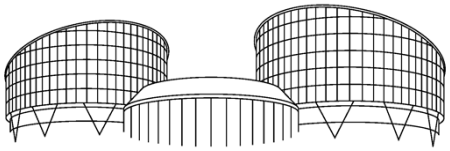

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF BULGARIAN ORTHODOX OLD CALENDAR CHURCH AND OTHERS v. BULGARIA

(Application no. 56751/13)

JUDGMENT

STRASBOURG

20 April 2021

This judgment is final but it may be subject to editorial revision.

In the case of Bulgarian Orthodox Old Calendar Church and Others v. Bulgaria,

The European Court of Human Rights (Fourth Section), sitting as a Committee composed of:

Tim Eicke, *President*,
Faris Vehabović,
Pere Pastor Vilanova, *judges*,
and Ilse Freiwirth, *Deputy Section Registrar*,

Having regard to:

the application (no. 56751/13) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by the Bulgarian Orthodox Old Calendar Church ("the applicant church") and five Bulgarian nationals whose details feature in the appended table, on 28 August 2013;

the decision to give the Bulgarian Government ("the Government") notice of the complaints concerning (a) the alleged limitation on the applicants' right to manifest their freedom of religion; (b) the alleged discrimination against the applicants in the exercise of that right; and (c) the alleged lack of an effective domestic remedy in that respect;

the parties' observations;

the decision to examine the case simultaneously with the case of *Independent Orthodox Church and Zahariev v. Bulgaria* (no. 76620/14);

Noting:

the withdrawal from the case of Mr Yonko Grozev, the judge elected in respect of Bulgaria;

the Government's objection that the application should not be examined by a Committee, which the Court rejects,

Having deliberated in private on 23 March 2021,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case chiefly concerns a complaint, falling to be examined under Article 9 read in the light of Article 11 of the Convention, that the Bulgarian courts' refusal to register a church adhering to the Old Calendarist variant of Eastern Orthodoxy owing to the similarity of its name with that of the Bulgarian Orthodox Church, which is recognised by law, amounted to an unlawful and unjustified limitation on the right of that church and its adherents to manifest their religion. The case also concerns the question, under Article 13 of the Convention, whether the church and its adherents had an effective domestic remedy in respect of the refusal to register the church.

THE FACTS

2. The applicants were represented by Ms N. Dobreva, a lawyer practising in Sofia.

3. The Government were represented by their Agent, Ms R. Nikolova of the Ministry of Justice.

I. HISTORY OF THE APPLICANT CHURCH

4. In 1968, at the time of the communist regime in Bulgaria, the Bulgarian Orthodox Church decided to switch from the Julian Calendar to the Revised Julian Calendar. As in the other countries in which that change had taken place earlier (Greece and Romania in the 1920s) some of the clergy and adherents of the Bulgarian Orthodox Church disagreed with the abandonment of the Julian calendar. There were also divergences over other doctrinal and canonical points, as well as with respect to the degree of autonomy of the church *vis-à-vis* the communist regime. As a result, the "Old Calendarists", mostly centred on a convent in Knyazhevo, disaffiliated themselves from the Bulgarian Orthodox Church, which for its part disavowed them.

5. In the mid-1980s the Bulgarian Old Calendarists established links with the Greek Old Calendarist Church, and in 1988 the second applicant, who later went on to become head of the applicant church (see paragraph 8 below) was ordained into the priesthood in an Old Calendarist monastery in Greece. In 1993 the second applicant was consecrated as bishop by bishops of the Greek Old Calendarist Church and of the Romanian Old Calendarist Church, which also recognised the applicant church as autocephalous.

6. The same year, 1993, the applicant church applied for registration to the Religious Denominations Directorate attached to the Council of Ministers, which was then the authority in charge of registering religious denominations in Bulgaria. The request remained without a formal reply.

7. In the years after 1993 the applicant church grew into an active religious community; by 2013 it had twenty-four priests and about two thousand adherents. Although in the absence of legal personality it could not itself erect or own places of worship, during that period it was able to build one cathedral church, fifteen churches and four chapels, as well as a monastery, all registered under the names of individual priests and believers. However, when the owners of a church and a chapel left the applicant church, it lost the use of those two buildings. Another consequence of the fact that the places of worship did not belong to the applicant church in law was that it could not obtain tax exemptions with regard to them (see paragraph 28 below). The church was also unable itself to receive donations, formally employ its clergy, or run commercial

activities related to its religious affairs, such as the sale of ritual objects and religious books.

II. POSITIONS OF THE OTHER FIVE APPLICANTS IN THE APPLICANT CHURCH

8. The second applicant is the head of the applicant church ("First Hierarch"). The third applicant is the secretary of the church's council. The fourth applicant is a deacon of the church. The fifth applicant is a nun at the church's convent. The sixth applicant is a member of the church's council.

III. ATTEMPT TO REGISTER THE APPLICANT CHURCH IN 2011-13

9. In November 2011 the applicant church applied to the Sofia City Court for registration. It enclosed with its application a certificate, issued in June 2011 by a State-owned company which keeps a database of all companies and not-for-profit organisations, that its name did not match that of any other such entity.

10. As allowed by the rules of procedure, the Sofia City Court invited the Religious Denominations Directorate (see paragraph 6 above) to comment on the registration request. The Directorate advised the court that, since Article 13 § 3 of the Constitution and section 10 of the Religious Denominations Act 2002 ("the 2002 Act") proclaimed Eastern Orthodoxy as the traditional religion of the Bulgarian people and provided that its representative was the Bulgarian Orthodox Church (see paragraphs 20 and 34 below), it would file its comments only after obtaining the opinion of the Holy Synod of that church.

11. The second applicant objected, stating that admitting submissions on its registration request by the Bulgarian Orthodox Church would be in breach of the rules of procedure. He asked the court to instruct the Directorate to make its own submissions.

12. The Directorate filed its comments in February 2012. It briefly stated that in its view the name of the applicant church was contrary to Article 13 § 3 of the Constitution and section 10 of the 2002 Act (see paragraphs 20 and 34 below). It went on to say that, in view of the importance of the Bulgarian Orthodox Church in Bulgarian society, it had asked its Holy Synod to comment on the registration request, and enclosed that Synod's written submissions with its comments.

13. In its submissions the Holy Synod of the Bulgarian Orthodox Church stated, *inter alia*, that the applicant church was identical to that church; that the case concerned a matter of national importance; that no other church but the Bulgarian Orthodox Church could use the word "Orthodox" in its name; and that only the Bulgarian Orthodox Church, rather than self-proclaimed Orthodox communities, could represent Eastern Orthodoxy in Bulgaria. The

applicant church could not therefore pretend to be Orthodox, but there would be no bar to its registration as "Bulgarian Old Calendar Church", without using the word "Orthodox".

