**30 July 2018**

**From the European Association of Jehovah’s Witnesses**

**Submission to the UN Human Rights Committee prior to the adoption of the List of Issues** (***124th Session – 8 October to 2 November 2018*)**

**3rd report on**

**TAJIKISTAN**

**(124th Session of the Human Rights Committee, 8 October to 2 November 2018)**

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Table of Contents

[SUMMARY OF THE SUBMISSION 2](#_Toc518998911)

[I. INTRODUCTION 3](#_Toc518998912)

[II. ISSUES: 4](#_Toc518998913)

[II.A. BANNING OF THE ACTIVITIES OF JEHOVAH’S WITNESSES (VIOLATIONS OF ARTICLES 18 AND 22 ICCPR) 4](#_Toc518998914)

[II.B. CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (VIOLATIONS OF ARTICLES 9 AND 18) 6](#_Toc518998915)

[Case of conscientious objector Daniil Islamov 6](#_Toc518998916)

[II. C. POLICE HARASSMENT (VIOLATIONS OF ARTICLE 18) 7](#_Toc518998917)

[II.D. NEW LAW ON RELIGION 8](#_Toc518998918)

[III. CONCLUSIONS AND RECOMMENDATIONS 8](#_Toc518998919)

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| SUMMARY OF THE SUBMISSION This submission to the Human Rights Committee highlights violations of the provisions of the International Covenant on Civil and Political Rights (“ICCPR”) prior to the adoptionof the *List of issues to be taken up in connection with the consideration of the 3rd report of Tajikistan* (CCPR/C/TJK/3).  As described below, serious issues of concern persist, namely, the continued denial to re-register the legal entity of Jehovah’s Witnesses for more than ten years, the subsequent harassment of those who peacefully practice their faith and the unsolved issue of conscientious objection to military service, which was already raised by the UN Human Rights Committee in its 2005 and 2013 reports. Jehovah’s Witnesses in Tajikistan and as a worldwide organisation respectfully request the government of Tajikistan to:   1. **immediately grant re-registration of their banned legal entity, in harmony with the August 2013 Concluding Observations of the UN Human Rights Committee** (CCPR/C/TJK/CO/2, para 20, 22, August 2013) 2. **respect the rights of conscientious** [**objectors to military service**](https://www.jw.org/en/jehovahs-witnesses/faq/why-dont-you-go-to-war/) **as clearly established by the WGAD opinion** (Opinion No. 43/2017, 5 October 2017) **and the UN Human Rights Committee** (CCPR/C/TJK/CO/2, para 21, 22, August 2013) 3. **stop undue harassment of their community and abide by its commitment to uphold the fundamental freedoms guaranteed by the Constitution of Tajikistan and the ICCPR for all citizens, including Jehovah’s Witnesses.** |

# I. INTRODUCTION

* 1. The European Association of Jehovah’s Christian Witnesses is a charity registered in the United Kingdom. It assists the adherents of the faith of Jehovah’s Witnesses in various areas of the world.
  2. Jehovah’s Witnesses have been in Tajikistan for more than 40 years. They were legally registered in 1994 and re-registered on 15 January 1997. However, on 11 October 2007, the Ministry of Culture banned the activities of Jehovah’s Witnesses in Tajikistan. Numerous efforts to resolve this situation through dialogue with Tajik authorities remain unsuccessful.
  3. This submission provides information prior to the adoption of the List of Issues to be taken up in connection with the consideration of the 124th periodic report of Tajikistan (CCPR/C/TJK/3). It predominantly focuses on the rights protected under Articles 9; 18, paragraphs 1 and 3, and Article 22, paragraphs 1 and 2.
  4. These violations relate partly to the 11 October 2007 decision of the Ministry of Culture to ban the religious community of Jehovah’s Witnesses in Tajikistan and the serious adverse effect that decision has had on individual citizens of Tajikistan who are Jehovah’s Witnesses. All domestic appeals challenging that decision were rejected. Since all domestic remedies have been exhausted, on 7 September 2012 a complaint was filed with the Committee.
  5. This submission also addresses the issue of conscientious objection to military service, which was already raised at paragraph 23 of the List of Issues to be taken up in connection with the consideration of the second periodic report of Tajikistan (CCPR/C/TJK/Q/2) and which was one of the “reasons” given by the Ministry of Culture for banning Jehovah’s Witnesses on 11 October 2007.
  6. Paragraph 23 of the 2013 List of Issues states:

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

# II. ISSUES:

## II.A. BANNING OF THE ACTIVITIES OF JEHOVAH’S WITNESSES (VIOLATIONS OF ARTICLES 18 AND 22 ICCPR)

1. In 1994 “The Religious Association of Jehovah’s Witnesses in Dushanbe” (the “Religious Organisation”) was granted registration under the Republic of Tajikistan “Law on Religion and Religious Organisations,” of 1 December 1994 (the “1994 Religion Law”) by the former Religious Affairs Committee of the Government of the Republic of Tajikistan.
2. On 15 January 1997, the Religious Organisation was re-registered with national status under amendments to the 1994 Religion Law.

