



International Covenant on Civil and Political Rights

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Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2312/2013*, **

<i>Communication submitted by:</i>	Alymbek Bekmanov and Damirbek Egemberdiev (represented by counsel, Shane Brady and Nurlan Kachiev)
<i>Alleged victims:</i>	The authors
<i>State party:</i>	Kyrgyzstan
<i>Date of communication:</i>	26 March 2013 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 9 December 2013 (not issued in document form)
<i>Date of adoption of Views:</i>	29 March 2019
<i>Subject matter:</i>	Refusal to register religious organization
<i>Procedural issue:</i>	Non-exhaustion of domestic remedies
<i>Substantive issues:</i>	Effective remedy; freedom of religion; fair trial; freedom of association; discrimination
<i>Articles of the Covenant:</i>	2 (3), 14 (1), 18 (1) and (3), 22 (1) and (2) and 26
<i>Article of the Optional Protocol:</i>	2

* Adopted by the Committee at its 125th session (4–29 March 2019).

** The following members of the Committee participated in the examination of the communication:
Tania María Abdo Rocholl, Yadh Ben Achour, Ilze Brands Kehris, Christopher Arif Bulkan, Ahmed
Amin Fathalla, Shuichi Furuya, Christof Heyns, Bamariam Koita, Marcia V.J. Kran, Duncan Laki
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Yuval Shany, Hélène Tigroudja, Andreas Zimmermann and Gentian Zyberi.



1.1 The authors of the communication are Alymbek Bekmanov, born in 1972, and Damirbek Egemberdiev, born in 1982, both nationals of Kyrgyzstan. Mr. Bekmanov is the chairman of the Religious Center of Jehovah's Witnesses in the Kyrgyz Republic, and Mr. Egemberdiev is the chairman of the Religious Organization of Jehovah's Witnesses in the city of Kadamjay and Batken oblast. The authors claim that, by refusing to register the Religious Organization of Jehovah's Witnesses, being a local religious organization, the State party has violated their rights under article 2 (3), read in conjunction with article 14 (1), article 18 (1) and (3), article 22 (1) and (2) and article 26, read in conjunction with articles 18 and 22, of the Covenant. The Optional Protocol entered into force for the State party on 7 January 1995. The authors are represented by counsel.

1.2 On 15 August 2014, the Committee granted the authors' request for it to temporarily suspend its consideration of the communication until all ongoing domestic remedies had been exhausted. On 25 July 2016, the authors asked the Committee to resume its consideration.¹

The facts as submitted by the authors

2.1 The Religious Center of Jehovah's Witnesses in the Kyrgyz Republic is the national religious organization of Jehovah's Witnesses in Kyrgyzstan. It was registered on 30 April 1998 by the State Commission on Religious Affairs, the State body charged under Kyrgyz law with registering religious organizations.

2.2 In 2008, article 10 (2) of the Law on Freedom of Religion and Religious Organizations was amended, and a requirement was introduced that a religious organization, in order to be legally registered, should be established by not less than 200 adult citizens and permanent residents of Kyrgyzstan.² The list of such persons must be approved by the local district council where the organization will operate. If approval is granted, the religious organization should then apply for registration with the State Commission on Religious Affairs, which may order an "expert study" on the organization. The authors underline that such registration is virtually impossible for minority religions and that the district councils' decisions are left to the arbitrary whim of locally elected officials, since there are no established criteria on how exactly to proceed with such requests.

2.3 The Religious Organization of Jehovah's Witnesses in the city of Kadamjay and Batken oblast is located in Kadamjay district in Batken oblast, the southernmost region of Kyrgyzstan. Jehovah's Witnesses do not have a registered religious organization in Batken oblast. Some local officials have insisted that Jehovah's Witnesses living in Batken oblast cannot practise their religious beliefs without first registering a religious organization in the region. To protect Jehovah's Witnesses in Batken oblast from harassment, the authors established the Religious Organization of Jehovah's Witnesses in the city of Kadamjay and Batken oblast and prepared all the legal documents required for creating a religious organization, including a notarized list of founding members.³ On 2 October 2010, Mr. Egemberdiev was authorized by over 200 founding members of the Organization to take all the steps necessary to obtain its registration as a religious organization.

