



# 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. 2845/2016\*, \*\*

<i>Communication submitted by:</i>	Rahima Huseynova, (represented by counsels, Daniel Gordon Pole and Petr Muzny)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Azerbaijan
<i>Date of communication:</i>	23 September 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 14 November 2016 (not issued in document form)
<i>Date of adoption of views:</i>	14 October 2020
<i>Subject matter:</i>	Arrest and fine imposed on Jehovah's Witness for religious activities
<i>Procedural issues:</i>	Exhaustion of domestic remedies; admissibility – manifestly ill-founded
<i>Substantive issues:</i>	Freedom of religion; unlawful interference; discrimination; freedom of thought, conscience or religion; freedom of expression; freedom of opinion
<i>Articles of the Covenant:</i>	18 (1), 19 (1) and (2), 26 and 27
<i>Articles of the Optional Protocol:</i>	2 and 5 (2) (b)

1. The author of the communication, dated 23 September 2016, is Rahima Huseynova, a citizen of Azerbaijan, born in 1963. The author claims to be a victim of violations by Azerbaijan of her rights under articles 18 (1), 19 (1) and (2), 26 and 27 of the Covenant. The author is represented by counsels, Daniel Gordon Pole and Petr Muzny.

\* Adopted by the Committee at its 130th session (12 October–6 November 2020).

\*\* The following members of the Committee participated in the examination of the communication: Yadh Ben Achour, Arif Bulkan, Ahmed Amin Fathalla, Furuya Shuichi, Christof Heyns, Bamariam Koita, Marcia V.J. Kran, Duncan Laki Muhumuza, David H. Moore, Photini Pazartzis, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Yuval Shany, Hélène Tigroudja, Andreas Zimmermann and Gentian Zyberi.



**Facts as submitted by the author**

2.1 The author became a Jehovah's Witness in 2005, a Christian minority religion in Azerbaijan, which is a predominantly Muslim State. The author is however not a member of the legal entity entitled the Religious Community of Jehovah's Witnesses which is registered as required under the Law on Freedom of Religious Beliefs.<sup>1</sup>

2.2 On 8 December 2014, the author was walking on a street near her home, engaged two men in friendly conversation about her religious beliefs and referred them to a publicly accessible website of Jehovah's Witnesses that she thought they would find interesting. As she walked away, a uniformed police officer stopped her and asked what she was doing. He called another police officer and ordered her to accompany them to the police station. While in police custody, she was subjected to intimidation aimed at persuading her to abandon her personal convictions and adopt the Islamic faith. She was charged with the offence of carrying out religious activities not from a registered address under article 299.0.4 of the Code of Administrative Offences.<sup>2</sup> The same day, she was brought before a judge and requested more time to familiarize herself with the case. The judge adjourned the hearing and rescheduled it for 22 December 2014.

2.3 On 22 December 2014, the author filed a motion to dismiss the charge, asking the court to compel Azerbaijan to respect domestic and international law protecting her freedoms of religion and expression. She specifically pleaded that the charge violated her rights under the Covenant and the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). On 26 December 2014, the Baku district court found her guilty of committing the offence of carrying out a religious activity not at a registered address under article 299.0.4 of the Code of Administrative Offences. She was ordered to pay a fine of 1,500 manats.<sup>3</sup>

2.4 On 29 January 2015, the Court of Appeal dismissed the appeal lodged by the author on 26 December 2014 with no further domestic remedy being available.

2.5 The author explains that article 12 of the Law on Freedom of Religious Beliefs which formed the basis of the charge against her, bars a religious association from engaging in religious activities unless it is from its legal address. The author further explains that intolerance in Azerbaijan for the religious activity of Jehovah's Witnesses has extended to censoring the importation of religious publications and prohibiting even informal religious meetings outside of the city of Baku. In her case, the evidence accepted by both courts was that she had merely spoken to two people about her beliefs and suggested a website they might look at. Both courts found this act illegal because she had "carried out propaganda, by distributing papers preaching the activity of the Religious Community of Jehovah's Witnesses outside the registered legal address of the Religious Community, that is to say outside of their place of worship". The author states that there was no evidence that she had distributed any "papers", and that even if she had done so, neither that nor any of the other actions described are against the law.

