

9 August 2023

KYRGYZSTAN: Fear of state reprisals for registration applications grows

By Mushfig Bayram, Forum 18 (<https://www.forum18.org/>)

Many smaller churches have not sought state registration, Protestants say, as they are "afraid of state reprisals for themselves as communities as well as their members." These fears are echoed by Hare Krishna devotees whose Bishkek community has been trying for years to register. Jehovah's Witness communities have also repeatedly been denied state registration, against two UN Human Rights Committee decisions. State officials have claimed – wrongly – that Human Rights Committee views "are for consideration but not for implementation." Such denials have "a chilling effect," Jehovah's Witnesses note.

Religious communities are still struggling to gain state registration, or are afraid of state reprisals if they seek registration. Against international human rights law, the regime's laws state that religious communities are illegal and cannot operate unless they have state permission to exist.

Protestant leaders, who asked to remain anonymous for fear of state reprisals, told Forum 18 that many smaller churches have not sought state registration as they are "afraid of state reprisals for themselves as communities as well as their members." They fear that if regime agencies are given – as is required – the personal details of 200 founders this will lead to state surveillance of their private lives, and possible later targeting by regime agencies (see below).

Some churches have not applied for state registration on principle, as they consider this will lead to state interference. Other smaller churches have not applied for registration as they do not have the 200 founder required by the Religion Law. Fears of state reprisals have grown since 2019 (see below).

From 2010 onwards, Jehovah's Witness communities have repeatedly been denied state registration. This has led to two United Nations (UN) Human Rights Committee decisions – in 2019 and in 2021 – that Kyrgyzstan violated the rights of Jehovah's Witnesses by arbitrarily refusing their communities in Naryn, Osh, and Jalal-Abad regions state registration. Yet as of 1 August 2023, the State Commission for Religious Affairs (SCRA) has ignored both the 2019 and 2021 Human Rights Committee decisions. The most recent SCRA denials of registration applications by Jehovah's Witness communities in Jalal-Abad, Naryn, Osh, and Batken regions was on 16 March 2022. In all four of these regions state officials refused on 2, 3, and 4 August 2023 to explain to Forum 18 why they rejected the registration applications (see below).

Jehovah's Witnesses challenged the denials in Bishkek City Court on 1 August 2022. During the hearing, the SCRA claimed – wrongly – that UN Human Rights Committee views "are for consideration but not for implementation," Jehovah's Witnesses told Forum 18 on 1 August 2023. Bishkek City Court accepted the SCRA's excuses and refused to order the registration refusals to be reconsidered. Both the SCRA and court officials have refused to explain to Forum 18 why the SCRA rejected the registration applications again, ignored repeated Human Rights Committee decisions, and why the SCRA claimed that Kyrgyzstan's legally binding international human rights law obligations are not legally binding (see below).

Unregistered religious communities particularly are "in danger of being punished for their religious activity at any given moment," Jehovah's Witnesses observed to Forum 18. Denials of state registration make Jehovah's Witness communities illegal, and have "a chilling effect," leaving them "vulnerable to police harassment," and "landlords are unwilling to rent property where they could hold peaceful religious meetings," Jehovah's Witnesses said (see below).

The Hare Krishna community in Bishkek has been trying for years to gain state registration, however, "many members are afraid to give their signatures, names and other details to state agencies as they fear state reprisals," human rights defender Erzhan Kayipov told Forum 18. "This puts the community in a very awkward situation, outside the law and vulnerable to punishment by the state at any time and in any circumstances." The community is currently still trying to encourage its members to collect the necessary signatures (see below).

