

DECISION NO. 243/2003

Application deposit no. 78/25-6-2003

THE SINGLE-MEMBER COURT OF FIRST INSTANCE OF FLORINA
Voluntary jurisdiction procedure

Assembled by Judge Alexandra Papadopoulou, Judge of Court of First Instance, appointed by the Chairman of the Florina Court of First Instance and the Secretary Despina Missia.

In public session in Florina on 25 September 2003 to hear the application dated 24-7-2003 for recognition of the association of the following applicants:

1. Petros Dimtsis, son of Kyriakos
2. Ioannis Gotsis, son of Athanasios
3. Panayiotis Anastasiadis, son of Ioannis
4. Georgia Petropoulou, daughter of Alexandros
5. Eleftherios Mantzas, son of Vasilios
6. Petros Vasileiadis, son of Mihail
7. Ilias Dafopoulos, son of Georgios,

all residents of Florina, members of the provisional administration of the association awaiting recognition under the name 'CENTRE FOR MACEDONIAN CULTURE', based in Florina, of whom the first, second, fifth and seventh were represented by, and the remainder present with, their authorised attorney Andreas Ioannou (Florina Bar Association), who lodged proposals with the court.

During discussion of the matter in hand the applicants' attorney asked the court to accept the contents of the minutes and the written proposals he had lodged with the court.

HAVING STUDIED THE DOCUMENTS INVOLVED IN THE CASE, THE COURT HAS DECIDED AS FOLLOWS, IN ACCORDANCE WITH THE LAW:

In the words of article 11 of the Treaty of Rome, 4-11-1950, 'on the protection of the rights and fundamental freedoms of the individual', as ratified by legal decree 53/74 'every person has the right of peaceful assembly and free association, including the right to found associations and to join associations for the purpose of defending their interests. The exercise of these rights cannot be subjected to other constraints above and beyond those envisaged by law and comprising measures necessary in a democratic society for national security, public safety ... or the protection of the rights and freedoms of third parties'. This provision, which – according to article 28 paragraph 1 of the Constitution – is an integral part of national law and takes

precedence over any contradictory provision of the law, in association with those of articles 78 ff. and 12 paragraph 1 and 2 of the Constitution, entails that freedom of association, or the right of citizens to establish not-for-profit associations or become members thereof, may be limited in the form of non-recognition, by decision of the courts, in a number of cases, including that case when the purpose of the association is contrary to the interests of public order, in the sense that non-recognition for these reasons is required in a democratic society as a necessary measure and is an imperative need in order to ensure national or public security. In the case in question, the applicants are seeking through the petition before the court that the association they are founding, 'CENTRE FOR MACEDONIAN CULTURE', based in Florina, be recognised and entered on the public register of associations kept at this court. The application under scrutiny is admitted for discussion in this court by the procedure of voluntary jurisdiction (articles 739, 740 ff. and 787 of the Code of Civil Law) and is legally based on the provisions of the articles cited above. It must therefore be investigated further in substance, given that, as is apparent from the report of the competent judge of the Florina Court of First Instance, Zacharia Chrysafidou, no. 13608/14-7-2003, supplied and invoked by the applicants, a copy of the application being heard, with a note on the appointment of the day of hearing, has been duly lodged with the Florina public prosecutor, who has been summoned to appear in accordance with the provisions of article 748 Code of Civil Law.

The applicants have in due legal order and in accordance with article 79 of the Civil Code presented the court with the following documents: 1) the minutes establishing the association, dated 19-6-2003, signed in accordance with the law by the 94 founding members, as well as a table of the members of the provisional administration, elected by the founders of the association; 2) the articles of the association, dated 19-6-2003, consisting of 25 articles, dated, signed as the law prescribes by the founding members and containing all the information prescribed in law, on pain of invalidity, by article 80 of the Civil Code. Moreover, the purpose of the association, according to its articles, is – inter alia – the preservation and dissemination of Macedonian culture and the preservation and cultivation of the Macedonian language – MAKEDONSKI. However, the unclear wording of the articles has led to confusion concerning the activities of the association. More specifically, the word 'Macedonian' – defining the culture to be preserved – implies that this culture is something particular and self-contained, so that it is not clear whether the word is being used in its historical sense to refer to an integral part of Greek civilisation with its local peculiarities, or in its geographical sense, in which case it is left undefined which part of the broader region of Macedonia is meant, as its territory took shape after the Balkan Wars. This lack of clarity is not only not removed by the name of the association, which insists on the indiscriminate use of the term, but is in fact exacerbated by the association of this culture with a non-existent language, claimed to be 'Macedonian', despite the fact that in the geographical area of Macedonia it is the Greek language which is spoken, except by a small portion of the population, which also speaks – in addition to Greek – an idiom which is essentially Slav. Thus the confusion caused by the general use of the terms Macedonia and Macedonian, without distinction as to geographical or historical reference – a confusion existing in the mind of the states with which the association will be dealing, in pursuit of its objective through approaches to and collaboration with these states, and in the mind of persons interested in participating in the work of the association in pursuit of this objective – contains a direct danger to public order and provides an

opportunity for exploitation by external agencies which have tried from time to time, unsuccessfully, to create a historically non-existent 'Macedonian nation'. It is therefore our decision, in the light of the above, that the application be rejected.

FOR THESE REASONS

The application IS REJECTED.

Decision of court reached at extra-ordinary public hearing in Florina on 19th
December 2003

SECRETARY

JUDGE OF FIRST INSTANCE

(for publication)

SIGNATURE

SIGNATURE