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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[[1]](#footnote-2)\*,[[2]](#footnote-3)\*\*

*Communication submitted by*: Alymbek Bekmanov and Damirbek Egemberdiev (represented by counsels, Shane Brady and Nurlan Kachiev)

*Alleged victim*: The authors

*State party*: Kyrgyzstan

*Date of communication*: 26 March 2013 (initial submission)

*Document references*: 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)

*Date of adoption of Views*: 29 March 2019

*Subject matter*: Refusal to register religious organisation

*Procedural issue*:Non-exhaustion of domestic remedies

*Substantive issues*:Effective remedy, freedom of religion, fair trial, freedom of association, discrimination

*Articles of the Covenant*: 2 (3), 14 (1), 18 (1) and (3), 22 (1) and (2), and 26

*Article of the Optional Protocol*:2

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 (RCJW) and Mr. Egemberdiev is the Chairman of the Religious Organization of Jehovah’s Witnesses in the City of Kadamjay and the Batken Oblast (ROJW). The authors claim that by refusing to register the ROJW, a local religious organization, Kyrgyzstan has violated their rights under articles 2(3), read in conjunction with article 14(1); 18(1) and (3); 22(1) and (2); and 26, read in conjunction with articles 18 and 22 of the Covenant. The authors are represented by counsels Shane H. Brady and Nurlan Kachiev. The first Optional Protocol to the Covenant entered into force for the State party on 7 January 1995.

1.2 On 15 August 2014, the Committee granted the authors’ request to temporarily suspend[[3]](#footnote-4) 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.

 The facts as presented by the authors

2.1 The Religious Center of Jehovah’s Witnesses in the Kyrgyz Republic (RCJW) 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 (SCRA).[[4]](#footnote-5)

2.2 In 2008, article 10 (2) of the “Law on Freedom of Religion and Religious Organizations in the Kyrgyz Republic”[[5]](#footnote-6) (hereinafter, “Religion Law”) was amended and a requirement that a religious organization, in order to be legally registered, should be created by “not less than 200” adult citizens and permanent residents of Kyrgyzstan was introduced. The list should be approved by the local city council where the organization will operate. If the approval is granted, the religious organization should then apply for registration before the SCRA, which may order an “expert study” on the respective religious organization. The authors underline that the registration is virtually impossible for minority religions and that the city councils’ decisions are left to the arbitrary ‘whim’ of locally elected officials, since there is 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 the Batken Oblast (ROJW) is located in the city of Kadamjay, in Batken Oblast, the southernmost region of Kyrgyzstan. Jehovah’s Witnesses do not have a registered religious organization in the Batken Oblast. Some local officials have insisted that Jehovah’s Witnesses living in the Batken Oblast cannot practice their religious beliefs without first obtaining registration of a religious organization in the region. To protect Jehovah’s Witnesses from harassment in the Batken Oblast, the authors established the ROJW and prepared all the required legal documents for creating a religious organization (including a notarized list of founding members).[[6]](#footnote-7) On 2 October 2010, Mr. Egemberdiev was authorized by over 200 founding members of the Kadamjay Religious Organisation to take all steps needed to obtain registration as a religious organization.

2.4 On 4 October 2010, Mr. Egemberdiev applied to the Kadamjay City Council[[7]](#footnote-8) for approval of the list of 200 founding members of the ROJW. The law required the Kadamjay City Council: (1) to render a written decision within one month of the date of the application filing; (2) to cite the reasons for the decision and the evidence relied upon; and (3) to ensure that the decision was signed by all members of the Kadamjay City Council.[[8]](#footnote-9) On 27 December 2010 (almost three months after the application was filed), the Kadamjay City 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 the Kadamjay City Council.[[9]](#footnote-10)

2.5 After a meeting with the authors, the Chairman of the Kadamjay City Council agreed to receive and consider a second application from the authors, based on additional arguments and evidence as permitted by law.[[10]](#footnote-11) Accordingly, on 29 March 2011, the applicants submitted their second application. On 30 March 2011, the Kadamjay City Council issued decision No. 4-2/13, which again refused to approve the list of founding members. The decision read: “[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.” This decision was also signed only by the Chairman of the Kadamjay City Council and did not provide any evidence.

