

Statement to the 2001 OSCE Implementation Meeting

DEMOCRATIC INSTITUTIONS: ELECTORAL PROCESSES (Monday, 17 September 2001)

In the document of the 1990 Copenhagen Conference on the Human Dimension of the CSCE, the participating States stated that the “will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government” (paragraph 6). They also confirmed their respect of the right of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes.

Despite this affirmation, however, the obligation has been increasingly violated in the OSCE participating States. Governmental and local authorities have engaged in the widespread practice of interfering in election processes; putting pressure on opposition politicians and intimidating or even imprisoning them; creating inadequate electoral codes or failing to implement them appropriately; denying the right to form political parties and register them and their candidates; and centralizing power to presidential administrations (including illegal decisions to prolong presidential mandates through inadequate referenda).

In **Kyrgyzstan**, the parliamentary and presidential elections were both characterized by flagrant violations of OSCE and other international standards to the extent that they could be regarded as a farce. Among the irregularities that occurred during the parliamentary elections, opposition candidates were prevented from registering, questionable charges were brought against them and some were arrested. In addition, local authorities were involved in campaigning on behalf of local politicians, the state media coverage was biased, election protocols were falsified, voters were bribed and pressured to vote “right” under the threat of losing their jobs, etc. In the presidential elections, incumbent President Askar Akaev won the presidency despite the fact that he had already served the constitutionally provided maximum of two terms. These elections were riddled with irregularities similar to those of the parliamentary elections.

Local elections are scheduled to be held in October 2001. However, in most constituencies the polls have already been cast as of July under the pretext that the number of the districts is so high. The candidates for mayors and rural authorities have been selected by senior local officials, governors and by the presidential administration on the basis of their loyalty to the government.¹

In the lead-up to the February 27 parliamentary elections in **Tajikistan**, Human Rights Watch and a joint UN-OSCE observer mission witnessed state interference in the electoral process that included the obstruction or exclusion of opposition parties, a wholly arbitrary candidate registration process and flagrantly biased coverage by the state media. There were numerous and grave irregularities in the voting on election day. The UN/OSCE observer mission noted that the elections failed to meet minimum democratic standards, but calls for the vote to be annulled in some districts or for a recount of the vote went unheeded. Largely uncontested elections to the upper chamber held in March resulted in the election of an overwhelming majority of presidential party members.²

The January 2000 presidential elections in **Uzbekistan** fell so seriously short of OSCE standards that, according to the OSCE, they did not justify being observed, largely due to the absence of competition. The elections were therefore deemed *a priori* unfair by international organizations (including civil society organizations), they were not monitored and no accurate information about them was available.

¹ Information from the Kyrgyz Committee for Human Rights.

² *Human Rights Watch World Report 2001*.

The IHF questions whether international organizations (including the OSCE/ODIHR) only have a duty to monitor those elections that can be expected to at least partially meet international standards for free elections.

The 16 April 2000 constitutional referendum increased President Kuchma's power in **Ukraine**, and was carried out in such a way that violated recognized norms of democracy. The referendum reflected the increasing authoritarian rule and constituted a serious setback in Ukraine's development towards democracy. According to official information, voters overwhelmingly approved the modification of article 90 of the constitution to allow the president to dissolve the parliament if it were unable to form a stable, working parliamentary majority within one month, or if it failed to pass the national budget submitted by the government within three months. They also voted in favor of restricting the parliamentary immunity of deputies so that they could be arrested, detained and tried without the consent of the parliament if accused of criminal acts; and in favor of reducing the number of members of parliament from 450 to 300. In addition, they created a second chamber of parliament, the members of which are to be appointed *de facto* by the President.

The October 2000 elections to the National Assembly in **Belarus** were completely manipulated and subverted by state authorities. The electoral process appeared to be one of the most compromised in the post-Soviet period in the OSCE region. Specifically, the electoral code did not comply with international regulations and was vaguely formulated. As a result, a considerable number of candidates representing the democratic forces were not allowed to participate in the elections. However, perhaps the worst barrier to free elections was the lack of press freedom and the massive disinformation and ideological indoctrination campaign through the state-owned and state-run mass media. The Central Electoral Commission was set up in violation of the procedure established by law, and persons perceived as opponents by the state were excluded from the district electoral commissions without any explanation. Under the threat of dismissal, local authorities under presidential control, industry managers and heads of offices and organizations coerced citizens to vote in advance. Members of local electoral commissions visited citizens at home and forced them to vote if they had not already done so. Citizens who called for a boycott of the elections were harassed. In addition, voter lists were falsified and voters were excluded from the initial voter lists in order to reach the necessary turnout (50 percent plus one).³

During the current presidential campaign, numerous civil society reports point to serious violations of national legislation and international standards. Bearing last year's elections in mind, there is a justifiable fear that the upcoming presidential elections will not meet even the minimum standards of freedom and fairness, a fear that is substantiated by the refusal of entry to OSCE/ODIHR election observers.

In **Azerbaijan**, the 5 November 2000 parliamentary elections took place prior to the country's accession to the Council of Europe and raised questions about its future political course. The elections marked some progress over previous ones, but this progress was overshadowed on election day as polling was marred by numerous violations and the vote count was entirely flawed. As a result, the Central Election Commission (CEC) and the Constitutional Court annulled the results in 11 constituencies where serious violations were found, and ordered repeat elections only for the single-mandate constituencies. Some officials responsible for the violations were dismissed and/or prosecuted. In a marked improvement, the CEC addressed complaints in the repeat elections more efficiently than during the run-up to the 5 November ballot, reinstating 10 candidates whose registration had been denied. Local authorities again interfered in the election process, however, instructing and exerting pressure on election commissions. In the second round on 7 January, polling took place in a calm and orderly manner and, in contrast to 5 November, observers were generally able

³ IHF and the Belarus Helsinki Committee, "The Process in Belarus is Not an Honest Attempt to Hold Elections," press release, 3 October 2000. See also "IHF Executive Committee on So-called Elections in Belarus," 17 September 2000, <http://www.ihf-hr.org/appeals/000917.htm>

to conduct their work unhindered. However, observers again noted a number of irregularities, including some cases of ballot stuffing and a flawed counting and tabulation process.⁴

A peaceful atmosphere characterized both the electoral campaign and election day during the 24 June 2001 general elections and the second round of 2 July in **Albania** (although tension increased somewhat during the second round) compared to previous violent elections. This fact marked a positive and significant step towards compliance with democratic standards, according to the Albanian Helsinki Committee, which monitored the elections with other NGOs. Some isolated incidents did occur, particularly on election day, but they did not greatly impact the electoral process or the will of the voters.

The reported irregularities included the absence of the names of many voters in the voter lists. Also, in an attempt to gain more mandates, the Socialist Party and the Democratic Party gave public support to lists of "independent candidates" who, according to the electoral code, should not be linked to any party. According to Albanian human rights groups, such activities created confusion and marred the campaigning atmosphere. The Central Election Commission (CEC) ultimately had to declare nearly all "independent candidates" as party-affiliated. An additional concern was the late appointment of the CEC and last minute changes of members in the zone election commissions (ZEKs) and local election commissions, which resulted in poor cooperation. The CEC was accused of procrastination of its duties under political pressure. The work of ZEKs in some politically sensitive constituencies was problematic. Also, reporting different vote totals from a number of voting center commissions raised concerns. By this writing, both the CEC and the courts have generally failed to adequately investigate questionable protocols and alleged irregularities in these politically sensitive constituencies, including some cases ballot stuffing and pre-marked ballots.⁵

On the positive side, the 20 May 2001 local elections in **Croatia** were generally conducted in accordance with OSCE standards for democratic elections, and constituted clear improvements from the 2000 parliamentary and presidential elections.