2.4 On 4 October 2010, Mr. Egemberdiev applied to the locally elected Kadamjay District Council for approval of the list of 200 founding members of the Religious Organization. The law required Kadamjay District Council to: (a) render a written decision within one month of the date when the application was filed; (b) cite the reasons for the decision and the evidence relied upon; and (c) ensure that the decision was signed by all

¹ This was because of a decision then pending with the Constitutional Chamber of the Supreme Court of Kyrgyzstan concerning the constitutionality of article 10 (2) of the Law on Freedom of Religion and Religious Organizations.

² According to the authors, the State party has acknowledged that this Law violates the Covenant. In response to recommendations made on 3 May 2010, during the State party's first universal periodic review, Kyrgyzstan accepted the recommendation to conduct a review of the Law so as to ensure that the right to freedom of religion is upheld in compliance with international legal standards (A/HRC/15/2, para. 77.37).

³ The authors cite articles 8 (3) and 10 (2) of the Law on Freedom of Religion and Religious Organizations.

members of Kadamjay District Council.⁴ On 27 December 2010, almost three months after the application was filed, Kadamjay District Council issued decision No. 12/7, which rejected the list of founding members. The decision provided no reasons, cited no evidence and was signed only by the Chairman of Kadamjay District Council.⁵

2.5 After a meeting with the authors, the Chairman of Kadamjay District Council agreed to receive and consider a second application from them, based on additional arguments and evidence as permitted by law.⁶ Accordingly, on 29 March 2011, the applicants submitted their second application. On 30 March 2011, Kadamjay District Council issued decision No. 4-2/13, in which it again refused to approve the list of founding members of the Religious Organization. In its decision, the Council stated that, as the Kadamjay area was on the border with Uzbekistan, it was highly prone to religious conflict, and that, as the population of the region confessed a single religion, and in order to protect the stability of the area and peace among its residents, the previous decision not to approve the list of members of the constituent council of the Religious Organization should not be changed. This decision, too, was signed only by the Chairman of Kadamjay District Council, and did not refer to any evidence.

2.6 The authors filed an application to Batken Interdistrict Court, requesting that the court: (a) cancel Kadamjay District Council's decision 4-2/13 of 30 March 2011; (b) declare that the inaction of Kadamjay District Council in failing to approve the list of founding members violated the applicants' rights to form a religious organization; and (c) oblige Kadamjay District Council to remedy the violation by making a lawful decision approving the list of founding members of the Religious Organization.⁷

2.7 On 17 August 2011, Batken Interdistrict Court refused to accept the authors' application for proceedings. The Interdistrict Court concluded that the 30 March 2011 decision of Kadamjay District Council was only an "informative letter", which could not be appealed. The authors nevertheless appealed the decision of the Interdistrict Court.

2.8 On 26 September 2011, Batken Regional Court (specifically, the Judicial Chamber on Administrative and Economic Cases) rejected the appeal on the basis of untimely filing. The authors appealed that decision in turn.

2.9 On 22 May 2012, the Supreme Court of Kyrgyzstan granted the appeal, reasoning that the initial appeal had in fact been filed in a timely manner. The Supreme Court directed Batken Regional Court to consider the authors' appeal.

2.10 On 31 July 2012, Batken Regional Court granted the authors' appeal, concluding that the decision of Batken Interdistrict Court to refuse to consider the author's application was unlawful. Kadamjay District Council filed an appeal against this decision.

2.11 On 19 November 2012, the Supreme Court granted that appeal and upheld the decision of Batken Interdistrict Court. The Supreme Court concluded that the 30 March 2011 decision of Kadamjay District Council was only an "informative letter", which could not be appealed.

2.12 The authors state that all domestic remedies have been exhausted, as the Supreme Court's decision of 19 November 2012 is final.

The complaint

3.1 The authors claim that the State party has violated their rights under article 2 (3) (a) and (b), read in conjunction with article 14 (1), article 18 (1) and (3), article 22 (1) and (2) and article 26, read in conjunction with articles 18 and 22, of the Covenant.

⁴ The authors cite articles 34 (1), 40 (4) and 41 of the Law on Administrative Proceedings.

⁵ In its decision, the District Council refused to satisfy the request made on 4 October 2010 by the representative, acting under power of attorney, of the Religious Center of Jehovah's Witnesses to approve the list of members of the constituent council of the Religious Organization of Jehovah's Witnesses and, in order not to register that organization, the District Council refused to approve the list of members of the constituent council in Kadamjay district.

⁶ The authors reference article 7 (7) of the Law on Administrative Proceedings.