2.6 The authors filed an application to the Batken Interdistrict Court requesting the court: (a) to cancel the 30 March 2011 decision 4-2/13 of the Kadamjay City Council; (b) to declare that the inaction of the Kadamjay City Council in failing to approve the list of founding members violated the applicants’ rights to form a religious organization; and (c) to oblige the Kadamjay City Council to remedy the violation by making a lawful decision approving the list of founding members of the ROJW.[[11]](#footnote-12)

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

2.8 On 26 September 2011, the Batken District Court (Judicial Chamber on Administrative and Economic Cases) rejected the appeal due to untimely filing. The authors further appealed this decision.

2.9 On 22 May 2012, the Supreme Court of Kyrgyzstan granted the appeal, reasoning that the first appeal was in fact timely filed. The Supreme Court directed the Batken District Court to consider the authors’ appeal.

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

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

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

 The complaint

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

3.2 The authors assert that the Supreme Court’s ruling has arbitrarily insulated the discriminatory actions of the Kadamjay City Council from judicial review and has, thus, denied 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 further 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[[12]](#footnote-13). They claim that their rights to jointly manifest their religious beliefs have been denied by the State party’s failure to enact a regulation on the matter and by the national court’s refusal to properly assess their claims. Without registration, the authors are unable to enjoy the rights that registered religious communities are entitled to, 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. Furthermore, under article 8(2) of the 2008 Religion Law, an “unregistered” religious activity constitutes a criminal offence.

3.4 Further, 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.[[13]](#footnote-14) The requirement of having a list of 200 founding members approved by a local city council, as a pre-condition to obtaining registration, in itself, is a violation of the Covenant and the Constitution, and is allegedly designed to prevent small religious organizations from obtaining registration. It imposes an unnecessary and arbitrary bureaucratic burden on the applicants, delaying the registration process and increasing the costs incurred.

3.5 The authors also 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 not “necessary in a democratic society”.[[14]](#footnote-15) 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 local city council can refuse to approve an application for reasons that are arbitrary, unpredictable, discriminatory, or in some other unjustified 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 Finally, the authors claim that the process for obtaining registration under the 2008 Religion Law is not applied equally and, therefore, amounts to a violation of article 26, read in conjunction with articles 18 and 22 of the Covenant. The authors cite figures stating that of the 252 religious organizations currently registered in the Batken region, 245 are Islamic, and none are affiliated with Jehovah’s Witnesses.[[15]](#footnote-16) All registered religious organizations of Jehovah’s Witnesses in the State party were registered before the enactment of the Religion Law in 2008. In comparison with the religious organizations (comprised almost entirely of the two predominant religions in the region) that have been registered by the SCRA, the authors claim to have suffered discriminatory treatment on account of their religious beliefs.

3.7 In light of the above, the authors request the Committee to conclude that the State party’s refusal to register the local religious organization of Jehovah’s Witnesses in the region of Batken has violated articles 2(3) (a) (b), read in conjunction with articles14(1); 18(1); 18(3); 22(1)and (2); and 26, read in conjunction with articles 18 and 22 of the Covenant. They further request the Committee to recommend the State party to 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 merits

4.1 By note verbale of 17 February 2014, the State party observes that the State Commission on Religion Affairs of the Kyrgyz Republic (SCRA) did not receive a statement from the religious organization “Jehovah's Witnesses Religious Center in the Kyrgyz Republic” (JWRC) with a request to register the Jehovah's Witnesses community in the Kadamzhai district of the Batken region 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 Jehovah's Witnesses did not apply to the judiciary of the Batken region, since Article 10 (15) of the Law of the Kyrgyz Republic “On State Registration of Legal Entities, Branches (Representative Offices)” stipulates that for the purposes of the state registration (re-registration) of a religious organization in the judiciary, a copy of the document confirming the registration (re-registration) of this religious organization with the authorized state body for religious affairs should be attached to the registration application.

4.3 In accordance with Art. 10 (2) of the Law “On Freedom of Religion and Religious Organizations in the Kyrgyz Republic”, for the registration of a religious organization, the founders must submit a notarized and agreed with local keneshes (City Councils) list of citizens, members of the Constituent Council initiating the creation of the religious organization, who are responsible under the statute before the law. The Jehovah's Witnesses applied to the Kadamzhai district kenesh of the Batken region providing the required list of citizens. However, on 27 December 2010, the Kadamzhai district kenesh rejected the list.

