



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

TAJKISTAN

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EXECUTIVE SUMMARY OF THE SUBMISSION

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

1. Article 18, paragraphs 1 and 3;
2. Article 22, paragraphs 1 and 2.

These violations relate to the 11 October 2007 decision of the Ministry of Culture to ban the religious community of Jehovah’s Witnesses in Tajikistan and the serious adverse effect that decision has had on individual citizens of Tajikistan who are Jehovah’s Witnesses. All domestic appeals challenging that decision were rejected. Having exhausted all domestic remedies, on 7 September 2012 a complaint was filed with the Committee on which this submission is based.

These submissions also address the issue of conscientious objection to military service, which is raised at paragraph 23 of the *List of issues to be taken up in connection with the consideration of the second periodic report of Tajikistan (CCPR/C/TJK/Q/2)* and which was one of the “reasons” given by the Ministry of Culture for banning Jehovah’s Witnesses on 11 October 2007.

Paragraph 23 of the List of Issues states:

23. Please provide information on the status of the implementation of the Committee’s previous concluding observations on the lack of recognition of conscientious objection to compulsory military service.

Jehovah’s Witnesses respectfully request the government of Tajikistan to re-register their national organization and to allow their peaceful worship free from fear of punishment by the authorities.

A delegation of Jehovah’s Witnesses is ready to meet with senior representatives of Tajikistan in order to solve this situation with the Tajik government.

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 Tajikistan for more than 40 years. They were legally registered in 1994 and re-registered on 15 January 1997. However, on 11 October 2007, the Ministry of Culture banned the activities of Jehovah's Witnesses in Tajikistan. Numerous efforts to resolve this situation through dialogue with Tajik authorities remain unsuccessful.
3. This submission is based on the complaint dated 30 August 2012 filed with the Committee under the First Optional Protocol to the Covenant.
4. Paragraph 22 and 23 of this submission refers to question 23 the *List of issues to be taken up in connection with the consideration of the second periodic report of Tajikistan* (CCPR/C/TJK/Q/2).

II. Facts

5. In 1994 "The Religious Association of Jehovah's Witnesses in Dushanbe" (the "Religious Organization") was granted registration under the Republic of Tajikistan "Law on Religion and Religious Organizations," of 8 December 1990 (the "1990 Religion Law") by the former Religious Affairs Committee of the Government of the Republic of Tajikistan.
6. On 15 January 1997 the Religious Organization was re-registered with national status under amendments to the 1990 Religion Law.

A. Nationwide ban of Jehovah's Witnesses

7. In April and May 2007, directed by the State Committee on National Security (SCNS) and Tajikistan's Ministry of Culture, Tajikistan customs authorities seized two shipments of Bibles and religious literature imported by Jehovah's Witnesses.
8. On 11 October 2007 the Ministry of Culture terminated the activity of the Religious Organization, claiming that Jehovah's Witnesses violated domestic legislation "by distributing in public places and at the homes of citizens . . . propagandistic books on their religion, which has become a cause of discontent on the part of the people."
9. The Religious Organization filed a claim with the civil court in Dushanbe challenging the decision of the Ministry of Culture to terminate the Religious Organization and the seizure of the two shipments of religious literature. The civil court transferred the case to the military court because the SCNS was a party to the proceedings. (This in itself constitutes a violation of the Covenant, Article 14, as confirmed in communication No. 1172/2003, *Abbassi Madani v. Algeria*, Views adopted on 28 March 2007, at § 8.7.)

10. On 29 September 2008 the Dushanbe Military Court dismissed the claim, concluding that the decision of the Ministry of Culture was justified because: (1) individual Jehovah's Witnesses requested "the provision of alternative service" in substitution for military service; (2) Jehovah's Witnesses were distributing religious literature "in public places, houses, and streets"; and (3) Jehovah's Witnesses believe their religion "is the true one" which could "incite religious-confessional conflicts." The Religious Organization appealed.

11. On 12 February 2009 the Military Collegium of the Supreme Court affirmed the decision of the trial court. The Religious Organization filed a "supervisory appeal" to the Presidium of the Supreme Court, as permitted by law.

12. On 17 February 2010 a single judge of the Supervisory Collegium of the Supreme Court ruled that the supervisory appeal would not be referred to the Presidium of the Supreme Court for proceedings, reasoning that there were no errors in the decisions of the lower courts.

B. Refusal to reinstate registration

13. Meanwhile, on 26 March 2009 the 1990 Religion Law was repealed and replaced by the "Law on Freedom of Conscience and Religious Associations" (the "2009 Religion Law"). Article 4(1) guarantees the right "to freely choose, disseminate and change religious or other beliefs, as well as to act in harmony with them." Article 4(9) guarantees the right "to engage in large scale preaching activities."