On 2 December 2021 a Bishkek court rejected a General Prosecutor's Office suit to ban Jehovah's Witness books and videos as "extremist." The suit had been filed on the initiative of the National Security Committee (NSC) secret police after it opened a

criminal case against Jehovah's Witnesses, who suspect this was aimed at banning the Jehovah's Witnesses nationwide. Yet, despite the criminal case having been rejected in December 2021, as of 1 August 2023 Jehovah's Witnesses have still not been formally informed that the NSC secret police has closed the case. "We fear that it is still lurking somewhere and could be reactivated at any time," they told Forum 18. The NSC secret police would not explain to Forum 18 why the Jehovah's Witnesses have not been formally informed that the NSC has closed the case (see below).

A repressive draft Religion Law prepared by the SCRA in 2021 has been withdrawn from parliament, the SCRA telling Forum 18 that "it needed improvement." However, the SCRA refused to explain the reasons in more detail, or whether UN Human Rights Committee Concluding Observations would be implemented in a revised draft Religion Law (see below).

Fear of state reprisals for registration applications grows

Religious communities are still struggling to gain state registration, or are afraid of state reprisals if they seek registration. Against international human rights law, the regime's laws state that religious communities are illegal and cannot operate unless they have state permission to exist (https://www.forum18.org/archive.php?article_id=2711).

For example, Protestant leaders, who asked to remain anonymous for fear of state reprisals, told Forum 18 in late July that they know of many smaller churches who have not sought state registration. This is because the churches are "afraid of state reprisals for themselves as communities as well as their members." The Protestants explained that if regime agencies are given – as is required – the personal details of 200 founders (https://www.forum18.org/archive.php?article_id=2711) this will lead to state surveillance of their private lives, and possible later targeting by regime agencies.

Some churches have not applied for state registration on principle, as they consider this will lead to state interference. They also do not apply for registration as, under international human rights law, this is unnecessary to exercise their freedom of religion or belief. As the Organisation for Security and Co-operation in Europe (OSCE) / Council of Europe Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (<https://www.osce.org/files/f/documents/9/9/139046.pdf>) state: "State permission may not be made a condition for the exercise of the freedom of religion or belief. The freedom of religion or belief, whether manifested alone or in community with others, in public or in private, cannot be made subject to prior registration or other similar procedures, since it belongs to human beings and communities as rights holders and does not depend on official authorization."

Other smaller churches have not applied for registration as they do not have the 200 adult founders required by the Religion Law (https://www.forum18.org/archive.php?article_id=2711).

Fears of state reprisals have grown since 2019, when, after many years of arbitrary delays, the State Commission for Religious Affairs (SCRA) (https://www.forum18.org/archive.php?article_id=2711) gave state registration to many religious communities. Yet not all religious communities who applied were given state registration, and as a member of a religious community commented to Forum 18 at the time: "practically speaking, registration only gives you permission to exist (https://www.forum18.org/archive.php?article_id=2711). Registration does not give you the freedoms one should expect."

In known incidents so far in 2023 (https://www.forum18.org/archive.php?article_id=2849), a registered Catholic church has been raided by the SCRA, the National Security Committee (NSC) secret police, and Talas police "Department for the Struggle against Extremism and Illegal Migration," congregation members detained at gunpoint, and two nuns each fined the equivalent of just over two weeks' average wages for reading the Bible at Mass. After the raid, the SCRA threatened to ban the Catholic Church nationwide. Elsewhere, two foreigners at a registered Protestant church were also fined. A Hare Krishna wedding rehearsal was also raided, the host fined the equivalent of just over two weeks' average wages, and Indian students present had their visas revoked.

The Interior Ministry, police "Departments for the Struggle against Extremism and Illegal Migration," the SCRA, and the National Security Committee (NSC) secret police all refused to explain to Forum 18 why they violate legally-binding international human rights obligations (https://www.forum18.org/archive.php?article_id=2849).

UN Human Rights Committee ignored, repeated state registration denials

From 2010 onwards, Jehovah's Witness communities have repeatedly been denied state registration. This has led to two United Nations (UN) Human Rights Committee decisions (https://www.forum18.org/archive.php?article_id=2703) – in 2019 and in 2021 – that Kyrgyzstan violated the rights of Jehovah's Witnesses by arbitrarily refusing their communities in Naryn, Osh, and Jalal-Abad regions state registration.

