



THE EUROPEAN ASSOCIATION OF
JEHOVAH'S WITNESSES

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From the European Association of Jehovah's Witnesses

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Kyrgyzstan

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SUMMARY OF THE SUBMISSION

This submission to the Human Rights Council on Kyrgyzstan highlights human rights issues and current failures to implement accepted recommendations by the Kyrgyz Republic during the previous review.

Jehovah's Witnesses in Kyrgyzstan, and as a worldwide organisation, respectfully request the government of the Kyrgyz Republic to:

- (1) Ensure that the religion law fosters the peaceful exercise of religious freedom and expression
- (2) Respect international standards with regard to establishing a threshold of minimum membership as a precondition for registration
- (3) Ensure that Jehovah's Witnesses are able to register their local religious organisations in the southern regions of Kyrgyzstan in harmony with the recent UN Human Rights Committee (CCPR) decision (CCPR/C/125/D/2312/2013)
- (4) Ensure that freedom of expression and belief, including the right to peacefully share one's beliefs with others, is protected by law and in practice

I. INTRODUCTION

1. The European Association of Jehovah's Witnesses is a charity registered in the United Kingdom. It provides support to Jehovah's Witnesses facing fundamental human rights violations in various parts of the world.
2. Jehovah's Witnesses have been in Kyrgyzstan for more than 60 years. There are currently some 5,400 Witnesses in 83 congregations and more than 10,000 who attend their peaceful religious services. Jehovah's Witnesses were registered nationally in August 1998.
3. In general, Jehovah's Witnesses in Kyrgyzstan are able to meet freely for worship and to practice their faith without serious interference.
4. The most recent registration of a Local Religious Organization (LRO) took place in the city of Toktogul in 2005, under Kyrgyzstan's previous law on religion. Under the law on religion that came into force on December 31, 2008, Jehovah's Witnesses have been unable to obtain further registrations. The effects of this situation are more pronounced in the southern regions of the country. Without local registration, Jehovah's Witnesses are subject to harassment.
5. Additionally, Jehovah's Witnesses have concerns regarding possible draft amendments to the religion law that would severely restrict religious freedom and freedom of expression.

II. ISSUES

a. Registration

6. Since 2010, Jehovah’s Witnesses have been attempting to register four LROs in the Osh, Naryn, Jalal-Abad and Batken regions but without success, although each LRO meets the registration requirements. They also applied to the State Commission on Religious Affairs (SCRA) for registration, but their applications were denied.
7. According to the Law of the Kyrgyz Republic on Religion (Religion Law), 200 founders are required to register a religious organization. Additionally, this list of founders currently has to be approved by the local city council.
8. On 4 September 2014, the Supreme Court issued a decision that declared unconstitutional the requirement to obtain an arbitrary approval of the list of 200 founders by the local city council. So far, it remains unenforced:
9. In late 2014 and early 2015, Jehovah’s Witnesses again applied to the SCRA for registration of these LROs, submitting that Article 10 (2) of the Religion Law no longer applies because it has been declared unconstitutional.
10. The SCRA refused to apply the 4 September 2014 judgment of the Constitutional Chamber, insisting that until the law is amended by Parliament, Article 10(2) of the Religion Law is still in force, and an LRO must obtain “approval” from the local city council of a list of founding members.
11. In 2015, the Constitutional Court considered the issue of reducing the number of founding members and rejected this request by its decision of 23 June 2015.
12. In 2016, the Supreme Court rejected Jehovah’s Witnesses’ application to invalidate the decision of the SCRA, which refused to register the LROs in the cities of Osh, Naryn, Jalal-Abad, Kadamjay (Bakten).
13. The refusal of registration of the LROs in the southern regions forces Jehovah’s Witnesses to worship in private homes, which the authorities view as illegal.
14. This situation is in itself contrary to articles 15.3, 15.13, 16.11 and 21.1 of the Constitution, as well as being in breach of Kyrgyzstan’s obligations under Articles 18, 19, 21 and 22 of the ICCPR.
15. Complaints were filed with the CCPR on 7 September 2012; 26 March 2013 and 27 January 2017, regarding the refusal of the Kyrgyzstan authorities to register Jehovah’s Witnesses’ LROs in Osh, Batken, Naryn and Jalal-Abad.
16. On 27 May 2019, the CCPR issued its first decision in this group of cases (CCPR/C/125/D/2312/2013). It ruled at paragraphs 7.3 to 7.7 that the failure to grant registration to Jehovah’s Witnesses in Batken violates the right to freedom of religion and freedom of association and is discriminatory. The CCPR addressed the two issues linked with article 10 (2) of the law, namely, the requirement of a list of 200 founders and its approval by the local city council:

