



THE EUROPEAN ASSOCIATION OF
JEHOVAH'S CHRISTIAN WITNESSES

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From The European Association of Jehovah's Christian Witnesses

Submission to the UN Human Rights Committee

in view of the adoption of the List of Issues on

KYRGYZSTAN

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EXECUTIVE SUMMARY OF THE SUBMISSION

This submission to the Human Rights Committee (the “Committee”) on Kyrgyzstan highlights violations of the following provisions of the International Covenant on Civil and Political Rights (the “Covenant”):

- a) Article 18, paragraphs 1 and 3;
- b) Article 22, paragraphs 1 and 2;
- c) Article 26 read in conjunction with Articles 18 and 22.

The two main issues discussed in this submission are:

1. Impossibility to be registered in four southern districts of Kyrgyzstan and its consequences.
2. The prosecution and criminal conviction of Jehovah’s Witnesses as conscientious objectors to military service. Jehovah’s Witnesses are pleased to report that recently the Supreme Court of Kyrgyzstan decided to suspend the criminal prosecution of 10 conscientious objectors and send their cases to the Constitutional Chamber for determination whether the current law on military service is constitutional and in harmony with Kyrgyzstan’s obligations under the Covenant.

Jehovah’s Witnesses in Kyrgyzstan and as a worldwide organization respectfully request the government of Kyrgyzstan to:

- (1) Register local religious organizations of Jehovah’s Witnesses in the districts of Osh, Naryn, Jalal-Abad, and Batken; and
- (2) Provide for genuine civilian alternative service that does not violate the religious conscience of individual Jehovah’s Witnesses of military age and to suspend all prosecutions until the law is amended to meet international standards.

I. INTRODUCTION

1. The *European Association of Jehovah's Christian Witnesses* is a Charity registered in the UK. It is assisting the adherents of the faith of Jehovah's Witnesses in various areas of the world.
2. Jehovah's Witnesses have been active in Kyrgyzstan since at least the early 1950s when many Witnesses were forcibly relocated to Kyrgyzstan by U.S.S.R. authorities, after having spent years in exile in Siberia as punishment for their religious beliefs and activities. In August 1998, Jehovah's Witnesses obtained national registration in Kyrgyzstan. There are currently more than 10,000 persons who share in the worship of Jehovah's Witnesses in Kyrgyzstan.
3. Two main issues will be highlighted in this submission. The first one (§§ 5 to 51) relates to the repeated refusal by state authorities to register religious organizations of Jehovah's Witnesses in the four southernmost districts of Kyrgyzstan. The second issue relates to the lack of genuine alternative civilian service and its consequences (§§ 52 to 61). During the discussion of each issue, the relevant provisions of the Covenant and its violations will be identified (Articles 2, 18, 22, 26). Article 6(3) of the Constitution of the Kyrgyz Republic states:

International treaties to which the Kyrgyz Republic is a party, that have entered into force under the established legal procedure and also the universally recognized principles and norms of international law, shall be the constituent part of the legal system of the Kyrgyz Republic. The provisions of international treaties on human rights shall have direct action and be of priority in respect of provisions of other international treaties.

4. This submission is based on five complaints filed with the Committee under the First Optional Protocol to the Covenant. The first three complaints are filed by conscientious objectors to military service and are dated 11 June 2012 (No. 2215/2012). The fourth and fifth complaints (filed on 7 September 2012 and 26 March 2013) relate to the denial of registration of religious organizations of Jehovah's Witnesses in the four southernmost districts of Kyrgyzstan. Copies of the documents mentioned in this submission were already produced in the exhibits of the communications.

II. REGISTRATION IN FOUR SOUTHERN OBLASTS (DISTRICTS)

A. Current Situation Regarding the Registration of Local Religious Organizations of Jehovah's Witnesses in Kyrgyzstan

5. There are 41 Local Religious Organizations (LROs) of Jehovah's Witnesses, including their national center, currently registered in five of the nine oblasts (legal districts) of Kyrgyzstan. In these five oblasts, located in the north of the country, Jehovah's Witnesses can peacefully worship.
6. Unfortunately, the situation is different in the following four southern oblasts of Kyrgyzstan namely, Osh, Naryn, Jalal-Abad, and Batken. Since the factual and legal issues are

almost identical for all four oblasts, they will be mentioned only once. Where the facts differ, a distinction will be made between the Osh, Naryn, and Jalal-Abad oblasts on the one hand and the Batken oblast on the other.

