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**Human Rights Committee**

 Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communications Nos. 3089/2017, 3092/2018 and 3093/2018[[1]](#footnote-2)\*,[[2]](#footnote-3)\*\*

*Communications submitted by:* Irina Nasirova, Nellya Kitaeva, Oybek Hasanov, Ibodillo Juraev and Aloma Khodjaeva (all represented by counsels, Shane H. Brady and Haykaz Zoryan)

*Alleged victims:* The authors

*State party:* Uzbekistan

*Date of communications:* 23 August 2017 (initial submissions)

*Document references:* Decisions taken pursuant to rule 92 of the Committee’s rules of procedure, transmitted to the State party on 27 December 2017 (communication No. 3089/2017) and 8 January 2018 (communications Nos. 3092/2018 and 3093/2018)

*Date of adoption of Views:* 13 October2023

*Subject matter:* Administrative conviction of Jehovah's Witnesses for unlawful religious activity

*Procedural issues:* Substantiation of claims

*Substantive issues:* Interference with privacy and home; freedom of thought, conscience and religion; freedom of expression; freedom of assembly; freedom of association

*Articles of the Covenant:* 17, 18, 19, 21 and 22

*Articles of the Optional Protocol:* 2

1.1 The authors of the communications are Irina Nasirova (communication No. 3089/2017), Nellya Kitaeva (communication No. 3092/2018), and Oybek Hasanov, Ibodillo Juraev and Aloma Khodjaeva (communication No. 3093/2018). The authors are nationals of Uzbekistan born in 1971, 1966, 1991, 1992 and 1963, respectively. They claim that the State party has violated their rights under articles 17, 18, 19, 21 and 22 of the Covenant. The Optional Protocol entered into force for Uzbekistan on 28 December 1995. The authors are represented by counsels.

1.2 On 13 October 2023, pursuant to rule 97 (3) of the Committee’s rules of procedure, the Committee decided to join communications 3089/2017, 3092/2018 and 3093/2018 submitted by five different authors for a joint decision, in view of substantial factual and legal similarity.

 Facts as submitted by the authors

2.1 The authors are Jehovah’s Witnesses. They were subjected to substantial administrative fines of between 20 and 100 times the minimum wage for illegally producing, possessing or distributing religious materials, their homes were searched, and their religious literature and personal belongings were seized and destroyed. Their respective appeals lodged before the domestic courts were rejected and the authors claim that they have exhausted all available domestic remedies.

2.2 The facts relevant to each individual communication are summarized below.

 Communication No. 3092/2017, Kitaeva v. Uzbekistan

2.3 The author lives in the city of Navoi. On 17 January 2015, the police demanded entry to her home claiming that it was necessary “as part of extensive measures conducted by officers of the Navoi District Police Department”. The police did not justify their actions with a valid court order or any other authorization. Instead, they claimed that they had received an anonymous telephone call reporting that religious meetings of Jehovah’s Witnesses were being conducted at the author’s home. Once inside, the officers proceeded to search the house for religious publications and eventually found and seized 3 brochures and 153 religious leaflets published by Jehovah’s Witnesses.

2.4 The author was subsequently charged with an offense under article 184 (2) of the Code of Administrative Responsibility (CAR). On 10 February 2015, the Navoi City Court for Criminal Cases found the author guilty of illegal possession of religious materials based on the fact that Jehovah’s Witnesses were not registered as a religious organization in the city of Navoi. The court ordered her to pay a fine of 2,368,000 Uzbek soums (approximately 853 euros) and to destroy all literature seized on 17 January 2015.

2.5 On 17 March 2015, the Navoi Regional Court for Criminal Cases rejected the author’s appeal. On 15 January 2016, the author filed a request for a supervisory review with the Prosecutor General of Uzbekistan, requesting him to exercise his discretionary authority and to submit an appeal to the Supreme Court. This request was rejected on 22 February 2016. The author notes that under article 315 of the CAR,[[3]](#footnote-4) she cannot appeal her conviction directly to the Supreme Court of Uzbekistan.

 Communication No. 3089/2018, Nasirova v. Uzbekistan

2.6 The author lives in the city of Tashkent. On 11 September 2014, the police demanded entry to her home without a valid search warrant or other authorization, claiming that it was necessary to conduct a “passport check”. Once the police entered her home, they conducted a search of the home and seized 26 pieces of religious literature, three paper notebooks, 137 DVDs and 12 VHS tapes.