4.4 In March 2011, the Jehovah's Witnesses resubmitted their application to the Kadamzhai district kenesh, which upheld the previous decision by letter dated 30 March 2011. The kenesh indicated that the designated area is located on the border with the Republic of Uzbekistan and given that the population living there is mono-religious, and religious issues are among the most conflicting, in order to maintain stability in the area and the tranquility of the population, it decided to maintain the refusal.

4.5 The State party clarifies that, according to Article 110 of the Constitution, local keneshes are guaranteed the right and real opportunity to independently decide in their own interests and under their responsibility issues of local significance, while local self-government in the Kyrgyz Republic is exercised by local communities in the territory of the respective administrative-territorial units. The principles of organization of local government at the level of administrative-territorial units of the Kyrgyz Republic, the role of local government in the implementation of public authority, the organizational and legal framework of their activities, competence and principles of relations between local governments and state authorities, as well as state 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 this Law stipulates that decisions of local keneshes, made by them within their authority, are binding for all citizens living in the relevant territory, state authorities, enterprises, organisations and institutions, regardless of the form of ownership within the authority established by law.

4.6 The State party also 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 European Convention on Human Rights (ECHR), restrictions on freedom to manifest religion or belief 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 the protection of public safety, order, health, morals or rights and freedoms of others. In this regard, the actions of the Kadamzhai district kenesh fully comply with the requirements of international legal norms, the Law “On Freedom of Religion and Religious Organizations in the Kyrgyz Republic” and serve to protect public safety and ensure the order needed in a democratic society.

4.7 Given that there are decisions of national courts in this case, the State party notes that if the authors believe that the indicated provisions of the designated Law violate the rights and freedoms guaranteed by the Constitution of the Kyrgyz Republic, they are entitled in accordance with Article 24 of the Law “On the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic” to apply to the Constitutional Chamber of the Kyrgyz Republic with a corresponding petition.

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

5.1 On 21 April 2014, responding to the State party’s observations, the authors submit that they were not able to apply to the State Commission on Religion Affairs for registration of their proposed religious organisation for the Batken district of Kyrgyzstan due entirely to the onerous technical requirements of Article 10 (2) of the 2008 Religion Law. Without the approval of the list of founding members by the local council, it was not possible to proceed with the registration. In full compliance with the said provision, the authors had already applied twice to the Kadamjay City Council for ‘approval’ of the list of 200 founding members but both applications were rejected. The authors claim that the Article 10 (2) requirement that the list of founding members must be approved by the local City 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 organisations from obtaining registration and exercising their rights guaranteed by the Covenant. The authors refer to the concluding observations on Kyrgyzstan adopted on 25 March 2014[[16]](#footnote-17), where the Committee expressed concern about the restrictions imposed by the 2008 Religion Law and called on the State party to ensure that the legislative amendments to the 2008 Religion Law remove all restrictions incompatible with article 18 of the Covenant, by providing for a transparent, open and fair registration process of religious organisations and eliminating distinctions among religions that may lead to discrimination. The authors assert that their case amply demonstrates the concerns expressed by the Committee.

5.2 The authors further clarify that their first application for ‘approval’ of the list of founding members of their proposed organisation was rejected without any reasons, while their second application was rejected based solely on the assertion of the city council that people living in the district ‘profess only one religion’ and that refusal of the application was necessary ‘to protect the stability and peace of the residents of the region’. 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 the Batken district and there is no evidence that the peaceful manifestation of their religious beliefs have in any way disrupted the ‘stability’ of the district. As confirmed by official statistics released by the Presidential Administration of Kyrgyzstan, out of at least 252 religious organisations registered in the district, 245 are Islamic organisations, three are Russian Orthodox Church Organisations and the remaining four belong to other denominations. The failure to approve the list of founding members of the authors’ religious organisation, while granting registration to 252 other religious organisations (comprised almost entirely of the two predominant religious in the region) has subjected the authors to discriminatory treatment on the grounds of their religious beliefs.[[17]](#footnote-18)

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 the Article 10(2) of the 2008 Religion Law, 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 have exhausted all available domestic remedies before submitting their communication to the Committee.