B. Legal Requirements to be Registered

7. Applications for registration of a religious organization are processed by the State Commission on Religion Affairs (SCRA). The procedure is prescribed by the "Law of the Kyrgyz Republic on Freedom of Religion and Religious Organizations in the Kyrgyz Republic," No. 282 of 31 December 2008 (the "2008 Religion Law").

8. According to the 2008 Religion Law, the key requirements to be registered are as follows:

- The proposed religious organization submits a notarized list of its 200 founding members to the local city council for "approval." The list is submitted to the local city council where the religious organization will have its registered legal address.
- Once the list of founding members is approved by the local city council, the religious organization then submits an application for registration to SCRA. The application must include: (1) the "Charter" of the religious organisation, translated into Kyrgyz and Russian; (2) minutes of the founding meeting; (3) a detailed written statement of the religious beliefs and practices of the religious organization; (4) information on the full name of the religious organization; and (5) a document confirming the legal address of the religious organization.—Article 10(2)

C. Difficulties Created by the 2008 Religion Law

9. The 2008 Religion Law imposes serious burdens on the manifestation of religious beliefs, which are incompatible with the Covenant. For example, Articles 22(6) and (7) impose a total ban on the public use and distribution of religious literature. Individuals may use and distribute religious literature only in "places of worship." Article 8 requires that a religious organization must be created by "not less than 200" adult citizens and permanent residents of the Kyrgyz Republic, making the process virtually impossible for many minority religions. The former religion law stipulated that a religious organization could be registered with 10 or more founding members.

10. The 2008 Religion Law is vague and its application is arbitrary. There is no government order prescribing the process and criteria the local city council must apply when deciding whether to approve the list of founding members (not required under the former religion law), thus leaving the decision to the arbitrary whim of locally elected officials. If the list of 200 founding members is "approved" by the local city council the religious organization must then submit a registration application along with the founding documents of the organization to SCRA for review, at which time SCRA can order an "expert study" on the religious organization. (See: Venice Commission/OSCE, Joint Opinion no. 496/2008, at §§ 25, 32-40, 86-106; Commission on Security and Cooperation in Europe, 7 January 2009; Norwegian Helsinki Committee 2010 Report, at pp. 34-43)

11. Kyrgyzstan has already acknowledged that the 2008 Religion Law violates the Covenant. In response to recommendations made during its first universal periodic review on 3 May 2010, Kyrgyzstan accepted recommendation No. 37 to conduct a review of “the law on Religion to ensure that the right to freedom of religion is upheld in compliance with international standards.” (Report of the Human Rights Council, 1 October 2010, A/HRC/15/L.10, at § 268)

D. Difficulties Resulting from the Application of the 2008 Religion Law

12. Jehovah's Witnesses do not have religious organizations registered with SCRA in the four southern oblasts of Kyrgyzstan (Osh, Naryn, Jalal-Abad and Batken). Some local officials have insisted that citizens who are Jehovah's Witnesses living in these regions cannot practice their religious beliefs without first obtaining registration of a religious organization in the region.

13. To protect Jehovah's Witnesses from harassment in each of these oblasts, they expended considerable effort in creating religious organizations, each of which is comprised of at least 200 founding members who are adult citizens and permanent residents of Kyrgyzstan. Founding meetings were arranged for each religious organization at which time a notary public certified the list of founding members, after first checking the passports and other identifying documentation for the 200 founding members of each religious organization.

Refusal by the SCRA regarding registration in the Osh, Naryn and Jalal-Abad oblasts and impossibility to challenge the decision

14. In response, each of the city councils of Osh, Naryn and Jalal-Abad stated they could not approve the list of founding members because there was no government order in place prescribing the criteria and process to be followed.

15. On 20 and 22 December 2010, the local communities of Jehovah's Witnesses filed applications to SCRA to register the Osh, Naryn, and Jalal-Abad religious organizations. The applications included all the above-mentioned documents required by Article 10(2) of the 2008 Religion Law as well as the letters received from each city council stating the reason they could not approve the list of founding members.