**Nationwide ban on Jehovah’s Witnesses**

1. In April and May 2007, directed by the State Committee on National Security (SCNS) and Tajikistan’s Ministry of Culture, Tajikistan customs authorities seized two shipments of Bibles and religious literature imported by Jehovah’s Witnesses.
2. On 11 October 2007, the Ministry of Culture terminated the activity of the Religious Organisation, claiming that Jehovah’s Witnesses violated domestic legislation “by distributing in public places and at the homes of citizens . . . propagandistic books on their religion, which has become a cause of discontent on the part of the people.”
3. The Religious Organisation filed a claim with the civil court in Dushanbe, challenging the decision of the Ministry of Culture to terminate the Religious Organisation and the seizure of the two shipments of religious literature. The civil court transferred the case to the military court because the SCNS was a party to the proceedings. (This in itself constitutes a violation of the Covenant, Article 14, as confirmed in communication No. 1172/2003, *Abbassi Madani v. Algeria*, Views adopted on 28 March 2007, at § 8.7.)
4. On 29 September 2008, the Dushanbe Military Court dismissed the claim, concluding that the decision of the Ministry of Culture was justified because: (1) individual Jehovah’s Witnesses requested “the provision of alternative service” in substitution for military service; (2) Jehovah’s Witnesses were distributing religious literature “in public places, houses, and streets”; and (3) Jehovah’s Witnesses believe that their religion “is the true one”, which could “incite religious-confessional conflicts.”The Religious Organisation appealed.
5. On 12 February 2009, the Military Collegium of the Supreme Court affirmed the decision of the trial court. The Religious Organisation filed a “supervisory appeal” to the Presidium of the Supreme Court, as permitted by law.
6. On 17 February 2010, a single judge of the Supervisory Collegium of the Supreme Court ruled that the supervisory appeal would not be referred to the Presidium of the Supreme Court for proceedings, reasoning that there were no errors in the decisions of the lower courts.

**Refusal to reinstate registration**

1. Meanwhile, on 26 March 2009, the 1994 Religion Law was repealed and replaced by the “Law on Freedom of Conscience and Religious Associations” (the “2009 Religion Law”). Article 4(1) guarantees the right “to freely choose, disseminate and change religious or other beliefs, as well as to act in harmony with them.” Article 4(9) guarantees the right “to engage in large scale preaching activities.”
2. Article 33(3) of the 2009 Religion Law required all religious organisations to submit an application for re-registration by 1 January 2010. Jehovah’s Witnesses applied for re-registration on 1 December 2009.
3. On 18 January 2010, the Ministry of Culture (now the State Committee of Religious Affairs) denied the application, stating that the Religious Organization had no right to apply for re-registration because the Ministry of Culture had banned its activity on 11 October 2007. Jehovah’s Witnesses appealed.
4. On 23 August 2010, the Dushanbe Economic Court dismissed the appeal. Further appeals were dismissed by the Dushanbe Economic Court (Appeals Instance) on 27 October 2010, by the High Economic Court on 16 December 2010 and by the Presidium of the High Economic Court on 12 July 2011.
5. On 29 March 2012, the Constitutional Court rejected an application by Jehovah’s Witnesses to rule that the 11 October 2007 decision of the Ministry of Culture banning Jehovah’s Witnesses had violated the Constitution of Tajikistan.
6. Jehovah’s Witnesses have filed for registration numerous times since October 2007. The Committee of Religious Affairs (CRA) has denied each application on technicalities, most recently in October 2014.

20. The Committee is particularly concerned at the absolute ban of several religious denominations within the State party, including Jehovah’s Witnesses (…) **The State party should reverse its discriminatory refusal to register certain religious denominations. -** CCPR/C/TJK/CO/2, para 20, 22, August 2013.

1. At the 2015 OSCE HDIM conference, the Tajikistan delegation stated publicly that Jehovah’s Witnesses had not fully exhausted domestic remedies to appeal the deregistration decision.
2. On 25 February 2016, in response to the direction given by the Tajik authorities, the Witnesses filed an appeal of the deregistration decision with the Chairman of the Supreme Court.
3. On 8 April 2016, the Supreme Court informed the Witnesses that the Chairman of the Supreme Court had rejected the appeal.

