



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. 2925/2017*, **, ***

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| <i>Communication submitted by:</i> | Vladimir Yurlov, Naran Beklyayev and Ilya Nesterov (represented by counsel, Shane H. Brady and Anton Omelchenko) |
| <i>Alleged victims:</i> | The authors |
| <i>State party:</i> | Russian Federation |
| <i>Date of communication:</i> | 30 December 2016 (initial submission) |
| <i>Document references:</i> | Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State party on 6 January 2017 (not issued in document form) |
| <i>Date of adoption of Views:</i> | 24 October 2023 |
| <i>Subject matter:</i> | Dissolution of a local religious organization of Jehovah's Witnesses for distribution of publications banned as extremist |
| <i>Procedural issues:</i> | Exhaustion of domestic remedies; substantiation of claims; admissibility <i>ratione personae</i> |
| <i>Substantive issues:</i> | Cruel, inhuman and degrading treatment; freedom of thought, conscience and religion; freedom of association; discrimination on the ground of religion; minority rights |
| <i>Articles of the Covenant:</i> | 7, 18 (1) and (3), 22 (1) and (2), 26 and 27 |
| <i>Articles of the Optional Protocol:</i> | 1, 2 and 5 (2) (b) |

1.1 The authors of the communication are Vladimir Yurlov, Naran Beklyayev and Ilya Nesterov, nationals of the Russian Federation born in 1965, 1988 and 1992, respectively. They claim that the State party has violated their rights under articles 7, 18 (1) and (3), 22 (1)

* Adopted by the Committee at its 139th session (9 October–3 November 2023).

** 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, Carlos Gómez Martínez, Laurence R. Helfer, Bacre Waly Ndiaye, Hernán Quezada Cabrera, José Manuel Santos Pais, Soh Changrok, Tijana Šurlan, Kobauyah Tchamdja Kpatcha, Teraya Koji and Imeru Tamerat Yigezu.

*** A joint opinion by Committee members Yvonne Donders and Laurence R. Helfer (partially dissenting) and an individual opinion by Committee member Carlos Gómez Martínez (partially dissenting) are annexed to the present Views.



and (2), 26 and 27 of the Covenant. The Optional Protocol entered into force for the State party on 1 January 1992. The authors are represented by counsel.

1.2 On 28 March 2017, the State party requested the Committee to consider the admissibility of the communication separately from the merits. Having considered both parties' submissions in that regard, on 10 July 2017, pursuant to rule 93 of its rules of procedure, the Committee, acting through its Special Rapporteurs on new communications and interim measures, decided to consider the admissibility of the communication together with its merits.

Facts as submitted by the authors

2.1 The authors are Jehovah's Witnesses. They were members of the board of directors of the local religious organization of Jehovah's Witnesses of the city of Elista. The organization was registered in 1999.

2.2 On 25 June 2015, police officers from the Centre for Combating Extremism of the Ministry of Internal Affairs of Kalmykia searched the Jehovah's Witnesses Kingdom Hall (the place of worship) in Elista, acting upon information received from M. and S. about books given to them by Jehovah's Witnesses from the Elista local religious organization. The officers found a plastic bag in the shrubs surrounding the property, which the authors claim was planted by the police or had been planted there earlier, on the orders of the police. Inside the bag were two copies of a book entitled *What Does the Bible Really Teach?* and a children's book entitled *My Book of Bible Stories*, both of which had been banned as extremist literature by Rostov Provincial Court on 11 September 2009.

2.3 On 6 July 2015, the Prosecutor's Office of Kalmykia issued a warning to the Elista local religious organization for conducting extremist activity. On 11 September 2015, Elista City Court found the organization guilty pursuant to the Code of Administrative Offences (art. 20.29 concerning the production and mass distribution of extremist material) and imposed a fine of 100,000 roubles (some €1,304). The organization, acting through Mr. Yurlov, its chairman, appealed to the Supreme Court of Kalmykia. The appeal was rejected on 9 November 2015.

2.4 On 6 December 2015, the Centre for Countering Extremism of the Ministry of Internal Affairs and the Directorate of the Federal Security Bureau of Kalmykia conducted a second search of the Kingdom Hall in Elista. On that occasion, in the attic the police found eight copies of four Jehovah's Witnesses publications that the Russian courts had declared extremist literature. On 9 December 2015, the Prosecutor of Kalmykia filed a case to have the Elista local religious organization declared an extremist organization.

2.5 On 8 December 2015, the Elista local religious organization filed an appeal with the Office of the Prosecutor General of the Russian Federation against the warning that the Prosecutor's Office of Kalmykia had issued on 6 July 2015. That appeal was rejected on 14 January 2016. On 25 February 2016, the Supreme Court of Kalmykia declared the Elista organization an extremist organization, ordered its dissolution and the confiscation of its property. The court found that the Elista organization had repeatedly engaged in mass distribution of literature that its members knew to have been declared extremist and banned in the Russian Federation. That was evidence of the organization's intentional extremist activity and of its attempts to conceal it, given that it had continued after Elista City Court imposed the fine on 11 September 2015. The court also found that the dissolution of the organization, which had only 10 members, was proportionate to the public aims of protecting the rights and freedoms of others, public order and security, property, the lawful economic interests of natural persons and legal entities, society and the State. The court concluded that the individual rights of the members of the organization would not be violated, since they could continue individually to practise their religion without engaging in the distribution of extremist literature or any other public activity that violated the rights of others. The organization appealed to the Supreme Court of the Russian Federation arguing, among other things, that it had never stored or distributed the banned publications and that the evidence had been planted by the police; that the list of banned publications had been distributed among organization members to prevent the use thereof; that there had been no mass distribution, as only a few copies of the banned publications were at issue; and that its rights

to freedom of religion and freedom of expression had been subjected to limitations. The appeal was rejected on 7 July 2016. The Supreme Court re-examined the evidence in the case and rejected the authors' arguments that the books had been planted by the police. It considered that there had indeed been mass distribution, since many people had access to the meetings of the Organization at which they could read and access the literature; and that the sanction imposed by the lower court was just and lawful. The organization's request to the Presidium of the Supreme Court for supervisory review was rejected by a judge of the Supreme Court on 27 December 2016.