16. On 16 February 2011 SCRA issued decision No. 02-16/103 in which it refused to register the three religious organizations. The decision reads in its entirety:

The State Commission on Religious Affairs of the Kyrgyz Republic considered your application about the registration of the Religious Organizations of Jehovah's Witnesses in the cities of Naryn, Jalal-Abad, and Osh, and informs you that according to Article 10, part 2, of the Law of the Kyrgyz Republic “On Freedom of Religion and Religious Organizations in the Kyrgyz Republic” No. 282 of December 31, 2008, it is not possible to register a religious organization without the approval of the local council of the list of members of the Constituent Council [i.e. the 200 founding members].

17. Jehovah's Witnesses appealed and the Bishkek Interdistrict Court granted their appeal, concluding that SCRA's decision refusing registration was unlawful. SCRA appealed.

18. On 15 September 2011 the Bishkek City Court (Appeals Instance) granted SCRA's appeal. It concluded that SCRA's February 16, 2011 decision refusing registration was not a decision and, instead, was only an "informative letter" which could not be appealed to court. Jehovah's Witnesses appealed.

19. On 31 May 2012 the Supreme Court of the Kyrgyz Republic rejected the appeal. The Supreme Court agreed with the Bishkek City Court that the 16 February 2011 decision of SCRA was only an "informative letter" that could not be appealed to court. There were no further domestic remedies available to challenge the refusal to register the Osh, Naryn, and Jalal-Abad LROs. Jehovah's Witnesses therefore filed a complaint with the Committee on 7 September 2013.

20. Meanwhile, on 28 January 28, 2013, Jehovah's Witnesses re-filed their application with the Jalal-Abad City Council for approval of the list of 200 founding members of their religious organization. This was done in good faith and in the hope that circumstances had changed. On 29 March 2013 the Jalal-Abad City council rejected the application. In its decision, the city council stated that they refused the application "based on Articles 1 and 7, paragraphs 2 and 3, of the Constitution of the Kyrgyz Republic which states that religion and worship shall be separated from the state."

Refusal by the City Council of Kadamjay (Batken oblast)
to approve the list of members and impossibility to challenge the decision

21. On 4 October 2010 Jehovah's Witnesses submitted an application to the Kadamjay City Council for "approval" of the notarized list of 200 founding members of their proposed religious organization in that region.

22. Almost three months later, and in violation of the law, the Kadamjay City Council issued "decision No. 12/7" which refused to approve the list of founding members. The "decision" provided no reasons and cited no evidence. The "decision" reads in its entirety:

1. Refuse to satisfy the October 4, 2010, request of the representative by Power of Attorney of the "Religious Center of Jehovah's Witnesses" in the Kyrgyz Republic to approve the list of the members of the Constituent Council of the religious organization of Jehovah's Witnesses.
2. Refuse to approve the list of the members of the Constituent Council of the religious organization of Jehovah's Witnesses in Kadamjay region in order not to register this organization.

23. Some weeks later representatives of the local community met with the Chairman of the Kadamjay City Council, pointing out that the 27 December 2010, "decision" did not comply with any of the requirements of the law. The Chairman of the Kadamjay City Council agreed to receive and consider a second application, as permitted by the applicable law. He stated that they would be permitted to make an oral presentation in support of their application at

the next session of the Kadamjay City Council, which was scheduled to take place on 29 March 2011.

24. As agreed, the local community submitted its second application on 29 March 2011. It was considered that same day in an open session of the Kadamjay City Council. Local representatives made a 20-minute oral presentation to the city council, explaining in detail the reasons the Kadamjay Religious Organization complied with all provisions of the law.

25. On 30 March 2011, the Kadamjay City Council issued decision No. 4-2/13, which again refused to approve the list of founding members. That decision contained brief "reasons," which directly violated the prohibition against religious discrimination in Article 26 of the Covenant. The decision reads in its entirety:

[T]he Kadamjay region is on the border of Uzbekistan, because of this fact this region is very conflicting in relation to religion, further, the population of the region confess one religion, so in order to protect the stability and the peace of the residents of the region, the previous decision about not approving the list of members of the Constituent Council of the religious organization of "Jehovah's Witnesses" should not be changed.