## II.B. CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (VIOLATIONS OF ARTICLES 9 AND 18)

1. The issue of conscientious objection to military service in Tajikistan has been repeatedly addressed by the UN Human Rights Committee (2005 and 2013 reports). Despite the comments made in the State report received by the Committee on 26 July 2017 (CCPR/C/TJK/3 § 91) stating that “appropriate draft amendments have been prepared and are being considered by the Government”, there is no indication that there will be an alternative of civilian nature. To the contrary, the facts show that for decades there has been no visible progress on this issue, which affects young Jehovah’s Witnesses who are conscientious objectors. This is illustrated in the following documented case of Daniil Islamov.

### Case of conscientious objector Daniil Islamov

1. Daniil Ruslanovich Islamov was born in Dushanbe on 31 January 1999. In April 2017, he received his military call-up. He informed the enlistment office that he is one of Jehovah’s Witnesses and that his religious conscience does not permit him to perform military service. He explained that he would be willing to perform alternative civilian service. The Military Commissariat rejected Mr Islamov’s offer because alternative civilian service is not available in Tajikistan. The UN Human Rights Committee (CCPR XXXX) has twice urged Tajikistan to recognize the right to conscientious objection, but the government has failed to do so.
2. On 31 July 2017, Mr Islamov was charged under article 376(1) of the Criminal Code of Tajikistan for evading military service. He remained in military detention, where officers repeatedly tried to force him to take the military oath and to put on a military uniform but he refused to do so.
3. On 5 October 2017, the UN Working Group on Arbitrary Detention (WGAD)[[1]](#footnote-1) released its written opinion. The opinion concluded that Tajikistan was guilty of arbitrarily detaining Mr Islamov and had deprived him of his rights under Article 9 of the Universal Declaration of Human Rights and Articles 9 and 18 of the International Covenant on Civil and Political Rights. The opinion further noted that Mr Islamov was “a victim of discrimination on the basis of his religious belief.” The WGAD urged the government to “take the steps necessary to remedy the situation of Mr. Islamov without delay” and to “release Mr. Islamov immediately.”

“Without doubt . . . Mr. Islamov’s fate derives directly from his religious expression as a Jehovah’s Witness.”—UN Human Rights Council, Opinions adopted by the Working Group on Arbitrary Detention at its 79th session: No. 43/2017, Tajikistan, U.N. Doc. A/HRC/WGAD/2017/43 (August 21, 2017), par. 34.

1. On 13 October 2017, the military court disregarded the WGAD’s clear directive and Tajikistan’s own law by convicting Mr Islamov of “evasion by an enlisted serviceman of fulfillment of military service obligations” under Article 376(1) of the Criminal Code of the Republic of Tajikistan. He was sentenced to six months in prison, despite the fact that he never enlisted in the military, took the military oath or put on a uniform.
2. On 11 January 2018, the Military Collegium of the Supreme Court of Tajikistan unilaterally rejected Daniil Islamov’s appeal to acquit him and release him from prison. Inexplicably, the hearing was conducted in a closed court. This blatant denial of a fair trial was shocking to the international observers who were present. The Supreme Court upheld Mr Islamov’s conviction on the false charge of evading military service. The derogatory statements used by the prosecutor throughout the proceedings demonstrated that Mr Islamov was targeted because he is one of Jehovah’s Witnesses.
3. Mr Islamov’s prison term expired in April 2018. Under the law of Tajikistan, his release on parole was impossible.

21. The Committee reiterates its previous concern (CCPR/CO/84/TJK, para 20) about the State party’s lack of recognition of the right to conscientious objection to compulsory military service, and at the absence of alternatives to military service (art. 18).

**The State party should take necessary measures to ensure that the law recognizes the right of individuals to exercise conscientious objection to compulsory military service, and establish, if it so wishes, non-punitive alternatives to military service. religious beliefs grounded in conscience) justifying the objection, and should neither be punitive nor discriminatory in nature or duration by comparison with military service.** CCPR/C/TJK/CO/2, para 21, 22, August 2013.

1. On 17 February 2018, Mr Islamov was transferred from the prison in Kurgan-Tube to the Yavans’s Prison.
2. On 20 February 2018, as a last domestic remedy before calling on the UN Human Rights Committee, Mr Islamov’s attorney filed an appeal for supervisory review with the Presidium of the Supreme Court of Tajikistan.
3. **On 13 April 2018, Mr Islamov was released after having served his sentence in full.**