Complaint

3.1 The authors maintain that, in the wake of the dissolution of the Elista local religious organization, they are exposed to the threat of administrative punishment and criminal prosecution if they decide to hold a religious service.¹ They claim that the decision to declare their organization extremist is in itself degrading treatment. The authors have been subjected to obvious public humiliation, shame, indignity and anguish by the judicial decisions, which have equated their religious beliefs with criminal activity and criminal organizations. On that basis, they claim that the State party has violated their rights under article 7 of the Covenant.

3.2 The authors maintain that their rights under articles 18 (1) and (3) and 22 (1) and (2) were violated by the dissolution of their religious organization, which, they claim, was not grounded in law. They refer to the Committee's concluding observations on the seventh periodic report of the Russian Federation and maintain that the definition of what constitutes "extremism" in article 1 of the Federal Act No. 114-FZ of 25 July 2002 on Combating Extremist Activity is so nebulous that it can be misapplied to all religious activities and all religious speech, no matter how peaceful.² The authors dispute the claim that any of the religious publications of Jehovah's Witnesses are extremist. Those publications are distributed by Jehovah's Witnesses worldwide and do not contain calls to violence or incitement to violence or religious hatred. The dissolution of the Elista organization did not pursue a legitimate aim. Jehovah's Witnesses in Elista did not distribute any copies of those publications, since they had been taken out of public circulation following the 2009 decision by Rostov Provincial Court. Instead, the State party pursued the illegitimate aim of trying to suppress the peaceful religious activity of Jehovah's Witnesses in Elista. The authors maintain that the State party has not advanced any argument as to why it is necessary for the purposes of article 18 (3) of the Covenant to dissolve the organization as an "extremist organization". They claim that the decision of the Supreme Court was not justified by relevant and sufficient reasons and that it was grossly disproportionate.

3.3 The authors claim a violation of their rights under article 26 since they are treated differently from followers of the Russian Orthodox Church, without "reasonable and objective grounds" for that difference in treatment. The Russian Orthodox Church is not subjected to the indignity and humiliation of having one of its religious organizations declared "extremist" (an expression equated with criminal activity) simply because their religious publications contain commentary on religious subjects which some people might consider to be negative or critical. Furthermore, the authors were treated as if they were members of a criminal organization, although their actions and publications are entirely peaceful.

3.4 The authors also claim a violation of their rights under article 27 of the Covenant because Jehovah's Witnesses are a religious minority in the Russian Federation. The decisions by the domestic courts declaring some of their religious publications to be extremist interfere with the rights of the members of this minority to profess and practise their own religion. Moreover, they are now exposed to a serious risk of criminal and administrative punishment for using those publications in worship as individuals and in community with their fellow believers.

¹ The authors refer to the conviction of 16 Jehovah's Witnesses in Taganrog for holding religious services after the Taganrog local religious organization was declared an extremist organization by Rostov Provincial Court on 11 September 2009.

² [CCPR/C/RUS/CO/7](#), para. 20.

3.5 The authors allege that the dissolution of their organization has deprived them of an entire range of rights that is reserved for registered religious organizations. Those rights, under the Federal Act on Freedom of Conscience and Religious Associations, include the rights to own or rent property, to maintain bank accounts, to ensure judicial protection of the community, to establish places of worship, to hold religious services in places accessible to the public and to produce, obtain and distribute religious literature.³

3.6 The authors request the Committee to find violations of their rights under articles 7, 18 (1) and (3), 22 (1) and (2), 26 and 27. They also request the Committee to direct the State party to provide them with an effective remedy. That can be achieved only by directing the State party: (a) to reopen the domestic proceedings and reverse the 25 February 2016 decision of the Supreme Court of Kalmykia declaring the Elista local religious organization an extremist organization, ordering its dissolution and the confiscation of its property; (b) to return the seized property or provide the authors with monetary compensation equal to the full value of the property; and (c) to provide the authors with suitable monetary compensation for the legal expenses and fees incurred in the domestic courts and proceedings before the Committee.

State party's observations on admissibility

4.1 In a note verbale dated 28 March 2017, the State party submitted its observations and requested the Committee to find the communication inadmissible.

4.2 The State party claims that the authors do not have the required victim status to submit a complaint to the Committee under article 1 of the Optional Protocol. It was the legal entity – the Elista local religious organization – that participated in the domestic court proceedings and was dissolved by the decision of the Supreme Court of Kalmykia, a decision which was upheld by the Supreme Court of the Russian Federation on 7 July 2016. The authors have not brought claims concerning violation of their rights before the domestic courts.

4.3 The State party also claims that the authors have not exhausted all effective domestic remedies, thus failing to comply with the requirements of articles 2 and 5 (2) (b) of the Optional Protocol. The authors had the possibility to submit a request to the Chief Justice or the Deputy Chief Justice of the Supreme Court, under article 323 (4) of the Code of Administrative Judicial Procedure.⁴ To prove the effectiveness of that remedy, the State party indicates that in 2015, the Deputy Chief Justices of the Supreme Court examined 145 requests in civil and administrative cases to review the refusal of Supreme Court judges to transmit a cassation appeal for consideration at court hearing. In 79 instances, the rulings of the Supreme Court judges were overturned and the cassation appeals were transmitted to the Supreme Court for consideration. In 2016, 114 cases were reviewed, 58 of which have been referred for consideration by the Supreme Court.