⁷ The authors cite articles 260 (1) and (4) and 262 of the Civil Procedure Code.

3.2 The authors assert that the Supreme Court's ruling has arbitrarily insulated the discriminatory actions of Kadamjay District Council from judicial review and has thus denied the authors their right to an effective remedy, in violation of their rights under article 2 (3) (a) and (b), read in conjunction with article 14 (1), of the Covenant.

3.3 The authors also claim that their rights under article 18 (1) of the Covenant have been violated by the State party's refusal to register their religious organization.⁸ They claim that their rights to jointly manifest their religious beliefs have been denied by the State party's failure to enact regulations on the matter and by the refusal of the domestic judiciary to properly assess their claims. Without registration, the authors are unable to enjoy the rights to which registered religious communities are entitled, including the rights 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. Furthermore, under article 8 (2) of the Law on Freedom of Religion and Religious Organizations, an "unregistered" religious activity constitutes a criminal offence.

3.4 The State party's refusal to register the Jehovah's Witnesses' organization is not justified under the provisions of article 18 (3) of the Covenant.⁹ The requirement to have a list of 200 founding members approved by a local district council as a precondition for obtaining registration is in itself a violation of the Covenant and of the Constitution, and is allegedly designed to prevent small religious organizations from obtaining registration. It imposes an unnecessary and arbitrary bureaucratic burden on applicants, delaying the registration process and increasing the costs incurred.

3.5 The authors argue that the State party's interference with their right to freedom of association, in violation of article 22 (1) and (2) of the Covenant, was not prescribed by law and was not necessary in a democratic society.¹⁰ They claim that the applicable law is neither adequately accessible nor formulated with sufficient precision to enable individuals to regulate their conduct. Therefore, without legal provisions on the subject, a district council can refuse to approve an application for reasons that are arbitrary, unpredictable or discriminatory or that are unjustified in some other way. It is impossible for individuals to know in advance which criteria will be used to consider their application, or whether it will even be considered.

3.6 Lastly, the authors claim that the process for obtaining registration under the Law on Freedom of Religion and Religious Organizations is not applied equally, which amounts to a violation of article 26, read in conjunction with articles 18 and 22, of the Covenant. The authors note that, of the 252 religious organizations currently registered in Batken oblast, 245 are Islamic, and none are affiliated with Jehovah's Witnesses.¹¹ All registered religious

⁸ The authors refer to *Malakhovsky and Pikul v. Belarus* (CCPR/C/84/D/1207/2003). They also refer to the following decisions of the European Court of Human Rights, which affirm that the failure to register a religious organization is an interference with the right to freedom of religion: *Hasan and Chaush v. Bulgaria* (application No. 30985/96), judgment of 26 October 2000, para. 62; *Metropolitan Church of Bessarabia and Others v. Moldova* (application No. 45701/99), judgment of 13 December 2001, para 105; *Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria* (application No. 40825/98), judgment of 31 July 2008, paras. 79–80; and *Jehovah's Witnesses of Moscow and Others v. Russia* (application No. 302/02), judgment of 10 June 2010, paras. 99 and 101.

⁹ The authors refer to the statement made by the Special Rapporteur on freedom of religion or belief, that any procedures for the registration of religious or belief communities as legal persons should be quick, transparent, fair, inclusive and non-discriminatory (A/HRC/19/60, para. 54).

¹⁰ See European Court of Human Rights, *Jehovah's Witnesses of Moscow and Others v. Russia*, paras. 99 and 101; and *Association Les Témoins de Jéhovah v. France* (application No. 8916/05), judgment of 30 June 2011, para. 66.

¹¹ The figures are provided by the Presidential Administration. In support of their argument, the authors cite *Sister Immaculate Joseph and 80 Teaching Sisters of the Holy Cross of the Third Order of Saint Francis in Menzingen of Sri Lanka v. Sri Lanka* (CCPR/C/85/D/1249/2004), para. 7.4, where the Committee stated 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; and European Court of Human Rights, *Thlimmenos v. Greece* (application No. 34369/97), judgment of 6 April 2000, para. 44.

organizations of Jehovah's Witnesses in the State party were registered before the enactment of the Law on Freedom of Religion and Religious Organizations in 2008. In contrast with members of the religious organizations that have been registered by the State Commission on Religious Affairs (almost all of which are affiliated with the two predominant religions in the region), the authors claim to have suffered discriminatory treatment on account of their religious beliefs.

