

Briefing

Bulgaria

The Bulgarian Orthodox Church

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Christian Solidarity Worldwide
Voice for the Voiceless

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Summary

As Bulgaria continues to await a decision from the European Union as to whether or not it can expect to join the EU in 2007, there are still many questions regarding the reform of its judiciary system. One particularly egregious, and still unresolved, case involving the Bulgarian Orthodox Church has highlighted problems within the judiciary, particularly the application of unilateral decisions by state institutions and a lack of legal recourse or appeal within Bulgaria for parties that fall victim to those decisions.

On July 21st, 2004, the Bulgarian State forcibly intervened in an internal Orthodox Church dispute, violently expelling more than 160 Orthodox priests and layworkers and confiscating churches and monasteries across the country.

The expulsions and confiscations took place after the office of the Prosecutor General took the side of one faction of the Bulgarian Orthodox Church, and ordered the use of state police power to effectively act as a personal militia of that faction.

Under Bulgarian law it is not possible to appeal decisions of the Prosecutor General. The Rule of Law Institute, a Bulgarian legal and human rights organization, has registered 75 such cases with the European Court of Human Rights in Strasbourg. The Bulgarian government has presented its statement to the ECHR and on July 13th, 2005, the Rule of Law Institute presented its rebuttal. The Court is currently reviewing the case.

While the EU Commission has stated that it is in dialogue with members of civil society in Bulgaria, representatives of the Alternate Synod have stated that they have not ever been contacted by anyone from the European Union institutions.

Background

The current Bulgarian Orthodox Patriarch Maxim was appointed to that position by a resolution of the Politbureau of the Bulgarian Communist Party on 4 July 1971.

After the fall of communism in Bulgaria, many in the Orthodox Church expected Maxim to step aside to allow for an election, according to customary Orthodox procedures, to name a new Patriarch.

However, Maxim did not step down from the patriarchy and in response, a significant part of the Orthodox Church refused to recognize his authority and demanded that he step down so that elections might take place. They aligned themselves under the authority of Metropolitan Innokentii. The Alternate Synod, as it has been called, is at pains to point out that there is no church "schism" as there has been no disagreement over theology or church law.

Rather than seeking a just solution through the courts, the Bulgarian State Prosecutor's Office has unilaterally chosen a course of action that many find uncomfortably similar to the "hands on" approach used by the State in regard to religious practice during the Communist era. This despite an 18th of October 2000 Supreme Administrative Court declaration that stated,

...there are two religious communities in the Republic of Bulgaria that are called the Bulgarian Orthodox Church... Since there are citizens in the Republic of Bulgaria who do not wish to be in a church relationship with Patriarch Maxim, they have the sovereign right to separate themselves from the religious community led by that patriarch, and to found an independent church, as a religious community having its own bylaws and organs of leadership.

On the 21st of July 2004, following an order from the Prosecutor General's office, Bulgarian police forcibly invaded churches and monasteries across the country in an attempt to retake their church buildings and property for the use of the faction of the Bulgarian Orthodox Church under the leadership of Patriarch Maxim. In some cases they stormed the "holy of holies" in order to remove the priests from the premises by force. Many priests and layworkers were beaten, and some suffered severe injuries as a result.

None of the dissident priests have been allowed to return to their churches and monasteries, all have lost their sole means of income (Orthodox priests are allowed to marry and many have large families) and are now forced to hold services for their congregations in the open air – which over the past winter, meant freezing temperatures, snow and rain.

The EU has repeatedly pointed out failings in Bulgaria's justice system and called for serious reform. This case highlights a continuing lack of the rule of law as it was the Prosecutor's Office which gave an order to the police to carry out the seizures rather than a court decision. It would be highly unusual in any legal system for a prosecutor's office to issue such a unilateral order with no court decision to back it up, and is even more extraordinary in a country that is hoping to accede to the European Union in 2007.

Violations

- In effect, the State Prosecutor's Office intervened with force, in contravention to European human rights law, on behalf of one faction in an internal church dispute.
- In addition, the State deprived the priests of their livelihood, without giving them any legal recourse to defend their right to maintain their vocations.
- Lastly, the State violated Bulgarian property law as it pertains to the Orthodox Church as in Bulgaria Orthodox church property belongs legally to the individual communities in which it is located. Communities are empowered to elect church councils made up of local members of the congregation who then effectively govern the church and oversee the property. Church property as a whole does not legally belong to Patriarch Maxim or to any other individual church leader or corporation, therefore the State has no right to intervene and forcibly take property from a community loyal to one faction of the Church in order to give it to another faction of the Church.

Recommendations to the EU and its member states

- That the EU invite representatives of the Alternate Synod to be part of its dialogue with civil society in Bulgaria and ensure that its concerns regarding religious freedom and the general human rights situation are taken into account by the EU in its reports on Bulgaria's preparedness for accession.
- That the EU convey its concern to the Bulgarian authorities regarding this case, and encourage them to use it as an opportunity to demonstrate reform by allowing it to progress through the national courts in a fair and impartial process.
- That the EU continue to press the Bulgarian government to fully implement mechanisms and laws that will ensure the rule of law in Bulgaria as well as respect for human rights as provided for in European law and norms.

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