14. On 27 February 2012 the Sofia City Court refused to register the applicant church (see реш. от 27.02.2012 г. по ф. д. № 665/2012 г., СГС). It began by noting that the submissions by the Holy Synod of the Bulgarian Orthodox Church enclosed with the Directorate's comments were irrelevant and were not to be taken into account. The court went on to say that although each religious community was in principle entitled to be registered, such registration was subject to conditions. Under paragraph 3 of the transitional and concluding provisions of the 2002 Act (see paragraph 31 below), persons who had seceded from a registered religious institution before the Act's entry into force in breach of that institution's internal rules could not use the name of that institution or its assets. In the light of the similar prohibition of identical names in section 15(2) of the 2002 Act (see paragraph 30 below), this had to be construed as also applying to a name resembling that of the original institution. It transpired from the minutes of the applicant church's founding meeting that it had seceded from the Bulgarian Orthodox Church in 1993 owing to doctrinal differences. The Bulgarian Orthodox Church's internal rules did not only bar such secession but even elevated it into a canonical transgression. It followed that the applicant church could not have a name identical to that of the Bulgarian Orthodox Church or use its assets, and it was beyond doubt that its name was identical. Its registration request was therefore to be refused.

15. The applicant church appealed. It pointed out that its name – Bulgarian Orthodox Old Calendar Church – was not the same as that of the Bulgarian Orthodox Church, and that the correct interpretation of section 15(2) of the 2002 Act and paragraph 3 of its transitional and concluding provisions (see paragraphs 30 and 31 below), was that only fully identical names were barred, with a view to avoiding confusion. The words "Old Calendar" were sufficient in that respect, and precluded any confusion between the two churches. The extensive construction of those provisions espoused by the Sofia City Court meant that no Eastern Orthodox church other than the Bulgarian Orthodox Church could obtain registration. This was contrary to the aims of the Act and incompatible with Article 9 of the Convention. The goal of section 15(2) of the Act was to prevent the simultaneous registration of religious denominations with truly identical names, which would hinder their identification, rather than to bar the registration of more than one religious community from the same denomination. Indeed, many Evangelical, Baptist and other churches from one and the same denomination had already been registered. For its part, paragraph 3 of the Act's transitional and concluding provisions had been intended simply to resolve disputes about the Bulgarian Orthodox Church's assets, whereas the applicant church laid no claim to those assets. A wide

interpretation of those provisions and a ruling that the applicant church's adherents could not secede from the Bulgarian Orthodox Church was also contrary to this Court's construction of Article 9 of the Convention, as expounded, in particular, in *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others v. Bulgaria* ((merits), nos. 412/03 and 35677/04, 22 January 2009).

16. On 23 April 2012 the Sofia Court of Appeal upheld the refusal to register the applicant church (see реш. № 633 от 23.04.2012 г. по ф. д. № 1143/2012 г., CAC). It agreed with the reasons given by the lower court. It was clear that the applicant church's founders had seceded from the Bulgarian Orthodox Church in 1993 and wished to obtain registration as a separate religious denomination, which was precluded by paragraph 3 of the 2002 Act's transitional and concluding provisions. The applicant church's founders had used the same name and simply added the words "Old Calendar" to it. By section 10(1) of the Act (see paragraph 34 below), Eastern Orthodoxy was the traditional religion in Bulgaria and the Bulgarian Orthodox Church was its embodiment and representative, and under the terms of section 15(2) of the Act (see paragraph 30 below) there could exist no more than one religious denomination with the same name and seat. The applicant church's registration request was at variance with those requirements.

17. The applicant church appealed on points of law. It reiterated the arguments which it had put forward in the proceedings before the lower court (see paragraph 15 above), and added that section 10(1) of the 2002 Act could not serve as grounds for refusing to register a religious denomination. It also submitted that there was no basis for finding that it had ever been part of the Bulgarian Orthodox Church; paragraph 3 of the Act's transitional and concluding provisions did not therefore apply to it. The ruling of the Sofia Court of Appeal was also contrary to the principle of religious pluralism.

18. As required under the rules of procedure, the applicant church enclosed with the appeal submissions explaining why it should be admitted for examination. The church argued that the question whether the interpretation of section 15(2) of the 2002 Act and paragraph 3 of its transitional and concluding provisions adopted by the Sofia Court of Appeal was correct – more specifically, in line with the aim of those provisions and with Article 37 of the Constitution (see paragraph 20 below) and Article 9 of the Convention – was an important point of law. It also submitted that the question whether names containing different words were identical was likewise an important point of law on which the Supreme Court of Cassation had no case-law, either in relation to religious denominations or in relation to other legal entities such as political parties, associations and commercial companies.

19. In a final decision of 29 March 2013 (опр. № 263 от 20.03.2013 г. по т. д. № 443/2012 г., ВКС, I т. о.), the Supreme Court of Cassation refused to admit the appeal for examination. It held that the questions formulated by the applicant church did not warrant such admission. In particular, the question whether the court of appeal had correctly construed the 2002 Act concerned the merits of the appeal rather than whether it should be admitted. As for the other question formulated by the applicant church, it was one of fact rather than law.

RELEVANT LEGAL FRAMEWORK

I. BULGARIAN LAW

A. The Constitution

20. The relevant provisions of the 1991 Constitution read:

Article 13

"1. Religions shall be free.

2. Religious institutions shall be separate from the State.

3. Eastern Orthodox Christianity shall be considered the traditional religion in the Republic of Bulgaria.

4. Religious institutions and communities, and religious beliefs, shall not be used for political ends."

Article 37

"1. Freedom of conscience, freedom of thought and the choice of religion or of religious or atheistic views shall be inviolable. The State shall assist in the maintenance of tolerance and respect between the adherents of different denominations, and between believers and non-believers.

2. Freedom of conscience and religion shall not be exercised to the detriment of national security, public order, public health and morals, or of the rights and freedoms of others."

21. In June 1992 the Constitutional Court held, *inter alia*, that the State could interfere with the internal organisation of religious communities and institutions only in the situations contemplated in Articles 13 § 4 and 37 § 2 of the Constitution (see реш. № 5 от 11.06.1992 г. по к. д. № 11/1992 г., КС, обн. ДВ, бр. 49/1992 г.).

B. The Religious Denominations Act 2002

1. Background to the enactment of the Act

22. Up until the end of 2002, the organisational structure and functioning of religious denominations and their official registration had been governed by the Religious Denominations Act 1949. According to the authorities' usual practice, the Act was construed as requiring each religious denomination to have a single leadership and as prohibiting parallel organisations of the same denomination (see *Supreme Holy Council of the Muslim Community v. Bulgaria*, no. 39023/97, § 57, 16 December 2004, and *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others* (merits), cited above, § 68).

23. After the demise of the communist regime and an ensuing struggle within the Bulgarian Orthodox Church which resulted in two opposing leaderships, Parliament enacted the Religious Denominations Act 2002 with a view to putting an end to that division (for details, see *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others* (merits), cited above, §§ 9-48). The Act came into force on 1 January 2003.

24. The record of the parliamentary debates leading up to the Act's passage reveals an almost unanimous view that the Bulgarian Orthodox Church's unity was of crucial national importance owing to its role in shaping and preserving Bulgarian national identity over the centuries (ibid., § 45).