## II. C. POLICE HARASSMENT (VIOLATIONS OF ARTICLE 18)

1. Because Jehovah’s Witnesses are unregistered, authorities harass them for practicing their faith. Hereafter, we report some incidents covering the last two years:
2. On 21 January 2018, Mr. Eradzh Imodinov, one of Jehovah’s Witnesses, was summoned to the Khujand police station and subjected to interrogation that allegedly concerned a missing person. While in police custody, he was hardly asked any questions about the missing person. Instead, the police severely beat Mr Imodinov.
3. Mr Imodinov was taken to the hospital by his wife. However, the investigator who took part in the interrogation followed them to the hospital. Mr. Imodinov suffered a brain concussion, but when he requested a copy of his medical records, the doctors refused to provide them to him.
4. Following this brutal treatment, about ten of Jehovah’s Witnesses, male and female, were repeatedly summoned for questioning in **Gafurov, a settlement near Khujand**. Police officers were mostly interested in the names and contact information of other Witnesses, especially those though to have responsibility in the organization. At least eight of these young Witnesses were pressured and threatened in an attempt to force them to renounce their faith and were beaten for rejecting Islam and becoming Christians.
5. In each of these cases, complaints against the illegal actions of the police were filed with the district prosecutor’s office in Gafurov. However, the prosecutor’s office forced the individual Witnesses to remove any mention in their complaints any mention that they had suffered religious persecution at the hands of the police.
6. This was not the first time that such arbitrary police violence against Jehovah’s Witnesses has taken place in Khujand. In June 2009, Jehovah’s Witnesses were accused of religious extremism and suffered physical aggression at the office of the Sughd District Committee for National Security. A raid was conducted by police officers in a private place where 17 Jehovah’s Witnesses were peacefully meeting. Following the raid, administrative cases were initiated against eight individuals for allegedly inciting religious hatred. In a decision dated 6 May 2010, the Khujand City Court found these individuals not guilty and closed the case.
7. **Khujand.** On 3 May 2016, Jehovah’s Witnesses were holding a religious meeting with 86 people in attendance, including children. At the conclusion of the meeting, National Security Committee officers, local police and representatives of the CRA raided the meeting and made a video recording of all in attendance. The officers were aggressive and rude, and some of those in attendance were assaulted. One of the female Witnesses was severely beaten. After two hours of questioning and a search of their belongings, attendees were allowed to leave.
8. On 18 May 2016, two of the victims were found guilty under Article 474-1, par. 3, of the Administrative Code of the Republic of Tajikistan (illegal production of religious literature) and were each fined TJS 280 (USD 31). The filed cassation appeal was denied on August 10, 2016, and a supervision appeal was filed to the court of the Sughd Region. However, it did not bring any results. On 2 March 2017, the supervision appeal was also denied. The victims decided not to further appeal the case.
9. **Tursun-Zade (Regar).** On 6 March 2016, police officers raided a religious meeting of Jehovah’s Witnesses held in a private home. They arrested all 30 individuals in attendance and detained them for six hours. During the interrogation, the officers beat, threatened and assaulted many of the attendees, including minor children. Some of the male Witnesses were tortured with tasers. When one of the victims lost consciousness, the police called the Emergency Medical Service (EMS). The EMS administered treatment, but the police paid them TJS 150 (USD 16) and asked them not to record any of the injuries. The police purposefully inflicted blows so as to leave minimum visual indicators. Those who were beaten sought medical attention and took photographs of their injuries.
10. A complaint was filed with the Ministry of Internal Affairs (MIA), the General Prosecutor’s Office and the Ombudsman. The MIA started an investigation of the incident. Subsequently, the police officers apologized to the victims, and the complaint was withdrawn. Nevertheless, administrative cases were commenced against two Witnesses. The appeal was rejected several times based on technical issues. On 10 October 2016, because of the lack of needed documents, the judge returned all documents concerning this case back to the Department of Religious Affairs (DRA). Meanwhile, the bailiffs contacted the victims and demanded that they pay the fines. On 13 October 2016, the third complaint was filed against the inactivity of the DRA. However, it did not bring any results. Both victims were forced to pay the fines and decided not to further appeal the case.

# III. CONCLUSIONS AND RECOMMENDATIONS

1. Jehovah’s Witnesses in Tajikistan and as a worldwide organisation express concerns about serious human rights violations that are being committed with impunity. They respectfully request the government of Tajikistan to:
2. **immediately grant re-registration of their banned legal entity, in harmony with the August 2013 Concluding Observations of the UN Human Rights Committee** (CCPR/C/TJK/CO/2, para 20, 22 August 2013)
3. **respect the rights of conscientious** [**objectors to military service**](https://www.jw.org/en/jehovahs-witnesses/faq/why-dont-you-go-to-war/) **as clearly established by the WGAD opinion** (Opinion No. 43/2017, 5 October 2017) **and the UN Human Rights Committee** (CCPR/C/TJK/CO/2, para 21, 22 August 2013)
4. **stop undue harassment of their community and abide by its commitment to uphold the fundamental freedoms guaranteed by the Constitution of Tajikistan and the ICCPR for all citizens, including Jehovah’s Witnesses.**

1. Human Rights Council, Working Group on Arbitrary Detention, Opinion No. 43/2017, 5 October 2017, http://www.ohchr.org/Documents/ Issues/Detention/Opinions/Session79/A\_HRC\_WGAD\_2017\_43\_EN.pdf [↑](#footnote-ref-1)