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

5.1 On 2 June 2017, the authors submitted their comments on the State party's observations.

5.2 Regarding the State party's claim that the authors lack victim status, the authors submit that the Elista local religious organization carried out its activities through its board of directors (the three authors) and that Mr. Yurlov, its chairman, signed all the appeals and participated in domestic proceedings. They refer to the Committee's jurisprudence indicating that any person claiming to be a victim of a violation of a right protected by the Covenant must demonstrate either that a State party has by an act or omission already impaired the exercise of his or her right, basing his or her argument for example on legislation in force or

³ Federal Act No. 125-FZ of 26 September 1997.

⁴ Article 323 (4) of the Code of Administrative Judicial Procedure provides that the Chief Justice or a Deputy Chief Justice of the Supreme Court of the Russian Federation may disagree with the decree of a Supreme Court judge on refusal to refer a cassation appeal or prosecutor's cassation appeal for consideration in a session of the court of cassation and may issue a decree to reverse the decree and refer the cassation appeal, prosecutor's cassation appeal or administrative case for consideration in a session of the court of cassation.

on a judicial or administrative decision or practice.⁵ The dissolution of the organization has impaired the authors' rights. It limited their right to jointly profess and disseminate their faith (actual impairment) and now exposes them to criminal liability for continuing their peaceful religious activity (imminent impairment).⁶

5.3 Regarding the failure to exhaust domestic remedies, the authors submit that the remedy under article 323 (4) of the Code of Administrative Judicial Procedure was not available to them. Article 323 (4) is available in cases where the Supreme Court is sitting as a third or fourth instance court. It does not apply in cases where it is the court of appeal, that is, a second instance court. In such cases, the supervisory appeal must be filed before the Presidium of the Supreme Court, pursuant to article 332 of the Code, which is what the authors did.

5.4 The authors refer to the Committee's jurisprudence to confirm their claim that the supervisory review is an "extraordinary remedy" that does not need to be exhausted for the purpose of admissibility.⁷ They also submit that the Supreme Court has repeatedly upheld domestic decisions on the dissolution of local religious organizations of Jehovah's Witnesses as "extremist organizations" based on a misapplication of the vague wording of the Federal Act on Combating Extremist Activity to the peaceful religious activity of Jehovah's Witnesses. They claim that there is no prospect of success for any further appeal. Nevertheless, they did file a supervisory appeal to the Presidium of the Supreme Court, which was rejected on 27 December 2016.

State party's observations on the merits

6.1 On 3 August 2017, the State party submitted its observations on the merits of the communication. It submits that the decision of the Supreme Court of Kalmykia to dissolve the Elista local religious organization was based on domestic legislation, in particular the Federal Act on Combating Extremist Activity, the provisions of which are in accordance with international standards. According to that law, manifestations of extremist activity include mass distribution of materials known to be of an extremist nature and the production and storage of such materials for mass distribution. On 25 June 2015, during a search of the Elista organization's premises, officers of the Centre for Combating Extremism discovered books that had already been added to the federal list of extremist materials by court decision. On 11 September 2015, Elista City Court imposed an administrative fine on the Elista organization. On 6 December 2015, during a search conducted by the Centre for Combating Extremism and the Directorate of the Federal Security Bureau of Kalmykia, religious literature that was on the federal list of extremist materials was discovered in an attic of the building belonging to the Elista organization. The authors' allegations that the books were planted by someone in the building belonging to the Organization were considered by the Supreme Court of Kalmykia, which found that they were not proven by any reliable evidence and that the prosecutor's request to dissolve the Elista organization must be granted.

6.2 The State party submits that the dissolution of organizations involved in extremist activities derives from State parties' obligations under international law.⁸ The Supreme Court of Kalmykia evaluated the proportionality of the interference and found that the materials stored and distributed by the organization "contain statements that abase human dignity based on one's attitude towards religion and contain elements of propaganda regarding the pre-eminence of one religion over another; that is, the information in said literature offends religious sensibilities and incites interreligious conflicts and discord, which presents a particular threat to the Russian Federation as a religiously diverse, secular State that

⁵ *A.W.P. v. Denmark* (CCPR/C/109/D/1879/2009), para. 6.4.

⁶ The authors refer to two cases that went to domestic courts. In one, a Danish national was arrested on 25 May 2017 for participating in the religious activity of Jehovah's Witnesses in Orel, after the dissolution of the Orel local religious organization. In the other case, 16 Jehovah's Witnesses were convicted for attending religious services after the dissolution of Taganrog local religious organization.

⁷ *Kostenko v. Russian Federation* (CCPR/C/115/D/2141/2012), para. 6.3.

⁸ The State party refers to article 30 of the Universal Declaration of Human Rights, article 20 (2) of the Covenant and article 17 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

guarantees the freedom to practise any religion or to practise no religion at all". The court noted that the Elista organization was repeatedly engaged in mass distribution of literature that it knew had been declared extremist and banned in the Russian Federation. The court found that this evidence proved the organization's involvement in intentional extremist activity and an attempt to conceal this activity, which was not stopped after the appropriate correctional measures were taken. This meant that the correctional measures were ineffective, and it was necessary to take extreme measures, such as dissolution of the religious organization.