⁴ Based on *Republic of Azerbaijan. Parliamentary Elections 5 November 2000 & 7 January 2001 OSCE/ODIHR Final Report.*

⁵ Information from the Albanian Helsinki Committee, June 2001.

Statement to the 2001 OSCE Implementation Meeting

RULE OF LAW: INDEPENDENCE OF THE JUDICIARY AND FAIR TRIAL

(Tuesday, 18 September 2001)

No society truly governed in accordance with the Rule of Law can exist without an independent and impartial judiciary. Still, in many OSCE countries that have acceded to treaties regulating the standards of a democratic order, there remain serious obstacles to a functional judicial system.

In **Serbia**⁶, the judicial system has not changed greatly since the new government took office in the fall of 2000, meaning that a major overhaul has yet to be undertaken. According to the Helsinki Committee in Serbia, a reform of the judiciary in the republic must embrace both normative and personnel changes. Consequently, the nature of the overhaul is twofold: On the one hand, independence of the judiciary should be constitutionally guaranteed, a legal framework providing for full independence of the judiciary should be established, a new Act on Courts of Law should be passed, and international legal standards should be fully implemented. On the other hand, courts should be decentralized and de-politicized, judges who have grossly abused their professional prerogatives and existing legislation should be replaced, the appointment and promotion of judges should be moved away from the influence of the executive branch; and the education and training of judges, particularly in the area of human rights, should be organized. Because judges are underpaid state officials, and therefore highly liable to corruption, there is an acute need to increase judges' salaries since it is evident that economic independence of judicial bodies is a pre-condition for a fair and well-functioning judiciary in the republic. In short, we would like to remind the Serbian authorities that a thorough reform of the judicial system is necessary to effect a transition to full democracy.

With regard to **Russia**⁷, a fundamental problem has long been the disregard of federal laws and the practical absence of legal control at the national as well as the local level. When the so-called federal reform was initiated in 2000, the stated intention was to counteract the above-mentioned trend, and reinforce the validity of federal legislation throughout the territory of the Russian Federation. To this end, specially appointed presidential representatives were entrusted with the responsibility of overseeing the conformity of local laws with federal laws in different parts of the country. According to the Moscow Helsinki Group, the reform can bring positive changes because under the old practice, it took years of legal proceedings to repeal regional regulations restricting the rights of citizens guaranteed in the federal legislation. At the same time, however, the reform also entails a veritable danger of adverse effects. For example, because the reform also attempted to consolidate the position of the government in relation to opposition forces, there is good reason to believe that it may be used to justify the disregard of human rights when to do so is in the interest of the state authorities. Moreover, such fears are substantiated by the fact that efforts to promote due functioning of the judicial system in the country tend to be met with disapproval. For example, judges have faced repercussions for exposing the improprieties of the prevailing practice and seeking to pass verdicts that do not violate the law.

⁶ Based on the Helsinki Committee for Human Rights in Serbia, *Human Rights in Serbia in 2000: Annual Report on Human Rights Developments in 2000*; and *Report submitted by the Helsinki Committee on Human Rights in Serbia in July 2001*.

⁷ Based on the Moscow Helsinki Group, *Russia-2000: Crucial Elements of the Situation with Human Rights*.

In **Azerbaijan**⁸, a re-organization of the court system and a new procedure to appoint judges were effected in 2000. These reforms can be considered a positive step since the courts are now better divided according to areas of competence, and judges are appointed on the basis of examinations and interviews instead of arbitrary decisions. However, despite these positive changes, many problems related to the judiciary persist. Bearing in mind the commitments Azerbaijan made upon admission to the Council of Europe in January 2001, we urge the Azerbaijani government to work to safeguard the right of each person indicted in the republic to fair and legal process.

In addition, we find it a matter of serious concern that a great number of political prisoners still are detained in the country. While the government has acknowledged 205 political prisoners, human rights defenders claim that the actual number of such prisoners is over 700. Moreover, unlike opposition groups, human rights defenders not only claim that the alleged political prisoners are innocent, but point to such deficiencies as unfair legal procedures and violations of due trial standards. According to the Human Rights Center of Azerbaijan, the authorities have often falsified the background of events motivating indictment, fabricated evidence, violated the presumption of innocence, resorted to ill-treatment and torture, restricted legal consultation, and applied the principle of collective guilt in politically sensitive cases. In order to uphold the provisions of the European Convention on Human Rights to which Azerbaijan is now a party, we urge the Azerbaijani government to acknowledge all political prisoners in the republic, and to ensure an adequate review of their cases.

In **Moldova**⁹, the judicial system still exhibits many features of the Soviet era because insufficient measures have been taken to bring it in conformity with international standards. For example, no real changes in the treatment of the persons least well off in the republic have taken place during the last decade. As under the Soviet era, there are regulations providing for the detention of vagabonds, beggars and persons without identification documents. More worrisome is the fact that the definitions of persons considered to belong to these categories are vague, and their detention is not justified by any clear and reasonable objective, such as an intention to provide for rehabilitation. In addition, the procedures of detention are highly arbitrary. Under the prevailing practice, the police detain alleged vagrants and transport them to a special center where a report is prepared and submitted to the prosecutor, who can make a simple decision to sanction an administrative penalty of 30 days in custody. In violation of both Moldovan and international law, the persons affected are rarely informed of the reasons for their detention, are often detained for several days without the issue of any warrant, and are for the most part not granted any real opportunity to raise objections to the deprivation of their freedom. Typically, conditions in the detention centers are miserable. For example, in the vagrancy center in Chisinau, the cells are small, dark and bare, the sanitation is poor and food is scarce. On the whole, the system described is humiliating for the persons affected and constitutes a serious infringement of their integrity and human dignity. The problem is also considerable in scope, since some 800-900 persons are detained as vagrants and subjected to degrading treatment in the vagrancy center each year in the Chisinau area alone. In order to put an end to the gross violations of human rights occurring under the current regime, we encourage the Moldovan authorities to elaborate a comprehensive new legal framework that is in line with international human rights norms and regulates all aspects of the detention of alleged vagrants. In addition, we urge the Moldovan authorities to take effective measures to ensure that the new legislation is duly implemented.

In **Georgia**¹⁰, a new criminal procedure code that is in line with European standards was adopted in 1999. However, the legislation was considerably amended after it entered into force and Georgia was accepted as a member of the Council of Europe. Specifically, the amendments were detrimental to persons under investigation since the right to lodge a complaint of abuse committed by law enforcement or security officials prior to trial was severely restricted. This measure was reprehensible in light of the persistent pattern of irregularities linked to investigation processes in the country.

⁸ Based on the Human Rights Center of Azerbaijan, *The Status of Civil and political Rights in Azerbaijan (2000)* and additional information in July 2001.

⁹ Based on the Moldovan Helsinki Committee for Human Rights, *Detention of Vagrants in the Republic of Moldova*, June 2001.

¹⁰ Based on information from the Caucasian Centre for Human Rights.

According to numerous reports, persons held in custody are tortured and ill-treated while interrogated, and made to accept lawyers who do not represent their interests.