**Complaint**

3.1 The author submits that Azerbaijan violated her rights under article 18 (1) of the Covenant because she was denied her right to manifest her individual freedom of religious

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<sup>1</sup> The author provides a copy of an attestation from the Religious Community of Jehovah's Witnesses stating that she is not a member. The document was also presented to the domestic courts.

<sup>2</sup> According to a translation provided by the author, article 299.0.4 of the Code of Administrative Offences states that "carrying out of activities by religious associations in places outside the registered legal address" entails a penalty in the amount of 1,500–2,000 manats for natural persons and 7,000–8,000 manats for officials. The court found that according to article 12 of the Law on Freedom of Religious Beliefs, any religious association may operate only after being registered with the relevant executive authority and entered in the State register of religious associations. Religious associations may operate at places of worship specified in the information presented for State registration at their legal address and after a religious minister has been appointed to the association by the religious centre or office. According to the court, the violation committed by the author under article 299.0.4 of the Code of Administrative Offences is fully proven by the evidence.

<sup>3</sup> This amount corresponds to approximately 1,436 euros at the time of the conviction.

belief by discussing her beliefs. She argues that the police initiated an unlawful investigation and that she was then prosecuted and convicted simply because she had publicly expressed her religious beliefs. She further argues that the police and the courts used the Law on Freedom of Religious Beliefs and the Code of Administrative Offences to create an offence and that the Law was applied to restrict her right to speak about religion in a location other than the registered address of a religious group. She stresses that in any case, as she is not a member of the legal entity Religious Community of Jehovah's Witnesses, her conduct was an individual exercise of her personal right to freedom of religious belief and not a collective religious activity. According to the author, the domestic courts failed to recognize and uphold her right to freedom of religious belief, her right to "freedom of thought and speech" and the right "to legally seek, receive, pass, prepare and spread information" as set out in the Constitution of Azerbaijan.<sup>4</sup> The author argues that the court also ignored the fact that the police action contravened the Covenant and other international human rights instruments that Azerbaijan is obliged to uphold.

3.2 The author refers to the Committee's general comment No. 22 (1993) and maintains that her personal beliefs pose no threat to anyone and constitute an exercise of her fundamental freedom of religious belief, and that discussing a publicly accessible website is in no way offensive. She refers to the jurisprudence of the Committee in which it recognized that "the right to freedom to manifest one's beliefs in worship, observance, practice and teaching encompasses a broad range of acts",<sup>5</sup> which squarely includes the right to talk to others about a belief or refer others to a website. She argues that the interference with her freedom of religious belief cannot be justified, is not prescribed by law and does not pursue a legitimate aim and therefore does not meet the criteria of article 18 (3) of the Covenant. The Code of Administrative Offences does not apply to individuals exercising their right to practise their religion, but rather to religious associations. She has a constitutional right to profess religion alone or together with others and to freely gather with others<sup>6</sup> and the Law on Freedom of Religious Beliefs guarantees the right either on their own, or together with others to practise any religion and express or spread his or her belief regarding his or her attitude towards religion.<sup>7</sup> She recalls that, according to the Committee, restricting the right to manifest one's religious beliefs to the approved legal address of a religious association only "must be assessed in the light of the consequences which arise for the authors and their religious association".<sup>8</sup> Such a limitation must be proven by the State to be "necessary for the purposes of article 18, paragraph 3",<sup>9</sup> which was not proven by the State party in the present case. In addition, there was no evidence before the domestic courts that the author manifesting her religion "was either threatening, unduly disruptive or otherwise likely to jeopardise public order".<sup>10</sup>

3.3 The author further submits that Azerbaijan violated its obligations under article 19 (1) and (2) of the Covenant by prohibiting the right to freedom of expression without any legitimate legal justification and without justifying its actions. She claims that the State party assumed a power under the Code of Administrative Offences, in conjunction with the Law on Freedom of Religious Beliefs, to attempt to limit the freedom of expression of the author to the geographic location of the legal address of a religious association, ignoring the fact that the author was not even a member of the legal entity of that religious association. The author argues that the expression of her religious beliefs constitutes an important aspect of her freedom of religion. The author notes that the requirements that a religious association have a legal address may on the face of it be legitimate but cannot be used to restrict freedom of expression. In addition, according to the jurisprudence of the Committee, "such a system

<sup>4</sup> The author refers to articles 47, 48 and 50 of the Constitution.

<sup>5</sup> *Malakhovsky and Pikul v. Belarus* (CCPR/C/84/D/1207/2003), para. 7.2.