5.4 On 1 July 2014, the authors submitted that in good faith they have filed an application to the Constitutional Chamber to declare as unconstitutional the onerous provisions of the 2008 Law on Religion concerning the registration of religious organisations. In this regard, they requested the Committee to suspend its consideration of the communication.

5.5 On 25 July 2016, the authors informed that on 4 September 2014 the Constitutional Chamber declared Article 10 (2) of the 2008 Religion Law to be unconstitutional. They were hopeful 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 ‘record registration’ to the SCRA for approval, explaining that Article 10 (2) had been declared unconstitutional and it was no longer necessary for the list of founding members to be ‘approved’ by a local city council. In violation of the rule of law, on 10 March 2015, the SCRA rejected the application for ‘record registration’, insisting that notwithstanding the 4 September 2014 ruling of the Constitutional Chamber, Article 10 (2) of the 2008 Religion Law had not yet been repealed by Parliament, was still in force, and an application for ‘record registration’ would therefore not be considered unless the list of 200 founding members of the Batken local religious organisation was first ‘approved’ by the Kadamjay city council. The authors appealed that decision of the SCRA to the domestic courts. The appeal was rejected by the trial court, the appeal court, and on 15 February 2016 by the Supreme Court. All three decisions upheld the opinion of the SCRA that Article 10 (2) of the 2008 Religion Law remained in force notwithstanding the 4 September 2014 ruling of the Constitutional Chamber declaring that section to be unconstitutional.

 Issues and proceedings before the Committee

 Consideration of admissibility

6.1 Before considering any claims contained in a communication, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

6.2 The Committee has ascertained, as required under article 5, paragraph 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 have on two occasions challenged the rejection of the registration of their religious organization all the way to the Supreme Court, and have challenged the constitutionality of the Article 10(2) of the 2008 Religion Law. In the absence of any further objection by the State party following the 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 In the Committee’s view, the authors have sufficiently substantiated, for the purposes of admissibility, their claims under articles 2 (3) (a) and (b), read in conjunction with article 14 (1); 18 (1) and (3); 22 (1) and (2); and 26, read in conjunction with articles 18 and 22 of the Covenant, declares them admissible and proceeds with their consideration of the merits.

 Consideration of the merits

7.1 The Committee has considered the present 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), the Committee recalls its General Comment No 22, which states that article 18 does not permit any limitation whatsoever on freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one’s choice.[[18]](#footnote-19) 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. In the present case, 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, the Committee considers that these activities form part of the authors’ right to manifest their beliefs. Furthermore, the Committee also notes the authors’ uncontested statement that, under article 8(2) of the 2008 Religion Law, 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 recalls its General Comment No 22, which states that paragraph 3 of article 18 is to be interpreted strictly, and that limitations may only be applied for those purposes for which they are prescribed and must be directly to and proportionate to the specific need on which they are predicated.[[19]](#footnote-20)

7.4 In the present case, the limitations placed on the authors’ right to manifest their religious belief consist in the requirement of Article 10 (2) of the 2008 Religion Law of having a list of 200 founding members approved by a local city council, which is a prerequisite in order for the religious organisation to be registered by the State Commission on Religious Affairs. The Committee notes the authors’ argument that this requirement, in itself, is a violation of the Covenant and the Constitution, in that it imposes an unnecessary and arbitrary bureaucratic burden on the applicants, and that it 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 organisation was rejected without providing any reasoning, while their second application was rejected based on the assertion of the city council that people living in the district ‘profess only one religion’ and that refusal of the application was necessary ‘to protect the stability and peace of the residents of the region’. The Committee notes that the State party does not dispute that citizens who are Jehovah’s Witnesses already live in the Batken district 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 district.

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 organisation, in order to be registered, to have a list of 200 founding members approved by a local city council. 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 2008 Religion Law to be unconstitutional. The Committee, however, observes that the SCRA 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 organisation 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) of the Covenant. 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 enumerated grounds in article 26 which include religious belief. In the present case, the authors claim that the process for obtaining registration under the 2008 Religion Law 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 the Batken region, 245 are Islamic, and none are affiliated with Jehovah’s Witnesses. The State party has raised no objection to these statistics and has provided no reasonable and objective grounds for distinguishing the authors’ religious organization from other registered organizations. Therefore, the Committee concludes that such a 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 separately examine 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 of the authors’ rights under article 18(1) and (3) and article 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, a) to review the SCRA refusal of the local religious organisation of the Jehovah’s Witnesses of the Batken Region registration application; (b) 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 or not 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 disseminate them widely in the official languages of the State party.

