29226/95, Commission decision of 21 October 1996, unreported), nor the subsequent one in 2002-04, which is the subject of another application, currently pending before the Court (no. 34960/04).

31. The Court will nonetheless have regard to these events, as well to certain other interactions between Ilinden and the authorities, as set out in its judgments in the cases of *Stankov and the United Macedonian Organisation Ilinden* (cited above), *The United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*, no. 44079/98, 20 October 2005), *Ivanov and Others v. Bulgaria* (no. 46336/99, 24 November 2005), and *The United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria* (no. 59489/00, 20 October 2005), insofar as this might be relevant to the complaints before it.

II. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

32. The applicants complained under Article 11 of the Convention that the refusal of the courts to register Ilinden in 1998-99 had been arbitrary, had been based on a distorted interpretation of the relevant facts, and had not in reality been grounded in the provisions of domestic law.

33. Article 11 provides, 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 submissions of the parties

1. The applicants

34. The applicants argued that by refusing to register Ilinden the authorities had infringed their rights under Article 11 of the Convention. The refusal of the courts had been based on deliberately erroneous findings in respect of the relevant facts and a misconstruction of the applicable law. It was clear that freedom of association could not be subjected to restrictions other than those which were provided for by law for the protection of national security and 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.

35. The applicants submitted that the Government's averment that Ilinden had been implicated in numerous incidents, clashes with the police and profanations of national symbols was calumnious. On the contrary, all incidents referred to by the Government had been provocative actions of the authorities who had tried to hamper the organisation's registration. Ilinden's articles of association did not contain any calls to violence. Ilinden did not have political goals; it was conceived as a cultural and educational organisation. Its aim was not to deny the Bulgarian character of certain geographical regions or to cause a rift between different groups of the population, but to protect the rights and freedoms of a part of the citizens of Bulgaria. The Government's averment that Ilinden's goal was to seek secession of Pirin Macedonia was not supported by any evidence. The refusal to register the organisation had in fact been based on the views held by its members, which differed from the officially sanctioned opinions.

36. The applicants further argued that Ilinden was not directed against the sovereignty or the territorial integrity of Bulgaria, or against the unity of the nation. The fact that its articles of association spoke of continuation of the "national liberation struggle" could not change this conclusion. The organisation had been founded as an educational organisation which would attain its goals exclusively through peaceful means. Opposing state genocide and terror was not illegal. On the contrary, it was a national and an international priority. Therefore an organisation whose aim was to resist the trampling of the rights of a national minority and to seek to protect its interests could not be illegal.

37. The applicants further contested the numbers provided by the Government about the population of the Blagoevgrad region. They submitted that it was an official policy to ignore the fact that there existed in Bulgaria a considerable Macedonian minority whose rights were completely negated. One of the aims of the organisation was to protect these rights. Moreover, it was doubtful whether the population in the Blagoevgrad region had indeed freely stated their true ethnicity for the census. It was probable that many persons had not declared themselves as Macedonians because of fear of negative repercussions.

38. As regards the registration documents, the applicants conceded that initially there had been certain irregularities, but that, in compliance with the instructions of the court, these had been rectified. The applicants pointed out that in 2002 they had tried to register Ilinden again, this time fully complying with the technical requirements of the law, but that the Blagoevgrad Regional Court had again refused registration. The applicants also stated in some cases the courts allowed associations to be registered without providing signed copies of their articles of association or minutes of their founding meetings.

39. The applicants further argued that Ilinden did not pursue political goals and did not intend to carry out political activities that are characteristic solely of political parties. The holding of meetings and the participation in elections were not the privileges of political parties only. Meetings could also be organised by private individuals and religious communities, as well as by non-profit-making associations.

40. Finally, the applicants denounced the policy of the authorities to deny the existence of a Macedonian minority and to hinder the development of the Pirin region.

2. The Government

41. The Government submitted that the restriction of the applicants' freedom of association had not been unjustified.

42. As regards lawfulness, the Government argued that the refusal to register Ilinden had been based on the provisions of the Constitution of 1991 (Articles 12 § 2 and 44 § 2), the Persons and Family Act of 1949 (sections 134 et seq.) and the Political Parties Act of 1990 (section 13).

