



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

Supreme Administrative Court Interpretative case No. 1/2019

RIGHT TO ASYLUM, CHILD RIGHTS

REJECTED INTERPRETATIVE JUDGMENT REQUESTS TO THE SUPREME ADMINISTRATIVE COURT

RIGHT TO ASYLUM & CHILD RIGHTS – restrictive interpretation of a legal interest of a minor to appeal an accommodation order



- Request for an interpretative judgment about the application of Article 44, para 6 and para 9 of the **Foreigners in the Republic of Bulgaria Act** with respect to unaccompanied minors and the application of § 1, item 4 of the **Asylum and Refugees Act** on the following questions:
 1. **Has a minor foreigner** who is actually accommodated in the Special Home for Temporary Accommodation of Foreigners at the Migration Directorate of the Ministry of Interior (SHTAF) **a legal interest to appeal the accommodation order of an adult foreigner in the SHTAF, recorded as his companion?** If the answer to this question is negative, should it nevertheless be considered that **a legal interest arises in cases when the minor disputes his/her companionship and relationship with the adult foreigner in whose order he/she is registered** by the issuing administrative body? If the answers to the above two questions are negative, what is the procedure for protection of the minor against actual placement in SHTAF?;
 2. In applying Article 44, paragraph 9 of the Foreigners in the Republic of Bulgaria Act (FRBA) **is it the burden of the administrative body to establish what the specific relationship is** according to the legal definition of paragraph 1, item 4 of the Additional Provisions of the Asylum and Refugees Act between a minor and an adult foreigner designated by the authority as his companion? **Is the report of the police body an official document within the meaning of Article 179 of the Civil Procedure Code (CPC)** in connection with Article 144 of the Administrative Procedure Code (APC), **in order to have a binding probative force in relation to the allegations of a relationship between the adult foreigner and the minor?**
- Interpretative case No. 1/2019 was initiated upon the request.
- **By virtue of Decision No.3/2021 of the Supreme Administrative Court, the Ombudsman's request was declared inadmissible.**