The Human Rights Committee found that there were no "reasonable and objective grounds," which led to discrimination "on the basis of their religious belief." Kyrgyzstan must review the denials, provide "adequate compensation," "take all steps necessary to prevent similar violations from occurring," (https://www.forum18.org/archive.php?article_id=2703) and inform the Human Rights Committee what it has done to implement the decisions.

As of 1 August 2023, the State Commission for Religious Affairs (SCRA) (https://www.forum18.org/archive.php?article_id=2711) has ignored both the 2019 and 2021 Human Rights Committee decisions. It has also repeatedly refused to explain to Forum 18 why it has done this.

Kyrgyzstan ratified both the International Covenant on Civil and Political Rights (ICCPR) (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>) and its Optional Protocol (OP1) (under which individual complaints (<https://www.ohchr.org/sites/default/files/2021-08/FactSheet7Rev.2.pdf>) such as those of the Jehovah's Witnesses are made) on 7 October 1994. By voluntarily doing this, Kyrgyzstan took on both the binding international human rights law obligations of the ICCPR, and the obligation to correct any violations (<https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law>) of its obligations – such as violations found by the UN Human Rights Committee.

The most recent SCRA denials of registration applications by Jehovah's Witness communities in Jalal-Abad, Naryn, Osh, and Batken regions (https://www.forum18.org/archive.php?article_id=2711) was on 16 March 2022. In all four of these regions state officials refused on 2, 3, and 4 August to explain to Forum 18 why the registration applications were rejected.

Legally binding international human rights law obligations not legally binding?

Jehovah's Witnesses challenged the denials in Bishkek City Court on 1 August 2022. During the hearing, the SCRA (https://www.forum18.org/archive.php?article_id=2711) claimed – wrongly – that UN Human Rights Committee views "are for consideration but not for implementation," Jehovah's Witnesses told Forum 18 on 1 August 2023. Bishkek City Court accepted the SCRA's excuses and refused to order the registration refusals to be reconsidered.

SCRA Deputy Director Kanatbek Midin uuly refused to explain on 26 July why the SCRA rejected the registration applications again, ignored repeated Human Rights Committee decisions, and why the SCRA claimed that Kyrgyzstan's legally binding international human rights law obligations are not legally binding. "We will definitely answer all your questions," he claimed. Forum 18 e-mailed Midin uuly on 28 July, but the SCRA had not answered the questions by the end of the working day on 9 August.

Judge Nurbek Esenaliyev, Chair of Bishkek City Court, on 4 August claimed to Forum 18 that "I am not familiar with the decision," asking Forum 18 to call back on 7 August. When Forum 18 called back, he refused to explain why the Court agreed with the SCRA that Kyrgyzstan's legally binding international human rights law obligations are not legally binding.

"Jehovah's Witnesses have challenged the decision in the Supreme Court, and so we will not make any comments," Judge Esenaliyev then said.

Nursultan Amirakulov of the Chancellery of the Supreme Court also refused to explain to Forum 18 how Kyrgyzstan's legally binding international human rights law obligations are not legally binding. After Forum 18 explained the details of the case, he claimed that "we have many complaints from Jehovah's Witnesses with us, which one exactly are you talking about." When Forum 18 once again explained the case he refused to talk more, adding "please send us a letter."

When Forum 18 asked again why Kyrgyzstan's legally binding international human rights law obligations are not legally binding, Amirakulov repeated his previous response.

Unregistered religious communities particularly are "in danger of being punished for their religious activity at any given moment," Jehovah's Witnesses observed to Forum 18. They noted, however, that their local communities had not experienced any "specific serious incidents" in the year from August 2022. Denials of state registration make Jehovah's Witness communities illegal, and have "a chilling effect," leaving them "vulnerable to police harassment," and "landlords are unwilling to rent property where they could hold peaceful religious meetings," Jehovah's Witnesses said.