2.7 The author was subsequently found guilty of an offense under article 184 (2) of the CAR and sentenced to a fine in the amount of 5,381,750 Uzbek soums (approximately 1,745 euros). The court also ordered the destruction of all items seized on 11 September 2014. In its decision, the court noted that Jehovah’s Witnesses were not registered as a religious organization in the city of Tashkent. The court relied on the conclusion of the Committee for Religious Affairs, which asserted that the literature of Jehovah’s Witnesses may only be used in the city of Chirchik, the sole location in Uzbekistan where Jehovah’s Witnesses were granted registration as a religious organization.

2.8 On 3 November 2014, the Tashkent City Cassation Court for Criminal Cases rejected the author’s appeal. On 15 January 2016, the author filed a request for a supervisory review with the Prosecutor General of Uzbekistan. On 29 January 2016, her request was referred by the Prosecutor General’s Office to the Tashkent City Prosecutor for “consideration of its merits”. The author notes that more than one year has passed since this referral without any decision having been made as to her request. The author also notes that under article 315 of the CAR, she cannot appeal her conviction directly to the Supreme Court of Uzbekistan.

 Communication No. 3093/2018, Juraev et al. v. Uzbekistan

2.9 The authors live in Jondor district of the Bukhara region. On 24 September 2014, Ibodillo Juraev was detained while walking on the street. The police searched his bag and seized 13 photocopies of religious publications of Jehovah’s Witnesses. The police then took Mr. Juraev to the apartment where he resided with his mother, Aloma Khodjaeva. The police made Mr. Juraev open the door of the apartment and proceeded to search it without his permission. The police confiscated Mr. Juraev’s personal property, including his computer, and 1 piece of religious literature.

2.10 On 7 October 2014, Oybek Hasanov was summoned to the local police station and interrogated about providing religious literature of Jehovah’s Witnesses to Mr. Juraev. Mr. Hasanov and Mr. Juraev were subsequently charged with an offense under article 184 (2) of the CAR, while Ms. Khodjaeva was charged under article 241 of the CAR for violating the procedure of religious teachings.

2.11 On 10 October 2014, the Korakul District Court for Criminal Cases held that Mr. Juraev and Mr. Hasanov were guilty because they “had illegaly possessed books and materials related to Jehovah’s Witnesses” and that Ms. Khodjaeva was guilty of “teaching the religious views of Jehovah’s Witnesses to her son Mr. Juraev and her family”. The court ordered the complainants to pay combined punitive fines of 19,912,475 Uzbek soums (approximately 6,623 euros). The court also ordered the destruction of the 13 pieces of religious literature and the computer seized from the authors.

2.12 On 5 December 2014, the Bukhara Regional Court for Criminal Cases rejected the authors’ appeal. On 15 January 2016, the authors filed a request for a supervisory review with the Prosecutor General of Uzbekistan. On 29 January 2016, their request was referred by the Prosecutor General’s Office to the Bukhara Regional Prosecutor for “consideration of its merits”. The authors note that more than one year has passed since this referral without any decision having been made as to their request. The authors also note that under article 315 of the CAR, they cannot appeal their conviction directly to the Supreme Court of Uzbekistan.

 **Complaint**

3.1 The authors submit that under the Covenant and the Constitution of Uzbekistan, they are entitled to privacy and to the security of their homes and personal belongings. They argue that by unlawfully entering their homes and confiscating their religious literature, the police violated their rights under article 17 of the Covenant.

3.2 The authors submit that Jehovah’s Witnesses were allowed to register their organization in Uzbekistan only in a small town called Chirchik in the Tashkent region. They argue that the police raids and administrative convictions were based solely on the faulty premise that, because Jehovah’s Witnesses are not registered in their respective regions, they do not have the right to possess copies of religious literature published by Jehovah’s Witnesses. The authors note the Committee’s jurisprudence according to which legal registration is not a prerequisite to the exercise of fundamental human rights. Accordingly, the authors claim that the police search of their home, seizure of their personal belongings, and the subsequent administrative convictions and fines have interfered with their rights guaranteed by article 18 (1) of the Covenant.