3.7 In light of the above, the authors invite the Committee to conclude that the State party's refusal to register the local religious organization of Jehovah's Witnesses in Batken oblast has violated article 2 (3) (a) and (b), read in conjunction with article 14 (1), article 18 (1) and (3), article 22 (1) and (2) and article 26, read in conjunction with articles 18 and 22, of the Covenant. They request the Committee to recommend that the State party provide them with an effective remedy, giving full recognition of their rights under the Covenant, by directing the State party to immediately register the religious organization.

State party's observations on admissibility and the merits

4.1 In a note verbale dated 17 February 2014, the State party submitted its observation that the State Commission on Religious Affairs did not receive a statement from the Religious Center of Jehovah's Witnesses with a request to register the Jehovah's Witnesses community in the Kadamjay district of Batken oblast as a legal entity exercising religious activity. Accordingly, the State Commission did not refuse to register the above-mentioned religious organization.

4.2 Representatives of the Jehovah's Witnesses did not apply to the judiciary in Batken oblast, since article 10 (15) of the Law on State Registration of Legal Entities and Branches (Representative Offices) stipulates that, for the purposes of State registration or re-registration of a religious organization with the judiciary, a copy of the document confirming the registration or re-registration of the religious organization with the authorized State body for religious affairs should be attached to the registration application.

4.3 Under article 10 (2) of the Law on Freedom of Religion and Religious Organizations, in order to register a religious organization, its founders must submit a notarized and agreed list of citizens as members of the constituent council initiating the religious organization, who are responsible for it by law in dealing with the local *kenesh* (district council). The Jehovah's Witnesses applied to the Kadamjay District Council or *kenesh*, providing the required list of citizens. However, on 27 December 2010, the District Council rejected the list.

4.4 In March 2011, the Jehovah's Witnesses resubmitted their application to Kadamjay District Council, which, by letter dated 30 March 2011, upheld the previous decision. The Council indicated that the designated area was located on the border with Uzbekistan and that, given that the population living there confessed a single religion, and religious issues were among those most liable to give rise to conflict, and in order to maintain stability in the area and peace among the population, it had decided to maintain its refusal of the application.

4.5 The State party clarifies that, under article 110 of the Constitution, local *keneshes* are guaranteed the right and the real opportunity to independently resolve matters of local significance in their own interests and under their responsibility. Article 110 goes on to say that local self-governance in Kyrgyzstan is exercised by local communities on the territories of their respective administrative and territorial units. The principles by which local government is organized at the level of administrative and territorial units, the role of local government in the implementation of public authority, the organizational and legal framework of the activities and competence of local government, the principles of the relationships between local government and State authorities and the State's guarantees of the rights of local communities to self-government are established and regulated by the Law on Local Self-Government. Article 36 (2) of the Law stipulates that the decisions made by local *keneshes* under their authority are binding for all citizens living in the relevant territory and for local public authorities, enterprises, organizations and institutions, regardless of their form of ownership.

4.6 The State party notes that, in accordance with international legal standards, the right to freedom of religion or belief is subject to certain restrictions. Thus, in accordance with article 18 of the Covenant and article 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights), restrictions on the freedom to manifest one's religion or beliefs can only be justified if they are prescribed by law (according to an act of parliament or common-law norms that are generally accessible and sufficiently defined so that their application can be foreseen), if they are necessary in a democratic society and if they serve to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. In this regard, the actions of Kadamjay District Council fully comply with the requirements of international legal norms and the Law on Freedom of Religion and Religious Organizations, and they serve to protect public safety and ensure the order required in a democratic society.

4.7 Given that there are decisions of national courts involved in this case, the State party notes that, if the authors believe that the relevant legal provisions violate the rights and freedoms guaranteed by the Constitution, they are entitled to apply to the Constitutional Chamber of the Supreme Court with a corresponding petition, in accordance with article 24 of the Law on the Constitutional Chamber of the Supreme Court.