Another matter of concern in the country has long been the detention of political prisoners. In the aftermath of the political upheavals in 1991-1992, a great number of real or presumed supporters of former President Gamsakhurdia were charged and sentenced to long prison terms for crimes such as terrorism and high treason. In early 2000, the majority of the alleged political prisoners were released, while a minority of them were found ineligible for amnesty and remained in detention. However, as a result of continued international pressure, exerted most effectively by the Council of Europe, a decision was made this spring to have the cases of the 30 remaining political prisoners reviewed. Although it is still too early to evaluate the real effect of the review, as no opinions have yet been presented, it is encouraging that such a process, aimed at national reconciliation, has been initiated. At the same time, while we welcome very much the good will signaled by the decision this spring, we now appeal to the Georgian government to ensure that the review is carried out in a fair and just manner. We would also like to reiterate our concern regarding the cases of Petre Gelbakhiani and Irakli Dokvadze, in relation to whom the United Nations Human Rights Committee (UNHRC) issued an opinion under the individual complaint procedure of the International Covenant on Civil and Political Rights in 1998. Although the committee's opinion stated that the two men were entitled to effective remedy, including release, they are still serving their original sentences. It is our sincere hope that the current reconsideration of their cases¹¹ will result in an outcome that is in line with UNHRC's recommendations. Finally, we urge the Georgian government to consider reverting to the original version of the criminal procedure code and to provide for effective means of implementation.

¹¹ In his response to a June 2001 letter from the Executive Director of IHF, Aaron Rhodes, the Deputy Chairman of the Supreme Court of Georgia, Merab Turava, stated that hearings of the two cases were to start on 27 July 2001.

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RULE OF LAW: CAPITAL PUNISHMENT AND “DISAPPEARANCES”

(Tuesday, 18 September 2001)

While most democratic countries are taking measures to abolish the death penalty, the pace of execution has been accelerating in the **United States of America (U.S.)** in recent years: two thirds of the more than 600 prisoners executed since the U.S. resumed executions in 1977 have been executed since 1993. By implementing this disturbing practice, the U.S. violates important international provisions regarding the death penalty by executing mentally-ill and retarded persons (at least 35 persons since 1977¹²) and persons who were underage at the time the crime was committed¹³, and by failing to inform foreign consulates about non-U.S. citizens on death row to enable them to give assistance.¹⁴ Moreover, in a highly worrisome development, on 11 June 2001 the U.S. performed the first federal execution since 1963. The second federal execution was carried out on 19 June 2001.

Other disturbing trends in the application of the death penalty in the U.S. include the repeated failure to address the shocking number of innocent persons who have been executed and to maintain a system of punishment whose fairness and accuracy is seriously questionable.¹⁵

The race of the defendant is also a cause for serious concern, since persons who murder whites are more likely to be sentenced to death than those who murder blacks. According to Human Rights Watch (HRW), nearly 90 percent of persons on federal death row represent racial or ethnic minorities.¹⁶ A recent Department of Justice investigation also found significant geographic and racial disparities in the federal government's administration of capital punishment.¹⁷ In light of the above,

¹² Experts believe there may be 200-300 people with this disability on death row awaiting execution. <http://www.hrw.org/campaigns/deathpenalty/mr.htm>

¹³ By 20 June 2000, Texas had carried out six death sentences against juvenile offenders. This record places the state at the forefront of a select group that includes Iran, Nigeria, Pakistan, Saudi Arabia, and the Democratic Republic of Congo, the only countries other than the U.S. that are known to execute juvenile offenders. Human Rights Watch, “Bush Should Halt Texas Execution: Human Rights Watch Letter to the Texas Board of Pardons and Paroles,” 20 June 2000, <http://www.hrw.org/press/2000/06/board-ltr.htm> Four child offenders were executed in the U.S. in 2000.

¹⁴ More than 90 foreign citizens from 33 nations are reported to be under sentence of death in the U.S. In the vast majority of cases, local authorities have failed to inform them upon detention of their right to consular notification and assistance, in violation of the Vienna Convention. Over the past decade at least 14 foreign nationals have been executed in the USA. None of whom were informed of their right to contact their consulates upon their arrest. Amnesty international, “No more excuses: The USA must obey International Court decision on prisoners' rights,” 27 June 2001, <http://web.amnesty.org/802568F7005C4453/0/A1B0FAD17AD84DA580256A79003C4961!Open&Highlight=2,LaGrande>

¹⁵ In this century, at least 400 innocent people have been convicted of capital crimes they did not commit. Of those, 23 were executed. Since the reinstatement of the death penalty, 96 people have been found to be factually innocent. Some were minutes away from execution. Death Penalty Focus, “Death Penalty Proven Ineffective on Many Levels,” <http://deathpenalty.org/facts/other/ineffective.shtml>

In August 2001, a prisoner was freed after having been on death row for 18 years after he was convicted of raping and murdering a 9-year-old girl. A judge ordered that charges against him be dismissed because DNA tests indicated that hairs found on the girl's body were not in fact his. *International Herald Tribune*, “18 Years, Then Freedom,” 25-26 August 2001,

¹⁶ Human Rights Watch, “Bush Urged to Stop Federal Execution,” 18 June 2001, <http://docs.hrw.org/cgi-bin/htsearch?words=Bush+Urged+to+Stop+Federal+Execution&config=all&method=and&format=builtin-long>

¹⁷ Human Rights Watch, “US: Clinton Urged to Impose Moratorium on Executions,” 12 December 2000. <http://www.hrw.org/press/2000/12/fedmor.htm>

many are questioning and expressing concern about the fairness and reliability of the US capital justice system.

The death penalty is also still applied in **Kazakhstan**, where the criminal code establishes such punishment for 18 crimes in peacetime. An accurate figure on the number of executions carried out is difficult to obtain since, in violation of ECOSOS Resolution 1989/64, no access is given to official information regarding death sentences and executions, let alone any data published. NGOs conclude that approximately 60 convicted persons were executed in Kazakhstan in the year 2000.¹⁸ Because the death penalty can only be handed down by the Supreme Court, there is no opportunity for a defendant to appeal a death penalty to a higher instance.

In **Kyrgyzstan**, the moratorium on the death penalty expired on 4 December 2000 but was extended for one year through a presidential decree of 2 December 2000. As of the end of 2000, it was estimated that approximately 100 people were on death row in Kyrgyzstan.¹⁹

On 4 April 2001, the UN Human Rights Committee adopted concluding observations on the initial report of **Uzbekistan** under the International Convention on Civil and Political Rights (ICCPR). Regarding the death penalty, the committee deplored the Uzbek government's refusal to reveal the number of persons who have been executed or condemned to death, and the grounds for their conviction. In addition, the committee was particularly concerned at information about the extremely poor living conditions on death row, including the small size of cells and the lack of proper food and exercise. The committee urged the Uzbek government to take immediate action to improve the situation of death row inmates in order to bring their conditions in line with the requirements of the ICCPR.²⁰

In **Belarus**, a highly disturbing development in the last few months has been a number of reports that seem to suggest that the "disappearance" of several prominent opposition members might have been the result of political assassinations and that the orders may have come from persons high up in the government hierarchy. These allegations are made more credible by the government's inability to come up with plausible reports on the disappearances even after a couple of years. At the time of writing, the "disappearances" of, for example, Yury Zakharenka, Viktor Hanchar, Anatol Krasouski and Dzmitri Zavadski have yet to be solved. The circumstances of the escape of Tamara Vinnikava, who was under house arrest guarded by armed officials of the presidential security services, also went uninvestigated.

In a positive development on 30 December 1999, the Constitutional Court of **Ukraine** held that the death penalty contradicts the constitutional guarantee of the right to life. It also ruled that all articles of the criminal code that provided for a death sentence were inconsistent with the constitution. Thus, on 1 January 2000, all such laws were repealed in Ukraine and all death sentences handed down prior to that date were automatically commuted to different terms of imprisonment. The death penalty was abolished by parliament in March 2000.²¹

The right to life is the most basic human right and ought to be respected under all circumstances. By resorting to the application of the death penalty, states violate this basic human right and in many cases commit the very crime they seek to punish. The retention of the death penalty can hardly be justified in the absence of any evidence that it is an effective deterrent in crime. Moreover, as experience shows, the implementation of the death penalty in countries with a judicial system that does not meet international standards leads to serious violations of defendants' rights and even to the execution of innocent people. The IHF therefore urges all OSCE participating States whose legislation

¹⁸ Almaty Helsinki Committee, *Human Rights In Kazakhstan in 2000*; and *International Helsinki Federation (IHF) Mission to Central Asia (Kazakhstan, Kyrgyzstan and Uzbekistan)*, 7-16 June 2001.