Hare Krishna community struggles for registration

The Hare Krishna community in Bishkek has been trying for years to gain state registration, and in 2009 was told of a "secret instruction" to block its registration attempts (https://www.forum18.org/archive.php?article_id=1302). The community was in 2008 ordered by the secret police not to meet (https://www.forum18.org/archive.php?article_id=1336). The Hare Krishna community met the SCRA (https://www.forum18.org/archive.php?article_id=2711) on 24 July 2023, and was told that it must fulfil the Religion Law's requirements for 200 adult founders (https://www.forum18.org/archive.php?article_id=2711) and other necessary documents.

The Hare Krishna community is trying to meet these requirements. However, "many members are afraid to give their signatures, names and other details to state agencies as they fear state reprisals," human rights defender Erzhan Kayipov told Forum 18 on 25 July. "This puts the community in a very awkward situation, outside the law and vulnerable to punishment by the state at any time and in any circumstances."

The community is currently still trying to encourage its members to collect the necessary signatures.

In June a Hare Krishna wedding rehearsal was raided by Interior Ministry and police "Department for the Struggle against Extremism and Illegal Migration" officials, as well as SCRA officials (https://www.forum18.org/archive.php?article_id=2849), the host fined the equivalent of just over two weeks' average wages, and Indian students present had their visas revoked. None of the officials have explained to Forum 18 why they violated the freedom of religion or belief and other human rights of those present.

The OSCE / Council of Europe Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (<https://www.osce.org/files/f/documents/9/9/139046.pdf>) also note that, under international law, registration "should not make obtaining legal personality contingent on a religious or belief community having an excessive minimum number of members."

SCRA Deputy Director Midin uuly refused to explain to Forum 18 on 26 July why repeated attempts by the Hare Krishna community to gain state registration have been rejected. "We will definitely answer all your questions," he claimed. Forum 18 e-mailed Midin uuly on 28 July, but the SCRA had not answered the questions by the end of the working day on 9 August.

Criminal case against Jehovah's Witnesses still open?

On 2 December 2021 a Bishkek court rejected a General Prosecutor's Office suit to ban Jehovah's Witness books and videos (https://www.forum18.org/archive.php?article_id=2706) as "extremist", saying it had been filed under the wrong procedure. The 16-page General Prosecutor's Office suit – seen by Forum 18 – was lodged without informing the Jehovah's Witnesses (https://www.forum18.org/archive.php?article_id=2700).

The suit quotes word for word a claim by the Head of the NSC secret police Kamchybek Tashiyev that Jehovah's Witness teaching "is contradictory and oriented towards people who don't know the fundamentals of religion and the Bible," and that it is based on "the personal views of the founders of the organisation who misinterpret the Bible."

The General Prosecutor's Office official who took the case to court said it will not appeal against the court's rejection of the appeal. "The repression is postponed for now (https://www.forum18.org/archive.php?article_id=2706)," said Syinat Sultanalieva of Human Rights Watch. The NSC secret police – which backed the ban attempt – is also pushing to have Jehovah's Witnesses banned. The General Prosecutor's Office official said he is not aware of any suit being prepared.

The case started when the NSC secret police in December 2019 opened a criminal case against so far unspecified representatives of the Jehovah's Witness national centre in Bishkek on charges of inciting hatred. The secret police raided the centre in March 2021, seizing documents and electronic devices. In July 2021, the Head of the NSC secret police Tashiyev wrote to the General Prosecutor calling for not only Jehovah's Witness literature to be banned, but the community as a whole. He claimed, without giving any evidence for his allegations (https://www.forum18.org/archive.php?article_id=2700), that Jehovah's Witnesses had been accused of a wide range of extremely serious crimes such as "child kidnapping, murder, incitement to murder and suicide, desertion, fraud, theft, racism, extortion, bodily harm .."