“7.4. The Committee notes the authors' argument that this requirement is, in itself, a violation of the Covenant and of the Constitution, in that it imposes an unnecessary and arbitrary bureaucratic burden on the applicants and is allegedly designed to prevent small religious organizations from obtaining registration. (...)”

“9. Pursuant to article 2 (3) (a) of the Covenant, the State party is under an obligation to provide the authors with an effective remedy. This requires it to make full reparation to individuals whose Covenant rights have been violated. Accordingly, the State party is obligated, inter alia, to review the refusal by the State Commission on Religious Affairs of the registration application by the local religious organization of Jehovah's Witnesses of Batken oblast, and to provide the authors with adequate compensation. The State party is also under an obligation to take all steps necessary to prevent similar violations from occurring in the future.”

17. In June 2019, representatives of the European Association of Jehovah's Witnesses had several constructive meetings in Bishkek with the Ombudsman office, the Parliamentary Committee on Culture and other state officials to discuss the implementation of the CCPR decision. On 1 July a coworker of the SCRA called the Religious Center, explaining that the SCRA would now be ready to consider the registration of the religious order if they are provided with the needed documents. He emphasized that this would *not* include the need for “approval by the local *kenesh* (council)”, seemingly lifting this requirement.

18. It remains to be seen whether the SCRA will really grant registration to the LROs of Jehovah's Witnesses. On 4 June 2019, the Ombudsman wrote to the director of the SCRA, asking his office to review the denial of registration of the Witnesses' LRO in Kadamjay. On 25 June 2019, the SCRA responded to the Ombudsman and encouraged Jehovah's Witnesses to refile an application for registration [Appendix No. 1]. However, the response also stated:

“If the religious organization “Religious Center of Jehovah's Witnesses” opens its religious organization in the city of Kadamzhai, its religious members will start making propaganda and it is quite likely that local people will perceive their activities with irritation, inter-religious understanding and public order will be threatened, which in turn will negatively affect the health and safety of the population” . . .

The SCRA then referenced Presidential Decree No. 319, dated 14 November 1996, and stated:

“[I]f the activities of religious organizations . . . will threaten the national security, social stability, inter-ethnic and inter-confessional understanding, public order, public health and the morals, the registration can be refused”.

19. However, in its response, the SCRA did not take into consideration the 2012 decision of the Bishkek Interdistrict Court, which confirmed that Presidential Decree No. 319 lost its legal force with the enactment of the current religion law. The court also concluded that even if that decree had still been in force, it could not overrule the constitutional right to freedom of religion [Appendix No. 2].