6.3 The State party disagrees with the authors' claim that the definition of "extremist activity" in the legislation is vague. It refers to the jurisprudence of the European Court of Human Rights, which stated that:

As a consequence of the principle that laws must be of general application, the wording of statutes is not always precise ... many laws are inevitably couched in terms which, to a greater or lesser extent are vague, and their interpretation and application depend on practice. Consequently, in any system of law, however clearly drafted a legal provision may be, including a criminal law provision, there is an inevitable element of judicial interpretation.⁹

6.4 In addition, the Supreme Court of Kalmykia found that the Elista local religious organization was composed of 10 members who held general religious events only three times a year. The rest of the time, regular religious services and other religious and educational events were held by the religious group of Jehovah's Witnesses of the city of Elista, which carried out its activity independently. In the opinion of the trial court, the decision to dissolve the organization did not violate the right of each of the members of the organization to engage independently in religious worship that is not connected with the distribution of extremist literature or other actions that violate the rights and freedoms of others.

6.5 Article 282 of the Criminal Code imposes criminal liability not for professing one's faith, but for organizing the activity of a public or religious association or other organization that has been dissolved by an enforceable court decision for engaging in extremist activity. In the present case, there is nothing to prevent former members of the Elista local religious organization from creating a new organization whose activity would conform to the relevant legislation. Furthermore, according to article 7 of the Federal Act on Freedom of Conscience and Religious Associations, citizens can exercise their right to freedom of religion within the framework of a religious group, which is a voluntary association of citizens created for the purpose of joint practice and dissemination of faith that carries out its activities without State registration and without becoming a legal entity. The Act specifies that religious groups shall have the right to conduct religious services and other religious rites and ceremonies, and to provide religious education and instruction for their followers.

6.6 The State party refers to article 20 (2) of the Covenant, according to which any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. Both the dissolution of the Elista local religious organization for mass distribution of extremist literature and storage of extremist literature for such distribution, which was established by the trial court and the appeal court, and the possible prosecution of the authors under article 282 of the Criminal Code for organizing the activity of an extremist organization, are carried out by the Russian Federation in accordance with its international legal obligations set out in the Covenant. Therefore, the possible criminal prosecution of the authors under article 282 of the Criminal Code must not be seen as disproportionate interference with their rights.

6.7 Regarding the alleged violation of article 22 of the Covenant, the State party submits that the dissolution of the religious organization was prescribed by law. It refers to the text of the Civil Code, the Federal Act on Freedom of Conscience and Religious Associations and the Federal Act on Combating Extremist Activity. The dissolution pursued the legitimate aim

⁹ European Court of Human Rights, *Kasymakhunov and Saybatalov v. Russia*, Applications Nos. 26261/06 and 26377/06, Judgment, 14 March 2013, para. 78.

of protecting the rights and freedoms of others and the fundamentals of the constitutional system and ensuring the integrity and security of the Russian Federation, which was referred to by the Supreme Court of Kalmykia in its decision. It was necessary in a democratic society since it was proportionate to the legitimate aim pursued. In addition, under article 6 of the Federal Act on Freedom of Conscience and Religious Associations, religious associations can be created in the form of religious groups, which do not require registration, or religious organizations. Thus, in exercising their rights to freedom of association and freedom of religion or belief, citizens can use both religious organizations and religious groups.

6.8 As to the authors' allegation that their rights under article 7 of the Covenant would be violated by possible criminal or administrative prosecution, the State party submits that prosecution in criminal or administrative proceedings should not be viewed as treatment prohibited under article 7 of the Covenant. Otherwise, any threat of prosecution and actual prosecution and punishment would be impossible because, according to the authors' position, they would be incompatible with the provisions of article 7 of the Covenant.

6.9 As for the authors' claim under article 26 of the Covenant that they were treated differently from followers of the Russian Orthodox Church, the State party submits that the authors have not shown that they were treated differently from other public organizations, including the Russian Orthodox Church. Indeed, the court would have reserved the same treatment for any organization that had been shown to have engaged in repeated incidents of storage and mass distribution of materials known to be extremist or of encouraging the reading of literature known to be extremist.

6.10 Addressing the authors' arguments under article 27 of the Covenant, the State party refers to paragraph 8 of the Committee's general comment No. 23 (1994), in which it stated that none of the rights protected under article 27 may be legitimately exercised in a manner or to an extent inconsistent with the other provisions of the Covenant. The State party also refers to article 5 (1) of the Covenant, according to which nothing in the Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized in the Covenant. On this basis, the State party concludes that the Elista local religious organization's conduct of extremist activity should not enjoy protection under either domestic or international law.

6.11 Lastly, concerning the question of the admissibility of the communication, the State party submits that under article 337 (4) of the Code of Administrative Judicial Procedure, the Chief Justice and the Deputy Chief Justice of the Supreme Court can disagree with a ruling of a Supreme Court judge and submit a supervisory appeal for consideration by the Presidium of the Supreme Court. As at 17 July 2017, the authors had not submitted a request for supervisory review under article 337 (4) of that Code. They have thus failed to exhaust all available domestic remedies. In 2016, the Supreme Court considered 683 supervisory appeals in administrative cases against decisions of general jurisdiction courts, 122 appeals in administrative and civil cases considered by military courts and 19 administrative appeals against decisions of the Disciplinary Chamber of the Supreme Court.