14. Article 33(3) of the 2009 Religion Law required all religious organizations to submit an application for re-registration by 1 January 2010. Jehovah's Witnesses applied for re-registration on 1 December 2009.

15. On 18 January 2010 the Ministry of Culture (now the State Committee of Religious Affairs) denied the application, stating that the Religious Organization had no right to apply for re-registration because the Ministry of Culture had banned its activity on 11 October 2007. Jehovah's Witnesses appealed.

16. On 23 August 2010 the Dushanbe Economic Court dismissed the appeal. Further appeals were dismissed by the Dushanbe Economic Court (Appeals Instance) on 27 October 2010, the High Economic Court on 16 December 2010, and the Presidium of the High Economic Court on 12 July 2011.

17. On 29 March 2012, the Constitutional Court rejected an application by Jehovah's Witnesses to rule that the 11 October 2007 decision of the Ministry of Culture banning Jehovah's Witnesses had violated the Constitution of Tajikistan.

III. Non-discrimination, freedom of religion & belief, freedom of association, equality before the law, rights of minorities (arts. 2, 18, 22, 26 and 27)

A. Violation of Article 18, paragraphs 1 and 3 (Question 23)

18. The right to form a religious organization is integral to the freedom to manifest religion or belief “individually or in community with others and in public or private” protected by Article 18, paragraph 1, of the Covenant.

19. The decisions banning the Religious Organization and refusing to re-register it under the 2009 Religion Law has interfered with the freedom of religion of the Jehovah's Witnesses in Tajikistan. They are denied the full range of rights enjoyed by a registered religious organization, 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. (2009 Religion Law, Articles 8.2, 12, 18.2, 20.2, 22, 23.1, 24)

20. Moreover, Tajik authorities have claimed that without registration the peaceful religious activity of Jehovah's Witnesses is “illegal.” As a result, individual Jehovah's Witnesses have been subjected to arrests, detentions, beatings, searches, as well as deportation, as illustrated by the following incidents:

- i. **4 June 2009:** 16 Jehovah's Witnesses were peacefully gathered to discuss Bible subjects in a private apartment in Khujand, Tajikistan. Eleven officials, including SCNS officers, forced their way into the apartment, seizing the Bibles and religious literature of the persons in attendance. On 8 June 2009, Zafar Rakhimov, who the officials alleged was the local “leader” of Jehovah's Witnesses in Khujand was summoned to SCNS in Khujand, where he was interrogated, falsely accused of inciting “religious extremism” and then beaten by police. A criminal case was started against Mr. Rakhimov and the 16 Witnesses detained on 4 June 2009 for so called illegal religious activity. In October 2009 the criminal case was terminated and the 17 Jehovah's Witnesses were instead charged under Article 474 of the Code of Administrative Violations for unregistered religious activity. However, on 21 April 2010 the Khujand prosecutor's office decided to cancel the administrative case and, instead, to reopen the criminal case. The criminal case remains pending.
- ii. **22 July 2011:** Four adult Jehovah's Witnesses were gathered in a private apartment in Dushanbe to read and discuss the Bible. SCNS officers forced their way into the apartment, claiming that it was “illegal” for Jehovah's Witnesses to meet together. They seized the Bibles and religious literature of the persons in attendance. Two of the Witnesses, Sherzod Rahimov and an adult female Witness were taken to the police station where they were interrogated for more than 20 hours. Mr. Rahimov was beaten by the police, who demanded that he renounce his faith. On 17 August 2011 Mr. Rahimov was deported to Uzbekistan, although he held a valid residence permit to Tajikistan. On 27 July 2011 the owner of the apartment where the meeting was held was summoned by the Dushanbe Police Department and taken to the administrative court where she was convicted for holding an “unlawful” religious meeting and ordered to pay a fine of four times the monthly wage (350 Tajik som).

- iii. * **March 2013:** A small group of Jehovah's Witnesses were gathered in a private apartment in Dushanbe to read and discuss the Bible. SCNC officers forced their way into the apartment, claiming that it is illegal for Jehovah's Witnesses to meet. As with all previous raids, the SNCS officers seized the Bibles and religious literature of the persons in attendance. The owner of the apartment, Mrs. **, was charged under the Code of Administrative Violations with holding an "unlawful" religious meeting. Mrs. ** was convicted on * April 2013 are ordered to pay a fine of four times the monthly minimum wage.

