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EXECUTION OF THE UMO ILINDEN AND OTHERS GROUP OF JUDGMENTS

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Brief note

1. Additional information related to individual and general measures

At present, there is not one Macedonian group registered by the Bulgarian courts under the existing procedure despite the numerous attempts by several such organisations, including the applicant association.

The two refusals to register UMO Ilinden of 2013 and 2015 mentioned in the Case Description are now pending cases before the ECtHR (Appl. No. 70502/13 and Appl. No. 29496/16); Appl. 29496/16 was given priority shortly after it was filed. Both cases have been communicated (January 2016 and October 2016). Final memorials have been exchanged on both.

In 2014 the Union of Macedonians from Bulgaria repressed under communism (a Macedonian NGO mentioned in the Case Description) filed another request for registration with the Blagoevgard District Court. The request was rejected and the rejection was confirmed by the Sofia Appelate Court in 2015. The reasons – undermining the "unity of the nation" and "aims that are in essence political". The group filed an application to the ECtHR, which is pending. It has not been communicated yet.

In August 2015 the Sofia Appellate Court refused with a final decision the registration of a Macedonian organisation called "Human rights protection committee Tolerance". This organization took the statute of the Bulgarian Helsinki Committee and instead of human rights in general inserted human rights for the Macedonians. It was rejected because the courts found that the stated aims and means for their achievement were insufficient. This case is now pending before the UN Human Rights Committee

In November 2015 two Macedonian organisations were refused registration by the Blagoevgrad District Court – "Macedonian Club for Ethnic Tolerance and Preservation of Macedonian Folklore, Traditions and Customs" and "Makedon Suringrad". The Blagoevgrad District Court issued identical rejections of the applications for registration to these two organisations, which pursue different aims, and in so doing put forward only one argument: "The Court took into account the fact that the stated goals are contrary to national,

historical and state interests and finds that registration must therefore be refused." Their appeal is pending before the Sofia Appellate Court.

2. Denial of Macedonian identity by Bulgarian authorities

A. Political aspect

The underlying reasons of all refusals to register Macedonian organisations is the systematic denial of the Macedonian ethnic identity by the Bulgarian authorities. This denial, the belief that Macedonians are in fact Bulgarians and that Macedonia is nothing but a geographic region that ethnically belongs to Bulgaria, is deeply rooted in the official Bulgarian politics since Bulgaria's independence. The term with which authorities designate the doctrine aiming at the assertion of the Macedonain identity as separate from the Bulgarian one is called "Makedonism". With the exception of the period from the late 1940s to the late 1950s, denial of the Macedonian identity was also the official policy under communism. This resulted in various forms of repression and imprisonment of ethnic Macedonians accused of "Makedonism", which was regarded as a form of prohibited nationalism. It is a well-known fact that when in January 1992 Bulgaria recognised Macedonia as an independent state, the then President of Bulgaria declared that this does not mean that Bulgaria recognizes the Macedonian ethnic identity. Since then all subsequent presidents with the exception of the current one, spoke against the existence of a separate Macedonian identity in Bulgaria or denounced "Makedonism". This has also been the official policy of all subsequent governments. Many top government officials routinely denied the existence in Bulgaria of persons with Macedonian ethnic identity. Moreover, this denial extends to the existence of a Mecedonian ethnic identity also in the Republic of Macedonia.

B. Judicial aspect

The general policy of denial is reflected also in the Bulgarian judiciary's approach to the recognition of Macedonian identity and the rights of Macedonians in different types of proceedings. In the 1999 case of the dissolution of the political party UMO Ilinden PIRIN, of which the author is co-president, the Constitutional Court of Bulgaria refused to consider PIRIN's unconstitutionality on the basis of the alleged breach of Article 11 § 4 of the Constitution, which prohibits political parties formed along racial, ethnic or religious lines. The Constitutional Court's argument was that "there was no separate Macedonian ethnos in the Republic of Bulgaria" and that therefore that party could not be formed along ethnic lines. PIRIN was ultimately declared unconstitutional but on other grounds. Other courts too expressed similar attitudes. On 7 May 2009 with its Decision No. 407 the Sofia Court of Appeal upheld the decision of the Blagoevgrad Regional Court No. 3/12.01.2009, with which the latter refused to register the Macedonian non-profit association "Macedonian Society for Culture and Education Nikola Vaptsarov". A year later, on 14 July 2010, the Sofia Court of Appeal with its Decision No. 64 upheld Decision No.29/19.02.2010 of the Blagoevgrad

Regional Court by which the latter refused to register another Macedonian non-profit organisation, the "Society of the Repressed Macedonians". In both decisions, the Sofia Court of Appel held that "in Bulgaria there is no separate Macedonian ethnicity" and that the goals of both NGOs contradict Article 44 § 2 of the Constitution. Decision No. 64/14.07.2010 went even further in reasoning that the very existence of an organisation of ethnic Macedonians, which struggles for the rights of Macedonians who suffered repression in the past, is contrary to Article 6 § 2 of the Constitution, which prohibits discrimination on the basis of ethnicity and origin, among other grounds.

Yet, in most cases courts avoid refusals on overt discriminatory grounds. They use instead euphemistic phrases for denial of identity: "undermining unity of the nation"; "distorting historical truth"; "formed on anti-Bulgarian basis"; association's goals are "contrary to the national-historical and state values". Another approach is using grounds for refusals unrelated to ethnicity but only for Macedonian organisations. A typical example is the refusal to register the "Human rights protection committee Tolerance" where upon presenting a statute, which differs from the one of the BHC only in inserting "Macedonian", grounds for refusal were used, which were not used in the case of the BHC.

3. September 2016 legislative proposals – a preliminary assessment

The Case Description following the government's action plan mentions three aspects of the procedure as "positive points". It is however unclear whether we can call them positive compared to the existing procedure.

- **Safeguards for the impartiality of the procedure**. The new procedure in fact offers less such safeguards as the registration is performed by administrative officials who are less independent than judges. Under the present system it is also possible to apply for incorporation anywhere in Bulgaria.
- **Possibility to lodge a new request by reusing documents already submitted**. This is possible also in the present system and has been applied by applicants, e.g. through resubmitting the same articles of association
- **The mostly formal nature of the new criteria**. The decisive ones are however not formal. Both the officials of the Registration Agency and the courts have to apply the Constitution and the substantive provisions of the Non-Profit Legal Persons Act (Art. 21, pt.5 of the Registration of Commercial Societies and Non-Profit Legal Persons Act)

In addition, at present registration proceedings are exercised at two levels of jurisdiction, both judicial; in the future, they will be exercised at three levels of jurisdiction – one administrative and two judicial.

It has to also be mentioned that the old procedure included a possibility for an open hearing "if the court decides that it is necessary to consider [the case] in an open hearing or this is envisaged in the law" (art. 602 of the Code of Civil Procedure). The new procedure provides for dealing with all applications and appeals only *in camera*. No open hearings are possible. This may create a problem under art. 6 of the Convention.