<sup>6</sup> Articles 48 (2) and 49 (1) of the Constitution.

<sup>7</sup> In her motion filed on 22 December 2014, the author adds that the same article states that freedom of religion can be limited only in cases provided for by law and important in a democratic society for the benefit of public security, namely guaranteeing public order, the protection of health or morals, or the rights and freedoms of other individuals.

<sup>8</sup> *Malakhovsky and Pikul v. Belarus*, para. 7.4.

<sup>9</sup> *Ibid.*, para. 7.6.

<sup>10</sup> *Coleman v. Australia* (CCPR/C/87/D/1157/2003), para. 7.3.

must not operate in a way that is incompatible with article 19 of the Covenant”.<sup>11</sup> As argued under the provisions of article 18 (1) of the Covenant, the author also submits that interference with her freedom of expression cannot be justified, is not prescribed by law and does not pursue a legitimate aim and therefore does not meet “the strict tests of necessity and proportionality”.<sup>12</sup>

3.4 The author submits that Azerbaijan failed to protect her from discrimination and unequal treatment, given that she is part of a minority in her country, in violation of articles 26 and 27 of the Covenant. She argues that the domestic courts differentiated between her rights to be exercised at the registered address of a religious association compared to her rights being exercised away from such an address. The Court of Appeal determined that her rights depended on the registration of the religion with which she was associated and was limited to a specific geographic location. Consequently, if the author had no religious affiliation, there would be no requirement to register. She was therefore penalized for her association by a consequential limitation of her rights. She concludes that she was treated in an unequal and discriminatory way owing to her affiliation with a specific religious minority.

3.5 The author requests the Committee to provide an effective remedy in full recognition of her rights under the Covenant, as required by article 2 (3), by (a) providing her with suitable monetary compensation for the moral damages suffered; (b) reversing any monetary penalty imposed and returning the amount with interest on the amount paid; and (c) reimbursing her legal costs and fees.

#### **State party’s observations on admissibility and the merits**

4.1 On 4 July 2017, the State party submitted its observations on the admissibility and the merits of the communication and reiterated the facts. The State party explains that the author was taken to the police station and then sent to court, accused of conducting illegal propaganda and agitation in front of a secondary school in the Sabunchu district of Baku, where she was distributing leaflets about the activities of Jehovah’s Witnesses, away from the registered place of worship.

4.2 On 26 December 2014, the Sabunchu district court ruled that the author was guilty of an offence under article 299.0.4 of the Code of Administrative Offences for conducting religious activities in a location other than at the registered legal address of a religious association, for which she should pay a fine of 1,500 manats.

4.3 On 29 January 2015, the Baku Court of Appeal dismissed the author’s appeal and upheld the decision of the Sabunchu district court.

4.4 The State party submits that pursuant to article 12 of the Law on Freedom of Religious Beliefs, all religious institutions can operate only after they have been registered by the State and they can only function at the place of worship that is indicated as their legal address in the State registration.

#### **Author’s comments on the State party’s submission**

5.1 On 16 August 2017, the author submitted that in its observations the State party did not dispute the facts set out in the her communication. She therefore argues that those facts should be accepted as established. She also notes that the State party has not made any objection to the admissibility of the communication.

5.2 The author notes that the State party incorrectly described her conduct as “illegal propaganda and agitation in front of a secondary school”. She argues that this is inconsistent with the findings of the domestic courts.<sup>13</sup> In addition, the police did not adduce any evidence regarding the distribution of illegal material or causing agitation.

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<sup>11</sup> *Levinov v. Belarus*, (CCPR/C/105/D/1867/2009, 1936, 1975, 1977-1981, 2010/2010), para. 10.3.

<sup>12</sup> *Turchenyak v. Belarus* (CCPR/C/108/D/1948/2010 and Corr.1), para. 7.7.

<sup>13</sup> The Sabunchu district court found on 26 December 2014 that the author was carrying out propaganda by distributing papers preaching the activity of the Religious Community of Jehovah’s Witnesses away from the registered legal address of the Religious Community, namely in a location other than

5.3 The author notes that the State party failed to explain the legal basis for its objection since it only referred to article 12 of the Law on Freedom of Religious Beliefs, which limits religious institutions to operating in places of worship only. The State party failed to explain how the author violated the law by not operating at a registered place of worship since she was not a member of any religious association.