"We believe that the General Prosecutor's Office initiated the civil case to declare some publications 'extremist' primarily to strengthen the criminal investigation and pave the way for an eventual claim to liquidate the national centre and ban the peaceful worship of Jehovah's Witnesses (https://www.forum18.org/archive.php?article_id=2700) in Kyrgyzstan," Jehovah's Witnesses told Forum 18 in November 2021.

Despite the criminal case having been rejected in December 2021 (https://www.forum18.org/archive.php?article_id=2706), as of 1 August 2023 Jehovah's Witnesses have still not been formally informed that the NSC secret police has closed the case. "We fear that it is still lurking somewhere and could be reactivated at any time," they told Forum 18.

An NSC secret police (https://www.forum18.org/archive.php?article_id=2711) officer in the Investigations Division, who refused to give her name, would not explain to Forum 18 on 1 August why the Jehovah's Witnesses have not been formally informed that the NSC has closed the case. The NSC officer asked Forum 18 to call back in 20 minutes, but repeated calls later were not answered.

Draft Religion Law withdrawn from Parliament

A draft Religion Law prepared by the SCRA in 2021 (https://www.forum18.org/archive.php?article_id=2705) has been withdrawn from parliament. It would have continued to ban worship meetings and religious education without state permission; make registering small religious communities more difficult or impossible; and possibly make it impossible to register communities that do not own their own buildings. The draft would have continued to require 200 adults to found a community and apply for compulsory registration, but would require them to live in one Region. For the first time places of worship would have needed registration.

SCRA (https://www.forum18.org/archive.php?article_id=2711) Deputy Director Midin uuly told Forum 18 on 26 July 2023 that the draft Religion Law had been withdrawn from parliament as "it needed improvement." He refused to explain the reasons in more detail, or whether UN Human Rights Committee Concluding Observations would be implemented in a revised draft Religion Law.

"We will definitely answer all your questions," he claimed. Forum 18 e-mailed Midin uuly on 28 July, but the SCRA had not answered the questions by the end of the working day on 9 August.

In December 2022, the UN Human Rights Committee's Concluding Observations on Kyrgyzstan (CCPR/C/KGZ/CO/3) (<https://www.undocs.org/CCPR/C/KGZ/CO/3>) stated among other things that: "the Committee is concerned about the existing burdensome registration requirements for the registration of religious organizations representing smaller religious minorities in Kyrgyzstan, such as Baha'is, Protestants, Ahmadiyya Muslims, Jehovah's Witnesses, Tengrists and Zoroastrians."

The Human Rights Committee stated that Kyrgyzstan should, among other things:

"Expedite the adoption of the legislative amendments to the Freedom of Religion and Religious Organizations Act and ensure that all limitations that are incompatible with article 18 ["Freedom of thought, conscience and religion"] of the Covenant [the ICCPR] are removed, providing for a transparent and fair registration process for religious organizations and decriminalizing any religious activity by unregistered religious organizations;"

The OSCE Election Observation Mission for the November 2021 parliamentary elections (<https://www.osce.org/files/f/documents/2/f/519087.pdf>) found among other things: "a stifled campaign and overall voter disillusionment .. limitations on civil and political rights and diminished separation of powers and independence of the judiciary .. candidates campaigning with caution .. Most media outlets were reticent to cover activities of contestants while the regular activities of the President and authorities were extensively covered, limiting voters' ability to make an informed choice .. Significant procedural problems were noted during the vote count." (END)

More reports on freedom of thought, conscience and belief in Kyrgyzstan (<https://www.forum18.org/Archive.php?country=30>)

For background information, see Forum 18's Kyrgyzstan religious freedom survey (https://www.forum18.org/archive.php?article_id=2711)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (https://www.forum18.org/Archive.php?article_id=1351)

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If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY