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

**Submission to the UN Human Rights Committee**

**Prior to the Adoption of the List of Issues**

**132nd Session (28 June to 23 July 2021)**

**Albania**

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| SUMMARY OF THE SUBMISSION This submission to the Human Rights Committee (CCPR) on Albania highlights violations of the provisions of the International Covenant on Civil and Political Rights (the Covenant) prior to the adoptionof the *List of issues* to be taken up in connection with the consideration of the 3rd report of Albania.  Jehovah’s Witnesses in Albania, and as a worldwide organisation, respectfully request that the government of Albania:   1. Ensure that “Jehovah’s Witnesses in Albania” is able to obtain the status of religious community in Albania in harmony with articles 18, 26 and 27 of the Covenant; 2. Abide by its commitment to provide equal rights without discrimination to all religious communities in Albania, including Jehovah’s Witnesses; 3. Abide by its commitment to uphold the fundamental freedoms guaranteed by the Covenant for all citizens, including Jehovah’s Witnesses. |

# INTRODUCTION

* 1. The European Association of Jehovah’s Witnesses is a charity registered in the United Kingdom. It provides support to Jehovah’s Witnesses facing fundamental human rights violations in various parts of the world.
  2. Jehovah’s Witnesses have been present and active in Albania since the early 1920’s. There are more than 5,600 of Jehovah’s Witnesses in Albania, and they are generally free to meet for worship and to share their faith with others. Jehovah’s Witnesses are presently registered under the name “Jehovah’s Witnesses in Albania” (JWA) as a non-governmental organisation (NGO) approved by the Ministry of Culture, Youth and Sports by decision No. 100 of 22 May 1992 and approved as a legal entity by the Tirana Provincial Court by decision No. 6087 of 13 August 1993.
  3. However, Jehovah’s Witnesses have a serious and ongoing concern.
  4. JWA continues to encounter problems with obtaining status as a religious community in Albania in order to enjoy the same rights as other religious communities. Because of the current status, unlike registered religious communities, Jehovah’s Witnesses are taxed for performing religious worship. Also, the lack of a clear legal status as a religious community recognized by the Albanian State has encouraged the media to repeatedly and severely tarnish their reputation, doing so deliberately and without foundation, and to label them as a “dangerous sect”.

# Violations of the provisions of the International Covenant on Civil and Political Rights (THE COVENANT)

### Obstruction for JWA to obtain status as religious community

* 1. As mentioned above, JWA obtained national registration as an NGO on 22 May 1992, and it was later approved as a legal entity by the Tirana Provincial Court with decision No. 6087 of 13 August 1993.
  2. The Constitution of the Republic of Albania, article 10.5, states: “Relations between the state and religious communities are regulated on the basis of *agreements* entered into between their representatives and the Council of Ministers. These agreements are ratified by the Assembly”. (Emphasis added.) Based on this provision, to date, the Albanian government has reached an agreement with five major religious communities, namely, (1) Roman Catholic Church, (2) Orthodox Church, (3) Muslim Community of Albania, (4) Evangelical Brotherhood of Albania and (5) Worldwide Bektashi Community. Only these five communities, which have such an agreement with the State, enjoy the rights and privileges reserved for religious communities. Article 10.3 of the Albanian Constitution states: “The state recognizes the *equality of religious communities”.* (Emphasis added.)The State has failed to respond to formal requests of Jehovah’s Witnesses to obtain status as a religious community and consequently to enjoy the same legal and constitutional rights as other religious communities.
  3. With the decision of the Council of Ministers (CoM) No. 459, dated 23 September 1999, the State Committee for Religions (SCR) was formed under the direct supervision of the Prime Minister’s Office (PMO). The role of this institution is to help in establishing, changing and terminating relations between the State and religious organisations.