3.3 The authors note that they were convicted under the CAR because it was alleged that they had stored religious literature of Jehovah’s Witnesses in their homes with the goal of distributing the material. They note that the trial court reached this conclusion although there was no evidence that they had intended to distribute that literature and that in any event, even if they had intended to distribute the religious literature, such peaceful actions are protected by article 19 (2) of the Covenant. They claim that their prosecution and conviction based on the State party’s allegation that it is illegal to distribute religious literature of Jehovah’s Witnesses without State approval has interfered with their right to seek, receive and impart information.

3.4 The authors further claim that the State party has also violated their right to peaceful assembly and freedom of association. They argue that the enjoyment of freedom of religion or belief does not depend on any acts of State approval or administrative registration. They note that the sole justification given for the police raid and their administrative convictions was that Jehovah’s Witnesses are not registered in their respective regions, and that consequently their religious activity was considered to be “illegal”, in violation of their rights under articles 21 and 22 of the Covenant.

 State party’s observations on the merits

4.1 By note verbale of 15 March 2018, the State party submitted its observations on the merits of the communications. The State party notes that the Constitution of Uzbekistan provides similar protections for religious rights as the Universal Declaration of Human Rights and the Covenant. It further notes that Jehovah’s Witnesses are prohibited from exercising their religious rights in a number of countries, while in Uzbekistan they are represented by an organization that is officially registered in the town of Chirchik in Tashkent region. The State party submits that the organization as a whole has not committed violations of the current legislation, however it is responsible for the violations committed by its members in other regions of Uzbekistan. According to the State party, the organization was previously also registered in the city of Fergana. However, members of the organization have repeatedly conducted missionary and educational activities among minors without their parents’ consent. Due to this, a number of complaints were filed by concerned parents to law enforcement agencies, and the registration of the organization in Ferghana was terminated.

4.2 The State party submits that Jehovah’s Witnesses have official registration that allows carrying legal religious activities only in the town of Chirchik at a specific address. According to the conditions of registration, organization’s may conduct its activities only at its registered address, however organizations’ followers deliberately try to conduct their illegal religious activities in other regions and major cities, including in the capital city of Tashkent.

4.3 With regard to the authors’ administrative cases, the State party notes that the authors’ guilt was established through their own testimonies, presence of prohibited religious materials, which were seized as physical evidence, and experts’ opinions.

 Authors’ comments on the State party’s observations

5.1 On 24 July 2018, the authors submitted their comments on the State party’s observations. They note that the State party does not raise any new facts or arguments and merely repeats the conclusions of the domestic courts. In essence, the State party claims that the State authorities were justified in raiding in authors’ homes, seizing their peaceful religious literature, and then imposing large administrative fines on the authors simply because Jehovah’s Witnesses do not have legal registration in the cities of Tashkent and Navoi or Bukhara region.

5.2 The authors therefore rely on their respective written communications, which establish that the actions of the State authorities have violated multiple provisions of the Covenant and that those violations cannot be justified.

 State party’s additional observations

6.1 On 31 December 2018, the State party submitted its additional observations on the merits of the authors’ communications. With regard to the authors’ claims of a violation of article 17 of the Covenant, the State party notes that in accordance with article 17 of the Law on bodies of internal affairs (police), the police may enter residential and other premises, land plots, vehicles of organizations and citizens without hindrance at any time of day or night to suppress crimes in progress, as well as to prosecute and detain the perpetrators, if delay may endanger the life and health of citizens, the security of society and the state. They may be present in the dwellings and other premises of citizens, on land plots belonging to them with their consent, in order to ensure the personal safety of citizens and public security, to prevent crime, and to detect and apprehend persons who have committed crimes or are wanted. The police may also enter homes and other premises of citizens with their consent between 6 a.m. and 10 p.m. to monitor compliance with passport regulations and other rules.

6.2 The State party further notes that in accordance with article 14 of the Law on operative and investigative activities, the police can conduct an inspection of dwellings and other premises, and visually inspect them in order to identify persons, facts and circumstances relevant for solving the tasks of operational and investigative activities. Article 15 of the same law, provides a number of grounds for such inspections, including when there is information that has become known about signs of preparation or commission of an offence, as well as about persons involved in their preparation or commission, if there are no sufficient grounds for the initiation of criminal proceedings; and when there is information available about persons, events and actions that pose a threat to the security of individuals, society and the state. The State party notes that in accordance with article 16 of the Law, measures restricting the right to inviolability of home, confidentiality of correspondence, telephone and other communications, may be carried out with the authorization of a prosecutor. The State party submits that in the case of *Kitaeva* (Communication No. 3092/2018), the inspection of the author’s house on 11 September 2014 was authorized by a prosecutor and conducted in accordance with the domestic law.