26. Jehovah's Witnesses appealed to the Batken Interdistrict Court.

27. On 17 August 2011 the Batken Interdistrict Court refused to accept the appeal for proceedings concluding that the 30 March 2011 decision of the Kadamjay City Council was only an "informative letter" which could not be appealed. Jehovah's Witnesses appealed.

28. On 26 September 2011 the Batken District Court, Judicial Chamber on Administrative and Economic Cases, refused to accept the appeal stating that it was filed late. Jehovah's Witnesses appealed.

29. On 22 May 2012 the Supreme Court of Kyrgyzstan granted the appeal, concluding that the appeal had been filed in time. The Supreme Court directed the Batken District Court to consider the appeal.

30. On 31 July 2012 the Batken District Court granted the appeal, concluding that the decision of the Batken Interdistrict Court refusing to accept the appeal for consideration was unlawful. The Kadamjay City Council appealed.

31. On 19 November 2012 the Supreme Court of Kyrgyzstan granted that appeal and upheld the decision of the trial court. It concluded that the 30 March 2011 decision of the Kadamjay City Council was only an "informative letter" which could not be appealed. Having exhausted all domestic remedies, on 26 March 2013, Jehovah's Witnesses filed a complaint with the Committee.

E. Consequences of the Impossibility to be Registered under the 2008 Religion Law

32. The persistent refusal to register local religious organizations of Jehovah's Witnesses in the four southernmost districts has exposed Jehovah's Witnesses to arrests and harassment by local officials, as illustrated by the following events in the first trimester of 2013:

January 20, 2013

KOCHKOR-ATA (Jalal-Abad oblast)—Police raid a religious meeting of Jehovah's Witnesses that was held in a rented facility. The officials stated that Jehovah's Witnesses were prohibited from holding a religious meeting in the rented facility.

KERBEN (Jalal-Abad oblast)—Representatives of the State Committee on National Security (SNSS) and Department 10 stop a religious meeting of Jehovah's Witnesses which was held in a rented facility. The officials claimed it was illegal for Jehovah's Witnesses to meet without registration of a local religious organization notwithstanding the fact that Jehovah's Witnesses have national registration. The officials took written statements from many of the persons in attendance.

MAILII-SUU (Jalal-Abad oblast)—Representatives of the SNSS and police stop a religious meeting of Jehovah's Witnesses, claiming that they cannot meet without registration of a local religious organization. This was done although Jehovah's Witnesses explained that the facility was rented by the Religious Center of Jehovah's Witnesses in Bishkek which has national registration.

BAZAR-KORGON (Jalal-Abad oblast)—Representatives of the SNSS and Department 10 stop a religious meeting of Jehovah's Witnesses which was held in a rented facility. The officials claimed it was illegal for Jehovah's Witnesses to meet without registration of a local religious organization notwithstanding the fact that Jehovah's Witnesses have national registration.

January 21, 2013

KARAKOL (Jalal-Abad oblast)—SNSS summons one of Jehovah's Witnesses to provide an explanation why Jehovah's Witnesses are holding religious meetings without registration of a local religious organization.

February 10, 2013

MAILII-SUU (Jalal-Abad oblast)—Police stop a meeting of Jehovah's Witnesses and instruct them that they cannot meet without registration of a local religious organization.

February 28, 2013

MAILII-SUU (Jalal-Abad oblast)—The Mayor's office of Mailii-Suu summons Jehovah's Witnesses to provide an explanation why they are holding religious meetings in the region without registration of a local religious organization.

March 10, 2013

MAILII-SUU (Jalal-Abad oblast)—Deputy Chief of the SNSS and Chief of the Police Department on Crimes stop a religious meeting of Jehovah's Witnesses and instruct them that they cannot meet without registration of a local religious organization.

March 26, 2013

OSH (Osh oblast)—Representatives of the SNSS, the Mayor's office of Osh and Department 10 observe a religious meeting of Jehovah's Witnesses. Afterwards the officials rudely interrogate several persons in attendance and inform them that Jehovah's Witnesses may not meet in the city of Osh without registration of a local religious organization.

KERBEN (Jalal-Abad oblast)—Representatives of the SNSS and Department 10 raid a religious meeting of Jehovah's Witnesses and order it to be terminated.

