

**F I L E D**  
United States Court of Appeals  
Tenth Circuit

PUBLISH

**JUN 17 2002**

**UNITED STATES COURT OF APPEALS**  
**TENTH CIRCUIT**

**PATRICK FISHER**  
Clerk

EMIL AVGOUSTOV KRASDEV; NELI  
PECHEVA KRASTEVA,

Petitioners,

v.

IMMIGRATION & NATURALIZ4.8400 001.5200 0.0000 TDONrk

Appeals (BIA) dismissing their appeal from the denial of their application for asylum and withholding of deportation. We have jurisdiction over this appeal pursuant to Section 106(a) of t



reasonable to expect the applicant to do so.” 8 C.F.R. § 208.13(b)(1)(i) (2001). A third way to establish refugee status is by establishing past persecution so severe as to demonstrate “compelling reasons for being unwilling or unable to return.” 8 C.F.R. § 208.13(b)(1)(ii) (1997-2000); 8 C

A request for asylum in deportation proceedings commenced prior to April 1, 1997, is automatically considered to include a request for withholding of deportation.

which led to his being fired from his railroad job because he refused to renounce the group's views or to join the Communist Party. The group changed its name to the Union of Democratic Forces (UDF) in 1990. On January 14, 1990, he and his then five-month pregnant wife organized and attended a UDF meeting in Pleven. A military group with

~~UDF (Union of Democratic Forces) (UDF) (Tj.5 F808 Tj26 00 nge 413 (T685 ( a000 0 426 480 913 017 200 414 106 311) 23~~

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the cause of his trouble. In February 1992, members of the military accosted Emil's mother, who was also active in UDF, and threatened to rape her. That same year, one of his acquai







going back to Bulgaria. She has received reports that attempts have been made to break into her house in Bulgaria and her daughters fear their telephone calls are being monitored.

*Supporting evidence*

Both petitioners submitted medical certificates purporting to be from the University of Medicine in Pleven detailing head injuries suffered in the alleged 1994 beating. Emil t







In analyzing the question of whether the INS presented sufficient evidence to rebut the presumption, it is important to consider the basis for petitioners' claims of past persecution and fear of future persecution. While petitioners presented evidence that they suffered persecution for their political views under the former Communist government of Bulgaria, the



or to society and that the resultant climate of impunity is a major obstacle to ending police abuses.” Id. Further, wy5at





Country Report on Romania as evidence supportin

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<sup>2</sup> This information might be probative to determine whether the evidence establishes, under the new regulations effective January 5, 2001, that “[t]he applicant could avoid future persecution by relocating to another part of the applicant's country of nationality . . . and under all the circumstances, it would be reasonable to expect the applicant to do so.” 8 C.F

young people perforce center their claims in the context of the vastly improved situation of the past five years.” App. at 283-84. This provides no evidence to show that the source or response to persecution faced by



courts have held that the proper procedure is to remand to the BIA for a credibility

under that section, an applicant must establish “compelling reasons for being unwilling or

that the evidence was sufficient to rebut a presumption of well-founded fear, we  
REVERSE the BIA's decision in that regard and REMAND for further consideration.