Authors' comments on the State party's observations on admissibility and merits

5.1 On 21 April 2014, the authors submitted that they were not able to apply to the State Commission on Religious Affairs to register their proposed religious organization in Batken oblast, entirely because of the onerous technical requirements of article 10 (2) of the Law on Freedom of Religion and Religious Organizations. Without the local council's approval of the list of founding members, it was not possible to proceed with the registration. In full compliance with the above provision, the authors had already applied twice to Kadamjay District Council for approval of the list of 200 founding members, but both applications had been rejected. The authors claim that the article 10 (2) requirement that the list of founding members must be approved by the local district council serves no lawful or legitimate purpose. It 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 their rights guaranteed by the Covenant. The authors refer to the concluding observations on the second periodic report of Kyrgyzstan, in which the Committee expressed concern about the restrictions imposed by the Law on Freedom of Religion and Religious Organizations and called on the State party to ensure that the legislative amendments to the Law removed all restrictions that were incompatible with article 18 of the Covenant, by providing for a transparent, open and fair registration process for religious organizations and eliminating distinctions among religions that might lead to discrimination (CCPR/C/KGZ/CO/2, para. 22). The authors assert that their case amply demonstrates the concerns expressed by the Committee.

5.2 The authors clarify that their first application for approval of the list of founding members of their proposed organization was rejected without any reasons being given, while their second application was rejected based solely 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. This assertion is factually incorrect and discriminatory. The State party does not dispute, in its observations, that citizens who are Jehovah's Witnesses already live in Batken oblast, and there is no evidence that the peaceful manifestation of their religious beliefs has in any way disrupted the "stability" of the area. As confirmed by official statistics released by the Presidential Administration, out of at least 252 religious organizations registered in the region, 245 are Islamic organizations, three are Russian Orthodox church organizations and the remaining four belong to other denominations. The failure to approve the list of founding members of the authors' religious organization, despite registration being granted to 252 other religious organizations (comprised almost

entirely of the two predominant religions in the region), has made the authors subject to discriminatory treatment on the ground of their religious beliefs.¹²

5.3 On the State party's concluding argument suggesting that the authors apply to the Constitutional Chamber of the Supreme Court to challenge the constitutionality of article 10 (2) of the Law on Freedom of Religion and Religious Organizations, the authors state that this is an extraordinary remedy that depends on the discretion of the Constitutional Chamber and therefore is not a remedy that has to be exhausted for the purposes of article 5 (2) (b) of the Covenant. Moreover, when the present communication was filed, the Constitutional Chamber was not functioning. Therefore, the authors assert that they had exhausted all available domestic remedies before submitting their communication to the Committee.

5.4 On 1 July 2014, the authors submitted that they had filed an application to the Constitutional Chamber in good faith to declare the onerous provisions of the Law on Freedom of Religion and Religious Organizations concerning the registration of religious organizations as unconstitutional. In this regard, they requested the Committee to suspend its consideration of the communication.

5.5 On 25 July 2016, the authors noted that, on 4 September 2014, the Constitutional Chamber had declared article 10 (2) of the Law on Freedom of Religion and Religious Organizations to be unconstitutional. They were hopeful that this ruling by the highest court of the State party would resolve the issue raised by the present communication. Therefore, they submitted a new application for the approval of a record registration to the State Commission on Religious Affairs, explaining that article 10 (2) of the Law had been declared unconstitutional and that it was no longer necessary for the list of founding members to be approved by a local district council. In violation of the rule of law, on 10 March 2015, the State Commission rejected the application for the record registration, insisting that, notwithstanding the 4 September 2014 ruling of the Constitutional Chamber, as article 10 (2) of the Law on Freedom of Religion and Religious Organizations had not yet been repealed by the parliament, it was still in force, and an application for a record registration would therefore not be considered unless the list of 200 founding members of the Batken local religious organization was first approved by Kadamjay District Council. The authors appealed the State Commission's decision before the domestic courts. The appeal was rejected by the trial court, by the appeal court and – on 15 February 2016 – by the Supreme Court. All three decisions upheld the opinion of the State Commission that article 10 (2) of the Law on Freedom of Religion and Religious Organizations remained in force, notwithstanding the 4 September 2014 ruling of the Constitutional Chamber declaring those provisions of the Law to be unconstitutional.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 93 of its rules of procedure, whether it is admissible under the Optional Protocol.

6.2 The Committee has ascertained, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 The Committee takes note of the authors' claim that they have exhausted all effective domestic remedies available to them. The Committee notes that the authors challenged the rejection of the registration of their religious organization on two occasions, taking the matter all the way to the Supreme Court, and that they challenged the constitutionality of article 10 (2) of the Law on Freedom of Religion and Religious Organizations. In the absence of any further objection by the State party following the

¹² The authors refer to *Sister Immaculate Joseph and 80 Teaching Sisters of the Holy Cross of the Third Order of Saint Francis in Menzingen of Sri Lanka v. Sri Lanka*, para. 7.4.

authors' application to the Constitutional Chamber in this connection, the Committee considers that the requirements of article 5 (2) (b) of the Optional Protocol have been met.