1. \* Adopted by the Committee at its 125th session (4-29 March 2019). [↑](#footnote-ref-2)
2. \*\* 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 Muhumuza, Photini Pazartzis, Hernán Quezada, Vasilka Sancin, José Manuel Santos Pais, Yuval Shany, Hélène Tigroudja, Andreas Zimmermann and Gentian Zyberi. [↑](#footnote-ref-3)
3. Due to a decision then pending with the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic concerning the constitutionality of Article 10 (2) of the 2008 Law on Freedom of Religion and Religious Organizations in the Kyrgyz Republic. [↑](#footnote-ref-4)
4. The State Commission on Religion Affairs of the Kyrgyz Republic (SCRA) is the state body charged under Kyrgyz law with registering religious organizations. [↑](#footnote-ref-5)
5. According to the authors, Kyrgyzstan has acknowledged that this Law (Act No. 282, 31 December 2008) 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/15/2, para 77.37) [↑](#footnote-ref-6)
6. The authors cite articles 8(3) and 10(2) of the 2008 Religion Law. [↑](#footnote-ref-7)
7. The Kadamjay City Council, Batken Oblast is a locally-elected self-government body. [↑](#footnote-ref-8)
8. The authors cite articles 34(1), 40(4), and 41 of Law No. 16 of the Kyrgyz Republic “On Administrative Proceedings” (1 March 2004) (the “KR Law on Administrative Proceedings”). [↑](#footnote-ref-9)
9. The decision reads in its entirety: “1. Refuse to satisfy the October 4, 2010, request of the representative by the 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.” [↑](#footnote-ref-10)
10. The authors reference article 7(7) of the Law on Administrative Proceedings. [↑](#footnote-ref-11)
11. The authors cite articles 260(1)(4) and 262 of the Code of Civil Procedure of the Kyrgyz Republic (the Civil Procedure Code). [↑](#footnote-ref-12)
12. The authors refer to the Human Rights Committees’ decision in Malakhovsky et al v. Belarus, Communication No. 1207/2003, 26 July 2005. 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 [GC], no. 30985/96, 26 November 2000, para 62; Metropolitan Church of Bessarabia and Others v. Moldova, no. 45701/99, 13 December 2001, para 105; Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria, no. 40825/98, 31 July 2008, para s79-80; and Jehovah’s Witnesses of Moscow v. Russia, 302/02, 10 June 2010, paras 99-101. [↑](#footnote-ref-13)
13. The authors refer to the statement of the Special Rapporteur on freedom of religion or belief (A/HRC/19/60, 22 December 2011): “Any procedures for the registration of religious or belief communities as legal persons should be quick, transparent, fair, inclusive and non-discriminatory”. [↑](#footnote-ref-14)
14. European Court of Human Rights: *Jehovah’s Witnesses of Moscow v. Russia*, Communication No. 302/02, 10 June 2010, paras 99, 101; European Court of Human Rights: *Association Les Témoins de Jéhovah v. France*, Application No. 8916/05, 30 June 2011, para 66. [↑](#footnote-ref-15)
15. The figures are provided by the Presidential Administration of the Kyrgyz Republic. In support of their argument, the authors also cite communication No. 1249/2004, *Sister Immaculate Joseph et al. v. Sri Lanka*, decision adopted on 21 October 2005, para. 7.4 (stating 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 the European Court of Human Rights decision *Thlimmenos v. Greece* (GC), no. 34369/97, section 44, 6 April 2000. [↑](#footnote-ref-16)
16. CCPR/C/KGZ/CO/2, para.22. [↑](#footnote-ref-17)
17. The authors refer to communication 1249/2004, Sister Immaculate Joseph et al. v. Sri Lanka, para 7.4. [↑](#footnote-ref-18)
18. General Comment 22, para. 3. [↑](#footnote-ref-19)
19. General Comment 22, para. 8. [↑](#footnote-ref-20)