2. Content of the right to religion according to the Act

25. Section 5(1) provides that the right to religion can be exercised by, among other things, forming or taking part in a religious community and organising the institutions of that community. Section 6(1)(1) goes on to specify that this right encompasses the right to create and maintain religious communities and institutions which have a structure and representation suited to the convictions of their members. Paragraph 1(3) of the Act's transitional and concluding provisions defines a "religious community" as a voluntary association of people professing a given religion and carrying out religious services, rites and ceremonies, and a "religious institution" as a "religious community" which has been registered in accordance with the Act and has legal personality.

3. Provisions governing the registration of religious communities

(a) Effects of registration

26. Section 14 provides that religious communities may acquire legal personality under the conditions laid down in the Act. This includes official registration by the Sofia City Court (section 15(1)).

27. When a religious denomination has acquired legal personality, it may have and dispose of its own assets (section 21(1)), and receive State subsidies (sections 21(3) and 28(1)).

28. According to sections 24(1)(9) and 71a(1) of the Local Taxes and Fees Act 1997, temples owned by duly registered religious denominations and the land on which they have been built are exempt from local taxes and waste disposal fees. Sections 24(2) and 71a(2) make the exemption subject to the land and buildings at issue not having commercial uses unconnected with their main religious function. Section 71a came into force on 1 January 2014.

(b) Registration requirements

29. The public register kept by the Sofia City Court must include information about, *inter alia*, the name of each registered religious denomination (section 18(2) of the 2002 Act).

30. Section 9 provides that each religious denomination is characterised by its name and by the beliefs of the people which make up its religious community. For its part, section 15(2) provides that there can be no more than one religious denomination with the same name.

31. Paragraph 3 of the Act's transitional and concluding provisions provides that persons who have seceded from a registered religious institution before the Act's entry into force in breach of that institution's internal rules are not entitled to use its name or assets.

32. The Sofia City Court and the Sofia Court of Appeal have relied on those provisions to hold that a religious denomination may be registered only if its name and religious doctrine differ from those of an already registered denomination (see реш. № 1519 от 17.08.2012 г. по ф. д. № 1017/2012 г., CAC; реш. № 1145 от 06.06.2014 г. по в. гр. д. № 2076/2014 г., CAC; and реш. № 341 от 06.02.2020 г. по в. г. д. № 3781/2019 г., CAC) or of the Bulgarian Orthodox Church (see реш. № 677 от 29.04.2011 г. по ф. д. № 542/2011 г., CAC; реш. № 1114 от 04.07.2011 г. по ф. д. № 513/2011 г., CAC; реш. № 1447 от 08.07.2013 г. по ф. д. № 183/2013 г., CAC; реш. № 2512 от 12.17.2015 г. по ф. д. № 3876/2015 г., CAC; and реш. № 2307 от 06.12.2016 г. по ф. д. № 5164/2016 г., CAC). With particular regard to the identity of the name, in those decisions the courts consistently held that slight differences in the words composing the name or in their order are not sufficient to consider that a denomination's name is different. They thus held that the names "Orthodox Church in Bulgaria", "Bulgarian Eastern Orthodox Church", "Independent Orthodox Church", "Orthodox Church" and "Orthodox Christian Church" were all "the same" as that of the Bulgarian Orthodox Church.[1]

33. However, it appears that in spite of that case-law, by 2008 three Presbyterian, eleven Baptist and three Lutheran churches, some of them bearing very similar names, featured in the register kept by the Sofia City Court (see *Genov v. Bulgaria*, no. 40524/08, § 19 *in fine*, 23 March 2017).

4. Ex lege *legal personality of the Bulgarian Orthodox Church*

34. In contrast to all other religious communities, under section 10(2) of the 2002 Act the Bulgarian Orthodox Church was granted legal personality by operation of law (*ex lege*). Section 10(1), which echoes Article 13 § 3 of the Constitution (see paragraph 20 above), provides that Eastern Orthodoxy is the "traditional religion in the Republic of Bulgaria", that "[i]t has a historical role for the Bulgarian State and a current importance for its Statehood", and that its "embodiment and representative is the self-ruling Bulgarian Orthodox Church, which under the name Patriarchy is a successor of the Bulgarian Exarchate and a member of the Unified, Holy, Catholic and Apostolic Church".

[1] An application has been lodged with the Court in relation to the refusal to register the "Orthodox Christian Church" (*Orthodox Christian Church and Others v. Bulgaria*, no. 31387/17).

5. Not-for-profit legal persons assisting and popularising a religious denomination

35. Section 27(1) of the 2002 Act provides that, with the prior assent of the respective religious institution, it is possible to create a not-for-profit legal person seeking to assist and popularise a religious denomination which already has legal personality. Section 27(2) goes on to specify that such not-for-profit legal persons are not entitled to carry out activities which amount to the public practicing of religion.

36. In 2017 the Sofia Court of Appeal upheld a refusal to register an association promoting Eastern Orthodoxy in the absence of evidence of prior assent by the Bulgarian Orthodox Church (see реш. № 1184 от 25.05.2017 г. по ф. д. № 2316/2017 г., САС).

37. In 2010 the Sofia Court of Appeal relied on, *inter alia*, section 27(2) to uphold the forced dissolution of an association of Ahmadiyya Muslims which was carrying out religious services and ceremonies even though it had earlier been refused registration as a religious denomination (see реш. № 106 от 19.02.2010 г. по гр. д. № 1407/2008 г., САС; appeal on points of law not admitted: see опр. № 789 от 16.12.2010 г. по т. д. № 534/2010 г., ВКС, II т. о.).

38. In 2012 the Sliven Regional Court likewise relied on, *inter alia*, section 27(2) to order the dissolution of a Muslin association which was organising public religious talks and sermons and public screenings of biographical films concerning a religious leader (see реш. № 98 от 09.11.2012 г. по гр. д. № 391/2012 г., ОС-Сливен).

39. In 2013 the Shumen Regional Court similarly proceeded to order the dissolution of an association teaching Islam to minors whom it was sheltering in a hostel run by it (see реш. № 92 от 09.04.2013 г. по гр. д. № 623/2012 г., ОС-Шумен; upheld on appeal: see реш. № 142 от 03.10.2013 г. по гр. д. № 287/2013 г. АС-Варна, and опр. № 628 от 10.11.2014 г. по т. д. № 325/2014 г., ВКС, II т. о.).

C. Legal challenge against the 2002 Act

40. In February 2003 fifty members of Parliament asked the Constitutional Court to declare specific provisions of the 2002 Act, including paragraph 3 of its transitional and concluding provisions – but not section 15(2) (see paragraphs 30 and 31 above) – unconstitutional and contrary to the Convention. The court gave its judgment in July 2003 (see реш. № 12 от 15.07.2003 г. по к. д. № 3/2003 г., КС, обн. ДВ, бр. 66/2003 г.). It was unable to reach a majority decision, with an equal number of justices voting for and against declaring paragraph 3 unconstitutional. Pursuant to the Constitutional Court's usual practice, in

such circumstances the request for a legal provision to be declared unconstitutional is considered to be dismissed by default.

41. The justices who voted against the request considered, *inter alia*, that the principle of legal certainty required that persons who had seceded from a religious denomination should not be allowed to use its name. Further, it was obvious that they could not claim a portion of its assets, as those belonged to the religious denomination as a legal person. For the justices who were of the view that paragraph 3 was unconstitutional, it purported to regulate the internal organisation of religious communities, and thus infringed their autonomy.