### Efforts of Jehovah’s Witnesses to obtain status as religious community

* 1. To secure full legal protection of their religious rights, and in accord with the right of religious equality guaranteed by the Constitution of the Republic of Albania and the European Convention on Human Rights, JWA has requested initiation of the specified procedures to obtain the status of religious community. This status must be ratified by the Albanian Parliament on the basis of an agreement signed by the religious organisation and the CoM.
  2. As provided for in article 10 of the constitution, Jehovah’s Witnesses have taken the following steps:
* **3 April 2018** — JWA sent an official letter to the General Secretary of the PMO, requesting a meeting for more information about the possibility of an agreement between the religious organisation and the CoM as provided for by the law. No response was received.
* **5 June 2018** — The same request was sent to the PMO. Again, no response was received.
* **5 June 2018** — JWA sent a formal request to the SCR, officially requesting to start the procedure to obtain status as religious community.
* **20 June 2018** — JWA received an answer from the SCR stating that their request would be submitted to several governmental agencies for their perusal. The religious organisation waited for several months without any response from governmental agencies.
* **17 December 2018** — JWA sent a second letter to the SCR, with a copy to the PMO, repeating their request of 5 June 2018. They based the request not solely on the provision of the Albanian Constitution but also on articles 18, 22 and 24 of the Covenant, to which Albania has been a State party since accession in 1991. An attachment documented the history of Jehovah’s Witnesses in Albania and legal recognition in the European Union.
* **22 October 2019** — Since the PMO and the SCR did not reply, JWA requested an official meeting with the Ombudsman’s Office regarding the possibilities of accelerating the process to grant the organisation the status of religious community.
* **11 November 2019** — In response to a verbal request from the SCR, JWA provided information about what they do to benefit the wider community.
* **30 December 2019** — The Ombudsman wrote to inform JWA that a commissioner had been assigned to investigate and handle their case. The Ombudsman asked for further clarification from the SCR regarding JWA’s request to obtain the status of religious community.
* **8 January 2020** — The SCR replied to the Ombudsman, saying that JWA’s request for the status of registered religious community had been forwarded to the respective authorities. The reply also stated that “with a lack of legal criteria and the fact that this agreement must be signed by two parties, it is up to these two parties to make the final evaluation.”
* **6 February 2020** — Upon request, JWA sent the Ombudsman’s commissioner assistant a copy of all previous communication with the PMO and the SCR.
* **20 February 2020** — The Ombudsman sent an official letter to the PMO and the SCR, asking for information about accelerating the process to grant JWA the status of religious community. The Ombudsman wrote: “As you have noticed, in two years they [JWA] have received only two communications from your institution. Despite repeated formal and informal requests, no meeting with any representatives from the Prime Minister’s Office has been made possible.” Further, the Ombudsman stated: “We emphasize that the provisions of the Albanian Constitution, under articles 10.1, 10.3, 10.5 recognize ‘the equality of religious communities.’These Constitutional principles clearly reflect the rights of ‘Jehovah’s Witnesses of Albania’ according to articles 9, 11 and 14 of the European Convention and articles 18, 22 and 24 of the International Covenant on Civil and Political Rights, both instruments having been solemnly ratified by Albania.”
* **5 March 2020** — The SCR replied to the Ombudsman, repeating what they had already stated in their letter dated 8 January 2020. The SCR confirmed that the request for consideration of JWA’s application had been forwarded to the appropriate authorities.
* **29 July 2020** — JWA sent a letter to the Ombudsman asking for information about the development of their investigation. No answer was received.
* **13 October 2020** — JWA sent a further letter to the Ombudsman asking for updated information.
* **22 December 2020** — The Ombudsman sent a letter to the PMO and the SCR recommending that both institutions guarantee the right of the requesting party (JWA) to fair legal process in the administrative procedure. The PMO and the SCR were given 30 days to notify the Ombudsman of the measures they had taken regarding the matter.
* **20 January 2021** — The PMO sent a letter to the Ombudsman, copying the SCR and JWA, stating that no request had been submitted to them from JWA.
* **12 March 2021** — JWA formally requested from the PMO that they be granted the status of religious community in accordance with article 10, point 5, of the Constitution of the Republic of Albania. Eleven documents in support of their application as a religious community were attached. JWA is waiting for a response from the PMO.