6.3 The State party argues that the searches conducted at all authors’ homes were lawful and were conducted in accordance with the above-mentioned legislation, thus, there was no violation of the authors’ rights under article 17 of the Covenant.

6.4 With regard to the authors’ remaining claims, the State party submits that article 184 (2) of the CAR prohibits illegal production, possession or distribution of religious materials because such materials may cause conflicts among people, including among families, and erosion of traditional moral values. The State party notes that articles 18, 19, 21 and 22 of the Covenant provide for the limitation of individual rights when it is necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others. Therefore, the State party considers that the administrative prosecution of the authors was in accordance with the relevant provisions of the Covenant.

 Authors’ comments on the State party’s additional observations

7.1 On 17 May 2019, the authors submitted their comments on the State party's additional observations. The authors reject the State party’s argument that there can be no violation of the Covenant if the police acted in accordance with the domestic law. They argue that this position misconstrues the nature of the fundamental rights protected by the Covenant and the obligation of the State to demonstrate the necessity of any interference. She notes that the Committee rejected the same argument in its previous decisions.[[4]](#footnote-5)

7.2 The author of communication No. 3089/2017 submits that the police did not justify their actions with a valid court order or any other authorization nor did they provide any explanation why a ‘passport check’ was necessary for citizens of Uzbekistan. Once inside the home, police then proceeded to conduct an illegal search of the home for religious publications of Jehovah’s Witnesses and seized the author’s personal belongings, which was their real purpose for demanding an entry.

7.3 The authors refer to the State party’s submission that illegal production, possession or distribution of religious materials may cause conflicts among people, including among families, and erosion of traditional moral values, and note that the domestic courts did not point to any evidence that the religious literature seized from them presented any such risk. They note that religious publications of Jehovah’s Witnesses are distributed worldwide, are entirely peaceful, and foster family happiness and respect for moral values.

7.4 The authors argue that the State has failed to show that the limitation of their rights was “necessary” in a democratic society. In particular, the State has failed to show that the limitation served “any legitimate purpose” and was “proportionate” to that purpose. They note that they did not have the right to file an appeal to the Supreme Court of Uzbekistan and that the CAR was substantially amended on 29 January 2018 by law N LRU-463. Those amendments introduced Chapter XXIV of the CAR, which includes articles 324(1) to 324(35), and which now permits filing an appeal to the Supreme Court of Uzbekistan.

7.5 The authors note that under the newly amended CAR article 324.9, the Judicial Chamber on Administrative Cases of the Supreme Court decided five cases involving Jehovah’s Witnesses in the 2018 calendar year. All five cases concerned convictions of Jehovah’s Witnesses under CAR article 184 (2) (unlawful possession and distribution of religious literature), article 240 (1) (unlawful religious meetings), and article 240 (2) (unlawful preaching). In each case, the Supreme Court quashed the conviction and ruled that Jehovah’s Witnesses in Uzbekistan did not require registration in a particular city or village in order to carry out their peaceful religious activity nor do they require State authorization to possess religious literature. The authors argue that those decisions are further evidence confirming that the violations of their rights in the present cases were contrary to the domestic legislation and thus were not “prescribed by law”.

**State party’s further observations**

 Communication No. 3092/2018, Kitaeva v. Uzbekistan

8.1 On 3 August 2019, the State party submitted its further observations on the admissibility and merits of the communication 3092/2018. Regarding the author’s claims of a violation of article 17 of the Covenant, the State party reiterates that when searching the author’s home, the police acted in accordance with the current domestic legislation and the Covenant. It rejects the author’s claim that her home was searched simply because of her affiliation with Jehovah’s Witnesses. According to the State party, the search was prompted by an anonymous phone call on the police hotline and was conducted only after obtaining an authorization from a prosecutor in accordance with the legislation. Thus, the State party argues that the author’s claim of a violation of her rights under article 17 of the Covenant is unsubstantiated and asks the Committee to find it inadmissible.