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

7.1 On 10 November 2017, the authors submitted comments on the State party's observations on the merits. Responding to the State party's assertion that the dissolution of their organization was justified because it had been convicted of multiple incidents of storage and distribution of extremist materials, the authors insist that the publications referred to by the State party had been planted. They claim that the evidence used to convict the Elista local religious organization for extremist activity was entirely contrived. The publications on the basis of which the organization was dissolved were entirely peaceful. They had been banned pursuant to a decision of Rostov Provincial Court on 9 September 2011 because, as noted by the European Court of Human Rights in its judgment in *Taganrog LRO and others v. Russia*, the trial judge was of the view that the publications were critical of other religions and

beliefs.¹⁰ Nothing in those publications, or in the actions of the Elista organization, incited violence or religious hatred.

7.2 Concerning the State party's argument that the dissolution of the Elista local religious organization had only a limited effect, the authors submit that, in its decision of 20 April 2017 to ban and dissolve the national Administrative Centre of Jehovah's Witnesses in Russia and all 395 local religious organizations as extremist, the Supreme Court of the Russian Federation relied, inter alia, on the court decision concerning dissolution of the Elista organization.

7.3 As for the State party's assertion that the definition of "extremism" in domestic legislation is "foreseeable" (para. 6.3 above), the authors submit that the Committee has already expressed its concern that the "vague and open-ended definition of 'extremist activity'" in the Federal Act on Combating Extremist Activity is increasingly used to curtail freedom of religion, targeting, inter alia, Jehovah's Witnesses. It does not include the elements of "violence or hatred" as the mandatory threshold for State interference.¹¹ The authors claim that the State party does not allege that the Elista local religious organization and its members engaged in any activity that incited violence, called for violence or incited religious hatred.

7.4 The authors maintain that they are victims of discrimination under article 26 of the Covenant. They state that the national Administrative Centre of Jehovah's Witnesses and all 395 local religious organizations were banned and dissolved by the Supreme Court of the Russian Federation on 20 April 2017. Notwithstanding that decision, the State party claims that the authors and the other 175,000 Jehovah's Witnesses can continue to carry out their religious activity without interference. Despite the undisputed fact that the Russian Orthodox Church, like all other religions, advocates that only its beliefs and teachings are true, it has never been the subject of administrative or criminal prosecution for its teachings, which advocate its religious superiority and criticize other religions that do not hold the same beliefs. No legal entities of the Russian Orthodox Church have been banned as extremist either.

Issues and proceedings before the Committee

Consideration of admissibility

8.1 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.

8.2 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.

8.3 The Committee notes that, in the present case, the State party contests the admissibility of the communication on the ground that the authors do not have victim status and cannot bring a complaint before the Committee because all domestic proceedings were conducted on behalf of the religious organization. The Committee notes that the authors submit their complaint in a personal capacity and do not claim rights for their organization as a legal entity. It also notes the authors' claim that the dissolution of their religious organization affected their individual rights. In the circumstances of the present case, and in the light of the submissions made by the parties, the Committee considers that the authors have standing under article 1 of the Optional Protocol.¹²

8.4 In the light of the above, the Committee observes that only Mr. Yurlov, as chairman of the Elista local religious organization, took part in domestic proceedings on behalf of the organization. The Committee thus considers that the other two authors, Mr. Beklyayev and Mr. Nesterov, were not parties at any stage of the domestic proceedings. The Committee

¹⁰ European Court of Human Rights, *Taganrog LRO and others v. Russia*, Applications Nos. 32401/10 and 19 others, Judgment, 7 June 2022.

¹¹ [CCPR/C/RUS/CO/7](#), para. 20.

¹² *Adyrkhayev, Solikhov and the Religious Association of Jehovah's Witnesses in Dushanbe v. Tajikistan* ([CCPR/C/135/D/2483/2014](#)), para. 8.3.

therefore finds that Mr. Beklyaev and Mr. Nesterov failed to exhaust domestic remedies, as required by article 5 (2) (b) of the Optional Protocol, and it therefore finds their claims under the Covenant inadmissible. The Committee will therefore examine the present communication only in respect of Mr. Yurlov.

8.5 The Committee notes Mr. Yurlov's claim that he has exhausted all effective domestic remedies available to him. It also notes the State party's objection to the admissibility of the communication on the ground that Mr. Yurlov failed to exhaust remedies under articles 323 (4) and 337 (4) of the Code of Administrative Judicial Procedure, which, respectively, enable him to seek revision by the Chief Justice of the Supreme Court or his or her Deputy of a single-judge decision not to remit a cassation or supervisory appeal for consideration by the Presidium of the Supreme Court. In this regard, the Committee notes Mr. Yurlov's claim that article 323 (4) was not applicable to him. The applicable procedure was that of supervisory review, under article 332 of the Code, since in his case the Supreme Court acted as a second instance (appeal) court. The Committee notes that the State party did not contest Mr. Yurlov's submission in its additional observations on admissibility submitted on 3 August 2017. Instead, the State party invoked a different article, 337 (4), which sets out the procedure for contesting before the Chief Justice or the Deputy Chief Justice of the Supreme Court the single-judge refusal to remit the supervisory review request to the Presidium of the Supreme Court.

8.6 In this regard, the Committee refers to its long-standing jurisprudence that filing requests for supervisory review to the president of a court directed against court decisions that have entered into force and depend on the discretionary power of a judge constitutes an extraordinary remedy and that the State party must show that there is a reasonable prospect that such requests would provide an effective remedy in the circumstances of the case.¹³ The Committee notes that the State party provided general statistics concerning the Supreme Court's supervisory review of administrative and civil cases in 2015 and 2016. The State party does not provide information on the number of cases in which the Chief Justice or Deputy Chief Justice of the Supreme Court reversed a single-judge decision concerning dissolution of a religious organization on the grounds of extremism and sent it to the Presidium of the Supreme Court for consideration. In the light of the information before it, the Committee considers that it is not precluded by article 5 (2) (b) of the Optional Protocol from examining the present communication, brought in part by Mr. Yurlov.