5.4 The author refers to the jurisprudence of the Committee to remind the Committee that the State party may not defend a violation of international human rights by merely asserting that it was following domestic law.<sup>14</sup>

5.5 The author submits that the State party admitted the arrest, detention and conviction of the author were based on her religious beliefs. In addition, the State party's claims of illegal activity or agitation had not been relied upon as a fact in either the trial or the decision of the Court of Appeal.

5.6 The author asserts that the claims of the State party before the Committee regarding the situation of Jehovah's Witnesses in Azerbaijan and that they are allowed to operate freely and are registered in Azerbaijan, are not true (CCPR/C/AZE/Q4/Add.1, para. 159).

5.7 The author recalls the concern recently expressed by the Committee about the reported interference in religious activities, the harassment of members of religious groups, including Jehovah's Witnesses, and the increase in arrests, detentions and administrative or criminal sanctions against them and that the Committee has called on the State party to "guarantee the effective exercise of freedom of religion and belief in practice and refrain from any action that may restrict that freedom beyond the narrowly construed restrictions permitted under article 18 of the Covenant" (CCPR/C/AZE/CO/4, paras. 32–33).

5.8 The author argues that the fine imposed was severe and that international standards require that punishment should be proportionate to the gravity of the offence and the circumstances of the offender. In the present case, the author is a single unemployed woman for whom the amount of the fine was insurmountable.<sup>15</sup>

5.9 The author reiterates her request to the Committee that the communication should be considered admissible, with findings of violations of articles 18 (1), 19 (1) and (2), 26 and 27 of the Covenant.

#### **State party's further observations**

6.1 On 5 April 2018, the State party submitted its additional observations and reiterated the information included in its previous observations.

6.2 The State party submits that its national legislation and relevant articles of the European Convention on Human Rights allow human rights and freedoms to be limited.

6.3 The State party reiterates that article 48 of the Constitution gives everyone the right to freedom of conscience and to profess and participate in the religion of his or her choice, or to profess no religion. According to article 1 of the Law on Freedom of Religious Beliefs, that freedom may be subject only to limitations prescribed by law and necessary in a democratic society to protect public safety, order, health, morals, or the fundamental right and freedoms of others. Therefore, and as with some other human rights, the right to express one's belief and views and to practise religion is not an absolute right.

6.4 The State party submits that article 18 (3) of the Covenant and article 9 of the European Convention on Human Rights state that freedom to manifest one's religion or beliefs may be subject to some limitations if they are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedom of others. It also submits that the Committee states the same in its general comment No. 22.

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its place of worship. The district court did not provide any evidence that the author was distributing papers.

<sup>14</sup> The author refers to *Leven v. Kazakhstan* (CCPR/C/112/D/2131/2012), para. 9.4.

<sup>15</sup> The author stresses that the maximum fine the judge could impose was 2,000 manats. According to the table of nominal real incomes of the population issued by the State Statistical Committee of Azerbaijan, the average monthly wage in 2015 for the entire country was 466.9 manats.

6.5 The State party submits that the European Court of Human Rights has demonstrated that, when necessary, the State has the right to set certain restrictions and the discretion to evaluate the right to freedom in article 9 of the European Convention on Human Rights.<sup>16</sup> The European Court of Human Rights has also noted that restrictions might be necessary in a democratic society where a number of religions exist among the same population for the purpose of ensuring respect for people's beliefs and coordinating the interests of various groups.<sup>17</sup>

6.6 The State party recalls that article 9 of the European Convention on Human Rights has established three standards for determining whether a restriction is justifiable and whether there has been a violation. These are (a) the existence of a legal purpose for the restriction, (b) the lawfulness of the measure and (c) its necessity in a democratic society. The State party argues that this means that any restriction must meet two requirements: to be accurate and concise. The State party further argues that as envisaged by the Convention, limitations to religious freedom, regardless of its form, may be "prescribed by law".

### **Issues and proceedings before the Committee**

#### *Consideration of admissibility*

7.1 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.

7.2 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.

7.3 The Committee observes that the State party has not contested the author's argument that she exhausted all available domestic remedies, as required by article 5 (2) (b) of the Optional Protocol. The Committee notes that the author lodged an appeal against the decision of the Sabunchu district court before the Baku Court of Appeal and that she raised the substance of her allegations under articles 18, 19, 26 and 27 of the Covenant. Accordingly, the Committee considers that it is not precluded by article 5 (2) (b) of the Optional Protocol from examining those claims.

