

9. Name of representative
Lachezar Lyubomirov Popov

10. Occupation of representative
Lawyer

11. Address of representative
44 Parchevich St., et. 5, ap. 15
Sofia 1000, Bulgaria

12. Tel. № /++359 2/ 980 98 11, 981 49 93
Fax № /++359 2/ 981 49 93

For consultant on the application we appoint Mr. Dimitar Bonev Gochev, Personal Identity 3602276382 – lawyer, address: 44 Parchevich St., et. 5, ap. 15, Sofia 1000, Bulgaria

B. THE HIGH CONTRACTING PARTY

/Fill in the name of the State against which the application is directed

13. Republic of Bulgaria

II. STATEMENT OF THE FACTS

/See Part II of the Explanatory Note/

14. We, the applicants, are Orthodox Christians and, at the same time, administrative employees in the office of the Holy Synod of the Bulgarian Orthodox Church with vicar chairman Sofia Metropolitan Inokentiy, located at 58 G.S. Rakovski Blvd. Our working premises are situated in an independent administrative building in the yard of St. Martyr Paraskeva Church – property of the church.

On 21.07.2004, 7:30 a.m., during service, the church yard was suddenly invaded, without prior notice, by many policemen and plainclothesmen, led by four officers. Some of the policemen made a chain on the inner side of the fence and closed the yard's gate, not allowing anyone to enter.

Very much excited and scared by those events, the worshipers and priests in the church quickly vacated it and went to the yard. Inside was left only one priest who locked on the inside the door to the church and started to ring in alarm the church bells in protest against the unprovoked actions of the police.

During the assault of the police in the church's yard, in the administrative building were two of us – Lilyana Shtereva and Asen Milushev. The rest arrived between 7:30 a.m. and 8:00 a.m., but were not allowed to their working premises, even to the church's yard by the guarding policemen, without presenting us any document allowing the police to do that, without any explanations. We have still not received any.

Later, in about 10 days, we saw Decree № 3692/2004 of the Sofia City Prosecutor's Office as of 20.07.2004 /enclosed to the application/ with which the prosecutors D. Angelova and Iv. Daskalova order to "the director of the Sofia Police Department to order cooperation to the Bulgarian Orthodox Church be given, by providing access of the lawful priest Archpriest Nikolay Todorov Georgiev to the St. Paraskeva Church, situated in Sofia, 58 G.S. Rakovski St." The statement said that it was issued on the grounds of Memorandum № 12173 as of 08.07.2004 of the Supreme Prosecutor's Office of Cassation ordering to assist the priest appointed by Patriarch Maxim to "stop the arbitrary acts".

As seen, this Statement of the prosecution does not order the police to take any compulsory actions against the Holy Synod of the Bulgarian Orthodox Church with vicar chairman Sofia Metropolitan Inokentiy, including against us – the employees of the office of the Holy Synod of the Bulgarian Orthodox Church. In this regard, not allowing us to our working places and the confiscation of our office documentation and our personal belongings and documents there, is illegal action of the police and the prosecutor monitoring the action, having the purpose to terminate by force the operations of the Holy Synod which is the managing body of the Bulgarian Orthodox Church. This way the state, represented by the prosecution and the police, wished to oblige all Orthodox Christians in Bulgaria, including us, to recognize as our spiritual leaders persons we believe have not the qualities of being such.

At about 11:30 a.m. the policemen in the yard, with additionally arrived reinforcements, took unprovoked actions against the priests and laymen in the church yard and in the administrative building. Some of them were dragged in the yard and beaten, and three of them – Bishop Gervasiy, priest Kamen Barakov and the employee in the office of the Holy Synod Lilyana Shtereva, were arrested and forcefully taken to the arrest of 5th Regional Police District. The church was sealed by the police.

As at the date of this application to the honored European Court of Human Rights, we have not been allowed to access the premises of the Holy Synod of the Bulgarian Orthodox Church, and in the same time we have been deprived of our right to work, of living, of social and health insurance. Our civil rights were brutally and unceremoniously violated by the state represented by its prosecution and police that should protect our rights and us from illegal actions and offenses.

So we found ourselves in the street and, since then, together with the expelled in the same way /on the same date and hour/ from other churches priests and brothers and sisters – laymen in Sofia and Bulgaria, practice our faith in the open in the city parks.