II. RELEVANT COUNCIL OF EUROPE MATERIALS

42. In its Resolution 1390 (2004), the Council of Europe's Parliamentary Assembly noted, among other things, that the *ex lege* recognition of the Bulgarian Orthodox Church (see paragraph 34 above) was generally seen as intended to settle the dispute between its two rival synods in favour of one of them, and that one of those synods had been effectively barred from registering as a new religious institution by the prohibition against the registration of another institution using the same name (point 7). The Assembly advised the Bulgarian authorities "either to delete [section 15(2) of the 2002 Act – see paragraph 30 above], or to ensure its interpretation in such a way that only the strict and literal identity of names and headquarters precludes the registration of a breakaway group" (point 9.2).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 9 READ IN THE LIGHT OF ARTICLE 11 OF THE CONVENTION

43. The applicants alleged that the refusal to register the applicant church had amounted to an unjustified interference with their right to freedom of religion. They relied on Article 9 of the Convention. For its part, the Court considers that the complaint falls to be examined under Article 9 read in the light of Article 11 of the Convention (see *Metodiev and Others v. Bulgaria*, no. 58088/08, § 26, 15 June 2017). These provisions read, in so far as relevant:

Article 9 (freedom of thought, conscience and religion)

"1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

Article 11 (freedom of assembly and association)

"1. Everyone has the right ... to freedom of association with others ...

2. No restrictions shall be placed on the exercise of [this right] other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. ..."

A. Admissibility

44. The Government submitted that the complaint was abusive, as the applicant church had not met the legal criteria for registration.

45. The applicants did not comment on this point.

46. According to the Court's case-law, the notion of "abuse" within the meaning of Article 35 § 3 (a) of the Convention is to be understood as conduct of the applicant which is manifestly contrary to the purpose of the right of individual application enshrined in the Convention and which impedes the proper functioning of the Court or the proper conduct of the proceedings before it (see, among other authorities, *Miroļubovs and Others v. Latvia*, no. 798/05, §§ 62 and 65, 15 September 2009; *Harakchiev and Tolumov* v. *Bulgaria*, nos. 15018/11 and 61199/12, § 184, ECHR 2014 (extracts); and *Dimović v. Serbia*, no. 24463/11, § 21, 28 June 2016).

47. There is no indication of such conduct by the applicants in this case. The question whether the applicant church's registration request met all legal criteria under Bulgarian law is part of the broader issue of whether the refusal to register that church amounted to a "limitation" of the applicants' right to manifest their religion which was "prescribed by law" and "necessary in a democratic society". Although the Government disputed each of those points, nothing suggests that the facts which underpin them are somehow removed from reality or could be regarded as an attempt to mislead the Court (see, *mutatis mutandis*, *Harakchiev and Tolumov*, § 185, and *Dimović*, § 23, both cited above). Even if the applicant church did not fulfil the legal criteria for registration under Bulgarian law, that does not make its application to the Court abusive. The Government's objection must therefore be rejected.

48. The complaint is, moreover, not manifestly ill-founded or inadmissible on other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicants

49. The applicants submitted that without legal personality the applicant church could not itself acquire and own property or keep bank accounts. This had led to difficulties with the maintenance of its places of worship, which were in law owned by individual members of the church, causing uncertainty and various legal complications, such as problems with the transfer of title whenever an individual owner of a place of worship left the religious community or died. The refusal to register the church had thus amounted to interference with their rights under Articles 9 and 11 of the Convention.

50. The applicants went on to argue that the interference had not been "prescribed by law", as the wording of the provisions of the 2002 Act governing the registration of religious denominations gave rise to arbitrary decisions by the courts. Thus, the wording of section 15(2) allowed the courts to hold that names which were not truly identical but simply alike were "the same". For its part, section 10(1) contained language which was not appropriate in a legal provision and was inconsistent with the State's duty to remain neutral in religious matters. Under this heading the applicants also criticised the fact that the Sofia City Court could seek an expert opinion from the Religious Denominations Directorate in registration proceedings. They pointed out that these opinions often amounted to little more than cover letters to submissions of the Bulgarian Orthodox Church, thus inadmissibly giving that church a say in proceedings for the registration of other Eastern Orthodox religious communities.

51. Lastly, the applicants submitted that the interference had not been justified, as it had not corresponded to any pressing social need. In their view, the reasons given by the Bulgarian courts to refuse to register the applicant church – that its name was "the same" as that of the Bulgarian Orthodox Church and that its founders had earlier seceded from that church – were but a disguise for the wish to prevent any Eastern Orthodox religious community other than the Bulgarian Orthodox Church from obtaining registration. There was no risk of the applicant church being confused with that church. Its name was unique, as attested by the certificate which it had presented in the registration proceedings, and its leader did not have the title of "patriarch". Its registration would not have in any way imperilled the rights of other Eastern Orthodox believers or the historical role and public esteem of the Bulgarian Orthodox Church. The only aim pursued by the refusal to register the applicant church had been to ensure the Bulgarian Orthodox Church's monopoly, in breach of the State's duty of neutrality in religious matters.

(b) The Government

52. The Government submitted that there had been no interference with the applicant church's autonomous functioning. The authorities had not meddled in its religious activities, and it had been conducting them without hindrance, even though it did not have legal personality. In Bulgaria, unlike in some other States, unregistered religious communities were not prohibited from setting up places of worship, holding religious services in public, producing and distributing religious literature, or engaging in other activities of that sort. It was unclear what difficulties the applicant church faced in connection with the management of its places of worship; any private-law disputes relating to them could be resolved in regular civil proceedings. The church's assertion that it could not sell items related to its religious activities or set up educational and social services were abstract, there being no indication that it had real capacity to engage in such activities. The church was in effect free to do everything pertaining to the collective aspect of freedom of religion.

53. The Government also pointed out that the case concerned a religious community which espoused the same faith as the traditional religion in Bulgaria – Eastern Orthodoxy. As noted by the national courts, the applicant church's adherents had disaffiliated themselves from the Bulgarian Orthodox Church in 1993. The applicant church's name did not sufficiently differ from the name of that church, which could lead to confusion and by law precluded its registration. It was in effect a group which had seceded from the Bulgarian Orthodox Church, which, by law, was further grounds for refusing to register it. The Government noted in that connection that where religious communities were concerned, their names and beliefs were often closely related. They pointed out that there was no bar to the registration of Eastern Orthodox religious communities, so long as they were sufficiently distinct from the Bulgarian Orthodox Church and did not comprise people who had seceded from it. The refusal to register the applicant church had therefore been "prescribed by law".

54. For the Government, the requirement that religious communities seeking registration have names that sufficiently set them apart was intended to prevent confusion and ensure legal certainty – and thus protect public order and the rights and freedoms of others – and was fully justified. The applicant church had not demonstrated that it had characteristics which truly distinguished it from the Bulgarian Orthodox Church. Article 9 of the Convention read in conjunction with Article 11 could not be construed as requiring the registration of identical entities within the same religious denomination whose names were not clearly different. The refusal to register the applicant church had therefore not been a disproportionate interference with the applicants' rights to manifest their religion or freely associate.

