

RELIGIOUS FREEDOM CONCERNS IN KYRGYZSTAN

STATEMENT BY THE EUROPEAN ASSOCIATION OF JEHOVAH'S CHRISTIAN WITNESSES

For the OSCE Human Dimension Implementation Meeting, Warsaw, 26 September to October 7, 2011.

BACKGROUND

Jehovah's Witnesses have been active in Kyrgyzstan for more than 50 years. They obtained state registration in August 1998.

RESTRICTIONS ON RELIGIOUS FREEDOM

January 29, 2011 to Present	Kadamjay	Arrest/Detainment/Harassment
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On January 29, 2011, two young men, Iskandar Kambarov (17-years-old) and Jonibek Nosirov (21-years-old), were placed in pre-trial detention in Kadamjay based on the false charge they had distributed two DVDs of the Islamic organization "Hizbut-Tahrir." The two young men and their families are members of the Christian religious organization known as Jehovah's Witnesses and they have never had anything to do with "Hizbut-Tahrir." On May 18, 2011, the two young men were convicted and sentenced by the Kadamjay Regional Court to seven years imprisonment.

On June 22, 2011, the Batken District Court (Appeals Instance) cancelled the trial decision and sent the case to the Batken District Prosecutor for further investigation. The appeal court observed that there was no evidence that the two young had possessed "Hizbut-Tahrir" DVDs or attempted to distribute them. The evidence indicated that the DVDs were planted in the apartment of the young men during a secret police raid on January 25, 2011. The evidence also indicated the criminal investigation took place with serious violations of the constitutional rights of the young men, including two illegal searches of their apartment, unlawful detainment without court order for 7 days, and repeated interrogations in the absence of their lawyer.

The local prosecutor appealed the June 22, 2011, decision of the appeal court to the Supreme Court of the Kyrgyz Republic (Criminal Division). The appeal was heard on September 13, 2011. However, at the start of the appeal, the Prosecutor General presented a motion asking permission to withdraw the local prosecutor's appeal. The Supreme Court agreed and terminated the court proceedings. It is unclear at this point whether the Prosecutor General will now decide to terminate the criminal case and release the two young men from pre-trial detention.

February 16, 2011 and March 30, 2011	Osh, Naryn, Jalal-Abad, and Kadamjay	Denial of Registration of Religious Organizations
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Jehovah's Witnesses have experienced repeated harassment by local officials in the southern regions of Kyrgyzstan who insist that without registration of local religious organizations Jehovah's Witnesses living in the regions cannot practice their religious beliefs.

Under Article 8(3) of the Law "On Freedom of Religion and Religious Organizations in the Kyrgyz Republic" of December 31, 2008, No. 282 ("KR Law on Freedom of Religion"), a religious organization must be formed by not less than 200 adult citizens who are permanent

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residents of the Kyrgyz Republic. Article 10(2) requires that the list of 200 founding members must also be notarized and approved by the local city council.

Jehovah’s Witnesses applied to register four religious organizations in the cities of Osh, Naryn, Jalal-Abad, and Kadamjay. The city councils of Osh, Naryn, and Jalal-Abad replied that they could not approve the list of members because there is no government order in place on the process and criteria to be used. Jehovah’s Witnesses therefore applied to the State Commission on Religion Affairs (SCRA) for registration, attaching the letters from the local city councils and all documents needed for registration. On February 16, 2011, SCRA issued a decision stating that it could not grant registration without approval of the list of founding members by the local city councils.

On March 30, 2011, the Kadamjay Regional Council issued a decision stating that it would not approve the list of members of the proposed religious organization in that region because people living in the region “confess one religion” and that registration would not be granted to Jehovah’s Witnesses to “protect the peace and stability” of the region.

Jehovah’s Witnesses therefore appealed to the court. On July 23, 2011, the Bishkek Interdistrict Court ruled in favor of Jehovah’s Witnesses and found that the refusal by SCRA to register the religious organizations of Jehovah’s Witnesses in Osh, Naryn, and Jalal-Abad was unlawful. On September 15, 2011, the Bishkek City Court overturned that decision concluding that the February 16, 2011, denial of registration by SCRA was not a “decision” capable of being reviewed by the courts. Jehovah’s Witnesses are considering a possible appeal to the Supreme Court. Meanwhile, on August 17, 2011, the Batken Interdistrict Court refused to accept for court proceedings the appeal filed by Jehovah’s Witnesses against the March 30, 2011, decision of the Kadamjay Regional Council, reasoning that it is not a “decision” capable of being reviewed by the courts. An appeal of that decision is pending.