III. STATEMENT OF ALLEGED VIOLATION/S/ OF THE CONVENTION AND/OR PROTOCOLS AND OF RELEVANT ARGUMENTS

/See part III of the Explanatory Note/

15.1. Violated are our rights as per art. 9 of the Convention.

The stated facts categorically speak of brutal violation of our religious rights and our right to peacefully use our own church St. Martyr Paraskeva in Sofia /art. 9 of the Convention and art. 1 of First Additional Protocol to it/.

The right as per art. 9 of the Convention provides for our right to chose our religious leader and it is illegal, as per the Convention, by expelling us from our church and creating insurmountable obstacles before the Holy Synod, depriving it of the possibility to normally and effectively carry out its function of spiritual leadership and guidance of the Bulgarian Orthodox Church, to be obliged, by the prosecution and the police, to recognize the spiritual leadership of Maxim.

Besides, our right to religious freedom supposes also our right to practice and participate in religious ceremonies together with people with the same religious views /who, like us, do not accept the spiritual leadership of Maxim/.

Third, our right to religious freedom supposes our right to practice our faith in our church, and the expelling from it, undoubtedly, represents a serious violation of our rights.

Regarding the Chief Secretary of the Holy Synod Anatoliy Balachev, he is also a priest and besides the stated aspects of the violation of his rights as per art. 9 of the Convention, there is also another aspect – violated is also the right, which is also his spiritual calling, to carry out his priestly obligations, to be our spiritual guide, comforter, confessor to his congregation and to serve them as he serves God. He was expelled from the church and deprived of his right to pray to God for salvation of our souls and the soul of each one of us.

2. Violated were our rights as per art. 1 of First Additional Protocol to the Convention. We were expelled from OUR CHURCH. This church is not a property of Maxim even if he was a legitimate head of the Bulgarian Orthodox Church /which he is not, because he was not elected by a legitimate Church-people Convention, but was appointed as such by the then existing Communist Party/. The church is ours – of the Orthodox Christians of its parish with whose voluntary grants, funds and personal work it was built. Pursuant to the By-laws of the Bulgarian Orthodox Church and the Bulgarian legislation, the church and its board of trustees have the status of legal person, and the title deed /which was confiscated by the police together with the other documentation of the Holy Synod and of the church/ is in its name and not in the name of the Holy Synod led by Maxim, and no law can deprive us of our property. This would contradict the effective Constitution and the Convention.

3. Violated are our rights as per art. 13 of the Convention.

4. Regarding Mrs. Shtereva was violated also the right as per art. 3 of the Convention, who was subjected to derogatory treatment, was pushed and beaten for which there is a medical statement.

IV. STATEMENT RELATIVE TO ARTICLE 35 § 1 OF THE CONVENTION

/See Part IV of the Explanatory Note. If necessary, give the details mentioned below under points 16 to 18 as a separate sheet for each separate complaint/

16. Final decision /date, court of authority and nature of decision/

The final internal legal act on which is based our application, is Decree № 3692/2004 of the Sofia City Prosecution as of 20.07.2004 /attached to the application/, by which the prosecutors D. Angelova and Iv. Daskalova order to "the director of the Sofia Police Department to order a cooperation to the Bulgarian Orthodox Church, by providing access to the lawful priest Archpriest Nikolay Todorov Georgiev to the St. Paraskeva church, situated in Sofia, 58 G.S. Rakovski St." The statement said that it is issued on the grounds of Memorandum № 12173 as of 08.07.2004 of the Supreme Prosecution of Cassation ordering to assist the priest appointed by Patriarch Maxim to "stop the arbitrary acts".

17. Other decisions /list in chronological order, giving date, court or authority and nature of decision for each of them/.

No such.

18. Is there or was there any other appeal or other remedy available to you which you have not used? If so, explain why you have not used it.

We turn directly to you, Honorable Judges, because in this case there is no efficient internal legal means for protection of our rights.

Pursuant to art. 118, para 3 of the Judicial Power Act of the Republic of Bulgaria, which regulates the institute of arbitrary acts, no court order is provided to appeal the acts of the prosecution. Such appeal can be made only before higher prosecution body. And as stated above, the statement of the prosecution ordering the police to carry out the violent activities, was issued in execution of the memorandum of the Supreme Prosecution of Cassation which is obligatory for the lower prosecutors as per art. 116, para 3 of the Judicial Power Act.