2. The Court's assessment

(a) Existence of a "limitation" on the applicants' right to manifest their religion

55. It is true that the absence of official registration and legal personality does not prevent the applicant church's ministers from conducting religious services and its adherents from practicing (see *Genov v. Bulgaria*, no. 40524/08, § 37, 23 March 2017, and *Metodiev and Others*, cited above, § 36, and contrast *Metropolitan Church of Bessarabia and Others v. Moldova*, no. 45701/99, § 105, ECHR 2001-XII). But the fact that the authorities have not actively intervened in the church's activities is not decisive (see *Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria*, no. 40825/98, § 67, 31 July 2008). Without official registration, the church could not obtain legal personality and thus exercise in its own name the rights pertaining thereto, such as the rights to own or lease property, keep bank accounts, appoint ministers and other employees, and ensure judicial protection of the religious community and its members and assets, all of which are essential for exercising the right to manifest one's religion (see *Kimlya and Others v. Russia*, nos. 76836/01 and 32782/03, § 85, ECHR 2009; *Genov*, cited above, § 37; and *Metodiev and Others*, cited above, § 36).

56. Contrary to what has been suggested by the Government (see paragraph 70 below), the applicant church could not make this good by registering as an association under section 27(1) of the 2002 Act (see paragraph 35 above). Even if that were possible, it would not have permitted the applicant church and its adherents to manifest their religion freely. According to section 27(2), such associations may not carry out activities which amount to the public practicing of religion, such as conducting religious services and ceremonies, organising public religious talks and sermons, and teaching religion (ibid., see also paragraphs 37 to 39 above). Moreover, the Court has held that forcing an organisation to take a legal shape it does not seek can in itself unduly restrict freedom of association (see, *mutatis mutandis*, *Zhechev v. Bulgaria*, no. 57045/00, § 56, 21 June 2007, and *Republican Party of Russia v. Russia*, no. 12976/07, § 105, 12 April 2011). The same applies to freedom to manifest one's religion.

57. The refusal to register the applicant church as a religious denomination therefore amounted to a "limitation" on its right, and that of the other applicants, to manifest their religion (see *Metodiev and Others*, cited above, § 24).

(b) Justification of the "limitation"

58. To be compatible with Article 9 of the Convention, such "limitation" must be "prescribed by law", pursue one or more of the legitimate aims set

out in the second paragraph of that Article, and be "necessary in a democratic society" to attain those aims.

59. The Bulgarian courts based the refusal to register the applicant church chiefly on section 15(2) of the 2002 Act, as consistently interpreted by them (see paragraphs 14, 16, 30 and 32 above). The "limitation" can thus be seen as "prescribed by law" (see *Genov*, § 40, and *Metodiev and Others*, § 39, both cited above).

60. In view of the grounds on which the Bulgarian courts refused to register the applicant church – that its name was, in their view, in effect the same as that of the Bulgarian Orthodox Church – it can also be accepted that the "limitation" was meant to prevent confusion and safeguard legal certainty, and thus protect public order and the rights of others (see *Genov*, § 41, and *Metodiev and Others*, § 40, both cited above).

61. The salient issue is whether the "limitation" was "necessary in a democratic society".

62. Requiring a religious organisation seeking registration to take on a name which is not liable to mislead believers and the general public and which enables it to be distinguished from already existing organisations can in principle be seen as a justified limitation on its right freely to choose its name (see *Genov*, cited above, § 43; *"Orthodox Ohrid Archdiocese (Greek-Orthodox Ohrid Archdiocese of the Peć Patriarchy)" v. the former Yugoslav Republic of Macedonia*, no. 3532/07, § 111, 16 November 2017; and *Bektashi Community and Others v. the former Yugoslav Republic of Macedonia*, nos. 48044/10 and 2 others, § 71, 12 April 2018). But the names of the applicant church and of the Bulgarian Orthodox Church were not identical, the applicant church's name being sufficiently distinguished by the words "Old Calendar". It is well known that Old Calendarist churches, which first appeared in the 1920s, when some Eastern Orthodox churches switched from the Julian Calendar to the Revised Julian Calendar, are distinct from those Eastern Orthodox churches – such as the Bulgarian Orthodox Church – which have adopted the Revised Julian calendar (see paragraph 4 above). Moreover, nothing suggests that the applicant church wished to identify itself with the Bulgarian Orthodox Church (see, *mutatis mutandis*, *"Orthodox Ohrid Archdiocese (Greek-Orthodox Ohrid Archdiocese of the Peć Patriarchy)"*, cited above, § 111). On the contrary, it had seceded from that church owing to doctrinal differences.

63. In so far as the Government argued that the overlap between the beliefs and practices of the applicant church and of the Bulgarian Orthodox Church was also a bar to the applicant church's registration – an argument not featuring in the judgments of the Bulgarian courts – it should be noted that the assessment of whether or not religious beliefs are identical is not a matter for the State authorities, but for the religious communities themselves. Moreover, such an approach has the consequences of only permitting the existence of a single institution per religious denomination

and of compelling believers to turn to that institution, which is hard to reconcile with the effective exercise of the rights guaranteed by Articles 9 and 11 of the Convention (see *Genov*, cited above, §§ 44-45, and *Metodiev and Others*, §§ 45-46, both cited above). According to the Court's settled case-law under those provisions, in democratic societies the State does not need to ensure that religious communities remain under a unified leadership (see, among other authorities, *Hasan and Chaush v. Bulgaria* [GC], no. 30985/96, § 78, ECHR 2000-XI; *Metropolitan Church of Bessarabia and Others*, cited above, § 117; *Supreme Holy Council of the Muslim Community v. Bulgaria*, no. 39023/97, § 96, 16 December 2004; *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others* (merits), nos. 412/03 and 35677/04, §§ 120 and 147, 22 January 2009; *Genov*, cited above, § 45; and *Metodiev and Others*, cited above, § 46). The fact that the applicant church was created by people who had seceded from the Bulgarian Orthodox Church (see paragraph 4 above) does not alter that (see, *mutatis mutandis*, *Genov*, cited above, § 46). Nor does the fact that the Bulgarian Orthodox Church's unity is considered of the utmost importance for its adherents and for Bulgarian society in general (see paragraphs 13 and 24 above). Pluralism, which is the basic fabric of democracy, is incompatible with State action compelling a religious community to unite under a single leadership (see, *mutatis mutandis*, *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others* (merits), cited above, §§ 143-49, and *"Orthodox Ohrid Archdiocese (Greek-Orthodox Ohrid Archdiocese of the Peć Patriarchy)"*, cited above, §§ 115-20).

64. The refusal to register the applicant church was therefore not "necessary in a democratic society". It follows that there has been a breach of Article 9 of the Convention read in the light of Article 11.