7.4 With respect to the author's claims under articles 26 and 27 of the Covenant, the Committee notes that the author has not provided details about the ways in which she has been discriminated against as belonging to a religious minority in Azerbaijan.<sup>18</sup> The Committee considers that these claims are therefore insufficiently substantiated for purposes of admissibility and are inadmissible under article 2 of the Optional Protocol.

7.5 The Committee considers that the author has sufficiently substantiated her claims under articles 18 (1) and 19 (1) and (2) of the Covenant for the purposes of admissibility. It therefore declares the communication admissible and proceeds with its consideration of the merits.

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<sup>16</sup> The State party refers to the judgment of the European Court of Human Rights in the case of *Vallianatos and others v. Greece*, applications Nos. 29381/09 and 32684/09 (November 2013).

<sup>17</sup> The State party refers to the judgment of the European Court of Human Rights in the case of *Kokkinakis v. Greece*, application No. 14307/88 (May 1993).

<sup>18</sup> With regard to the author's claim that the State party violated her rights under articles 26 and 27 of the Covenant, the author only mentioned that she was discriminated against owing to her religious affiliation. Although she mentioned in the documents that she provided to the domestic courts that she was told by the police that she should preach the Qur'an and that she was discriminated against by the police because she was a Jehovah's Witness, she did not make any reference to these allegations in her communication to the Committee, nor did she give any details as to why the conduct of the police and of the State party amounted to discrimination because of her faith.

*Consideration of the merits*

8.1 The Committee has considered the present communication in the light of all the information made available to it by the parties, as required under article 5 (1), of the Optional Protocol.

8.2 The Committee notes the author's claims that the State party violated her rights under article 18 (1) of the Covenant because she was apprehended, detained and convicted of an administrative offence for which she was fined 1,500 manats (approximately 1,400 euros) for merely discussing her religious beliefs with two men on the street away from a place of worship. The Committee also notes the argument of the author that she was acting individually and not within the context of a religious association and could not in that regard discuss any matter within a place of worship as she is not a member of the legal entity the Religious Community of Jehovah's Witnesses. The Committee further notes the argument of the author that the fact that she is only permitted to express her religious beliefs within a place of worship falls outside the permissible limitations set out in article 18 (3) of the Covenant. The Committee notes the argument of the State party that according to its domestic law, the author cannot carry out religious activities in a location other than a registered place of worship and that the freedom to manifest one's religion or beliefs may be subject to some limitations, as set out in article 18 (3) of the Covenant.

8.3 The Committee recalls its general comment No. 22, according to which article 18 of the Covenant does not permit any limitation whatsoever on freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. Freedom to manifest religion or belief may be exercised either individually or in community with others and in public or in private. As such, the Committee considers that the author's claims relate to her right to manifest her religious beliefs and that her arrest, detention, conviction and fine constitute limitations of that right.<sup>19</sup> The Committee must address the issue of whether the said limitations on the author's right to manifest her religious beliefs were "necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others" within the meaning of article 18 (3) of the Covenant.

8.4 In the present case, the limitations placed on the author's right to manifest her religious beliefs stem from the requirement under article 299.0.4 of the Code of Administrative Offences that activities are not carried out by religious associations in places other than at their registered legal address, as well as under article 12 of the Law on Freedom of Religious Beliefs, which states that any religious association may operate only after being registered with the relevant executing authority and that religious associations may worship at their legal address only. The Committee notes the State party's argument that the author was causing agitation by conducting propaganda and distributing papers in front of a secondary school. While the State party has noted that article 18 (3) of the Covenant permits certain restrictions on the right to manifest one's religion or beliefs in order to protect the fundamental rights and freedoms of others, the Committee observes that such protection requires that the specific fundamental rights and persons that are affected be identified.<sup>20</sup> The Committee recalls that according to its general comment No. 22, article 18 (3) is to be interpreted strictly and limitations on the freedom to manifest one's religion or beliefs may only be applied for those purposes for which they are prescribed and must be directly related and proportionate to the specific need on which they are predicated. In the present case, the Committee notes that the documents of the domestic courts do not provide any indication that the author's behaviour was conducive of agitation and that the State party has not provided any details, explanations or arguments as to why she should be punished for such activity. The Committee also notes that the State party has not provided any evidence indicating that the peaceful discussion of or the distribution of papers relating to the author's religious beliefs threatened public safety, order, health or morals, or the fundamental rights and freedoms of others. The Committee considers that the State party has neither identified any specific fundamental rights or freedoms of others that were affected by the author's behaviour in discussing her religious beliefs or distributing papers in front of a secondary school. The Committee recalls that in its general comment No. 22, it found that "the practice

<sup>19</sup> General comment No. 22, para. 4.