The above shows that no efficient means exist for protection in violation of art. 13 of the Convention.

V. STATEMENT OF THE OBJECT OF THE APPLICATION

/See Part V of the Explanatory Note/

19. Considering the above stated we ask to decree a decision stating that our rights as per art. 9 and 13 are violated and for Mrs. Shtereva – also art. 3 of the Convention, as well as art. 1 of First Additional Protocol to the Convention, were violated.

We also ask to decree a just compensation for the suffered moral and material damages, the amount of which shall be established in the process of the hearings, as well as to decree on the expenses for case hearing, for which we will provide the respective documents.

VI. STATEMENT CONCERNING OTHER INTERNATIONAL PROCEEDINGS

/See Part VI of the Explanatory Note/

20. Have you submitted the above complaints to any other procedure of international investigation or settlement? If so, give full details.

We have not submitted the above complaints to any other international institution for review or decision.

The matter of violation over the Bulgarian Orthodox Church was reviewed by the Parliamentary Assembly of the Council of Europe on 07.09.2004, for which a resolution was passed.

VII. LIST OF DOCUMENTS /NO ORIGINAL DOCUMENTS, ONLY PHOTOCOPIES, DO NOT STAPLE, TAPE OR BIND DOCUMENTS/

/See Part VII of the Explanatory Note. Include copies of all decisions referred to in Parts IV and VI above. If you do not have copies, you should obtain them. If you cannot obtain them, explain why not. No documents will be returned to you/.

21. a) Statement № 3692/2004 of the Sofia City Prosecution as of 20.07.2004

b) Medical statement of Mrs. Shtereva АП 128/2004

c) 5 pictures of the police violence in church St. Martyr Paraskeva, including against Mrs. Shtereva

d) Letter of Minister Petkanov to the National Assembly /Parliament/

e) Registration of Sofia Metropolitan Inokentiy and of Sofia Holy Metropolitan – Sofia Eparchy – 1999-2003

1. Order ПД-09-1882/06.10.2003 of the Mayor of Sofia Municipality
1. Letter № 9k-9500-40/24.04.2001 of the Deputy Mayor of the Sofia Municipality

- f) Registration of church St. Martyr Paraskeva
 - 1. Order РД-09-1427/28.07.2003 of the Mayor of Sofia Municipality
 - 2. Letter № 9k-9500-239/21.11.2000 of the Deputy Mayor of the Sofia Municipality
- g) Certificate № 1593/07.07.1998 of the Council of Ministers, Direction of Ecclesiastical Matters for striking off of registration of Patriarch Maxim
- h) Letter № 472/13.08.1999 of the Council of Ministers, Direction of Ecclesiastical Matters
- i) Decision "A" № 145 of Political Bureau of the Central Committee of the Bulgarian Communist Party as of 08.03.1971
- j) Special opinion of the Vratsa Metropolitan Paisiy, Varna and Preslav Metropolitan Yosif and the Nevrokop Metropolitan Piment regarding for decision of the Holy Synod for election of a new patriarch in violation of the By-laws of the Bulgarian Orthodox Church, taken on meeting on 01.04.1971
- k) Decision 859/13.12.1996 of Five-member body of Supreme Administrative Court of the Republic of Bulgaria
- l) Biography reference for steward Anatoliy Balachev
- m) Certificate of baptism of Petar Petrov
- n) Certificate of baptism of Asen Miloshev
- o) Certificate of baptism of Stoyan Gruychev
- p) Certificate of baptism of Rositsa Grozdanova
- q) Certificate of baptism of Lyubka Borisova
- q) 7 powers of attorney

VII. DECLARATION AND SIGNATURE
/See Part VIII of the Explanatory Note/

22. I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

Place:.....
Date:.....