April 1, 2013

OSH (Osh oblast)—State Committee of Religious Affairs (SCRA) issues an “official warning” to the national “Religious Center of Jehovah’s Witnesses in the Kyrgyz Republic.” The warning claims that citizens who are Jehovah’s Witnesses living in the city of Osh have “violated” the law on religion by meeting together without having a locally registered religious organization. The warning ignores the fact that the only reason why Jehovah’s Witnesses do not have registration in the Osh oblast is because SCRA refuses to grant registration. On December 20, 2010, Jehovah’s Witnesses applied to SCRA for registration in the city of Osh and the Osh oblast. SCRA refused registration because the city council of Osh had not approved the list of 200 founding members. That case is now pending with the UN Human Rights Committee, along with registration applications similarly denied by SCRA from Naryn, Jalal-Abad, and Batken oblasts.

KARAKOL (Issyk Kul oblast)—The religious community of Jehovah’s Witnesses in Karakol receives a warning from SCRA dated March 13, 2013 (received April 1, 2013). The warning claims that it is illegal for them to hold religious meetings in a rented facility without local religious registration. In fact, the Kakakol religious organization of Jehovah’s Witnesses has registration throughout the Issyk Kul oblast and their activity is in complete compliance with the onerous requirements of the religion law.

F. Violation of Articles 18, 22 and 26 of the Covenant

a) Violation of Article 18, paragraphs 1 and 3

33. The refusal to register the religious organizations of Osh, Naryn, Jalal-Abad, and Kadamjay violates Article 18, paragraphs 1 and 3, of the Covenant.

34. The Committee has already dealt with a similar case in communication No. 1207/2003, *Malakhovsky et al v. Belarus*, Views adopted 26 July 2005. In that case, registration was denied because the applicants did not have “an approved legal address.” In this, the Committee found a violation of Article 18, paragraphs 1 and 3.

35. As in *Malakhovsky*, cited above, obtaining registration of the local communities’ religious organizations is necessary for the joint manifestation of their religious beliefs. Article 8(2) of the 2008 Religion Law purports to make “unregistered” religious activity an offence. Without registration, Jehovah’s Witnesses living in these four districts of Kyrgyzstan are exposed to repeated arrests and harassment by local officials and are denied many of the rights enjoyed by a registered religious community, including: the right to conduct religious meetings and assemblies, to own or use property for religious purposes, to produce and import religious literature, to receive donations, to carry out charitable activity, and to invite foreign citizens to participate in religious events. (2008 Religion Law, Articles 15, 16(1), 18(1), 21, 22(1),(2), 23)

36. The refusal to register the four religious organizations cannot be justified under Article 18, paragraph 3, as “necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others.”

37. Indeed, it is difficult to comprehend what lawful purpose could possibly be served by insisting that a religious organization must have the list of founding members approved by a

local city council before the registration application can be submitted to SCRA. At best, this process imposes an unnecessary and arbitrary bureaucratic burden that delays the registration process and increases costs. At worst, it is a deliberate obstacle, designed to prevent minority religious organizations from obtaining registration and exercising rights guaranteed by the Covenant and the Constitution. It turns these fundamental rights into an illusory fiction.

38. As stated by the Special Rapporteur on freedom of religion or belief (A/HRC/19/60, 22 December 2011):

54 . . . any procedures for the registration of religious or belief communities as legal persons should be quick, transparent, fair, inclusive and non-discriminatory.

55. Members of religious or belief communities interested in obtaining such a status should not be confronted with unnecessary bureaucratic burdens or with lengthy or even unpredictable waiting periods. . . . Domestic registration requirements often appear to be used as a means to limit the rights of members of certain religious minorities. Such procedures should not be used as control instruments but, rather, should be enacted in the interest of enabling members of religious or belief communities to fully exercise their human rights.

56. . . . All registration decisions must be based on clearly defined formal elements of law and in conformity with international law. Registration should neither depend on extensive formal requirements in terms of the number of members and the time a particular community has existed, nor should it depend on the review of the substantive content of the belief, the structure of the community and methods of appointment of the clergy. In addition, provisions which are vague or which grant excessive governmental discretion in giving registration approvals should be avoided.

39. It is noteworthy that at considerable effort the local communities were able to satisfy all of the key requirements of the 2008 Religion Law. The only requirement they could not satisfy was to have the list of founding members approved by the city councils.