8.7 The Committee notes Mr. Yurlov's claim that he has been a victim of degrading treatment because, by dissolving the Elista local religious organization, the court equated his religious beliefs with a criminal activity, causing him shame, humiliation and indignity. The Committee also notes Mr. Yurlov's claim that he will be exposed to treatment contrary to article 7 of the Covenant if he continues his religious activities after the dissolution of the Elista organization, since he will be at risk of administrative and criminal prosecution for such activities. The Committee notes, in that regard, that the aim of article 7 is to protect the physical and mental integrity of the individual.¹⁴ Although there is no clear definition of "torture" in the Covenant, the Committee's interpretation of torture and ill-treatment does not cover the elements invoked by Mr. Yurlov. In the absence of further information on file, the Committee finds Mr. Yurlov's claims under article 7 insufficiently substantiated and inadmissible under article 2 of the Optional Protocol.

8.8 The Committee notes that Mr. Yurlov has sufficiently substantiated his claims under articles 18 (1) and (3), 22 (1) and (2), 26 and 27 of the Covenant for the purposes of admissibility and proceeds with its consideration of the merits.

¹³ *Kostenko v. Russian Federation*, para. 6.3; and *Shchiryakova et al. v. Belarus* (CCPR/C/137/D/2911/2016, CCPR/C/137/D/3081/2017, CCPR/C/137/D/3137/2018, CCPR/C/137/D/3150/2018), para. 6.3. See also *Dorofeev v. Russian Federation* (CCPR/C/111/D/2041/2011), para. 9.6.

¹⁴ General comment No. 20 (1992) on the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, para. 2.

Consideration of the merits

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

9.2 The Committee notes Mr. Yurlov's claim under article 18 (1) and (3) of the Covenant that his right to manifest his religious beliefs in community with others was violated by the dissolution of the Elista local religious organization, the confiscation of its property and by it being declared an extremist organization. In its general comment No. 22 (1993), the Committee recalled 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 belief 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 (para. 8). The Committee notes the argument of the State party that the Elista organization was dissolved in accordance with the Federal Act on Combating Extremist Activity, on the grounds of its storage and mass distribution of banned extremist literature. The Committee also notes the State party's reference to the reasoning of the Supreme Court of Kalmykia that the literature in question contained elements of propaganda regarding the pre-eminence of one religion over another, which offended religious sensibilities and incited interreligious conflicts, presenting a threat to the State party as a religiously diverse, secular State. The Committee must ascertain whether the arguments of the State party are compatible with the limitations permissible under article 18 (3) of the Covenant.

9.3 Regarding the first requirement under article 18 (3) of the Covenant that the limitation must be prescribed by law, the Committee notes that the Federal Act on Combating Extremist Activity contains a vague and open-ended definition of "extremist activity" that does not require any element of violence or hatred to be present. It also notes that no clear and precise criteria on how materials may be classified as extremist are provided in the law.¹⁵ Furthermore, the Committee notes the statement of the Supreme Court of Kalmykia in its judgment of 25 February 2016 that the Elista local religious organization threatened the rights and freedoms of others, as well as the State, by distributing printed materials that abased human dignity based on the attitude towards religion, elements of propaganda regarding the pre-eminence of one religion over another, incited religious discord and presented a threat to the Russian Federation as a religiously diverse, secular State. This reasoning led the court to conclude that the Elista organization is engaged in extremist activity and to proceed to its dissolution.

9.4 The Committee notes that the Supreme Court did not clarify which statements in the publications led it to conclude that they were extremist and offensive and posed a threat to the rights of others and the State. The Committee also notes, referring to the Supreme Court's decision, that a religiously diverse and secular State should enable every religious organization to coexist peacefully and without discrimination, while freely adhering to its beliefs and doctrines, even if they are offensive to others. The Committee refers to its general comment No. 34 (2011) on the freedoms of opinion and expression, in which it clarified that prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20 (2) of the Covenant. Such prohibitions must also comply with the strict requirements of article 19 (3), as well as such articles as 2, 5, 17, 18 and 26. Thus, for instance, it would be impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents, over another, or religious believers over non-believers. Nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith (para. 48). In the present case, the State party did not provide information which would lead the Committee to believe that Mr. Yurlov's organization acted contrary to article 20 (2) of the Covenant. Without providing any concrete facts about how the publications distributed by Mr. Yurlov's organization threatened the rights of others and the secularity of the State, the Supreme Court imposed the strictest available sanction, dissolving the organization. In the light of the foregoing, the Committee cannot conclude that the law

¹⁵ CCPR/C/RUS/CO/7, para. 20.

and its interpretation by the domestic courts provided a valid legal basis for the restriction under article 18 (3) of the Covenant. The Committee also finds that the general reference to protecting the rights of others and the State, relied upon by the State party (para. 6.7 above) without explaining how these rights were affected, does not meet the requirements of article 18 (3) of the Covenant.

9.5 The Committee notes Mr. Yurlov's argument that, since the Elista local religious organization was dissolved, he has been denied by the State party an entire range of rights enjoyed by members of registered religious organizations (para. 3.5 above). It also notes the State party's argument that Mr. Yurlov could be part of a Jehovah's Witnesses religious group (para. 6.5 above). At the same time, the Committee notes that a religious group, as defined in the State party's legislation, is a voluntary association of fellow believers without the status of a legal entity. According to Mr. Yurlov, the status of a registered organization provides the entire range of rights to the religious community, such as the right to own and rent property, to maintain bank accounts, to ensure judicial protection of the community, to establish places of worship, to hold religious services in places accessible to the public and to produce, obtain and distribute religious literature. The Committee notes that the practices it listed as integral to the freedom to manifest religion or belief in paragraph 4 of its general comment No. 22 (1993) include building places of worship and preparing and distributing religious texts or publications. It seems that under the legislation of the State party, a religious group does not have any of those rights. The Committee therefore concludes that the dissolution of Mr. Yurlov's religious organization deprived him of a number of rights essential for the free manifestation of his religion.