6.4 The Committee considers that the authors have sufficiently substantiated the claims under article 2 (3) (a) and (b), read in conjunction with article 14 (1), article 18 (1) and (3), article 22 (1) and (2) and article 26, read in conjunction with articles 18 and 22, of the Covenant, for the purposes of admissibility. It therefore declares the communication admissible and proceeds with its consideration of the merits.

Consideration of the merits

7.1 The Committee has considered the communication in the light of all the information submitted by the parties, in accordance with article 5 (1) of the Optional Protocol.

7.2 In relation to the authors' claim under article 18 (1) and (3) of the Covenant, the Committee recalls its general comment No. 22 (1993) on the right to freedom of thought, conscience and religion, which states that article 18 does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice (para. 3). By contrast, the right to freedom to manifest one's religion or beliefs may be subject to certain limitations, but only those prescribed by law and necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. The Committee notes the authors' argument that, by refusing to register the authors' religious organization, the State party denied their rights to jointly manifest their religious beliefs, 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. Consistent with its general comment No. 22, the Committee considers that these activities form part of the authors' right to manifest their beliefs. Furthermore, the Committee notes the authors' uncontested statement that, under article 8 (2) of the Law on Freedom of Religion and Religious Organizations, an "unregistered" religious activity constitutes a criminal offence.

7.3 The Committee must address the question of whether the relevant limitations on the authors' right to manifest their religion are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others, within the meaning of article 18 (3) of the Covenant. The Committee again recalls its general comment No. 22, which states that article 18 (3) is to be interpreted strictly, and that limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated (para. 8).

7.4 In the present case, the limitations placed on the authors' right to manifest their religious belief consist in the requirement under article 10 (2) of the Law on Freedom of Religion and Religious Organizations to have a list of 200 founding members approved by a local district council, which is a prerequisite for the religious organization concerned to be registered by the State Commission on Religious Affairs. 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. The Committee observes that the authors' first application for approval of the list of founding members of their organization was rejected without any reasoning being provided, while their 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.

7.5 The Committee notes that the State party has not advanced any arguments as to why it is necessary, for the purposes of article 18 (3), for a religious organization to have a list of 200 founding members approved by a local district council in order to be registered. In this connection, the Committee notes the information received that, on 4 September 2014, the

Constitutional Chamber of the Supreme Court declared article 10 (2) of the Law on Freedom of Religion and Religious Organizations to be unconstitutional. The Committee observes, however, that the State Commission on Religious Affairs has rejected the authors' subsequent application for registration.

7.6 In light of all the above, and considering the significant consequences of a refusal of registration, namely the impossibility of carrying out religious activities, the Committee concludes that the refusal to register the authors' religious organization amounts to a limitation of the authors' right to manifest their religion under article 18 (1) that is unnecessary to achieve a legitimate aim under article 18 (3). The Committee therefore concludes that the authors' rights under article 18 (1) of the Covenant have been violated.

7.7 As to the authors' claim under article 26 of the Covenant, the Committee refers to its long-standing jurisprudence that there must be a reasonable and objective distinction to avoid a finding of discrimination, particularly on the grounds enumerated in article 26, which include religious belief. The authors claim that the process for obtaining registration under the Law on Freedom of Religion and Religious Organizations is not applied equally and cite official statistics – which the State party has not refuted – that, out of the 252 religious organizations currently registered in Batken oblast, 245 are Islamic, and none are affiliated with Jehovah's Witnesses. The State party has raised no objection to these figures and has provided no reasonable and objective grounds for distinguishing the authors' religious organization from other registered organizations. Therefore, the Committee concludes that such differential treatment discriminated against the authors on the basis of their religious belief, in violation of their rights under article 26 of the Covenant.

7.8 In the light of this conclusion, the Committee decides not to examine separately the authors' claims under article 2 (3) (a) and (b), read in conjunction with article 14 (1), and article 22 (1) and (2) of the Covenant.

8. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the facts before it disclose a violation by the State party of articles 18 (1) and (3) and 26 of the Covenant.

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.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective remedy when it has been determined that a violation has occurred, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the present Views and to have them widely disseminated in the official languages of the State party.