20. The SCRA propagates the same objections that the Kadamjay City Council used in its 30 March 2011 denial of registration of the Witnesses' LRO. This clearly violates the 27 May 2019 CCPR decision (CCPR/C/125/D/2312/2013) that addressed this issue:

7.4 . . . [T]heir [Jehovah's Witnesses'] second application was rejected based on the assertion of Kadamjay District Council that people living in the area professed only

one religion and that refusal of the application was necessary to protect the stability of the area and peace among its residents. The Committee notes that the State party does not dispute that citizens who are Jehovah’s Witnesses already live in Batken oblast and does not provide any evidence that would suggest that the peaceful manifestation of the religious beliefs of this community have in any way disrupted the stability of the area.” [See also para. 5.2]

21. The Venice Commission also commented on this issue:

“The process of obtaining legal personality status should be open to as many communities as possible, without excluding any community on the grounds that it is not a traditional or recognized religion or through excessively narrow interpretations or definitions of religion or belief.”¹

b. Draft Amendment to the Religion Law

22. When Kyrgyzstan’s 2008 Religion Law was first enacted, it was severely criticised by the international community because of the restrictions it imposed on the right to manifest religious beliefs as follows:

1. A country-wide ban on the use or distribution of religious literature, except in registered places of worship.—Article 22(6)
2. A requirement that a religious organization must be comprised of no fewer than 200 founding members who must be adult citizens of Kyrgyzstan.—Article 8(3)
3. A prohibition on “unregistered religious activity.”—Article 8(2)

23. On 27 June 2018, the SCRA presented draft amendments to the law “On Freedom of Worship and Religious Associations”. Some provisions were softened in comparison to earlier drafts. The proposed amendments retain all of the above restrictions and impose the following additional restrictions:

1. A ban on “house to house dissemination of religious convictions.”—proposed amendment to Article 5(4)

A ban on house-to-house dissemination of peaceful religious convictions is a clear contravention of Kyrgyzstan’s obligations under articles 18 and 19 of the ICCPR. It also violates other international standards:

Venice Commission, Council of Europe:

“There is a hazard in focusing on proselytism, even if it is restricted to a vague notion such as “improper proselytism”, because of the tendency of any such norm to be applied in discriminatory ways against smaller and less popular religions”.²

¹ CDL-AD(2014)023 Venice Commission and OSCE-ODIHR Joint Guidelines on the Legal Personality of Religious or Belief Communities adopted on June 13-14, 2014, §26.

² CDL-AD(2010)054 Interim joint opinion on the law on making amendments and supplements to the law on freedom of conscience and religious organisations and on the laws on amending the criminal code; the administrative offences code and the law on charity of the Republic of Armenia by the Venice Commission and OSCE/ODIHR, §61 [Appendix No. 3].

European Union:

When faced with restrictions to freedom of expression in the name of religion or belief, the EU will (...) - [d]efend the fact that sharing information about religions or beliefs and engaging in persuasion on these matters is protected under international law . . .³

2. A requirement that a religious organisation must be comprised of no fewer than 200 founding members who must be adult citizens of Kyrgyzstan living in the corresponding territory.—proposed amendment to Article 8(3)

The requirement for an LRO to have 200 founding members in the same region, or at all, potentially exercises a chilling effect on small religious communities, who are thereby forced to worship in private homes, which the authorities view as illegal. This criteria does not comply with international standards.⁴⁵⁶

24. The proposed amendments currently stand withdrawn pursuant to a Decree of the Government of the Kyrgyz Republic dated 22 May 2018, but they may be reinstated at any time.

c. Harassment by Officials

25. The lack of registration opens the door to harassment by police forces, as exemplified by the interference that took place in March 2019 in Kerben, a city of about 20,000 in the Jalal-Abad region. Pressure from local officials and the police have increased for the 35 members of the local congregation.
26. Almost every year, agents of the Anti-Extremism and Illegal Migration Service confiscate literature for “expert evaluation” and threaten Jehovah’s Witnesses, stating that they are not allowed to preach there, since they do not have “local registration.” In 2014, the authorities “warned” Jehovah’s Witnesses to stop their activity. After providing written explanations to the local mayor, things calmed down, but since then, officials and the police have resumed the same actions time after time.
27. The police have started a new wave of questioning and threatening the members who engage in Bible educational work as well as confiscating literature. On 22 March 2019, police took one couple who are Jehovah’s Witnesses to the police station after they had followed and video-taped them during their activity. They had also talked to those people that the couple had approached. When talking to the couple, they quoted the alleged “ban” on their activity. The couple were held for four hours and at the end, the police confiscated the only brochure that the male Witness had in his bag.
28. On 27 March 2019, a similar situation took place. Four female Witnesses were arrested while engaging in public ministry and brought to the police station. They were held there for seven

³ EU Guidelines on the promotion and protection of Freedom of Religion and Belief §32 b [Appendix No. 4].