9.6 In the light of the above considerations, the Committee finds that the State party has violated Mr. Yurlov's rights under article 18 (1) of the Covenant.

9.7 The Committee notes Mr. Yurlov's claims that his rights under article 22 (1) were violated when the Elista local religious organization was dissolved. It also notes the State party's observations that the limitation imposed on the organization and, consequently, Mr. Yurlov's rights was prescribed by law, pursued the legitimate aim of protecting the rights and freedoms of others and the fundamentals of the constitutional system of the State and was proportionate to the legitimate aim pursued (para. 6.7 above). The Committee also notes the State party's assertion that Mr. Yurlov can practise religion in association with others within a religious group, which can operate without registration or the status of a legal entity.

9.8 Pursuant to article 22 (2) of the Covenant, any restriction on the right to freedom of association must meet the following conditions: (a) it must be prescribed by law; (b) it must be imposed only for one of the purposes set out in article 22 (2); and (c) it must be "necessary in a democratic society" for achieving one of those purposes. The reference to "a democratic society" in the context of article 22 indicates, in the Committee's opinion, that the existence of operational associations, including those that peacefully promote ideas that are not necessarily favourably viewed by the Government or the majority of the population, is the cornerstone of any society.¹⁶ The Committee reiterates its findings that both the legal provisions on which the dissolution of the Elista local religious organization was based and their interpretation and application by the domestic authorities and courts did not provide a valid legal basis for the restriction and did not meet the criteria contained in article 22 (2) of the Covenant (para. 9.4 above). The Committee notes that the aims invoked by the State party as the basis for the dissolution of the Elista organization, such as protecting the rights of others and the constitutional system and ensuring the integrity and security of the State (para 6.7 above), correspond to those set out in article 22 (2) of the Covenant. However, the State party failed to specify how the storage and distribution of a few copies of banned publications endangered the rights of others and the security of the State. The State party did not invoke any concrete argument to justify the application of such an extreme measure as the dissolution of the organization.

9.9 With regard to the State party's argument that the members of the local religious organization could continue meeting as a religious group, without the status of a registered

¹⁶ Adyrkhayev, Solikhov and the Religious Association of Jehovah's Witnesses in Dushanbe v. Tajikistan, para. 9.8.

legal entity, the Committee notes that, while the State party does not tie religious practice to registration, the rights of an unregistered religious group are limited (para. 9.5 above). Moreover, whether to practise one's religion as a group or to register a religious organization should be a decision that rests with the individual. In view of its finding that the dissolution of the Elista local religious organization was not proportionate to the aims pursued (paras. 9.4 and 9.7 above), the Committee finds that the State party violated Mr. Yurlov's right to freedom of association under article 22 (1) of the Covenant.

9.10 Having concluded that, in the present case, there has been a violation of articles 18 (1) and 22 (1) of the Covenant, the Committee considers that it has addressed the claims underlying Mr. Yurlov's complaints under articles 26 and 27 and decides not to examine them separately.

10. 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 22 (1) of the Covenant.

11. Pursuant to article 2 (3) (a) of the Covenant, the State party is under an obligation to provide Mr. Yurlov 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: (a) to reopen the domestic proceedings and review the decision of the Supreme Court of Kalmykia 25 February 2016 ordering the dissolution of the Elista local religious organization and the confiscation of its property, in accordance with articles 18 and 22 of the Covenant; and (b) to provide Mr. Yurlov with adequate compensation, including reimbursement of the court fees and legal expenses he has incurred. The State party is also under an obligation to take all steps necessary to prevent similar violations from occurring in the future.

12. 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 language of the State party.

Annex I

Joint opinion of Committee members Yvonne Donders and Laurence R. Helfer (partially dissenting)

1. We agree with the Committee’s finding of violations of articles 18 (1) and 22 (1) of the Covenant. We write separately to express our disagreement with the Committee’s conclusion in paragraph 9.10 of its Views that “it has addressed the claims underlying Mr. Yurlov’s complaints under articles 26 and 27 and decides not to examine them separately”.
2. In our view, the author’s claims under article 27 were not fully addressed by the Committee’s assessment of articles 18 (1) and 22 (1). Article 27 provides that, in States in which religious minorities exist, “persons belonging to such minorities shall not be denied the right, in community with the other members of their group ... to profess and practise their own religion”. The authors claim that they belong to a religious minority in the Russian Federation (para. 3.4 of the Views). The State party does not contest that claim.¹
3. In its general comment No. 23 (1994), the Committee noted that the rights protected under article 27 are individual rights, but “they depend in turn on the ability of the minority group to maintain its ... religion. Accordingly, positive measures by States may also be necessary to protect the identity of a minority and the rights of its members to ... practise their religion, in community with the other members of the group”. Moreover, States parties should adopt measures, including positive measures (para. 6.2), “directed towards ensuring the survival and continued development of the cultural, religious and social identity of the minorities concerned” (para. 9).
4. The collective dimension of the protection of religious minorities under article 27 is directly relevant in this case – a dimension not encompassed by article 18 of the Covenant.² The facts alleged by the authors disclose that it was not merely individual Jehovah’s Witnesses who were prevented from enjoying the right to freedom of religion. On the contrary, the restrictions imposed by the State party – in particular the dissolution of the Elista local religious organization, the confiscation of its property and its being declared an extremist organization (paras. 2.5 and 9.2) – effectively prevented the Jehovah’s Witnesses as a religious community from manifesting (article 18 (1)) and practising (article 27) their faith.
5. These measures, which the Committee rightly finds were unjustified (paras. 9.5 and 9.6), do not merely constitute a violation of the individual freedom to manifest religion (art. 18 (3)), but also of the right of a religious minority under article 27 to practise religion as a collective group.³