8.2 With regard to the author’s claim under article 18 of the Covenant, the State party submits that carrying out religious activities without registration, as well as teaching religious doctrines privately or without special religious education and without permission of the central governing body of a religious organization is prohibited by articles 240 and 241 of the CAR. The State party refers to para. 8 of the Committee’s General comment No. 22 and states that article 18 (3) of the Covenant permits restrictions on the freedom to manifest religion or belief only if limitations are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. The State party argues that the limitations prescribed by the domestic law are in compliance with the Covenant because they are of non-discriminatory character and are equally applied to all religions for the purposes of protecting public order and safety in Uzbekistan. The State party further argues that the author hasn’t provided any evidence that the domestic authorities violated his rights under article 18 of the Covenant or that the limitations imposed on Jehovah’s Witnesses are discriminatory.

 Communication No. 3089/2017, Nasirova v. Uzbekistan

8.3 On 30 December 2019, the State party submitted its further observations on the admissibility and merits of the communication 3089/2018. It rejects the author’s statement that Jehovah’s Witnesses were allowed to register their organization in Uzbekistan only in a small town called Chirchik, and notes that in 1999, Jehovah’s Witnesses registered their organization in the city of Ferghana, however, in 2006, the registration was terminated based on the decision by the regional justice department. The State party notes that since 2010, Jehovah’s Witnesses have not submitted a single application for registration of their organization in any region of Uzbekistan. It further rejects the author’s argument that any religious activity by Jehovah’s Witnesses outside of their place of registration in Chirchik is considered unlawful and reiterates that article 31 of the Constitution guarantees everyone’s right to profess or not to profess any religion, while limitations prescribed by the domestic legislation are in compliance with the Covenant.

8.4 The State party submits that in the present case, the police visited and searched the author’s home after receiving information about a possible threat to public safety. It rejects the author’s assertion that her home was raided and searched just because of her affiliation with Jehovah’s Witnesses. The State party notes that in accordance with the Law on operative and investigative activities and the Law on bodies of internal affairs, the police must react and verify any information it receives concerning threats to public safety, which is similar to police practices around the world. Therefore, the State party considers that the author has failed to substantiate her claim of a violation of her rights under article 17 of the Covenant for the purposes of admissibility.

8.5 Regarding the author’s claim under article 18 of the Covenant, the State party reiterates its observations submitted for communication 3092/2018. It notes that in the case of *The* *Sunday Times v. UK*, the European Court of Human Rights held that there are two requirements that flow from the expression "prescribed by law". Firstly, the law must be adequately accessible. Secondly, a norm cannot be regarded as a "law" unless it is formulated with sufficient precision to enable the citizen to regulate his conduct: he must be able - if need be with appropriate advice - to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail.[[5]](#footnote-6) The State party notes that the limitations applicable to the author’s case were prescribed by the domestic law and are accessible on various websites in Uzbek and Russian languages. It argues that the limitations on the right of the author, including those prescribed by article 184 (2) of the CAR, pursue the legitimate aim of protecting public order and safety. The State party submits that it is a secular state where the majority of the population are Sunni Muslims, however, there are also representatives of many other religions, such as Christianity, Judaism, Buddhism, etc. After the collapse of the Soviet Union, the country experienced a sudden surge of Islamic fundamentalism, which brought it to the brink of a civil war. The State party submits that these factors, coupled with the unrest in the neighboring countries of Afghanistan and Tajikistan, forced it to introduce the limitations that would counter the extremism and fundamentalism and help to maintain public order and safety.

8.6 The State party further submits that with the growing number of religious missionaries after the collapse of the Soviet Union, representing various neo-Christian religious organizations similar to Jehovah’s Witnesses, there has been an increase in family break-ups due to one family member converting to a different religion. There has been a spike in public discontent and cases of lynching and suicide related to religious conversion. The State party submits that family is one of the most important institutions in society, and its existence is vital to the existence of the state and a healthy civil society. Taking into account the tense situation in society due to conversions, and in order to protect public order and safety, the State party submits that it decided to introduce the above-mentioned limitations to religious activities. It argues that such limitations are necessary in a democratic society such as Uzbekistan when one takes into account the local mentality, traditions and religion, as well as the political and geographical specifics of the Central Asian states, including Uzbekistan.