2009-Present	Nationwide	“Alternative Service” Violates Freedom of Conscience
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On February 9, 2009, the “Law on the Universal Duty of Citizens of the Republic of Kyrgyzstan on Military and Alternative Service” was enacted (“2009 RK Military Service Law”). Article 32(4) prescribes that “alternative service includes making monetary contributions by those in alternative service to a special account of the Ministry of Defense . . . [to be] used for support of and provisions for troops, for conducting training assemblies, upgrading educational facilities, and increasing social security for military personnel.” Article 56(2) of the Constitution, however, guarantees the right to alternative “civilian” service.

For many Jehovah’s Witnesses of military age, the requirement to make payments to the Ministry of Defense for support of the military violates their Bible-trained conscience. To date, more than a dozen Jehovah’s Witnesses have been convicted under Article 351(2) of Kyrgyzstan’s Criminal Code for “evading” alternative service. They have been sentenced to pay a fine of up to 20,000 Soms (US \$440) or community service of up to 240 hours. Currently, the cases of approximately 45 young men who are Jehovah’s Witnesses are pending with the Military Commissariat with new cases each year.

Jehovah’s Witnesses have written the Ministry of Defense asking if the required sum for “alternative service” can be paid to another government department or to the general revenue fund of the Kyrgyz Republic. There has been no substantive response to that request.

2010-Present	Nationwide	Discriminatory Civil and Criminal Case Against National Religious Center
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The Religious Center of Jehovah's Witnesses in the Kyrgyz Republic is the object of a campaign of harassment by local authorities under the guise of a tax case. From March 3 to 10, 2010, the Pervomaysky Social Fund conducted an inspection of the Religious Center and ordered it to pay more than US \$250,000 in social insurance payments and fines for the material aid it provides out of charity to religious volunteers. State authorities, however, had already assessed the Religious Center on two previous occasions and concluded that it was in full compliance with the law by not making social fund payment on the material aid it provides to religious volunteers. On March 25, 2010, the State Financial Police commenced a criminal case against the Religious Center for tax evasion on an "especially large scale."

This same issue was recently addressed on June 10, 2010, by the European Court of Human Rights in the case of *Jehovah's Witnesses of Moscow v. Russia* (Application No. 302/02, 10 June 2010). The European Court concluded at paragraph 120:

Jehovah's Witnesses who carried out religious service at the [Religious Center of Jehovah's Witnesses in Russia] were not employees of the centre but unpaid volunteers. For that reason, the provisions of labour law relating to standard working hours, paid holidays and professional orientation were not applicable to them, as they did not work there for material gain.

The Religious Center appealed the Social Fund's March 10, 2010, tax assessment. On December 14, 2010, the Bishkek Interdistrict Court ruled in favor of the Religious Center and declared the March 10, 2010, tax assessment unlawful. On February 17, 2011, the Bishkek City Court (Chamber of Economic and Administrative Cases) upheld the decision of the lower court. The Social Fund appealed to the Supreme Court. The hearing began on September 9, 2011, and will continue on October 13, 2011. The Supreme Court has adjourned the hearing so that it can hear representations from the Financial Police, the State Committee on National Security, and the SCRA.

RELIGIOUS FREEDOM OBJECTIVES

Jehovah's Witnesses call upon the government of Kyrgyzstan to:

- (1) Release Iskandar Kambarov and Jonibek Nosirov from pre-trial detention where they have been since January 29, 2011.
- (2) Permit Jehovah's Witnesses to register local religious organizations in the cities of Osh, Naryn, Jalal-Abad, and Kadamjay.
- (3) Stop the unwarranted criminal and civil cases against the Religious Center.
- (4) Provide for alternative service that does not require a monetary contribution to the Ministry of Defense, since this also violates the religious conscience of individual Jehovah's Witnesses of military age.