II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION

65. The applicants complained that the refusal to register the applicant church had been discriminatory, since the Bulgarian courts only refused to register religious communities which bore a resemblance to the Bulgarian Orthodox Church, while at the same time registering without hindrance such communities of other religious denominations. The applicants relied on Article 14 of the Convention, which provides:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

A. The parties' submissions

66. The applicants submitted that the possibility for the Bulgarian Orthodox Church to make submissions in the proceedings for the registration of other Eastern Orthodox religious communities was discriminatory and betrayed the special consideration which the authorities gave to that church. They also pointed out that many Roman Catholic, Protestant, Muslim, Jewish, Jehovah's Witnesses' and Hare Krishna religious communities had been granted official recognition, whereas no Eastern Orthodox religious community had ever been so recognised. The applicants had therefore been treated differently on account of their religion. There was no proper justification for that difference in treatment. The historical role of the Bulgarian Orthodox Church did not amount to such justification.

67. The Government submitted that there had been reasonable grounds to grant the Bulgarian Orthodox Church a special legal position. Marking Eastern Orthodoxy as the predominant religion in Bulgaria was consistent with European democratic constitutional tradition. The national courts had not suggested that only one Eastern Orthodox church could be registered. The applicants' assertion that they had been treated differently from Evangelical and Catholic religious communities, which had obtained registration, was not supported by any details and was too abstract. Registration under the 2002 Act was subject to compliance with strict legal conditions which applied across the board, and the refusal to register the applicant church had nothing to do with the recognition of communities belonging to other religious denominations. It had been based on its individual characteristics and its likeness with the Bulgarian Orthodox Church, and could not be compared with the registration of Evangelical and Catholic religious communities. Nor could the applicant church be compared with the Bulgarian Orthodox Church, which had played a special historical role and embodied the traditional religion in the country.

B. The Court's assessment

68. The refusal to register the applicant church has already been examined under Articles 9 and 11 of the Convention. It is not necessary to additionally do so with reference to Article 14 of the Convention (see *Metropolitan Church of Bessarabia and Others*, cited above, § 134; *Church of Scientology Moscow v. Russia*, no. 18147/02, § 101, 5 April 2007; and *Metodiev and Others*, cited above, § 51). The Court is therefore not required to rule on the admissibility or the merits of the complaint under that provision.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

69. The applicants complained that in examining the appeals against the Sofia City Court's refusal to register the applicant church, the Sofia Court of Appeal and the Supreme Court of Cassation had not dealt properly with the grievance under Article 9 of the Convention. The applicants relied on Article 13 of the Convention, which provides:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. The parties' submissions

70. The Government submitted that under section 27(1) of the 2002 Act it was possible to set up an association which was a part of a religious community. It had been open to the applicants to resort to that possibility, which in their case had amounted to an effective remedy. Alternatively, the applicants could have renamed the applicant church such as to avoid any confusion with the Bulgarian Orthodox Church, and then have re-applied for its registration. Since under Bulgarian law judicial decisions in registration proceedings did not have *res judicata*, the applicants were free to seek registration of the applicant church afresh, this time in line with the legal requirements. A reopening of the registration proceedings was hence not the only means of obtaining redress.

71. The applicants noted that it had not been open to them to challenge the relevant provisions of the 2002 Act before the Constitutional Court, which had in any event already ruled on that issue. Nor could they have brought claims against the courts which had refused to register the applicant church under the legislation providing for State liability or the anti-discrimination legislation. The only way to obtain redress with respect to the refusal to register the church was to seek a reopening of the registration proceedings once this Court finds a breach of the Convention, but this possibility had not been open to them when lodging their application.

B. The Court's assessment

1. Admissibility

72. In the light of the Court's findings under Article 9 of the Convention read in the light of Article 11, the complaint under Article 13 of the Convention is arguable, and that Article hence applies. The complaint is, moreover, not manifestly ill-founded or inadmissible on other grounds. It must therefore be declared admissible.

2. Merits

73. Article 13 of the Convention does not guarantee a right to a further level of jurisdiction (see *Dorado Baúlde v. Spain* (dec.), no. 23486/12, § 18, 1 September 2015, and *Marinova and Others v. Bulgaria*, nos. 33502/07 and 3 others, § 109, 12 July 2016). Nor does it require yet a further remedy with respect to a decision by the highest judicial authority in a given case (see *Times Newspapers Ltd and Neil v. the United Kingdom*, no. 13166/87, Commission's report of 12 July 1990, unpublished, § 80). Similarly, it cannot be construed as requiring the possibility of seeking damages or other redress from a court with respect to a decision taken by it. It follows that the applicants' inability to bring claims against the court which refused to register the applicant church or the courts which upheld that court's decision was not contrary to Article 13.

74. Nor does Article 13 require a remedy allowing a Contracting State's laws as such to be challenged before a national authority on the grounds of being contrary to the Convention (see *James and Others v. the United Kingdom*, 21 February 1986, § 85, Series A no. 98; *Roche v. the United Kingdom* [GC], no. 32555/96, § 137, ECHR 2005-X; and *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others* (merits), cited above, § 177). It follows that the impossibility for the applicants to challenge the 2002 Act before the Constitutional Court did not entail a breach of Article 13 either.

75. The possibility for the applicants to re-apply for the registration of the applicant church cannot be seen as an effective remedy for the purposes of Article 13. To hold otherwise might erect a permanent barrier to bringing such matters before the Court, because, as pointed out by the Government, in Bulgaria a refusal to register a religious denomination does not preclude the possibility of seeking registration an indefinite number of times (see, *mutatis mutandis*, *United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria (no. 2)*, nos. 41561/07 and 20972/08, § 70, 18 October 2011). Moreover, asking an authority to reconsider a decision taken by it does not as a rule constitute an effective remedy (ibid., with further references).

76. By the same token, the possibility of registering the applicant church as an association under section 27(1) of the 2002 Act (see paragraph 35 above) cannot be seen as a remedy for the refusal to register it as a religious denomination. In any event, it has already been established that this would have been a proper substitute for its registration as a religious denomination (see paragraph 56 above).

77. The applicants had a remedy against the Sofia City Court's refusal to register the applicant church, in the form of an appeal to the Sofia Court of Appeal and then an appeal on points of law to the Supreme Court of Cassation. In those appeals, the applicant church raised arguments as to

why, in its view, the refusal had been in breach of Article 9 of the Convention (see paragraphs 15, 17 and 18 above). However, neither the Sofia Court of Appeal nor the Supreme Court of Cassation mentioned those arguments, let alone engaged substantively with them (see paragraphs 16 and 19 above), whereas the effective remedy required by Article 13 is one where the domestic authority or court dealing with the case considers the substance of the Convention complaint (see *Glas Nadezhda EOOD and Elenkov v. Bulgaria*, no. 14134/02, § 69, 11 October 2007, and *Boychev and Others v. Bulgaria*, no. 77185/01, § 56, 27 January 2011). In the present case, that meant an examination of, in particular, whether the limitation on the applicants' right to manifest their religion – the refusal to register the applicant church – pursued one or more of the legitimate aims set out in Article 9 § 2 of the Convention and was "necessary in a democratic society" to attain those aims. No such examination was carried out by the Sofia Court of Appeal or the Supreme Court of Cassation. It follows that the appeals to those courts did not in the circumstances amount to an effective remedy with respect to the applicants' complaint under Article 9 of the Convention read in the light of Article 11.