¹ According to general comment No. 23 (1994), the existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria (para. 5.2). The European Court of Human Rights used the term “minority religion” and “religious minority” to refer to Jehovah’s Witnesses in the Russian Federation in its judgment in *Taganrog LRO and others v. Russia*, Applications Nos. 32401/10 and 19 others, Judgment, 7 June 2022, paras. 132, 154, 186, 236, 238 and 239. See also European Court of Human Rights, *Karastelev and others v. Russia*, Application No. 16435/10, Judgment, 6 October 2020, citing General Policy Recommendation No. 15 on combating hate speech of the European Commission against Racism and Intolerance, para. 44, and European Commission against Racism and Intolerance, *ECRI Report on the Russian Federation (fifth monitoring cycle)*, adopted on 4 December 2018, published on 5 March 2019, paras. 49 and 101.

² While article 18 (1) includes the freedom to manifest religion “either individually or in community with others”, article 27 focuses on the collective dimension of the right to practise religion, which is to be enjoyed “in community with the other members of their group”.

³ The European Court of Human Rights, in *Taganrog LRO and others v. Russia*, addressed the impact of measures imposed by the State party on the collective practice of religion in the following terms: “Jehovah’s Witnesses in Russia ... were put before a stark and impossible choice: to reduce their religious activities to praying in isolation, without the company and support of fellow believers and

6. In a similar vein, the dissolution of the specific religious organization in this case does not merely violate the right to freedom of association (art. 22), as the Committee rightly concludes (paras. 9.7–9.9), but also the rights protected under article 27, since the dissolution undermines the survival, continued development and identity of the Jehovah’s Witnesses as a religious minority, in contravention of general comment No. 23 (1994).⁴

7. Article 27 does not contain a limitations clause and it is debatable whether the limitations set forth in article 18 (3) apply to the religious minorities protected under article 27.⁵ If we assume for the purposes of argument that these limitations do apply, any restrictions on the collective practice of a minority religion can be compatible with article 27 only if such measures are prescribed by law and necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others. The Committee correctly concludes that these criteria were not met for article 18 (3) (paras. 9.2–9.5); the same finding applies to the implicit limitations (if any) to article 27.

8. In conclusion, we regret that the Committee did not address the collective aspects of the right to profess and practise a minority religion, which is a central purpose of article 27 of the Covenant that is directly implicated by the facts of this case.

without a place for worship, or to face criminal prosecution on charges of ‘continuing the activities of an extremist organisation’”, para. 253. Nevertheless, the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) does not contain a provision on (religious) minorities.

⁴ In analysing the dissolution of Jehovah’s Witnesses organizations by the Russian Federation, the European Court of Human Rights stated that “the Court finds that the forced dissolution of all religious organisations of Jehovah’s Witnesses in Russia was not merely the result of a neutral application of legal provisions but disclosed indications of a policy of intolerance by the Russian authorities towards the religious practices of Jehovah’s Witnesses designed to cause Jehovah’s Witnesses to abandon their faith and to prevent others from joining it” (*Taganrog LRO and others v. Russia*, para. 254).

⁵ William A. Schabas, *U.N. International Covenant on Civil and Political Rights: Nowak’s CCPR Commentary*, 3rd revised ed. (Kehl, Germany, N.P. Engel Verlag, 2019), p. 833, noting this debate but concluding that under the *lex specialis* rule, the limitation clauses contained in articles 18, 19, 21 and 22 of the Covenant are applicable to the majority but not to the minorities protected under article 27.

Annex II

[Original: Spanish]

Individual opinion of Committee member Carlos Gómez Martínez (partially dissenting)

1. I disagree with the Committee's treatment of the claims concerning violations of articles 26 and 27 of the Covenant. After finding the alleged violations under both articles to be admissible for consideration on the merits, the Committee decides not to examine these claims separately, on the basis of a purely formal and tautological argument (see para. 9.10).
2. The Committee's decisions must be duly reasoned. In this case, the violation of the rights of the authors, who are members of a religious community, not to be discriminated against on the ground of religion (article 26) and to practise their own religion (article 27) is an essential question. However, the Committee takes no decision on these violations, despite having found them admissible for consideration on the merits. It states that it has no need to do so because of its prior finding of violations of the rights to freedom of religion (article 18 (1)) and freedom of association (article 22 (1)). It provides no further clarification and makes no reference to the principle that specialized law takes precedence over general law.
3. Accordingly, I believe that a minimum argument in this case, aimed at addressing the authors' complaint, could have been: "The Committee considers that the application of articles 18 and 22 of the Covenant to the relevant facts of this case also implies, in itself, a violation of the rights to non-discrimination on the ground of religion (article 26) and respect for religious minorities (article 27)". This should have led the Committee to find that there had been violations of the latter two rights as well instead of deciding not to examine these violations, as it has done.
4. If the Committee considered that the complaints under articles 26 and 27 were inadmissible for lack of sufficient substantiation – under article 2 of the Optional Protocol – or that the alleged violations had not occurred, it should have so indicated in an explicit and reasoned manner.