⁴ Council of Europe Venice Commission and OSCE-ODIHR Joint Guidelines on the legal personality of religious or beliefs communities adopted on June 13-14, 2014, §27 (CDL-AD(2014)023) [Appendix No. 5].

⁵ Report of the UN Special Rapporteur on freedom of religion or belief 22 December 2011(A/HRC/19/60) paras. 44 and 73(e) [Appendix No. 6].

⁶ Venice Commission Joint Opinion on Freedom of Conscience and Religious Organizations in the Republic of Kyrgyzstan CDL-AD(2008)032, § F. para.32 [Appendix No. 7].

hours. The deputy head of the local police refused to interfere and claimed that he did not know about the incident.

29. On 28 March 2019, meetings were organized with local officials. The mayor and the city administration continue to have a negative attitude toward Bible educational activity.
30. On 10 and 14 May 2019, the local Ombudsman’s Office and the Internal Affairs Department of the Jalal-Abad region provided a written response about their review of the appeals filed by Jehovah’s Witnesses, but they concluded that there was no violation by law enforcement agencies and found no evidence of restrictions on religious freedom.

III. IMPLEMENTATION OF ACCEPTED RECOMMENDATIONS

31. In its 23 April 2014 Concluding Observations on Kyrgyzstan, the CCPR expressed concern about restrictions on religious freedom imposed by the 2008 Religion Law, “including with respect to missionary activities, the registration procedure [of religious organizations] and dissemination of religious literature.” The CCPR called on Kyrgyzstan to amend the law to “remove all restrictions that are incompatible with article 18 of the Covenant, by providing a transparent, open and fair registration process for religious organizations and elimination of distinctions among religions that may lead to discrimination.”
32. In Resolution 1984(2014) of the Parliamentary Assembly of the Council of Europe, Kyrgyzstan was granted “Partner of Democracy Status.” As a condition to obtaining that special status, it committed to “implementing relevant international instruments in the field of human rights,” “ensuring full respect of freedom of conscience, of religion and belief, including the right to change one’s religion, “guaranteeing and promoting freedom of expression,” and “guaranteeing and promoting, in law and practice, freedom of association and of peaceful assembly” (paras. 15.12, 15.20, 15.21 and 15.22).
33. The failure to register peaceful LROs of Jehovah’s Witnesses in certain cities and provinces of Kyrgyzstan and the drafting of potentially restrictive amendments to the Law on Religion, appear to be in contradiction of the letter and/or the spirit of the following list of recommendations that were accepted by the Kyrgyz Republic during the previous UPR cycle in 2015, which includes *inter alia*:
34. Argentina urged the adoption of additional measures to protect religious, cultural and ethnic minorities subjected to discrimination. (A/HRC/29/4 par. 117.37)
35. Poland recommended a review of the Law on Religion to guarantee freedom of religion in compliance with international standards. (A/HRC/29/4 par. 119.18, subsequently approved by the Kyrgyz Republic in the Addendum.)
36. Belgium recommended refraining from adopting laws that have the effect of limiting the right to freedom of expression and association. (A/HRC/29/4 par. 119.20, subsequently noted by the Kyrgyz Republic in the Addendum.)

IV. CONCLUSION

37. Jehovah’s Witnesses in the Kyrgyz Republic and as a worldwide organization, express concern regarding difficulties in registering local religious organizations (LROs) in the southern regions of the country and regarding draft amendments to the Religion Law that, if enacted, would severely restrict religious freedom.