43. The Government further argued that the measures complained of pursued a wide range of legitimate aims.

44. Firstly, they pursued the aims of protecting national security and public safety and preventing disorder and crime. The goals of Ilinden, as set forth in its articles – to continue the national liberation struggle against the Bulgarian State terrorism and genocide – posed a serious threat to the national security. The facts of *Stankov and the United Macedonian Organisation Ilinden* (cited above) indicated that there had been numerous incidents, clashes with the police and profanations of national symbols which had occurred during the events organised by Ilinden. Viewed in this optic, the desire to participate in the politics of the country and the existence of articles of association which called for violence, revealed the true aim of the organisation – to seek the secession of Pirin Macedonia from the territory of Bulgaria.

45. Secondly, the refusal to register Ilinden pursued the aim of protecting the rights and freedoms of others. No one challenged the right of the supporters of Ilinden to define themselves as Macedonians. This was apparent from the latest census, according to which 5,071 persons, 3,117 of which in the Blagoevgrad region, had defined themselves as Macedonians. However, the right to associate should be exercised in a manner not to infringe the rights and freedoms of the other 341,173 persons in the Blagoevgrad region, which defined themselves as Bulgarians, Turks, Roma, Armenians, Greeks, etc.

46. In the Government's submission, the refusal to register Ilinden had been due to a pressing social need and had been proportionate to the legitimate aims pursued.

47. By section 136(1) of the Persons and Family Act of 1949, the registration of an association was effected pursuant to an application by its management committee, signed by all members of the committee. Further, at the founding meeting all founders had to adopt a resolution for the founding of the association, adopt its articles, and elect a management committee. The minutes of the founding meeting, as well as the adopted articles of association, had to be signed by all founders. An association could only be registered if these conditions had been met. Despite the fact that the Blagoevgrad Regional Court had twice indicated to the applicants the deficiencies in the documents they had presented, they had failed to comply with these legal requirements. The Blagoevgrad Regional Court had held that "[o]n this ground alone – the failure to comply with the requirements of section 136(1) of the [Persons and Family Act of 1949] – the registration of [Ilinden] [had to] be refused". The Sofia Court of Appeals had likewise found that the imperative rule of section 136(1) of the Persons and Family Act of 1949 had not been complied with. The applicants had not submitted a signed copy of the articles, but only two separate documents which had no legal value. The Supreme Court of Cassation had also found that the conclusion that the prerequisites for registration had been missing had been supported by the submitted documents, in particular the articles of association. These findings by the domestic courts indicated that the applicants had not complied with the formal requirements of the law. On the other hand, the refusal to register Ilinden did not preclude the applicants from submitting a fresh registration request. In order to avoid a second refusal, all it needed to do was to rectify the documents submitted to the court, so as to make them compliant with the legal requirements.

48. The Government further submitted that alongside these formal omissions by the applicants, the domestic courts had grounded the refusal to register Ilinden on the contents of its articles of association. All three levels of court had pointed out that certain clauses of Ilinden's articles infringed the Constitution and the laws of Bulgaria.

49. Thus, for instance, the Blagoevgrad Regional Court had found that clause 1 of the articles led to the conclusion that the applicants had the intention of conducting a national liberation struggle on the territory of Bulgaria. There was certain doubt as to whether this aim would be pursued by peaceful means. Further, clause 3 of the articles spoke of "occupation", which term, viewed in the context of the idea for the continuation of a national liberation war, unavoidably led to the conclusion drawn by the Blagoevgrad Regional Court. The articles thus indicated that Ilinden' objectives were directed against the sovereignty and the territorial integrity of the country and the unity of the nation, which made them incompatible with the democratic principles and the constitutional provisions.

50. The text of clause 5 of the articles indisputably indicated that the goals of the association would be to fight against the Bulgarian State and

insinuated that the State led a discrimination and assimilation policy vis-à-vis the Macedonians living in Bulgaria.

51. The Government observed that while the articles of association presented during the first registration attempt in 1990-91 had laid more emphasis on educational and cultural aims, in the new articles the political aims had taken precedence. Thus, for example, clause 7 of the articles provided that the association would participate in elections, which went against the proscription of Article 12 § 2 of the Constitution of 1991 and section 13(1) of the Political Parties Act of 1990.

