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Meeting: 1514<sup>th</sup> meeting (December 2024) (DH)

Item reference: Action Plan (30/09/2024)

Communication from Bulgaria concerning the group of cases of Bulgarian Orthodox Old Calendar Church and Others v. Bulgaria (Application No. 56751/13)

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Réunion : 1514<sup>e</sup> réunion (décembre 2024) (DH)

Référence du point : Plan d'action (30/09/2024)

Communication de la Bulgarie concernant le groupe d'affaires Eglise orthodoxe vieille-calendariste de Bulgarie et autres c. Bulgarie (requête n° 56751/13) (*anglais uniquement*)

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**ACTION PLAN****on the execution of the judgments of the European Court of Human Rights  
Bulgarian Orthodox Old Calendar Church and Others v. Bulgaria (Application No.  
56751/13) and Independent Orthodox Church and Zahariev v. Bulgaria (Application  
No. 76620/14)****Final on 20/04/2021****1. Individual measures:***- Independent Orthodox Church and Zahariev*

According to the most recent information provided by the Sofia City Court by a letter dated 15 August 2024 the Independent Orthodox Church had not applied for new registration. Accordingly, the information related to the execution of the individual measures submitted with the addendum of 13 February 2023 describes the latest developments on the matter with regard to the impugned church.

*- Proceedings with regard to the registration of the Bulgarian Orthodox Old Calendar Church*

With regard to the Old Calendar Church as already mentioned in the action plan dated 15 September 2023, the proceedings are currently pending before the Supreme Court of Cassation<sup>1</sup> (the “SCC”). By a ruling No 2279 dated 16 August 2024 under c. c. No 563/2023 the Supreme Court of Cassation admitted to cassation review judgment No 2/07/02/2023 under c. c. No 5/2022 of the Sofia Appellate Court (the “SAC”). The case is scheduled to be heard on 21 November 2024.

It should be reminded that the SAC held that it was undisputed that the law did not prohibit the existence of more than one denomination of the Eastern Orthodox faith, It ruled that in the case at hand the Sofia City Court was correct to assume that there was a requirement for recognition by the other local Orthodox Churches under canon law, while no such evidence was presented by the applicant in this regard. Finally, the submitted statutes did not contain data concerning the seat and the precise, clear and specific content of the liturgical practice, as required by Article 17 of the 2002 Religious Denominations Act (“the 2002 Act”).

By the aforementioned ruling dated 16 August 2024, SCC reasoned that according to Article 15 of the 2002 Act, the Sofia City Court performs the official registration of religious communities. In pursuance with Article 540 of the Code of Civil Procedure (the “CCP”) in addition to the general rules of the CCP, the rules of the contentious proceedings with the exception of Articles 207 to 266 and Articles 303 to 388 shall apply to the non-contentious proceedings. The 2002 Act does not refer to the provision of Article 606 of the CCP, which falls in the chapter providing for the rules for recording of legal persons but rather to the general rules for the non-contentious proceedings wherein the possibility for cassation review

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<sup>1</sup> Т. д. № 563/2023 г.

of the refusal to issue the act is not explicitly excluded. In this sense are stipulated the motives of the Interpretative decision No 5/2015 dated 12 July 2018 according to which the applicability of the general rules of the non-contentious proceedings under Articles 530 – 541 of the CCP established in Article 15 of the 2002 Act includes the possibility for cassation review of the refusal for registration of religious community in so far as it does not fall within the scope of the exceptions enshrined in Article 540 of the CCP

By exercising its powers of selection of the cassation complaint the SCC should rule whether the concrete legal question raised by the cassation complainant, which is of importance for the outcome of the proceedings, has determined the legal conclusions of the court rather than whether those conclusions are lawful.

In the cassation complaint, two issues for erroneousness and groundlessness of the appellate judgment were raised. First, that it contradicts to the ECHR's judgment with regard to the freedom of association of religious communities and their registration as religious institutions. Second, with regard to the necessity of acknowledgment by the other local Orthodox Churches under canon law set as a requirement for registration.

The question raised before the SCC reads whether, the registration of Eastern Orthodox denomination in Bulgaria is admissible, in principle and if so what are the prerequisites thereof. The SCC ruled that the appellate court had upheld the reasons of the first instance court and had not refused the possibility to register on that ground such a religious institution in accordance with Article 15 of the 2002 Act. However, it observed that the SAC had submitted reasons as to the lack of concretely stated prerequisites, which would permit the performance of the registration at issue. In the cassation complaint only one of those prerequisites was contested, notably the requirement for acknowledgment by the other local Orthodox Churches. The SCC held that the question raised concerns all the prerequisites for registration and not only those that substantiated the judgment of the appellate court upholding the refusal of the first instance court. The court reasoned that the cassation review is to be admitted in order to scrutinize the compatibility of lower court's judgment with the Decision No 5 dated 11 July 1992 under c. c. No 11/1992 of the Constitutional Court in which it was held that the limitations of the freedom of religion is subject to exhaustive regulation of the provisions of Article 13 (4) and Article 37 (2) of the Constitution.

## **2. General measures:**

The general measures are under assessment. The Government is of the view that eventual evolvement of the judicial practice upholding the consideration, already defended by the courts, that the 2002 Act does not contain a ban to register religious associations whose religious beliefs and worship practices are similar to those of the Bulgarian Orthodox Church, would enable the execution of the judgments under supervision.

With regard, the performance of awareness raising measures it should be recalled that in January 2024, a one-day workshop was held on the Implementation of the enforceable judgments of the European court regarding the registration of religious denominations (see the addendum submitted on 24<sup>th</sup> January 2024).

### **3. Conclusions**

The Government will keep the Committee of the Ministers informed of any future developments.

*30 September 2024*