40. As in *Malakhosvky*, at § 7.6, Kyrgyzstan “has not advanced any argument as to why it is necessary for the purpose of article 18, paragraph 3,” to require a religious organization to have the list of founding members approved by a local city council in order to be registered.

41. The local communities’ rights under Article 18, paragraphs 1 and 3, of the Covenant have been violated.

b) Violation of Article 22, paragraphs 1 and 2

42. The right to form a religious organization is one of the oldest and most preminent of the internationally recognized human rights. As stated by the European Court of Human Rights in the case of *Jehovah's Witnesses of Moscow v. Russia*, no. 302/02, 10 June 2010:

101. The Court refers to its constant case-law to the effect that a refusal by the domestic authorities to grant legal-entity status to an association of individuals, religious or otherwise, amounts to an interference with the exercise of the right to freedom of association (see *Gorzelik and Others*, cited above, § 52 et passim, ECHR 2004-I, and *Sidiropoulos and Others*, cited above, § 31 et passim). . . . Where the organisation of a religious community was at issue, a refusal to

recognise it as a legal entity has also been found to constitute an interference with the right to freedom of religion under Article 9 of the Convention, as exercised by both the community itself and its individual members (see *Religionsgemeinschaft der Zeugen Jehovas and Others*, §§ 79-80, and *Metropolitan Church of Bessarabia and Others*, § 105, both cited above).

43. The failure to register the four religious organizations has interfered with their right to freedom of association.

44. The interference cannot be justified under Article 22, paragraph 2, of the Covenant.

45. The interference is not “prescribed by law.” The applicable law is neither “adequately accessible” nor “formulated with sufficient precision to enable the citizen to regulate his conduct.” (European Court decision in *Association Les Témoins de Jéhovah v. France*, no. 8916/05, 30 June 2011, at § 66)

46. Indeed, while Article 10(2) of the 2008 Religion Law states that the notarized list of founding members should be “approved by the local kenesh (council)” there is no prescribed procedure on the criteria and process to be applied. It is obvious why such a government order is required. Without such an order, a local city council could refuse to approve the list for reasons that are arbitrary, capricious, discriminatory, or in some other way unlawful. It is impossible for the citizen to know in advance what criteria would be used to consider the application or whether the application will even be considered. The failure to enact such an order gives locally elected officials the power of unbridled censorship over the exercise of rights guaranteed by the Covenant and Constitution.

47. Furthermore, the interference is not “necessary in a democratic society.” The Complainants rely *mutatis mutandis* on paragraphs 49 to 58 above.

c) Violation of Article 26 in Conjunction with Articles 18 and 22

48. Since the 2008 Religion Law was enacted on 31 December 2008, SCRA has only registered religious organizations and facilities belonging to the two predominant religions. During this time period, SCRA has registered 135 Islamic facilities and three facilities of the Russian Orthodox Church.) No religious organization of Jehovah’s Witnesses, or any other religious minority, has been registered.

49. As a result, Jehovah’s Witnesses have suffered differential treatment. The failure to register their religious organizations—while granting registration to 138 organizations of the two predominant religions, has subjected Jehovah’s Witnesses to discriminatory treatment on the enumerated grounds of religious beliefs.

50. In *Sister Immaculate Joseph et al v. Sri Lanka* (communication No. 1249/2004, , Views adopted 21 October 2005) the Committee reiterated at § 7.4 that there “must be a reasonable and objective distinction to avoid a finding of discrimination, particularly on the enumerated grounds in article 26 which include religious belief.” As in that case, Kyrgyzstan cannot present any reasons why the SCRA grants registration to organizations of the two predominant religions but not to the religious organizations of Jehovah’s Witnesses.

51. For these reasons, the failure to register the four local religious organizations of Jehovah's Witnesses has subjected them to religious discrimination contrary to Article 26 read in conjunction with Articles 18 and 22 of the Covenant.

III. DENIAL OF RIGHT TO CONSCIENTIOUS OBJECTION

A. Difficulties Resulting from the 2009 Military Service Law

52. On 9 February 2009, the "Law on the Universal Duty of Citizens of the Republic of Kyrgyzstan on Military and Alternative Service" was enacted ("2009 Military Service Law"). Article 32(4) prescribes that "alternative service includes making monetary contributions by those in alternative service to a special account of the Ministry of Defence . . . [to be] used for support of and provisions for troops, for conducting training assemblies, upgrading educational facilities, and increasing social security for military personnel." Article 56(2) of the Constitution, however, guarantees the right to alternative "civilian" service.

