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Application no. 5041/14

Paunkovski and Association of Citizens Radko v. FYROM

3 October 2017

Dear Madam,

In response to your letter dated 14 September 2017, I inform the Court that after the lodging of the present application the first applicant, Association of Citizens Radko, begun to exist as a registered non-governmental organization. The identification number of the association is 7155662.

The Facts

On 24 September 2014 the applicants made a third attempt to register the association. They submitted a fresh request for registration to the Central Register.

On 5 October 2016 the Central Register issued a decision allowing the request. As of that date, the first applicant enjoys the status of a legal entity.

On 20 April 2017 the Macedonian Government submitted to the Committee of Ministers their revised action report on the implementation of the Court's judgment of 15 January 2009 in ASSOCIATION OF CITIZENS RADKO AND PAUNKOVSKI v. FYROM, Application No. 74651/01

([http://hudoc.exec.coe.int/eng#%22EXECIdentifier%22:%22DH-DD\(2017\)459E%22,%22EXECTitle%22:%22Paunkovski%22](http://hudoc.exec.coe.int/eng#%22EXECIdentifier%22:%22DH-DD(2017)459E%22,%22EXECTitle%22:%22Paunkovski%22)}). The Macedonian Government stated that “the authorities of the Respondent State consider that the applicant association's registration ensured that the violation has ceased” (§ 23).

Further in this document, the Macedonian Government alleged that “no similar application alleging a violation of the right to association of members of a national minority is currently pending before the European Court. On the more general note, provisions of the 2010 law have not been challenged before the European Court” (§ 30). The applicants point out that the present application represents an example to the contrary. They recall that they complained that the interference with their Article 11 rights was not based on clear and foreseeable law pointing out, more specifically, to Sections 8, 13, 14 and 15 of the 2010 Associations Act.

The Law

The applicants recall the general principle under Article 34 of the Convention that a decision or measure favourable to an applicant is not sufficient in principle to deprive him of his status as a “victim” unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for the breach of the Convention (ZELENI BALKANI v. BULGARIA, no. 63778/00, § 32). For example, in the case of CHURCH OF SCIENTOLOGY MOSCOW v. RUSSIA, no. 18147/02, § 77, the Court held that the entering of the religious association into the Unified State Register of Legal Entities did not deprive it of its status as a “victim” so long as the domestic authorities had not acknowledged a violation of its Convention rights stemming from the refusal of re-registration.

In the instant case, even assuming that the registration of “Radko” and the Government’s action report to the Committee of Ministers can be seen as an acknowledgment by the state authorities of a continuing violation of Article 11 of the Convention, the applicants consider that they can claim to be “victims” within the meaning of Article 34 of the Convention. This is true because the 5 October 2016 registration decision does not provide any redress as required by the Court’s case-law. This is also true because over a course of seven years from 2009 to 2016 the first applicant was deprived of registration. During this time period two different requests for registration were rejected by the domestic courts, for reasons contradicting the Court’s established case-law, including the judgment of 15 January 2009 in ASSOCIATION OF CITIZENS RADKO AND PAUNKOVSKI v. FYROM, Application No. 74651/01. Therefore, the applicants did not lose their “victim” status to complain about breaches of Articles 11 and 46 of the Convention.

Enclosed: 2 documents

1. Request for registration to the Central Register, dated 24 September 2014.
2. Decision of the Central Register of 5 October 2016.

Sincerely yours,

Natasha Dobrevá