Signature of the applicant or of the representative

1. Sgd.ill., Anatoliy Balachev
2. Sgd.ill., Petar Petrov
3. Sgd.ill., Asen Milushev
4. Sgd.ill., Stoyan Gruychev
5. Sgd.ill., Lyubka Nikolova
6. Sgd.ill., Rositsa Grozdanova
7. Sgd.ill., Lilyana Shtereva

TO EUROPEAN COURT OF HUMAN RIGHTS
STRASBOURG

ADDITIONAL PETITION

by Holy Synod of the Bulgarian Orthodox Church
represented by vicar chairman
of the Holy Synod Metropolitan Inokentiy
with civil name Ivan Stoyanov Petrov
Bulgaria 1000, Sofia 108 Vasil Levski Blvd.

№ 412/2003

Honorable Judges,

After the filing of my petition on which was formed a case under the above number, the violations by the respondent state against the Synod headed by me, churches, priests, trustees and laymen visiting for collective or individual prayer these churches, continues even stronger.

That is way I send this additional petition asking to take in consideration, in the decision on the case, these new circumstances and in your decision take that there is a violation of our rights as per the Convention.

1. At the end of 2002, XXXI National Assembly /Parliament/ of Republic of Bulgaria adopted the new Religions Act, published in № 120 from 2002 of the Official Journal. Art. 10, para 2 states that the Bulgarian Orthodox Church is a legal person while all other faiths has a procedure for registration and acquiring the property of legal person.

In itself this provision of the law is discriminatory, because the Synod headed by me is subject to registration.

With applications before the Sofia City Court I made a request for registration of the churches in Sofia and their boards of trustees which are, spiritually, led by the Synod headed by me.

With statements as of 23.09.2003, uniform in composition and text for everyone, was refused registration of all churches.

The motives of the court were art. 10, para 1 of the Religions Act which state that the Bulgarian Orthodox Church is represented by the Bulgarian Patriarch, as well as with the expressed opinion of five judges of the Constitution Court for this /in contradiction to the opinion of six judges of

the Constitution Court, but there was no decision for anti-constitutionality due to lack of seven votes/.

I appealed the decisions of the Sofia City Court before the Sofia Court of Appeals, which with decision as of 04.11.2003 leaves in force the appealed decisions accepting that I do not have representative power for the required registration

A composition of the Supreme Court of Cassation, with decision № 11 as of 08.01.2004 did not grant my private petition against the decision of the Sofia City Court, accepting that the decisions of the Sofia City Court and of Sofia Administrative Court, were legal.

2. Pursuant to prosecutor's correspondence № 12173 from 2004 of the Supreme Prosecution of Cassation was made memorandum to all prosecutions in Bulgaria ordering to assist Patriarch Maxim for occupation of churches spiritually belonging to the Synod headed by me.

In execution of this memorandum of the Supreme Prosecution of Cassation, without any checks for the legal grounds on which the respective church boards of trustees govern the church and from when, all district, city prosecutors, respectively, on the territory of which are situated those churches, as well as without any warning to them and giving the opportunity to protect themselves, issued, on the same date – 20.07.2004, prosecutors' orders to the respective police directorates to occupy our churches and to assist the priests indicated by Patriarch Maxim, to settle in them.

So, in execution of these orders, simultaneously in the whole country, in the early morning of 21.07.2004, police units blocked over 200 churches and monasteries in the whole country, evicted the priests and worshipers situated there, locked them with padlocks, sealed them and refused to let anyone even in the yards of the churches.

In many places the occupation of our churches was accompanied by physical violence – priests were beaten, dragged on the earth, kicked and insulted.

Honorable Judges,

On 21.07.2004 in the Republic of Bulgaria was done unprecedented mass violence on our rights as per art. 9 of the European Convention for protection of human rights and basic liberties.

Several times the Court, in many of its decisions, underlined the special place of faith in the system of basic human rights. This is a right which is integrally related to the spiritual nature of human person, and its content, besides strictly personal right to believe or not in God, is included many essential for the democratic social freedoms.

First, this is the right of priests to serve God and people in their churches. This right was violated for about 300 priests and monks who were expelled, and now carry out services in the open.

These priests have the right to determine whose spiritual leadership to recognize, the right to determine themselves, by not recognizing Maxim for their spiritual leader.

This right of theirs was violated, once with the refusal of state registration, and later – with their eviction from the churches.

These priests are deprived of the right to serve God and people, but they and their families are deprived of living, because a priest cannot be forced to change his profession because this profession is a spiritual calling.