21. As mentioned in paragraph 9, the Ministry of Culture (and the domestic courts) gave three "reasons" for the decision to ban the Religious Organization: (1) individual Jehovah's Witnesses might request to substitute compulsory military service with alternative civilian service; (2) individual Jehovah's Witnesses were discussing the Bible and religious subjects in public places, homes, and on the streets; and (3) Jehovah's Witnesses believed their religion is "true" and such belief "could lead to incitement of religious and confessional intolerance."

22. None of these "reasons" meet the requirements of Article 18, paragraph 3, of the Covenant. To the contrary, the right of conscientious objection to military service and the right to peacefully discuss religious beliefs, in public or in private, are of such fundamental nature that they are not subject to limitation. (See *Jeong et al v. Republic of Korea* communications No. 1642-1741/2007, Views adopted on 24 March 2011; and the decision of the Grand Chamber of the European Court in *Bayatyan v. Armenia* [GC], application No. 23459/03, 7 July 2011)

23. Moreover, in response to paragraph 20 of the Committee's concluding observations (CCPR/CO/84/TJK), Tajikistan specifically stated that it was open to the possibility of adopting a law on alternative service (CCPR/C/TJK/2 § 302). The Committee refers to this again in question 23 on the *List of issues to be taken up in connection with the consideration of the second periodic report of Tajikistan* (CCPR/C/TJK/Q/2).

24. There is obviously nothing illegal in peacefully discussing religious beliefs and sharing religious literature, in public or in private. The Committee stated in General Comment No. 22 at § 5 that the right to freedom of religion includes "the freedom of prepare and distribute religious texts or publications" and to "choose a religion or belief, including the right to replace one's current religion or belief." As held by the European Court in the seminal case of *Kokkinakis v. Greece* (application No. 14307/88, 25 May 1993) at § 31 the right to freedom of religion "includes in principle the right to try to convince one's neighbor, for example through 'teaching,' failing which, moreover,' freedom to change [one's] religion or belief . . . would likely remain a dead letter."

25. Finally, Jehovah's Witnesses could not be lawfully banned because they happen to believe their religion is correct. This belief is common to all religions. In any event, the right to freedom of belief is inalienable and is not subject to limitation under Article 18(3) of the Covenant.

B. Violation of article 22, paragraphs 1 and 2, as well as articles 2, 26 and 27

26. In *Korneenko et al v. Belarus* (communication No. 1274/2004, Views adopted on 31 October 2006) the Committee stated at § 7.2 that “the right to freedom of association relates not only to the right to form an association, but also guarantees the right of such an association to carry out its statutory activities. The protection afforded by article 22 extends to all activities of an association, and dissolution of an association must satisfy the requirements of paragraph 2 of that provision.”

27. It follows that the decision to ban the Religious Organization and to refuse to re-register it under the 2009 Religion Law has also interfered with the Jehovah's Witnesses' freedom of association, guaranteed by Article 22, paragraph 1, of the Covenant.

28. The interference is not “necessary in a democratic society.” As the Committee held in *Korneenko et al v. Belarus*, cited above, at § 7.3 “the existence and operation of associations, including those which peacefully promote ideas not necessarily favourably received by the government or the majority of the population, is a cornerstone of a democratic society.”

29. The “reasons” given by the Ministry of Culture and the domestic courts for banning the Religious Organization and refusing to re-register it do not meet the strict requirements of Article 22, paragraph 2, of the Covenant.

30. This arbitrary refusal of registration also constitutes a clear violation of articles 26 and 27 in conjunction with article 2 of the Covenant.

III. Dialogue in Tajikistan to solve the lack of registration

31. Numerous attempts have been made since 2007 to solve this situation through dialogue with the Tajik authorities.

32. Representatives of the European Association of Jehovah's Christian Witnesses have contacted representatives of Tajik authorities in Brussels (Belgium), Strasbourg (European Parliament, France), Geneva (Switzerland) as well as during OSCE meetings in Astana (Kazakhstan, June and November 2010) and its annual Human Dimension Implementation Meeting in Warsaw (Poland).

33. Since January 2008, representatives of the European Association of Jehovah's Christian Witnesses and from the Office of the General Counsel in New York have travelled to Dushanbe, Tajikistan more than 8 times in order to meet with Tajik authorities. More than 12 official requests have been made to meet with high officials in Tajikistan.

34. Local representatives of Jehovah's Witnesses have also met or tried to meet with officials on numerous occasions and continue doing so.

IV. Conclusions and Recommendations

35. Jehovah's Witnesses respectfully request the government of Tajikistan to re-register their national organization and to allow their peaceful worship free from fear of punishment by the authorities.

36. A delegation of Jehovah's Witnesses is ready to meet with senior representatives of Tajikistan in order to solve this situation with the Tajik government and to promote a constructive dialogue.