¹⁹ *Annual Report 2000 of the Kyrgyz Committee for Human Rights* (IHF member).

²⁰ *Concluding Observations of the Human Rights Committee: Uzbekistan. 26/04/2001. CCPR/CO/71/UZB. (Concluding Observations/Comments)*

²¹ *Annual Report 2000 of the Ukrainian Committee Helsinki -90.*

still provides for the death penalty to take immediate steps to abolish it in order to unequivocally uphold the right to life and to ensure a just and reliable system of criminal justice.

Statement to the 2001 OSCE Implementation Meeting

RULE OF LAW: TORTURE, ILL-TREATMENT AND PRISON CONDITIONS

(Tuesday, 18 September 2001)

Prison conditions, ill-treatment and torture are three issues that require our urgent attention and which must be placed high on both the national and international agenda.

Prison conditions in OSCE countries are frequently inhuman and degrading. Even in the richest and most developed countries, prisons are plagued by severe overcrowding, a decaying physical infrastructure, a lack of medical care and abuse by guards. Since the public has been primarily concerned with keeping prisoners locked up, rather than with the conditions in which prisoners are kept, little progress has been made toward remedying these abuses. In some states, the public's tendency to ignore prison abuse is reinforced by high levels of public secrecy. By denying human rights groups, journalists, and other outside observers access to the penal facilities, and by concealing the most basic facts about prisons, officials seek to keep abuses sheltered from public view.²²

Ill-treatment by the police, which still occurs even in states deemed to be stable democracies, is perhaps the most dominant and widespread human rights violation in the OSCE region and often racially motivated. In several OSCE countries, this torture ultimately results in the death of inmates. Most cases of ill-treatment occur during detention in police facilities, during the first hours of arrest, when no access to a lawyer or doctor and no family contact are allowed. Another major concern in this regard is impunity, since in some countries allegations of torture are not properly investigated, if at all. Cases of intimidation and the ill-treatment of complainants are also prevalent, as well as inadequate punishment for offenders.²³

It is imperative that prison conditions are improved, that police organizations respect individuals' rights, and that human rights standards are implemented in daily police operations. There are several OSCE countries in which maltreatment is prevalent:

In **Turkey**, the construction of "F-type" prisons has been associated with revolts and hunger strikes. In the four "F-type" penitentiaries, prisoners may only leave their cells once a week if a family member visits them. Generally held in small group isolation of one to three people, the prisoners are endangered by psychological and physiological damages. The isolation also makes them more vulnerable to ill-treatment by guards. Recent changes in the Anti-Terror Law, which *inter alia* allow prisoners more time out of their cells, have not yet been implemented.²⁴ The six reports of the Turkish Parliamentary Human Rights Commission unfolded an appalling catalogue of torture and ill-treatment, confirming that such actions by the police are widespread. Disturbingly, over 450 people have died in police custody since 1980. Incommunicado detention clearly facilitates torture and sexual abuse because of the lack of safeguards, and sexually insulting behavior characterizes police conduct in

²² *Human Rights Watch World Report 2000*, p. 485.

²³ OSCE/ODIHR, *Combating Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Role of the OSCE. OSCE Human Dimension Implementation Meeting, Background Paper 6*, October 1998, <http://www.osce.org/odihr/documents/background/tortureb.pdf>

²⁴ Human Rights Watch, "Turkish Prison Crisis. Many Hungerstrickers Near Death," 2 May 2001.

<http://www.hrw.org/campaigns/turkey/prison/>; and Human Rights Watch, "Isolation in Turkish Prisons Continues. Justice Ministry Fails to Implement New Amendment," 11 May 2001.

detention facilities. Although the political leadership has repeatedly promised to bring an end to police misconduct, there have been few convictions and appropriate sentences in cases of torture.²⁵

Prison conditions have recently improved in **Azerbaijan**, but corruption among the guards, the censorship of prisoners' correspondence, and restricted prison access for domestic human rights defenders all underline the need for further change. Torture and ill-treatment of detainees remain widespread, and violent deaths in police custody are regularly reported. People who speak publicly against misconduct by law enforcement officials often face charges of defamation. If allegations of torture are taken up at all, the perpetrators often only face administrative punishment. Generally though, the allegations are ignored.²⁶

In **Serbia**, the state faced prison revolts in the year 2000 that were attributed to degrading psychological and physical treatment by the guards. As a result, the republican interior minister agreed to harmonize domestic prison conditions with European standards, and permitting an NGO to monitor the Serbian prisons was a first step in that direction.²⁷ Nevertheless, the situation in detention facilities must be addressed, since ill-treatment by the police is widespread in Serbia. Neither the fight against crime, nor respect for the law has high priority. Even today the tasks of the police are guided to protect the regime from politically "incompatible" citizens. Serious violations of fundamental rights and freedoms have been recorded during arrest, including the violation of the right to information and to a defense. In addition, officials resort to torture, cruel, degrading and inhuman treatment of detainees in order to extract a confession. Unlawful detention and arrests go unpunished; and the right to remain silent is not guaranteed.²⁸

In **Latvia**, the large number of prisoners, the growing number of remand prisoners and the spread of disease all remain serious problems. In addition, the fact that conscripts work as guards in prisons is a cause of concern, as is the lack of sufficient funding to renovate decrepit facilities. Progress in the latter is taking place though, as parts of the Central Prison opened after renovations after nearly 100 years of disintegration. Ill-treatment and misconduct by the police continue to evoke concern, however, not only due to the worrisome use of violence, but also due to the minor punishments levied on errant officers. Prosecutors' poor knowledge of the criminal procedure code and their imprecise preparation of documents only serve to aggravate the situation.²⁹

Prison conditions remain very poor in **Kazakhstan**, where prisons are overcrowded, the sanitary conditions are appalling, tuberculosis is widespread and the beating of prisoners is common.³⁰ The conditions in pre-trial detention facilities under the Ministry of Interior amount to torture and cruel treatment, which lead the mass self-mutilation of detainees in protest. Ill-treatment and torture remain salient in the police's behavior. Although Kazakhstan ratified the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1998, no positive change has taken place. Abusive police officers continue to go unpunished and there remains a lack professionalism, both factors that increase the incidence of violent behavior.³¹

²⁵ Human Rights Watch/Europe and Central Asia Division, *Turkey: Human Rights in the European Union Accession Partnership, September 2000, Vol. 12, No. 10(D)*

²⁶ Human Rights Center of Azerbaijan, *Situation of Human Rights Azerbaijan Republic. January to June 2001*, July 2001, pp. 4.

²⁷ Helsinki Committee for Human Rights in Serbia, *Report for the OSCE Human Dimension Implementation Meeting*, June 2001, p. 2.

²⁸ Helsinki Committee for Human Rights in Serbia: *Annual Report on Human Rights Developments in 2000*.

²⁹ Latvian Center for Human Rights and Ethnic Studies, *Human Rights in Latvia, 1 January 2001–30 June 2001*, August 2001, p. 4.

³⁰ *International Helsinki Federation, Mission to Central Asia: Kazakhstan, Kyrgyzstan and Uzbekistan, 7-16 June 2001*, July 2001, pp. 6.

³¹ Almaty Helsinki Committee, *Human Rights in Kazakhstan in 2000*.