78. There has therefore been a breach of Article 13 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 46 OF THE CONVENTION

79. In their observations in reply to those of the Government, the applicants alleged that by refusing to register the applicant church in spite of the Court's ruling in *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others* ((merits), cited above), the Bulgarian authorities had failed to comply with Article 46 of the Convention.

80. The Government submitted that this complaint had not been raised in the original application and should not therefore be examined.

81. The Court finds the stage of the proceedings at which the complaint was first raised irrelevant. The present proceedings are under Article 34 of the Convention, whereas, according to its case-law, the Court may only consider whether a High Contracting Party has failed in its duty under Article 46 § 1 of the Convention to abide by the final judgment in a case to which it was party in an "infringement procedure" under Article 46 §§ 4 and 5 brought by the Committee of Ministers (see *Bochan v. Ukraine (no. 2)* [GC], no. 22251/08, § 33, ECHR 2015; *Moreira Ferreira v. Portugal (no. 2)* [GC], no. 19867/12, § 102, 11 July 2017; and *Ilgar Mammadov v. Azerbaijan* (infringement proceedings) [GC], no. 15172/13, § 167, 29 May 2019).

82. The Court therefore has no jurisdiction to deal with this matter in the present case.

V. APPLICATION OF ARTICLE 46 OF THE CONVENTION

83. The relevant parts of Article 46 of the Convention provide:

> "1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.
>
> 2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution. ..."

A. The parties' submissions

84. The applicants pointed out that in spite of the Court's judgment in *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others* ((merits), cited above), the Sofia City Court and the Sofia Court of Appeal had been consistently refusing to register Eastern Orthodox religious communities, owing to the way in which they had been construing the 2002 Act. In the applicants' view, this called for the indication of general measures under Article 46 of the Convention, as well as for an indication under the same Article that a reopening of the registration proceedings in their case and a re-examination of the applicant church's registration request in the light of the principles laid down by the Court would be the most appropriate means of remedying the breach of their rights.

85. The Government submitted that it was impermissible for the applicants to seek to vindicate the rights of other religious communities by way of a request for the indication of general measures. They noted in this connection that the Convention did not provide for an *actio popularis*. They went on to say that since under Bulgarian law judicial decisions in registration proceedings did not have *res judicata*, it was open to the applicant church to seek registration afresh. A reopening of the registration proceedings was thus not the only means of remedying the breach of the applicants' rights.

B. The Court's assessment

86. By virtue of Article 46 § 1 of the Convention, the Contracting Parties have undertaken to abide by the final judgments of the Court in any case to which they are parties, execution being supervised by the Committee of Ministers. It follows, *inter alia*, that a judgment in which the Court finds a breach of the Convention or the Protocols thereto imposes on the respondent State a legal obligation not just to pay those concerned the sums awarded under Article 41 of the Convention by way of just satisfaction, but also to choose, subject to supervision by the Committee of Ministers, the general and/or, if appropriate, individual measures to be adopted in its domestic legal order to put an end to the breach found by the Court and to

redress as far as possible its effects. It is primarily for the State concerned to choose, subject to supervision by the Committee of Ministers, the means to be used in its domestic legal order to discharge that obligation. However, with a view to helping the respondent State to fulfil it, the Court may indicate the type of individual and/or general measures that might be taken to put an end to the situation it has found to exist (see, as a recent authority, *Simeonovi v. Bulgaria* [GC], no. 21980/04, § 149, 12 May 2017).

87. The breach of Article 9 read in the light of Article 11 of the Convention found in the present case in relation to the refusal to register the applicant church flows chiefly from the manner in which the Bulgarian courts have consistently interpreted sections 9 and 15(2) of the 2002 Act and paragraph 3 of its transitional and concluding provisions (see paragraphs 14, 16, 30, 32 and 59 above). It discloses a systemic problem which has already given rise to similar applications (see *Genov*, cited above; *Metodiev and Others*, cited above; *Independent Orthodox Church and Zahariev v. Bulgaria*, no. 76620/14, 20 April 2021; and *Orthodox Christian Church and Others v. Bulgaria*, no. 31387/17, pending,[2] and may lead to further such applications. Indeed, the issue was highlighted by the Council of Europe's Parliamentary Assembly as long ago as 2004 (see paragraph 42 above). The nature of the breach suggests that the general measures required to abide by the present judgment should include either an amendment of those statutory provisions or such an interpretation of them as does not preclude the registration of a religious denomination on the grounds that it has (a) the same beliefs or practices as an already existing religious denomination, or (b) the same name as an already existing religious denomination, unless the two names are literally identical or indeed so closely alike, in all of their elements – rather than just one word, such as "Bulgarian" or "Orthodox" – that the adherents of the existing religious denomination and the general public would genuinely be likely to confuse the two denominations.

88. As for the individual measures required in relation to the applicant church, they may involve either granting a renewed request for its registration as a religious denomination, or a reopening of the 2011-13 registration proceedings. Whichever option is chosen, however, the measures taken by the authorities must be compatible with the findings set out in the present judgment (see, *mutatis mutandis*, *Church of Scientology Moscow v. Russia*, no. 18147/02, § 106, 5 April 2007).

[2] See footnote 1 above.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

89. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Pecuniary damage

90. The applicants jointly claimed 15,000 euros (EUR) in respect of pecuniary damage. They submitted that this was the sum which they had paid in local taxes and fees with respect to the applicant church's cathedral church in Sofia during the period 2012-18. They argued that if the applicant church had been registered in 2012, it would have benefited from the exemption from local taxes and fees available with respect to temples owned by registered religious denominations under sections 24(1)(9) and 71a of the Local Taxes and Fees Act 1997 (see paragraph 28 above). In support of their claim, the applicants submitted tax receipts showing that the second applicant and other adherents of the applicant church had paid a total of 30,579.49 Bulgarian levs (BGN) in local taxes and waste disposal fees with respect to the applicant church's cathedral church in Sofia. The sum paid in waste disposal fees for 2012 and 2013 was BGN 4,604.54.

91. The Government pointed out that according to section 24(2) of the 1997 Act (see paragraph 28 *in fine* above), the tax exemption under section 24(1)(9) was subject to the premises in issue not being used for commercial purposes. The applicants had not presented any proof that they had met this condition. Moreover, the exemption only concerned real property tax and not waste disposal fees.