 Communication No. 3093/2018, Juraev et al. v. Uzbekistan

8.7 On 18 February 2020, the State party submitted its further observations on the admissibility and merits of the communication 3093/2018. It reiterates its observations dated 3 August 2019, submitted on the merits of communication 3092/2018. It notes that the statistics from domestic courts show that the police act in compliance with all procedural requirements of the law in cases initiated under article 184(2) of the CAR. In the present case, the authors did not deny that they were members of Jehovah’s Witnesses and that they possessed literature that was prohibited for circulation on the territory of the State party. Therefore, the State party considers that the authors’ claims are unsubstantiated.

 Issues and proceedings before the Committee

 Consideration of admissibility

9.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 97 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

9.2 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.

9.3 The Committee notes that in the present case, the authors have exhausted all available domestic remedies, and that the State party has not contested the admissibility of the communications due to non-exhaustion. Therefore, the Committee considers that it is not precluded by article 5 (2) (b) of the Optional Protocol from examining the present communication.

9.4 The Committee considers that the authors have sufficiently substantiated their claims under articles 17, 18, 19, 21 and 22 of the Covenant, for the purposes of admissibility, and proceeds with their consideration of the merits.

 Considerations of the merits

10.1 The Committee has considered the communications in the light of all the information made available to it by the parties, as provided under article 5 (1) of the Optional Protocol.

10.2 The Committee notes the authors’ claims that the State party has violated their right to privacy and the security of their homes under article 17 (1) of the Covenant when the police entered their homes without presenting valid search warrants or identification, searched their homes and confiscated religious literature. It notes the authors’ submissions that the police used different tactics to gain access to their homes, namely by stating that they had received an anonymous telephone call reporting that religious meetings of Jehovah’s Witnesses were being conducted at the author’s home,[[6]](#footnote-7) or claiming that it was necessary to conduct a “passport check”,[[7]](#footnote-8) or detaining the author on the street and making him open the door of his apartment.[[8]](#footnote-9) In all cases, once they gained entry to the authors’ homes, the police proceeded to search them and seized computers[[9]](#footnote-10) and religious publications. The Committee also notes the State party’s argument that the police entries into the authors’ homes were lawful because they were conducted in accordance with the Law on bodies of internal affairs (police) and the Law on operative and investigative activities. It further notes the State party’s argument that the search in the case of *Kitaeva* (communication No. 3092/2018) was authorized by a prosecutor, while in the case of *Nasirova* (communication No. 3089/2017), the search was carried out after the police received information about a possible threat to public safety.

10.3 Regarding the State party’s argument that the police entries into the authors’ homes were lawful and were conducted in accordance with domestic legislation, the Committee recalls that under article 17 of the Covenant, it is necessary for any interference with the home to be both lawful and not arbitrary.[[10]](#footnote-11) The Committee recalls that in accordance with paragraph 1 of its general comment No. 16 (1988), the concept of arbitrariness in article 17 is intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances. The Committee notes that even though the State party submits that in the case of *Kitaeva* (communication No. 3092/2018), the police were authorized by a prosecutor to search the author’s home, it has not submitted a copy of such authorization, nor was it shown to the author at the time of the search, or referred to in the domestic court decisions. Similarly, the Committee notes that in the case of *Nasirova* (communication No. 3089/2017)*,* the State party has not provided any further details on the information about a threat to public safety that prompted the police to enter and search the author’s home. Consequently, the Committee considers that the State party, while referring to the unlawfulness of the possession of religious literature and holding of religious meetings, has not set forth any arguments to demonstrate that the police conduct was not arbitrary.

10.4 As to the actions of the police, the Committee observes that the State party has not explained why the police considered the circumstances so urgent as to justify entering the authors’ homes. The Committee, therefore, considers that the police’s search of the authors’ homes was disproportionate to the threat of harm allegedly associated with the possession of religious literature and that other less intrusive measures could have been implemented instead to achieve the aim of compliance with the law regarding the registration of religious associations. Consequently, the Committee concludes that the State party has violated the authors’ rights under article 17 (1) insofar as the police arbitrarily interfered with their homes and their privacy.