Also in **Greece**,³² law enforcement officials frequently abuse citizens' rights during arrests, interrogations, detention and imprisonment. Disturbingly, such abuse frequently amounts to torture and is facilitated by the practice of courts to rarely prosecute such criminal conduct. Even when offenders are prosecuted, the cases only go to court many years after the incidents, even in cases supported by forensic evidence. Occasionally, compellingly incriminating evidence that exists in addition to forensic certificates is ignored by the courts, which end up acquitting police officers. The latter may stay in the service throughout the years of investigation and court proceedings, a practice that discourages many victims of police violence from filing charges against policemen. Minority members, particularly Roma and Albanians, frequently fall victim to police abuse.

There are several factors that facilitate the widespread practice of ill-treatment. Firstly, a period considerably in excess of the constitutional limit of 24 hours often elapses before a person arrested by the police is brought before a public prosecutor. Secondly, foreigners are detained awaiting deportation in ordinary police establishments, sometimes for many months. Also, the implementation of the rights of persons taken into custody to notify a relative or have access to a lawyer or a doctor is reportedly at the discretion of police officers. Finally, most police stations and prison complexes have either inadequate or overcrowded facilities. As a result, detainees are subjected to cruel, inhuman and degrading treatment.

The European Court of Human Rights issued two rulings against Greece in 2001, both times for the cruel, inhuman and degrading treatment of foreigners as a result of the conditions in two police establishments and one prison. In addition, in May, the UN Committee against Torture (CAT) criticized Greece's non-compliance with the Convention against Torture, citing both the delayed submission of the Greek report and its practically unacceptable form. The committee also cited breaches of the convention in incidences involving the use of excessive or unjustifiable force by the police, particularly against minorities and foreigners, and the generally racist behaviour of the police towards the latter. The committee noted the harsh conditions of detention in general and, in particular, for foreigners awaiting deportation in police stations and prisons, which have substandard material conditions and are severely overcrowded.³³ Greece is obliged to submit a new, comprehensive report in November 2001.

Prisons remain overcrowded in the **United States**, where a harsh and punitive criminal justice system promotes incarceration, and does not reserve prisons for notably dangerous offenders. Prison terms have been mandated to an increasing number of offences, the length of sentences have increased, and the availability of parole has been reduced. In 1999, the U.S. Department of Justice revealed that the number of men and women behind bars in the U.S. reached 1.8 million at the end of 1998. The rate of incarceration rose to 668 inmates for every 100,000 residents. One in every 149 residents was a sentenced prisoner. The percentage of racial minorities in prisons remains strikingly high. Most inmates have scant opportunities for work, training, education, treatment and counseling. Prisoner-on-prisoner sexual abuse is prevalent, and has had serious effects on the inmates' psyche.³⁴ Attention must also be paid to the special super-maximum security facilities, where prisoners spend all their time locked up alone or with a cellmate in small, sometimes windowless, cells. There is hardly any access to educational or recreational activities. Although super-max confinement was designed to control incorrigibly violent or dangerous inmates, many prisoners do not meet those criteria.³⁵ Furthermore, more and more children are tried in the adult criminal system and face abuse and neglect. Sexual abuse against women by correctional officers remains widespread despite new laws prohibiting it and greater public awareness. Allegations of police abuse are filed each year across the U.S., especially as racial profiling is widespread. Inadequate investigative and disciplinary systems rarely hold police officers

³² Unless otherwise noted, Greek Helsinki Monitor, *Parallel Report on Greece's Compliance with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, April 2001.

³³ Greek Helsinki Monitor, "Topic: UN Committee Highlights Greek Violations of Convention against Torture," 10 May 2001. See also CAT/C/XXVI/Concl.2/Rev.1, 8 May 2001.

³⁴ *Human Rights Watch World Report 1999*, pp. 392.

³⁵ Human Rights Watch, "Out of Sight Super-Maximum Security Confinement in the United States," February 2000, <http://www.hrw.org/reports/2000/supermax/>. See also Human Rights Watch, "Red Onion State Prison. Super-Maximum Security Confinement in Virginia," April 1999, <http://www.hrw.org/reports/1999/redonion>

who violate departmental rules accountable. Victims face obstacles ranging from intimidation to the reluctance of prosecutors to initiate proceedings if they seek redress.³⁶

The IHF appeals to the OSCE participating States to urgently address inhuman and degrading prison conditions, and to put an end to all forms of police misconduct, including torture. In order to ensure that measures taken to improve the situation are effective and consistent, it is important that they are taken on local, national, and international levels.

³⁶ *Human Rights Watch World Report 2001.*

Statement to the 2001 OSCE Implementation Meeting

TOLERANCE AND NON-DISCRIMINATION: ROMA AND SINTI

(Thursday, 20 September 2001)

In the Charter for European Security adopted at the 1999 Istanbul Summit the participating States affirmed that: "We recognize the particular difficulties faced by Roma [and Sinti] and the need to undertake effective measures in order to achieve full equality of opportunity, consistent with OSCE commitments, for persons belonging to Roma [and Sinti]. We will enforce our efforts to ensure that Roma [and Sinti] are able to play a full and equal part in our societies, and to eradicate discrimination against them."³⁷ In violation of this commitment, the governments of many OSCE States have failed to take measures to improve the situation of the Roma through concrete political action. On this occasion, we would like to outline the difficulties faced by the Roma minority in Slovakia, Romania and the Czech Republic. We would like to stress that these three countries are offered only as examples of the situation of the Roma. In fact, the Roma continue to face intolerance, discrimination, violence and other human rights violations almost everywhere throughout the OSCE region.

In **Slovakia**, a shocking incident of police brutality that took place in Magnezitovce in early July brought the attitude of the country's police force toward the Roma minority into the spotlight. Following what seemed to be the arbitrary arrest of a Roma father and his son, the son was badly injured, while his father died as a result of severe beatings. According to the son, Robert Sendrei, "The police took us to Revuca, and my father and I were chained to a radiator. They did not try to interrogate us; they were just beating, kicking, and hitting us with their batons, without ever stopping - from Thursday night until Friday morning. They did not stop for twelve hours; they took turns beating us", and, "[...] I noticed that [my] father was not moving...[and]...when the doctor finally came he could not revive him. Father died there [...], tied to the radiator."³⁸

The incident evoked vocal protests from human rights organizations. According to the Slovak Helsinki Committee, the case in Magnezitovce was another example of the marked intolerance towards the Roma minority, which prevails in Slovakia and in extreme cases amounts to torture and ill-treatment at the hands of police officers.³⁹ Amnesty International also noted that numerous cases similar to the one in Magnezitovce have been reported over the years.⁴⁰ Moreover, both the Slovak Helsinki Committee and Amnesty International criticized the unwillingness of the responsible authorities to address the issue. In practice, police brutality towards Roma appears to be quietly tolerated and investigations into complaints regarding such cases are not conducted thoroughly and impartially. Most worrisome, in late July, the Slovak interior minister was also quoted to have said that the investigations of the case referred to above so far had shown that the older Mr. Sendrei had been handcuffed to a radiator at his own request, "because he wanted to lie down".⁴¹

The IHF urges the Slovak authorities to protect the rights of all individuals in the republic, and to ensure that all allegations of police abuse towards members of the Roma minority are acknowledged and dealt with adequately. In addition, we support the proposal of the Slovak Helsinki Committee that independent civil observers be allowed to start monitoring the conduct of the country's police force. Such monitoring would bring much needed transparency into police practice and enhance a greater

³⁷ Paragraph 20.

³⁸ Transitions On Line, "Slovakia: Police Brutality?", 17 July 2001.

³⁹ Slovak Helsinki Committee, "Statement on the Event in Magnezitovce," July 2001.