### Right to freedom of religion and freedom of association, prohibition of discrimination based on religion, the right of religious minorities to profess and practise their own religion (Articles 18, 26 and 27 of the Covenant)

* 1. The failure of the Albanian State to grant JWA the status of religious community is blatantly discriminatory and violates the rights of Jehovah’s Witnesses under the Covenant. Examples of the chilling and burdensome effect of this discriminatory treatment are as follows:
     + 1. Religious communities recognized by the State are exempted from taxes on buildings. JWA has to pay taxes for places of religious worship. In one year, these taxes amount to approximately USD 10,000.

* + - 1. Religious communities are exempted from submitting financial reports to the relevant State institution for their religious and institutional activity.
      2. Religious communities are exempted from paying tariffs for residency permits for their missionary personnel.
      3. Religious communities are exempted from reporting and being registered in the Beneficial Owners’ Registry, which is kept and administered by the National Business Centre.
  1. As the Human Rights Committee has commented in General Comment No. 22, para. 2: “Article 18 [of the Covenant (right to freedom of thought, conscience and religion)] … is not limited in its application to traditional religions”. Para. 9 continues: “The fact that a religion is recognized as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents to other religions or non-believers … giving economic privileges to [predominant religions] or imposing special restrictions on the practice of other faiths, are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under article 26.” (CCPR/C/21/Rev.1/Add.4)
  2. Regarding article 26 of the Covenant (protection against discrimination), the Human Rights Committee commented in General Comment No. 18, para. 7: “[T]he Committee believes that the term ‘discrimination’ as used in the Covenant should be understood to imply any *distinction, exclusion, restriction or preference* which is based on any ground such as race, colour, sex, language, religion, political or other opinion … and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.” In addition, at para. 9: “the Committee wishes to know if there remain any problems of discrimination in fact, which may be practised either by public authorities, by the community, or by private persons or bodies. The Committee wishes to be informed about legal provisions and administrative measures directed at diminishing or eliminating such discrimination.” Furthermore, at para. 10 the Committee emphasises “that the principle of equality sometimes *requires State parties to take affirmative action in order to diminish or eliminate conditions which cause or help perpetuate discrimination prohibited by the Covenant*.” (Emphasis added.) (HRI/GEN/1/Rev.9)
  3. Regarding Article 27 of the Covenant (the rights of a religious minority to profess and practise their religion), the Human Rights Committee comments in General Comment No. 23 para. 6.1: “Positive measures of protection are, therefore, required not only against the acts of the State party itself, whether through its legislative, judicial or administrative authorities, but also against the acts of other persons within the State party”. At para. 9: “The Committee concludes that article 27 relates to rights whose protection imposes specific obligations on States parties. The protection of these rights is directed towards ensuring the survival and continued development of the cultural, religious and social identity of the minorities concerned, thus enriching the fabric of society as a whole.” (CCPR/C/21/Rev.1/Add.5)

# CONCLUSION AND RECOMMENDATIONS

* 1. Jehovah’s Witnesses in Albania, and as a worldwide organisation, express concern about their inability to be registered as a religious community in Albania. This situation has continued for several years and is having a negative impact on freedom of religion. Jehovah’s Witnesses respectfully request that the government of Albania take the necessary steps to:

1. Ensure that “Jehovah’s Witnesses in Albania” is able to obtain the status of religious community in Albania in harmony with articles 18, 26 and 27 of the Covenant;
2. Abide by its commitment to provide equal rights without discrimination to all religious communities in Albania, including Jehovah’s Witnesses;
3. Abide by its commitment to uphold the fundamental freedoms guaranteed by the Covenant for all citizens, including Jehovah’s Witnesses.
   1. The EAJW will consider submitting an additional complementary submission with the CCPR after the List of Issues has been adopted.