52. In sum, the Government were of the view that the interference with the applicants' freedom of association had been lawful and necessary in a democratic society in the interests of national security and public safety, for the prevention of disorder and crime and for the protection of the rights and freedoms of others.

B. The Court's assessment

1. Whether there was an interference

53. The Court considers that the domestic courts' refusal to register Ilinden amounts to an interference by the authorities with the applicants' exercise of their right to freedom of association (see *Sidiropoulos and Others*, cited above, p. 1612, § 31; *APEH Üldözötteinek Szövetsége and Others v. Hungary* (dec.), no. 32367/96, 31 August 1999; *Gorzelik and Others v. Poland* [GC], no. 44158/98, § 52, ECHR 2004-I; and *Partidul Comunistilor (Nepeceristi) and Ungureanu v. Romania*, no. 46626/99, § 27, 3 February 2005). Ilinden suffered the consequences of not being registered and thus not having legal personality on a number of occasions when it sought to organise public events. In several instances the authorities did not reply to its notifications on the ground that it had not been registered, and the courts sometimes refused to examine its applications for judicial review because they had been submitted on behalf of a nonexistent legal person (see *Stankov and the United Macedonian Organisation Ilinden*, §§ 21, 25, 29 and 30; and *The United Macedonian Organisation Ilinden and Ivanov*, §§ 19, 24, 43 and 49, both cited above).

54. This interference will not be justified under the terms of Article 11 unless it was "prescribed by law", pursued one or more of the legitimate aims set out in paragraph 2 of that Article and was "necessary in a democratic society" for the achievement of those aims.

2. Whether the interference was "prescribed by law"

55. The Court notes that the reasons given by the domestic courts for refusing registration in the proceedings at issue fluctuated. It observes,

however, that the refusal to register Ilinden was based on the provisions of the Constitution of 1991, the Persons and Family Act of 1949 and several other statutes. In these circumstances, and recalling that it is primarily for the national courts to interpret and apply domestic law, the Court is prepared to accept that the interference in question was prescribed by law (see *Metropolitan Church of Bessarabia and Others v. Moldova*, no. 45701/99, §§ 107-10, ECHR 2001-XII; and, *mutatis mutandis*, *Stankov and the United Macedonian Organisation Ilinden*, cited above, §§ 81 and 82). Insofar as the applicants challenged the soundness of the courts' assessment of the relevant facts and the quality of their reasoning, these issues fall to be examined in the context of the question whether or not the interference with the applicants' freedom of association was necessary in a democratic society, which appears to be the central aspect of the case (see, *mutatis mutandis*, *Doğan and Others v. Turkey*, nos. 8803-8811/02, 8813/02 and 8815-8819/02, § 149, ECHR 2004-VI (extracts); and *Partidul Comunistilor (Nepeceristi) and Ungureanu*, cited above, § 34).

3. Whether the interference pursued a legitimate aim

56. The Court recalls that exceptions to freedom of association must be narrowly interpreted, such that their enumeration is strictly exhaustive and their definition is necessarily restrictive (see *Sidiropoulos and Others*, cited above, pp. 1613-14, § 38). Nevertheless, having regard to all the material in the case the Court accepts that the interference was intended to safeguard one or more of the interests cited by the Government.

4. Whether the interference was "necessary in a democratic society"

(a) General principles in the Court's case-law

57. The right to form an association is an inherent part of the right set forth in Article 11, even if that Article only makes express reference to the right to form trade unions. That citizens should be able to form a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of the right to freedom of association, without which that right would be deprived of any meaning. The way in which national legislation enshrines this freedom and its practical application by the authorities reveal the state of democracy in the country concerned. Certainly States have a right to satisfy themselves that an association's aim and activities are in conformity with the rules laid down in legislation, but they must do so in a manner compatible with their obligations under the Convention and subject to review by the Convention institutions (see *Sidiropoulos and Others*, cited above, pp. 1614-15, § 40).