⁴⁰ Amnesty International press release, 11 July 2001.

⁴¹ Radio Free Europe/Radio Liberty, Newline, 30 July 2001.

awareness of responsibility among individual officers. Such practice is already common in many European countries.

In **Romania**, the large Roma minority is also frequently subjected to severe police abuse. In a new report⁴², the European Roma Rights Center (ERRC, an IHF cooperating organization) notes that the abuses committed by the police include raids directed at entire communities, torture and ill-treatment in custody, intimidation and harassment, and instances of the unwarranted use of firearms causing injury and sometimes death. As in Slovakia, the continued occurrence of police brutality and other violent attacks against Roma reflects a prevailing climate of impunity. As a result of its monitoring, the ERRC has reported that not prosecuting perpetrators is the norm when abuses against Roma take place. Roma are regularly denied justice because authorities refuse to open investigations into reported cases; police conduct insufficient and purely formal investigations lacking even rudimentary substance; prosecutors intervene to cancel investigations or bring non-indictment decisions; and authorities retaliate against individuals filing complaints by pressing charges against them.

Furthermore, the ERRC finds it a matter of serious concern that those involved in other kinds of anti-Roma actions are regularly not held responsible, and do not face any repercussions for their behavior. For example, silent tolerance is typical when it comes to the exclusion and segregation of Roma children within the school system, violations of the rights of Roma in terms of political participation, and discrimination against Roma in the fields of housing, medical care, employment and access to goods and services. On the basis of insights gained during observations, the ERRC also suggests that the passivity of the authorities regarding injustices experienced by Roma enjoys the blessing of the greater part of the public. The prevailing state of impunity seems therefore to be supported by racist attitudes in society, which further worsens the situation of Roma.

Together with the ERRC, the IHF welcomes the government program on Roma issues that was adopted in April 2001. However, we also call upon the Romanian government to follow up the program with concrete measures, and in particular to take a stand against violence and discrimination against Roma; to ensure that prompt, thorough and impartial investigations are carried out in all cases of alleged abuse against Roma and that all parties responsible for the abuse are brought to justice; to ensure that Roma victims of police violence who file complaints are protected against retaliation; to establish an independent commission for reviewing complaints of police misconduct and organize trainings for police officers in order to prevent the racist treatment of Roma; to ensure that all Roma children have access to adequate schooling and that Roma pupils are no longer segregated; to bring the Ordinance on Preventing and Punishing All Forms of Discrimination from August 2000 in full conformity with international standards and create guarantees for its enforceability in courts; to launch public education programs aimed at reducing the widespread negative attitudes against Roma; and to establish the National Council for the Prevention of Discrimination provided for in the April program without delay, and ensure that the body is sufficiently independent, includes representatives of the Roma and other minorities, and is vested with the necessary powers and allocated sufficient resources to fulfill its tasks.

Finally, in the **Czech Republic**, the propensity of the Roma minority to leave the country was brought into focus when non-standard screenings of passengers traveling to London were introduced at the Prague international airport in mid-July. This controversial measure was taken by the British authorities in an attempt to cut down on the number of Czech citizens seeking asylum in Great Britain.⁴³ Referring to a bilateral agreement signed in February as well as an intention to prevent visa requirements from being imposed, the Czech authorities acquiesced. According to the British authorities, the arrangements were well justified and in no way discriminatory, as the custom officials were ordered to check all passengers bound for London without regard to race, color, or ethnicity.⁴⁴ However, it is clear that the primary aim of introducing pre-clearance checks was to reduce the influx of Roma to Great Britain. Nearly all of the approximately 120 passengers who were turned away

⁴² European Roma Rights Center, *State of Impunity: Human Rights Abuse of Roma in Romania*, September 2001.

⁴³ Radio Free Europe/Radio Liberty Newswire, 19 July 2001.

⁴⁴ Radio Free Europe/Radio Liberty, Newswire, 24 July 2001.

during the period of screenings were Roma.⁴⁵

As a result of a wave of strong criticism, the non-standard immigration procedures were discontinued in the beginning of August. The Czech Helsinki Committee welcomed this decision as the only decent reaction on the behalf of British authorities, but also stressed that the core of the problem has yet to be dealt with.⁴⁶ It is true that some Roma may leave the country and seek asylum in Great Britain or other Western countries solely for economic reasons and expecting favorable social benefits. However, as the Czech Helsinki Committee noted, this certainly is not true in all cases. What motivates most Roma who opt to seek asylum abroad is rather the fact that they do not feel they belong to Czech society. In a June report, the ERRC documented that Roma continue to be the targets of widespread discrimination as well as racially motivated violence at the hands of both government officials and private actors in the republic.⁴⁷ In addition, the ERRC concluded that, like the Slovak and Romanian governments, the Czech government does not comply with its obligations under international treaties to effectively prevent, punish and remedy the systematic abuses against Roma. Thus, it is hardly surprising that a recent opinion poll showed that close to 50% of the Roma in the republic live in fear.⁴⁸

Together with the Czech Helsinki Committee, we urge the Czech government to acknowledge the insecurity felt by the Roma in the republic and to promote the true integration of the minority. To this end, and in line with recommendations put forward by the ERRC, we encourage the Czech authorities to pass a comprehensive body of legislation prohibiting discrimination and providing civil, criminal and administrative remedies; to establish an enforcement body empowered both legally and through sufficient resources to secure compliance with the new legislation; to investigate incidents of racially-motivated violence against Roma promptly and impartially and to duly prosecute perpetrators of such crimes; to adopt adequate measures to prevent and punish manifestations of racial bias in the judicial system; and to condemn at the highest levels racial discrimination against Roma and others, and to make clear that racism will not be tolerated in the republic.

⁴⁵ Radio Free Europe/Radio Liberty, 7 August 2001.

⁴⁶ Czech Helsinki Committee, press release, 7 August 2001.

⁴⁷ European Roma Rights Center, “UN to Scrutinise the Czech Republic’s Human Rights Record”, press statement, 29 June, 2001.

⁴⁸ Radio Free Europe/Radio Liberty, Newline, 8 August 2001.

Statement to the 2001 OSCE Implementation Meeting

NATIONAL MINORITIES

(Friday, 21 September 2001)

In the Charter for European Security adopted in Istanbul 1999, the OSCE States reaffirmed that the protection and promotion of the rights of persons belonging to national minorities are essential factors for democracy, justice and stability.⁴⁹ In light of this acknowledgement, we would like to discuss the minority policies in three multi-ethnic OSCE States.

In **Serbia**⁵⁰, the new authorities declared a commitment to democratic norms when they came to power last fall. However, so far no substantial changes have been made to minority policies in the republic. In fact, the new authorities have retouched rather than abandoned the nationalism pursued by the former authorities. This is regrettable since a clear break from the predecessors is necessary if the new authorities are to deal effectively with the complicated legacy they have inherited.

The lack of adequate legislation is of particular concern since existing provisions on minority rights often contradict international standards, such as those set forth in the European Framework Convention for the Protection of National Minorities. In addition, problems with the rule of law and independence of the judiciary in the republic make it difficult for minority members to exercise the rights they have been granted. Moreover, ethnic minorities are underrepresented in state bodies and public institutions, and thus largely excluded from the handling of common affairs in the republic. Minorities also have only limited access to education, mass media and cultural establishments, i.e. areas of crucial importance for the preservation and development of collective identities. Finally, discrimination and hostility toward members of ethnic minorities remain widespread and, more worryingly, in some regions, forceful methods continue to be used to convince minority members to leave or to assimilate.⁵¹ In conclusion, we encourage the Serbian government to reconsider its stance on minority rights, and in particular not to regard them as a potential source of instability, but as a means to ensure that all citizens have the opportunity to be actively involved in the reconstruction of the republic. We also urge the government to recognize all ethnic minorities living in the republic⁵², and to work to guarantee the effective protection of their individual and collective rights.