53. Many Jehovah's Witnesses of military age consider that the requirement to make payments to the Ministry of Defense for support of the military violates their Bible-trained conscience. To date, more than a dozen Jehovah's Witnesses have been convicted under Article 351(2) of Kyrgyzstan's Criminal Code for "evading" alternative service. They have been sentenced to pay a fine of up to 20,000 Soms (USD 440) or serve up to 240 hours community service. Currently, the cases of approximately 45 young men who are Jehovah's Witnesses are pending before the Military Commissariat with new cases each year. No resolution for required payments is offered.

B. Violation of Article 18 of the Covenant

54. In General Comment 22, the Human Rights Committee declares that a right to conscientious objection to military service can be derived from Article 18 of the Covenant "inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief". The Committee also invited "States to report on the conditions under which persons may be exempted from military service and on the nature and length of alternative national service."

55. In *Min-Kyu Jeong et al. v. Republic of Korea* (Communication Nos. 1642-1741/2007, HRC, 24 March 2011) the Committee stated in §§ 7.3 and 7.4:

In the present cases, the Committee considers that the authors' refusal to be drafted for compulsory military service derives from their religious beliefs which, it is uncontested, were genuinely held and that the authors' subsequent conviction and sentence amounted to an infringement of their freedom of conscience, in breach of article 18, paragraph 1 of the Covenant. Repression of the refusal to be drafted for compulsory military service, exercised against persons whose conscience or religion prohibit the use of arms, is incompatible with article 18, paragraph 1 of the Covenant.

56. This was confirmed in *Cenk Atasoy and Arda Sarkut v. Turkey* (Communication Nos. 1853/2008 and 1854/2008, HRC, 29 May 2012) at §§ 10.4 and 10.5:

The right to conscientious objection to military service inheres in the right to freedom of thought, conscience and religion. It entitles any individual to an exemption from compulsory military service if this cannot be reconciled with that individual's religion or beliefs. The right must not be impaired by coercion. A State may, if it wishes, compel the objector to undertake a civilian alternative to military service, outside the military sphere and not under military command. The alternative service must not be of a punitive nature. It must be a real service to the community and compatible with respect for human rights.

C. Legal Efforts and Dialogue in Kyrgyzstan to Solve this Situation

57. On 20 March 2012, the Supreme Court of the Kyrgyz Republic upheld the criminal convictions imposed on Milan Nasrytdinov, Adilet Bayakunov, and Talas Nyazmambetov, three Jehovah's Witnesses for "evading" alternative service.

58. On 11 June 2012, applications were filed with the Human Rights Committee on their behalf (file-number 2215-2012).

59. On 11 October 2012, representatives of Jehovah's Witnesses were informed by the Presidential Administration of Kyrgyzstan that parliament has been requested to review the law on military service and make amendments so as to provide conscientious objectors with the opportunity to perform genuine alternative civilian service.

60. Jehovah's Witnesses are pleased to report that the Supreme Court of the Kyrgyz Republic granted the motion of 10 conscientious objectors (nine cases on 20 March, and one on 4 April 2013) to suspend their cases and refer them to the Constitutional Chamber of the Supreme Court to determine if Kyrgyzstan's program of alternative service is in compliance with the right to freedom of religion guaranteed by the Constitution of Kyrgyzstan and the Covenant.

61. Further discussions with the Presidential Administration are pending in the hope that a solution will be found in order for young men of military age to have the possibility to perform a genuine alternative civil service.

IV. CONCLUSION

62. Jehovah's Witnesses in Kyrgyzstan and as a worldwide organization respectfully request the government of Kyrgyzstan to:

- (1) Permit Jehovah's Witnesses to register local religious organizations in the districts of Osh, Naryn, Jalal-Abad, and Batken; and
- (2) Provide for genuine civilian alternative service that does not violate the religious conscience of individual Jehovah's Witnesses of military age and to suspend prosecutions until the Law is adapted to International standards.