10.5 In relation to the authors’ claims under article 18 of the Covenant, the Committee, recalling its general comment No. 22 (1993), must address the issue of whether the said limitations on the authors’ freedom to manifest their religious beliefs were prescribed by law and 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.[[11]](#footnote-12) Moreover, article 18 (3) is to be interpreted strictly and limitations on the freedom to manifest one’s religion or beliefs may be applied only for those purposes for which they were prescribed, and must be directly related and proportionate to the specific needs on which they are predicated.

10.6 The Committee notes the State party arguments that 1) the authors’ Jehovah’s Witnesses are not registered in the cities of Tashkent and Bukhara or Navoi region, so they do not have the right to possess and distribute religious literature published by Jehovah’s Witnesses, and 2) the limitations applicable to the author’s case were prescribed by the domestic law. With regard to the latter argument, the Committee, however, also notes the authors’ submission that in 2018, the Supreme Court quashed the administrative conviction of 5 Jehovah’s Witnesses in cases similar to the authors’ and held that they did not require registration in a particular city or village in order to carry out their peaceful religious activity nor did they require State authorization to possess religious literature. This argument has not been addressed by the State party in its observations. Even if the question of the limitations being prescribed by the domestic law remains open, the Committee considers that the punishment in the form of substantial fines of between 20 and 100 times the minimum wage, which was imposed on the authors, amounts to a disproportionate limitation of their right to manifest their religion under article 18 (1) of the Covenant. The Committee notes the State party’s argument that the limitations on the author’s rights protected under article 18 (1) of the Covenant pursued the legitimate aim of protecting public order and safety because of a sudden surge of Islamic fundamentalism, unrest in the neighbouring countries, and the State party’s aim to protect the institution of family. However, the Committee considers that the justifications provided by the State party are of an abstract nature, have no direct relation to the authors’ cases, and do not demonstrate how the requirement to be legally registered in a particular city or region, prior to owning or possessing a religious book or leaflet, were proportionate measures necessary to serve a legitimate purpose within the meaning of article 18 (3) of the Covenant. The Committee, therefore, concludes that such limitation does not meet the requirements of article 18 (3) and that the authors’ rights under article 18 (1) of the Covenant have been violated.

10.7 In the light of its finding that there has been a violation of articles 17 and 18 of the Covenant, the Committee does not deem it necessary to examine whether the same facts constitute a violation of articles 19, 21 and 22 of the Covenant.

11. 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 the authors’ rights under articles 17 and 18 of the Covenant.

12. 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 to provide the authors with adequate compensation, including reimbursement of any legal costs they have incurred and of the fines paid. The State party is also under an obligation to take all steps necessary to prevent similar violations from occurring in the future.

13. 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 and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable 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.

1. \* Adopted by the Committee at its 139th session (9 October-3 November 2023). [↑](#footnote-ref-2)
2. \*\* The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Farid Ahmadov, Wafaa Ashraf Moharram Bassim, Rodrigo A. Carazo, Yvonne Donders, Mahjoub El Haiba, Laurence R. Helfer, Teraya Koji, Carlos Gómez Martínez, Bacre Waly Ndiaye, Marcia V.J. Kran, Hernán Quezada Cabrera, José Manuel Santos Pais, Soh Changrok, Tijana Šurlan, Kobauyah Tchamdja Kpatcha, Hélène Tigroudja and Imeru Tamerat Yigezu. [↑](#footnote-ref-3)
3. **Article 315.** Procedure for appealing a ruling in an administrative violation case. A ruling in an administrative violation case may be appealed to the superior agency (official) or to the district (city) judge for administrative cases, and a ruling by a judge for administrative cases may be appealed to the chairman of the district (city) court or to a superior court. [↑](#footnote-ref-4)
4. See, for example, *Leven v. Kazakhstan* (CCPR/C/112/D/2131/2012), para. 9.4. [↑](#footnote-ref-5)
5. Case of the Sunday Times v. the United Kingdom, Application No. 6538/75, para. 49. [↑](#footnote-ref-6)
6. Communication 3089/2017 [↑](#footnote-ref-7)
7. Communication 3092/2018 [↑](#footnote-ref-8)
8. Communication 3093/2018 [↑](#footnote-ref-9)
9. Communication 3093/2018 [↑](#footnote-ref-10)
10. See, *inter alia*, *Rojas Garcia v. Colombia* (CCPR/C/71/D/687/1996), para. 10.3. [↑](#footnote-ref-11)
11. General Comment No. 22, para. 8. [↑](#footnote-ref-12)