In **Latvia**⁵³, naturalization and language continue to be sensitive political issues. During the last ten years, the authorities of the republic have sought to create effective means to protect the majority culture within a framework of democratic norms. To this end, regulations regarding naturalization and language have been changed several times, under the close scrutiny of international observers. In a positive trend, legislative amendments to enhance naturalization of the more than 500,000 persons still lacking citizenship in the republic⁵⁴ were approved in June 2001. The naturalization fee was reduced, and was set at a lower level for certain categories of applicants, such as pensioners, unemployed

⁴⁹ Paragraph 19.

⁵⁰ Based on Report of Helsinki Committee for Human Rights in Serbia, *Human Rights in Serbia 2000: Annual Report on Human Rights Developments in 2000*; and information from July 2001.

⁵¹ This is especially true in border areas.

⁵² As of now, neither the so-called newly emerged minorities (Croats, Bosniaks, Slovenians and Macedonians) nor the Roma minority enjoy legally recognized status.

⁵³ Based on the Latvian Centre for Human Rights and Ethnic Studies, *Human Rights in Latvia 1 January 2001 – 30 June 2001*.

⁵⁴ According to data presented by the Board for Citizenship and Migration Affairs, there were a total 534,747 non-citizens in the republic as of 1 July 2001. Of these a great majority, or 357,198 persons, were ethnic Russians. [Http://www.np.gov.lv/en/fakti/index.htm](http://www.np.gov.lv/en/fakti/index.htm)

persons, and families with more than three children. The examination procedure for students applying for citizenship was also rationalized, as the need for them to take multiple language examinations was eliminated.⁵⁵ In addition to these measures, a major information campaign aimed at non-citizens is to be carried out this fall. However, while the recent trend in naturalization policies is encouraging, it is clouded by the developments in language policies. Also in June this year, legislative amendments envisaging fines for a number of offences related to language use were passed. Among the offences regulated were the failure to use the state language at the level necessary to perform professional duties, the failure to provide translations in meetings if the law so requires, the failure to ensure the use of the Latvian language in office records, and showing disrespect towards the state language. These amendments give rise to concern for several reasons. Firstly, some offences are only vaguely defined, and therefore open to various interpretations.⁵⁶ Secondly, several of the regulations concern offences that fall under the limiting clause of “when there is a legitimate public interest”⁵⁷, which means that it is not entirely clear when they are to be implemented. And finally, the fines established for some of the offences are disproportionately great, as they may amount to up to 250 *lats* (~ U.S.\$400).

While we welcome the efforts of the Latvian authorities to speed up the process of naturalization among the non-citizens in the republic, we also urge the Latvian government to reconsider the regulations on fines for language offences, in order to ensure lucidity, fairness and proportionality in their application.

In **Greece**, an unprecedented debate on the possible modernization of the country’s minority policies was initiated in 1999. However, after a wave of negative reactions among politicians and in the media the debate subsided. As a result, policies of the non-recognition of ethnic minorities still prevail. The only minority enjoying legal protection in the country is the Muslim minority in Western Thrace, whose status is regulated by the Lausanne Treaty of 1923. Although the Muslim minority is virtually exclusively made up of persons viewing themselves as Turks, the Greek authorities refuse to recognize the group as an ethnic minority.⁵⁸ In addition, the considerable groups of Macedonians and Roma, as well as other smaller ethnic groups, are not acknowledged as separate minorities.⁵⁹ Most deplorable, the ethnic minorities also continue to be subjected to restrictions in terms of freedom of association and expression.⁶⁰ Though the Greek authorities defend their position with claims that the recognition of ethnic minorities would contradict the wishes of members of the affected groups and undermine peaceful co-existence in the country⁶¹, the opposite is nearer to the truth. The negative attitudes currently in place seriously violate the right of minority members to choose their self-identity⁶², and effectively fuel frustration among the members as well as encourage intolerance with the ethnic

⁵⁵ Student applicants who have passed the centralized examination in Latvian within the last two years are now exempted from taking the Latvian examination normally required for naturalization.

⁵⁶ This is particularly true in terms of the offense of “demonstrating disrespect towards the state language”.

⁵⁷ In the State Language Law of 1999, this principle was established to be the determining factor for regulations of language use to be applicable in the private sector. For the law, see http://www.riga.lv.minelres/NationalLegislation/Latvia/Latvia_Language_English.htm

⁵⁸ In this the Greek authorities refer to inaccurate census data. For extensive discussion on the topic, see IHF/Greek Helsinki Monitor/Home of Macedonian Civilization/Minority Rights Group-Greece/Rainbow Report to CERD, March 2001 at http://www.greekhelsinki.gr/bhr/english/organizations/ngos_cerd.doc

⁵⁹ The Macedonian minority is simply considered a group of regionally concentrated Greeks who use a distinct dialect. See, for example, Panayote Dimitras, “Greece’s Anti-Minority Attitude,” AIM, 31 May 2001 at <http://www.aimpress.ch/dyn/trae/archive/data/200106/10603-004-trae-ath.htm>

⁶⁰ Greek Helsinki Monitor/Minority Rights Group–Greece Statement to the UN Working Group on *Minorities: (Partly or Fully Unrecognized) National Minorities*, May 2001 at http://www.greekhelsinki.gr/bhr/english/organizations/ghm/ghm_14_05_01.doc

⁶¹ Statement of representatives of Greek authorities quoted in the article by Panayote Dimitras, “Greece’s Anti-Minority Attitude,” AIM, 31 May 2001.

⁶² According to article 3 of the European Framework Convention for the Protection of National Minorities, all members of ethnic minorities should have the freedom to choose to be treated or not to be treated as such, without having to fear any disadvantages due to their choice. As long as no ethnic minorities are recognized to exist in Greece, and ethnic minorities are not able to express and associate themselves unrestrictedly, minority members do not have this opportunity in a true sense. See explanatory report on the convention at <http://conventions.coe.int/Treaty/EN/cadreprincipal.htm>). In March 2001, the UN Committee on the Elimination

majority of the country.⁶³ Furthermore, in May 2001, the UN Committee against Torture (CAT), in its concerns addressed to Greece⁶⁴, pointed to the occurrence of racial abuses within the ranks of Greek law enforcement authorities: "There is evidence that the police sometimes use excessive or unjustifiable force in carrying out their duties, particularly when dealing with ethnic and national minorities [and foreigners]". In its advance submission⁶⁵, the European Roma Rights Center (ERRC) noted that the Roma minority is a primary target of police abuse of the kind denounced by the CAT. Giving an account of concrete examples, the ERRC concluded that the excessive use of firearms by Greek police in recent years has resulted in at least two deaths and several cases of serious injury of Roma. In its concerns, the CAT also advised that "[...] such measures as are necessary, including training, [should] be taken to ensure that in the treatment of vulnerable groups, in particular [foreigners], ethnic and national minorities, law enforcement officers do not resort to discriminatory practices". We concur with these recommendations, and also urge the Greek authorities to finally grant ethnic minorities in the republic due recognition, to ratify the Framework Convention for the Protection of National Minorities signed in late 1997, and to adopt and implement effective measures in accordance with this treaty.

of Racial Discrimination, in its concluding observations on the situation in Greece, also pointed out that the recognition of one minority (i.e. the Muslim one in Western Thrace) and the non-recognition of others constitute discriminatory treatment.