The expelling and closing down of the churches deprives of their right to practice their faith thousands of believers-laymen, who also have the right to choose with whom to pray and who to choose as their pastor.

The practice of the Court strictly follows the provisions of art. 9, para 2 of the Convention, in this case no one of these provisions is present.

A. The occupation in force of our churches, as well as the expelling from them of priests and laymen is not only “recommended by law”, but is illegal.

According to our law, the institution of arbitrary acts is regulated by art. 218 of the Judicial Power Act, and the arbitrary act has been, in the legal theory, defined as action of one person for realization alone of a right claimed by him, without using the procedure stipulated by the law, and the restoration of the violated self-governing status may be ordered, by the bodies of the prosecution, only within two months from, for example, the occupation of a real estate.

In this case, some of the occupied churches were built by church boards of trustees after their separation from the spiritual power of Maxim, and the rest are property of the respective churches, managed by the church boards of trustees.

Obviously, the question is a legal dispute of ownership, which dispute may be solved only by the court.

B. It is obvious that, both the refusal for registration and the eviction from the churches and the related additional violations, are not “necessary to a democratic society”. Quite the opposite – the public reactions, both in Bulgaria and the world, were very negative. This organized action of the state is compared with the so called “restoration process” in the 80s, when the communist government closed down the mosques and changed

forcefully the names of the people with Islamic faith, and to the forceful nationalization after 1944, done also by the communist government when the properties of thousands of people were stolen.

This limitation of religious freedom and forceful activities cannot be justified by protection of public order or public security, and even less of the health and moral.

And regarding to "rights and freedoms of others", it is necessary to remind, that if there are legal disputes on the ownership of churches, the solving of these disputes is only in the competency of courts, and prosecution in this case quite ungroundedly, appropriates power not belonging to it.

From the stated herein it is quite clear that there is a massive, broad-scale violence of the rights of a large group of citizens of the rights as per art. 9 of the Convention.

We should also state that the only protection is in the hands of the honorable court.

This is so, because art. 218 of the Judicial Power Act does not allow those aggrieved by the actions of prosecution bodies to appeal these actions before court.

That is why I complain as per art. 6 of the Convention, for absence of an access to court. We cannot protect our rights before "independent and impartial court /art. 6 of Human Rights Convention/.

In case of lack of efficient legal protection from violated rights, are obviously present the conditions of art. 13 of the Convention.

The opportunity we have to appeal before higher prosecution body cannot replace the court procedure. And in this case an appeal of such nature is quite senseless, since the prosecutors who issued the orders, fulfilled the orders of the Supreme Prosecution of Cassation given with memorandum 12173 as of 08.07.2004.

In the end, Honorable Judges, I ask for and urgent decision, since the circumstances require this. As stated, our churches are closed down, we have no access to them, the priests serve in the open and are left without living.

The whole documentation of the Holy Synod was confiscated, and the building on the first indicated address is also occupied, therefore I ask to correspond with me on this address: Sofia 1000, 108 Vasil Levski Blvd.

ENCLOSURES

1. List of churches only in Sofia occupied by force by the police after an order of the prosecution bodies on 21.07.2004, together with the names of the priests.
2. Order of the City Prosecution in Sofia as of 20.20.2004 for the occupation of St. Paraskeva church in Sofia /the orders for all occupied churches with identical content/.
3. Ten photos of the forceful eviction of priests and laymen from the same church.
4. Three certificates of forensic medicine for the condition of two priests and one laywoman after violation and mistreatment after the occupation of the churches.
5. Decision as of 23.09.2003 of the Sofia City Court.
6. Decision as of 23.11.2003 of the Sofia Administrative Court.
7. Decision as of 08.01.2004 of the Supreme Court of Cassation.
8. Decision № 859 of the Supreme Administrative Court.
9. Certificate 1593 as of 07.07.1998 of the Directorate of Ecclesiastical Matters at the Council of Ministers.
10. Letter of the Directorate of Ecclesiastical Matters as of 13.08.1999.

We have video materials for the violations in the occupation of the churches in Sofia, which we are willing to present to the Honorable Court if so required

Sincerely,
/Sgd.ill./

Inokentiy, Chairman of the Holy Synod of the Bulgarian Orthodox Church and Sofia Metropolitan