<sup>20</sup> Ibid., para. 8; see also *Malakhovsky and Pikul v. Belarus*, para. 7.3.

and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs ... and the freedom to prepare and distribute religious texts or publications” (para. 4). The Committee also notes that although the State party mentions that the author was distributing papers in front of a secondary school, which she denies, it has not argued or established that the author was trying to convert any individual who was not an adult (see, for example, A/60/399, paras. 63–67). Accordingly, the Committee considers that the State party has not provided a sufficient basis to demonstrate that the restrictions imposed were permissible under article 18 (3) of the Covenant.

8.5 The Committee also notes that the State party has not argued how the domestic law cited above applies to the author as an individual. The Committee further observes that the State party has not described any context, or provided any example, in which there was a specific and significant threat to public order and safety that would justify the blanket ban on religious activities in a location other than that of a registered religious organization, nor how this would apply to individuals. Even if the State party could demonstrate the existence of a specific and significant threat to public safety and order, the Committee considers that the State party has failed to demonstrate that the prohibition of religious activities in a location other than a place of worship under article 299.0.4 of the Code of Administrative Offences was proportionate to that objective, in view of its considerable limitation on the freedom to manifest one’s religion. The Committee further considers that the State party has not attempted to demonstrate that the prohibition of religious activities in a location other than a place of worship is the least restrictive measure necessary to ensure protection of the freedom of religion or belief.

8.6 The Committee observes that during domestic proceedings, the Sabunchu district court upheld the author’s convictions and fines on the grounds that carrying out propaganda by distributing papers preaching the activity of the Religious Community of Jehovah’s Witnesses in a location other than the registered legal address of the Community violated article 12 of the Law on Freedom of Religious Beliefs, as religious associations may only operate at their legally registered places of worship. The Committee recalls that article 18 (1) of the Covenant protects the right of all members of a religious congregation to manifest their religion in community with others, in worship, observance, practice and teaching.<sup>21</sup> The Committee considers that the justifications provided by the district court do not demonstrate how the general prohibition against carrying out religious propaganda on the street or the distribution of papers by an individual were proportionate measures necessary to serve a legitimate purpose within the meaning of article 18 (3) of the Covenant. The Committee notes that the district court did not advance any arguments or details as to why the author’s religious activities violated the rights pertaining to the beliefs of other individuals. The Committee therefore concludes that the punishment imposed on the author amounted to a limitation of her right to manifest her religion under article 18 (1) of the Covenant and that neither the domestic authorities nor the State party have demonstrated that the limitation represented a proportionate measure necessary to serve a legitimate purpose, as identified in article 18 (3) of the Covenant. Accordingly, the Committee concludes that by taking her into custody, convicting and fining the author for carrying out religious activities away from a registered place of worship, the State party violated her rights under article 18 (1) of the Covenant.

8.7 In the light of these findings, the Committee does not deem it necessary to examine whether the same facts also constitute a violation of article 19 (1) and (2) of the Covenant.

9. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the facts before it disclose a violation of the author’s rights under article 18 (1) of the Covenant.

10. Pursuant to article 2 (3) (a) of the Covenant, the State party is under an obligation to provide the author with an effective remedy. This requires it to make full reparation to individuals whose rights under the Covenant have been violated. Accordingly, the State party is obligated to, *inter alia*, provide the author with adequate compensation, including by reimbursing her for the fine imposed and for court fees related to the case in question. The State party is also under an obligation to take all steps necessary to prevent similar violations

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<sup>21</sup> See, *inter alia*, *Leven v. Kazakhstan*, para. 9.4.



from occurring in the future, including by reviewing its domestic legislation, regulations and/or practices with a view to ensuring that the rights under article 18 of the Covenant may be fully enjoyed in the State party.

11. 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 or not 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 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 disseminate them widely in the official languages of the State party.

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