58. While in the context of Article 11 the Court has often referred to the essential role played by political parties in ensuring pluralism and

democracy, associations formed for other purposes, including those protecting cultural or spiritual heritage, pursuing various socio-economic aims, proclaiming or teaching religion, seeking an ethnic identity or asserting a minority consciousness, are also important to the proper functioning of democracy. For pluralism is also built on the genuine recognition of, and respect for, diversity and the dynamics of cultural traditions, ethnic and cultural identities, religious beliefs, artistic, literary and socio-economic ideas and concepts. The harmonious interaction of persons and groups with varied identities is essential for achieving social cohesion. It is only natural that, where a civil society functions in a healthy manner, the participation of citizens in the democratic process is to a large extent achieved through belonging to associations in which they may integrate with each other and pursue common objectives collectively (see *Gorzelik and Others*, cited above, § 92).

59. Given that the implementation of the principle of pluralism is impossible without an association being able to express freely its ideas and opinions, the Court has also recognised that the protection of opinions and the freedom of expression within the meaning of Article 10 of the Convention is one of the objectives of the freedom of association (see *Gorzelik and Others*, cited above, § 91). Such a link is particularly relevant where – as here – the authorities' intervention against an association was, at least in part, in reaction to its views and statements (see *Stankov and the United Macedonian Organisation Ilinden*, cited above, § 85 *in fine*).

60. Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no "democratic society" (ibid., § 86; and *Ceylan v. Turkey* [GC], no. 23556/94, § 32, ECHR 1999-IV, with further references).

61. Consequently, the exceptions set out in Article 11 are to be construed strictly; only convincing and compelling reasons can justify restrictions on freedom of association. In determining whether a necessity within the meaning of Article 11 § 2 exists, the States have only a limited margin of appreciation, which goes hand in hand with rigorous European supervision embracing both the law and the decisions applying it, including those given by independent courts (see *Sidiropoulos and Others*, cited above, ibid.).

62. When the Court carries out its scrutiny, its task is not to substitute its own view for that of the relevant national authorities but rather to review under Article 11 the decisions they delivered in the exercise of their discretion. This does not mean that it has to confine itself to ascertaining

whether the respondent State exercised its discretion reasonably, carefully and in good faith; it must look at the interference complained of in the light of the case as a whole and determine whether it was "proportionate to the legitimate aim pursued" and whether the reasons adduced by the national authorities to justify it are "relevant and sufficient". In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 11 and, moreover, that they based their decisions on an acceptable assessment of the relevant facts (ibid.).

(b) Application of the general principles to the present case

63. The Court must now, in light of the principles set out above, scrutinise the particular grounds relied on to justify the interference and the significance of that interference.

(i) Grounds relied on to justify the interference

64. The Court notes that the domestic courts in their judgments and the Government in their pleadings relied on three groups of arguments justifying the interference with the applicants' freedom of association (see paragraphs 17, 19, 21 and 44-51 above). That being so, the Court will examine these groups in turn.

(α) Alleged formal deficiencies in Ilinden's registration documents

65. The first group of reasons related to certain alleged formal deficiencies in the Ilinden's registration documents (see paragraph 47 above).

66. The Blagoevgrad Regional Court held that (a) in view of the discrepancies between the two versions of the minutes of the association's founding meeting it could not be categorically established how many persons had become founders and whether Ilinden had indeed been founded and that (b) the articles of association had been signed only by the members of its management committee, not by all founders (see paragraph 17 above). The Sofia Court of Appeals and the Supreme Court of Cassation did not mention the first deficiency and relied only on the second one, apparently because the first had been cured by the presentation of revised minutes of the founding meeting to the Sofia Court of Appeals (see paragraph 18 above).

67. Apparently the documents initially submitted by Ilinden's founders to the Blagoevgrad Regional Court were not in full conformity with the technical requirements of the law. However, it seems that later, in the proceedings before the Sofia Court of Appeals, the applicants rectified these deficiencies by submitting (a) a revised copy of the minutes of the founding meeting and (b) a list of signatures of the founders of Ilinden who were not members of its management committee, apparently with a view to

establishing that all founders agreed with the articles of association. The Sofia Court of Appeals did not make clear whether it had taken these fresh documents into account. Nor did the Supreme Court of Cassation, which confined itself to stating that a signed copy of the articles meant a copy featuring the signatures of the founders, "not separate lists and minutes" (see paragraphs 19 and 21 above). However, section 136(1) of the Persons and Family Act of 1949 did not specify the technical manner in which the articles had to be signed. It only provided that they had to be "signed by the founders" (see paragraph 26 above), the apparent reason for this being to make clear that all founders agreed with their text.

68. The Court has not been supplied with examples of how the domestic courts usually operate when dealing with applications for the registration of non-profit-making associations or other legal entities, which could indicate with reasonable certainty the exact import of the formal conditions for registration and the degree of precision required in the drafting of the registration documents by their founders, which is a matter to be determined by domestic law and practice. However, in view of the apparent lack of more detailed guidelines in this respect, it is of the opinion that it could be accepted that by submitting two separate sheets with signatures – initially one with the signatures of the members of the management committee and later one with the signatures of the remainder of the founders – the applicants did establish that all founders agreed with Ilinden's articles.

69. In conclusion, having regard to all the materials in the case file and the overall context, the Court is not satisfied that the national courts' findings concerning the alleged technical deficiencies in the documents submitted by Ilinden's founders constituted in the circumstances a sufficient reason to deny registration.

(β) Purported substantive divergences between Ilinden's articles of association and the Constitution and the laws of the country

70. The second group of reasons for the interference with the applicants' freedom of association were certain alleged conflicts of some of Ilinden's articles of association with specific provisions of the Constitution and the laws of the country (see paragraphs 48 and 51 above).

71. In the view of the Sofia Court of Appeals and the Supreme Court of Cassation, Ilinden only allowed "Macedonians" to become its members, which was discriminatory (see paragraph 19 and 21 above). That conclusion was based on an apparently distorted citation of the relevant clause of its articles, which in full provides that "[e]very Macedonian, as well as a citizen of another ethnicity, may become a member of the organisation" (see paragraph 15 above).

72. Further, the Sofia Court of Appeals held that, since one of Ilinden's goals was to seek an "autocephalous status of the Macedonian church in Pirin Macedonia", it was envisaging religious activities and accordingly had

to register with the Council of Ministers prior to seeking court registration (see paragraph 19 above). However, the provision requiring such registration, section 133a of the Persons and Family Act of 1949, applies only to denominations and religious education organisations, i.e. entities engaging in preaching or religious education (see paragraph 26 above). It does not seem that Ilinden falls into any of these categories.

73. Finally, all levels of court held that the "holding of peaceful assemblies, meetings, marches and demonstrations" and the "nomination of independent candidates" in elections were political activities allowed only to political parties (see paragraphs 17, 19 and 21 above). This was also argued by the Government in their pleadings (see paragraph 51 above). Consequently, Ilinden thus had to register as a political party and not as a non-profit-making association. However, the proscription of Article 12 § 2 of the Constitution of 1991 (see paragraph 25 above) in essence means that only parties may participate in elections as such, not that an organisation not registered as a political party may not support independent candidates for elections, which seems to be a routine occurrence in Bulgarian politics. As to section 13 of the Political Parties Act of 1990 (see paragraph 27 above), it only prohibited associations, if not registered as political parties, from carrying out "organised" political activities and not in general but only "on the premises of enterprises, government agencies and organisations". According to the definition in that same section, "organised political activities" meant the holding of meetings, demonstrations, assemblies and other forms of campaigning "in favour of or against a political party or an election candidate", not just any organisation of such events. On the other hand, Article 43 § 1 of the Constitution of 1991 and section 2 of the Meetings and Marches Act of 1990 expressly provide that anyone, including associations, may organise meetings, marches and assemblies (see paragraphs 25 and 28 above).

74. In view of the foregoing, the Court, while accepting that it is primarily for the domestic courts to interpret and apply domestic law, is likewise not persuaded that their holdings about the purported substantive divergences of Ilinden's articles with the Constitution and the laws of the country constituted a sufficient basis for the impugned interference.

(γ) Alleged dangers stemming from Ilinden's goals and declarations

75. The third group of arguments grounding the refusal to register Ilinden, relied on by the Government in their pleadings and apparently based on the reasoning of the Blagoevgrad Regional Court, essentially resumed to saying that by proclaiming that there was a "Macedonian minority" in Bulgaria, by proposing to defend its allegedly infringed rights and by harbouring separatist views, Ilinden would, if registered, be dangerous for the territorial integrity of the country, for the public order and for the rights and freedoms of others (see paragraphs 17, 44, 45, 49 and 50

above). These arguments largely coincide with the reasoning of the Constitutional Court, which declared a sibling organisation, the political party UMO Ilinden – PIRIN, unconstitutional on 29 February 2000 (see *The United Macedonian Organisation Ilinden – PIRIN and Others*, cited above, §§ 21-27), and with the reasons invoked by all levels of court to deny Ilinden registration in 1990-91 and again in 2002-04 (see paragraphs 11, 12, 22, 23 and 24 above).

76. However, the mere fact that a group of persons calls for autonomy or even requests secession of part of a country's territory – thus demanding fundamental constitutional and territorial changes – cannot automatically justify interferences with their rights under Article 11. Expressing separatist views and demanding territorial changes in speeches, demonstrations, or program documents does not amount *per se* to a threat to a country's territorial integrity and national security (see, *mutatis mutandis*, *Stankov and the United Macedonian Organisation Ilinden*, cited above, § 97; *Freedom and Democracy Party* (*ÖZDEP*) *v. Turkey* [GC], no. 23885/94, § 41, ECHR 1999-VIII; and *Yazar and Others v. Turkey*, nos. 22723/93, 22724/93 and 22725/93, §§ 57 and 58, ECHR 2002-II). However shocking and unacceptable certain views or words used might have appeared to the authorities and the majority of the population, and however illegitimate Ilinden's demands might have been, their suppression does not seem warranted in the circumstances of the case. In a democratic society based on the rule of law, political ideas which challenge the existing order and whose realisation is advocated by peaceful means must be afforded a proper opportunity of expression through the exercise of the right of association as well as by other lawful means (see, *mutatis mutandis*, *Stankov and the United Macedonian Organisation Ilinden*, cited above, § 97). It is true that the style of Ilinden's articles was virulent and the criticism of the Bulgarian authorities' actions was acerbic, as demonstrated by, *inter alia*, the use of the words "State terrorism" and "genocide" (see paragraph 15 above). However, as the Court has had many times occasion to stress, freedom of expression protects not only "information" and "ideas" that are favourably received or regarded as inoffensive or as matter of indifference, but also those that offend, shock or disturb, including language as harsh as the one at issue here (see *Ceylan*, cited above, §§ 32-34).

77. As regards the alleged propagation of violence, the Court recalls that the allegations of Ilinden's violent intentions were examined in *Stankov and the United Macedonian Organisation Ilinden* and were dismissed (see §§ 99-103 of the judgment). Nor is there any evidence in the case at hand which may lead to a different conclusion, despite the Blagoevgrad Regional Court's holding that Ilinden's "articles raise[d] serious doubts as to the peaceful means for the achievement of the goals of the association" (see paragraph 17 above). In this connection, the Court considers that account should be taken of the fact that the association's declarations apparently

included an element of exaggeration as it sought to attract attention (see *Stankov and the United Macedonian Organisation Ilinden*, cited above, § 102). Moreover, in case it subsequently tried to engage in any such action, the authorities would not have been powerless; under former Article 146(1) of the Persons and Family Act of 1949 and section 13(1)(3)(b) of the Non-Profit-Making Legal Persons Act of 2000, the competent regional court could dissolve the association if its functioning proved to be contrary to the law, its articles, or public order (see paragraphs 26 and 29 above, *Sidiropoulos and Others*, cited above, p. 1618, § 46, and, as an example to the contrary, *Gorzelik and Others*, cited above, § 101).

78. Finally, the Court is not persuaded that the interference with the applicants' freedom of association was necessary for protecting the rights and freedoms of the majority of the population in the Pirin region (see *Stankov and the United Macedonian Organisation Ilinden*, cited above, § 105).

79. In sum, the Court considers that the declarations and alleged intentions of Ilinden were not a sufficient ground to refuse its registration.

(ii) The significance of the interference

80. The Court notes that, in its impact on the applicants, the impugned measure was radical: it went so far as to prevent the association from even commencing any activity (see *Gorzelik and Others*, cited above, § 105).

(iii) The Court's conclusion

81. The Court already found in *Stankov and the United Macedonian Organisation Ilinden* (cited above, § 110) that the applicant association had only about three thousand supporters, not all of whom were active. Furthermore, as is apparent from the facts of another case concerning a sibling organisation, the political party UMO Ilinden – PIRIN, its public influence was negligible (see *The United Macedonian Organisation Ilinden – PIRIN and Others*, cited above, § 15 *in fine*). Nevertheless, the authorities sought to pre-emptively deprive it from any chance to engage in practical action. That approach was, in the Court's view, not justified under paragraph 2 of Article 11 of the Convention.

82. In the light of the foregoing, the Court concludes that the refusal to register Ilinden was disproportionate to the objectives pursued. That being so, there has been a violation of Article 11 of the Convention.

III. ALLEGED VIOLATIONS OF ARTICLES 6 § 1 AND 14 OF THE CONVENTION

83. The applicants asserted that the establishment of Ilinden had been prohibited arbitrarily and that the reason for that lay in the fact that its

founders belonged to a minority. They relied on Articles 6 § 1 and 14 of the Convention, which provide, as relevant:

Article 6 § 1

"In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by an ... impartial tribunal..."

Article 14

"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."

84. The Court notes that these complaints relate to the same facts as the one based on Article 11. Having regard to the conclusion in paragraph 82 above, it does not consider that it must deal with them (see *Sidiropoulos and Others*, pp. 1618-19, § 50 and p. 1619, § 52; and *Partidul Comunistilor (Nepeceristi) and Ungureanu*, § 63, both cited above).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

85. 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

86. After the application was declared admissible on 9 September 2004, the Court invited the applicants to submit her claims for just satisfaction, in accordance with Rule 60 of its Rules. The applicants did not claim compensation for any pecuniary or non-pecuniary damage suffered on account of the violation found in the present case, limiting their claim to the reimbursement of the costs and expenses incurred in the domestic proceedings and in the proceedings before the Court.

87. The Government did not comment.

88. In these circumstances, the Court makes no award in respect of pecuniary and non-pecuniary damage (see, *mutatis mutandis*, *Ryabykh v. Russia*, no. 52854/99, §§ 67 and 68, ECHR 2003-IX).

B. Costs and expenses

89. The applicants sought the reimbursement of 3,726.80 Bulgarian levs, consisting of expenses incurred in the domestic and the Strasbourg proceedings, for lawyers' and court fees, personally attending hearings, preparing briefs, photocopying and mailing documents. They submitted fee agreements, invoices and postal receipts.

90. The Government did not comment.

91. Having regard to all relevant factors, the Court awards jointly to all applicants 1,900 euros, plus any tax that may be chargeable on that amount, to be paid into the bank account of Mr Yordan Kostadinov Ivanov, the chairman of Ilinden, in Bulgaria.

C. Default interest

92. The Court considers it appropriate that the default interest 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

1. *Holds* by six votes to one that there has been a violation of Article 11 of the Convention;

2. *Holds* unanimously that it is not necessary to rule on the allegations of violations of Articles 6 § 1 and 14 of the Convention;

3. *Holds* by six votes to one
   (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 1,900 (one thousand nine hundred euros) in respect of costs and expenses, to be converted into Bulgarian levs at the rate applicable at the date of settlement, plus any tax that may be chargeable, payable into the bank account of Mr Yordan Kostadinov Ivanov in Bulgaria;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 19 January 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the dissenting opinion of Mrs S. Botoucharova is annexed to this judgment.

C.L.R.
S.N.

DISSENTING OPINION OF JUDGE BOTOUCHAROVA

1. The majority has found that there has been a violation of Article 11 of the Convention in this case. I was not able to subscribe to this conclusion for the following reasons.

2. The principles on which the Court's approach to allegations of unjustified interferences with freedom of association is based have been clearly set out in its case-law, to which the present judgment refers (see paragraphs 53, 55 and 57-62 of the judgment). I fully accept those principles. I also agree with the majority that the Court's task in each case is to scrutinise, in the light of those principles, the particular grounds relied on to justify the interference and its significance (see paragraph 63 of the judgment). It is the application of these principles to the facts of the present case that could have led to a different conclusion, if due weight had been given to the particular circumstances and, more specifically, the reasons invoked by the domestic courts to refuse the applicant association registration.

3. The present application, although part of a group (see *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, ECHR 2001-IX; *The United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*, no. 44079/98, 20 October 2005; *The United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria*, no. 59489/00, 20 October 2005; and *Ivanov and Others v. Bulgaria*, no. 46336/99, 24 November 2005), illustrates well the principle that, while being attentive to the overall context, the Court confines its attention as far as possible to the issues raised by the specific case before it (see *Mellacher and Others v. Austria*, judgment of 19 December 1989, Series A no. 169, p. 24, § 41; and *Kokkinakis v. Greece*, judgment of 25 May 1993, Series A no. 260-A, p. 18, § 35). The case concerns, as pointed out in paragraph 30 of the judgment, solely the refusal to register Ilinden in 1998-99, not the earlier refusal to do so in 1990-91, or the subsequent one in 2002-04. The Court is likewise not called upon to rule in the present proceedings on the various interactions between Ilinden and the authorities throughout the years (see paragraph 31 of the judgment). The narrow issue before the Court today is thus not whether the interferences with the freedoms of assembly and association of Ilinden and its members and supporters are in principle acceptable, but whether the refusal to register the association in 1998-99 was justified, regard being had to the motivation of the national courts. Therefore, the fact that the interferences with the applicant association's Article 11 rights have been considered problematic in other instances should not prejudge the outcome of this case.

4. As noted by the majority, the main issue here is whether or not the interference with the applicants' freedom of association was necessary in a democratic society (see paragraph 55 *in fine* of the judgment). The analysis below will accordingly focus on that.

5. The Court has had occasion to state in a number of cases that by reason of their direct and continuous contact with the vital force of their countries, State authorities are in principle in a better position to give an opinion on the necessity of an interference. For that reason they are granted a certain margin of appreciation, whose scope depends on the Convention issue at stake. This accordingly determines to what extent the Court will probe into delicate issues, especially in cases, such as the present one, in which the conduct and statements of the entity whose freedom of association the authorities interfered with generated tension in a region with heightened local sensitivities. I have already had occasion to indicate this in my separate opinions in *Stankov and the United Macedonian Organisation Ilinden* (cited above) and, more recently, in *The United Macedonian Organisation Ilinden – PIRIN and Others*, and *Ivanov and Others* (both cited above).

6. In the instant case, the national courts found that the documents enclosed by the applicants to their registration request indicated, *inter alia*, that Ilinden "was not categorically excluding the use of violence" (see paragraph 17 of the judgment). Indeed, Ilinden's articles of association astound with the harshness of the language used (see paragraph 15 of the judgment). Bearing in mind that the national authorities – in the case at hand, the first-instance court – are better placed to make such specific assessments of fact, their holding that the wording of the articles of the association was suggestive of a risk of violence does not appear unreasonable. In this connection, account should be taken of the fact that Ilinden's members and supporters had on a number of previous (and, for that matter, subsequent) occasions had clashes with opponents. These incidents were to a considerable extent caused by the provocativeness of the organisation's separatist statements and threats against the country's territorial integrity. Conversely, the lack of any identification of a risk of violence was one of the main reasons why in a recent case it was concluded that the dissolution of a political party had been in breach of Article 11 (see *The United Macedonian Organisation Ilinden – PIRIN and Others*, cited above, § 60). Due weight should also be given to the local sensitivities which exist in the Pirin region and the resulting need for heightened vigilance of the authorities.

7. Moreover, in their decisions the national courts had regard to a number of technical and substantive deficiencies in Ilinden's registration documents.

8. Finally, the interference, although radical (paragraph 80 of the judgment) did not have the same fundamental impact as the one in the case

of *The United Macedonian Organisation Ilinden – PIRIN and Others* (cited above). There, the dissolved political party had existed for some time and had already participated in the country's political life.

9. For these reasons, regrettable as the result of the national courts' refusal to register Ilinden in 1998-99 may seem, I cannot conclude that it amounted to a violation of the applicants' rights under Article 11 of the Convention in the particular circumstances of the case.