92. According to the Court's case-law, there must be a clear causal link between the breach found by the Court and the damage alleged by the applicants (see, among other authorities, *Barberà, Messegué and Jabardo v. Spain* (Article 50), 13 June 1994, § 16, Series A no. 285-C; *Z and Others v. the United Kingdom* [GC], no. 29392/95, § 119, ECHR 2001-V; and *Kurić and Others v. Slovenia* (just satisfaction) [GC], no. 26828/06, § 81, ECHR 2014). In this case, such a link would only exist if, in the absence of the violation of Article 9 read in the light of Article 11 of the Convention, the applicant church would have been entitled to the tax privilege on whose absence the applicants based their claim (see *Religionsgemeinschaft der Zeugen Jehovas and Others*, cited above, § 130). When refusing to register the applicant church, the Sofia City Court and the Sofia Court of Appeal did not cite any grounds in support of their decision other than that found in breach of Article 9: the similarity of the applicant church's name with that of the Bulgarian Orthodox Church (see paragraphs 14, 16, 62 and 63

above). It can thus reasonably be assumed that, but for the breach found by the Court, the applicant church would have been registered as a religious denomination in early 2012 and accordingly would from then on have been entitled to the tax exemption under section 24(1)(9) of the 1997 Act, as well as to the exemption from the waste disposal fee introduced by section 71a(1) of the same Act with effect from 1 January 2014 (see paragraph 28 above). Nothing suggests that the applicant church's cathedral church has ever had commercial uses unconnected with its religious function, as insinuated by the Government, and that those tax and fee exemptions did not therefore apply to it. The material adduced by the applicants shows that in 2012-18 the second applicant and other adherents of the applicant church paid a total of BGN 30,579.49 in local taxes and fees in respect of that cathedral church. Since temples only became exempt from waste disposal fees on 1 January 2014 (see paragraph 28 *in fine* above), the sums paid in such fees for 2012 and 2013 (BGN 4,604.54) should be subtracted from this sum. This gives a net sum of BGN 25,974.95.

93. The applicants are therefore to be awarded, jointly, EUR 13,280.78 (the equivalent of BGN 25,974.95) in respect of pecuniary damage.

94. This sum is to be paid to the second applicant, the applicant church's leader, for the benefit of the whole religious community (see *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others v. Bulgaria* (just satisfaction), nos. 412/03 and 35677/04, § 39, 16 September 2010).

B. Non-pecuniary damage

95. The applicants jointly claimed 15,000 in respect of the distress and feelings of injustice which they had suffered owing to the refusal to register the applicant church. They cited the awards made by the Court in a number of similar cases, and pointed to the various practical problems which the lack of registration had caused the church and its adherents, such as the impossibility for the church to obtain direct donations which would be tax-free for the donors and to offer proper employment contracts and social security to its ministers and other employees.

96. The Government submitted that the refusals to register religious organisations in the cases cited by the applicants had been based on grounds which could not be compared to the grounds for the refusal to register the applicant church. In their view, the finding of a violation would be sufficient just satisfaction for any non-pecuniary damage suffered by the applicants. Should the Court consider this not to be the case, the appropriate award in this case ought to be much lower than the awards made in those cases. The Government pointed out in this connection that there had been no active interference with the religious life of the adherents of the applicant church and the possibility for them freely to worship. The church had made one

attempt to register in 2011, and had engaged in no further efforts to obtain legal personality.

97. The Court finds that the refusal to register the applicant church must have caused it non-pecuniary damage and elicited feelings of distress, anxiety and injustice in the individual applicants, all of whom are either members of the church's governing bodies or its ministers (see paragraph 8 above). Assessing the point on an equitable basis, the Court awards the applicants jointly EUR 4,500, plus any tax that may be chargeable.

98. This sum is to be paid to the second applicant, the applicant church's leader, for the benefit of the whole religious community (see *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others* (just satisfaction), cited above, § 39).

C. Costs and expenses

99. The applicants claimed EUR 6,720 allegedly incurred in fees for eighty-four hours of work by their lawyers on the proceedings before the Court. They requested that any sum awarded under this head should be made directly payable to their lawyer. In support of their claim, the applicants submitted a conditional fee agreement signed by the second applicant and the lawyer in January 2018, according to which the lawyer would only seek fees from the applicants, at the rate of EUR 80 per hour, if the Court finds a violation, and only up to the sum of any award in respect of costs and expenses made by the Court. The applicants also submitted a time-sheet detailing the time spent in work on their case in June, July and August 2013 and January and February 2018.

100. The Government submitted that the claim went beyond the indicative legal fees in Bulgaria and was out of kilter with the low standard of living in the country. They also noted that there was no evidence that the applicants' current lawyer had been involved in any work on the case before January 2018, when the fee agreement between her and the second applicant had been signed.

101. According to the Court's case-law, applicants are entitled to the reimbursement of their costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum (see, among many other authorities, *Merabishvili v. Georgia* [GC], no. 72508/13, § 370, 28 November 2017). The Court is not bound by domestic scales or standards in that assessment (see, among other authorities, *Ivanova and Cherkezov v. Bulgaria*, no. 46577/15, § 90, 21 April 2016).

102. In this case, the conditional fee agreement between the applicants and their lawyer is in principle proof that the fees to which the claim relates have been actually incurred by the applicants (see *Merabishvili*, cited above, § 371, and *Ivanova and Cherkezov*, cited above, § 89). In the circumstances,

however, this is only the case for the fees referable to the actual work done by the lawyer on the case. The materials in the file show that she stepped in on the case in March 2015 (see *Kirova and Others v. Bulgaria*, no. 31836/04, § 54, 2 July 2009). For its part, the time-sheet submitted by the applicants shows that the lawyer spent thirty-and-a-half hours in work on the case after that time, in early 2018. In the light of the level of complexity of the issues thrown up by the case and the length and content of the submissions made on behalf of the applicants, that number of hours appears reasonable. The hourly rate charged by the lawyer (EUR 80) is the same as those accepted as reasonable in recent cases against Bulgaria of similar complexity (see *Karaahmed v. Bulgaria*, no. 30587/13, §§ 117 and 119, 24 February 2015, and *Ivanova and Cherkezov*, cited above, §§ 86 and 90). The applicants are therefore to be awarded EUR 2,440, plus any tax that may be chargeable to them. As they requested, this sum is to be paid directly into the bank account of their lawyer.

D. Default interest

103. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Article 9 read in the light of Article 11 of the Convention and Article 13 of the Convention admissible, and the complaint under Article 46 of the Convention inadmissible;

2. *Holds* that there has been a violation of Article 9 of the Convention read in the light of Article 11 of the Convention;

3. *Holds* that there is no need to examine the admissibility or the merits of the complaint under Article 14 of the Convention;

4. *Holds* that there has been a violation of Article 13 of the Convention;

5. *Holds*
   (a) that the respondent State is to pay the applicants, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 13,280.78 (thirteen thousand two hundred and eighty euros and seventy-eight cents) in respect of pecuniary damage, to be paid into the bank account of the second applicant;
      (ii) EUR 4,500 (four thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be paid into the bank account of the second applicant;
      (iii) EUR 2,440 (two thousand four hundred and forty euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses, to be paid into the bank account of the applicants' representative, Ms N. Dobreva;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

6. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 20 April 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth	Tim Eicke
Deputy Registrar	President

Appendix

List of the applicants:

No.	Applicant's name	Year of birth	Nationality
1.	Bulgarian Orthodox Old Calendar Church	n/a	Bulgarian
2.	Fotiy Dimitrov Siromahov	1956	Bulgarian
3.	Konstantin Vankov Todorov	1961	Bulgarian
4.	Branimir Chavdarov Ormanov	1977	Bulgarian
5.	Efrosiniya Tsvetanova Katsarova	1934	Bulgarian
6.	Stefan Trifonov Trifonov	1953	Bulgarian