[Http://www.unhchr.ch/tbs/doc.nsf/MasterFrameView/d3fcc3818953c1c0c1256a18005a1218?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/MasterFrameView/d3fcc3818953c1c0c1256a18005a1218?OpenDocument)

⁶³ As indicated by several opinion polls, the level of intolerance is already at a level of serious concern in the country. For example, EU's spring 2000 Eurobarometer survey showed that only 36% of the Greeks considered it to be positive for a society to be made up of people from different races, religions, and cultures, while 52% disagreed. See IHF/Greek Helsinki Monitor/Home of Macedonian Civilization/Minority Rights Group-Greece/Rainbow Report to CERD, March 2001 at http://www.greekhelsinki.gr/bhr/english/organizations/ngos_cerd.doc

⁶⁴ Conclusions and recommendations of the CAT, 8 May, 2001 at

[http://www.unhchr.ch/tbs/doc.hsf/\(Symbol\)/CAT.C.XXVI.Concl.2.Rev.!..En?OpenDocument](http://www.unhchr.ch/tbs/doc.hsf/(Symbol)/CAT.C.XXVI.Concl.2.Rev.!..En?OpenDocument)

⁶⁵ ERRC Submission to UN CAT on Greece at

http://www.greekhelsinki.gr/bhr/english/organizations/ercc_cat.doc

Statement to the 2001 OSCE Implementation Meeting

**FUNDAMENTAL FREEDOMS: FREEDOM OF EXPRESSION, FREE MEDIA AND
INFORMATION** (24 September 2001)

The **International Helsinki Federation for Human Rights** (IHF) would like to draw your attention to the continuing violations of freedom of expression and information in the OSCE participating States.

As a recently accepted member of the Council of Europe, **Azerbaijan** has made commitments⁶⁶ to strengthen its media legislation, including creating more transparent broadcast licensing laws, and the draft amendments to the media law have been presented to Council of Europe experts. Six of the eight television stations operating in Azerbaijan's outlying regions do not have operating licenses but continue to broadcast based on loose agreements with local governors. However, the lack of licenses has led to frequent shutdowns. For example, four regional TV stations, Minqechevir TV, DMD TV, Qutb TV and Khayal TV were deprived of their frequencies in 2001.

The governmental monopoly for newsprint and its high price, together with huge fines issued under various pretexts, are the main problems of popular newspapers. In late May, the publication of the influential opposition newspaper *Azadliq* was stopped. The editors of the newspaper cited financial difficulties and obstacles created by the government for the independent media.

According to the Committee to Protect Journalists, nearly 70 incidents against journalists occurred in the first half of 2001. For example, five journalists were taken to the police stations without reason, 17 journalists were beaten by police or other officials, and some faced legal proceedings. In addition, difficulties in gaining access to some politically sensitive trials hampered journalists' work. During one trial, the video camera of ANS TV correspondent Mubariz Djafarov was taken from him and he was placed in a cage together with the defendants. In Baku, the new mayor gave an order to destroy the newspaper stands of private press distribution companies Qaya, Sada and Chapar because he held that they were "illegal." However, the newspaper stands of the governmental firm Qasid have not been destroyed.

Freedom of expression continues to deteriorate in **Russia**. On the regional level, the authorities have increasingly put pressure on independent mass media outlets over the last three years. On the federal level, such tendencies were less evident until the year 2000. In addition, journalists' freedom of speech has been limited to the point where they have to choose between the interests of the authorities and the financial-political groups. An illustrative example of the negative developments was the recent events surrounding the company "Media-Most" and its owner Vladimir Gusinsky. By moving "Media-Most" under "Gazprom's" control in April 2001, a fact which led to the transformation of NTV (the only independent nationwide TV company) into another mass media body controlled by the state, the government wanted to stop the anti-government information campaign run by the "Media-Most" for the past few years.

The security services also pose a serious threat to human rights in Russia as they continue to bring fabricated charges (particularly for treason) against journalists and scientists in order to silence critical voices. Targets include Aleksandr Nikitin, a former naval captain and ecologist, who after years of struggle had his acquittal confirmed by the presidium of the Supreme Court of the Russian Federation

⁶⁶ Opinion No. 222 (2000) on Azerbaijan's application for membership in the Council of Europe.

in September 2000; Grigory Pasko, a naval captain and correspondent of the Russian Pacific Fleet's newspaper, *Boyevaya Vakh*; Igor Sutyagin, a 35-year-old scientist and unit chair in the Department of Military-Political Research of the USA and Canada Institute of the Academy of Science; and Valentin Moiseyev, the deputy director of the First Asian Department of the Ministry of Foreign Affairs. Pasko, Sutyagin and Moiseyev – all charged with “treason” on the basis of totally insufficient “evidence” - remain in prison pending their trials. All of them face charges for exercising their right to freedom of expression and have been denied the right to fair trial, particularly through the manipulation of the cases by the Federal Security Service and the prolongation of trials.

In **Turkey**, freedom of expression and the media remains a serious concern. The law provides for prison sentences, for example, for incitement, criticism of military service, and insulting the president and the organs of state. Article 312 of the penal code provides for a ban on participation in politics or civil society: for a politician, a conviction under this article effectively means the end of public life and it is therefore a powerful curb on the discussion of ideas unwelcome to the state.⁶⁷ New legislation on radio and TV companies and broadcasting was passed on 7 June 2001, according to which the fines for violating the press law will increase at least one thousand times, the lowest penalty being TL 10 billion (approximately U.S.\$10,000). The members of the Higher Council for Radio will not only be chosen by the National Assembly (appointing five), but also by the Council of Minister (appointing four). According to the new law, which has yet to be approved by President Ahmet Necdet Sezer as of this writing, websites will be treated as periodical publications. The law also states that political parties, associations, trade unions and foundations are not allowed to participate in running existing radio and TV stations. Only in May, the Higher Council for Radio and TV (RTÜK) temporarily banned the operation of at least 14 TV and radio stations and gave warnings to several others.⁶⁸ In a recent case, Yavuz Önen, the president of the Human Rights Foundation of Turkey, and 16 intellectuals⁶⁹ have been charged for being publishers of the book entitled *Freedom to Thought 2000* because they allegedly, among other things, had urged people not to perform military service (article 155 of the penal code), charges which provide for two years' imprisonment. The case is handled by a military court, a fact that violates both the Turkish Constitution and the European Human Rights Convention and cannot guarantee a fair trial. The next hearing is scheduled to take place on 7 September.⁷⁰

Although censorship is formally prohibited in **Kyrgyzstan**, criticism of political leaders, particularly of the president and his family, is forbidden in practice. Printing houses often refuse to print critical papers citing lack of newsprint, while governmental papers continue to be printed. All printing houses are under government supervision and all private firms rendering printing services – including the smallest ones – have been intimidated by law enforcement forces and the National Security Ministry. Specifically, they have been asked to sign documents certifying that they would not produce materials of a political nature containing criticism of President Akaev. In a 2000 interview with *Vecherniy Bishkek*, Minister of National Security T. Aitbaev declared that he monitored the work of every independent journalist and that criminal proceedings against journalists would be expected. Harassment of journalists by the militia or the security services is commonplace.⁷¹ On 20 June 2001, the Ministry of Justice, under pressure from the presidential administration, passed a decision to prohibit the launch of 16 new mass media outlets, two of which, the newspapers *Moia stolitsa* and

⁶⁷ Human Rights Watch/Europe and Central Asia Division, *Turkey: Human Rights and the European Union Accession Partnership*, September 2000, Vol. 12, No. 10 (D).

⁶⁸ Human Rights Foundation of Turkey, http://www.tihv.org.tr/report/2001_05/may2001.doc

⁶⁹ Vahdettin Karabay (former chairman of the Confederation of Progressive Trade Unions - DİSK), Salim Uslu (chairman of Hak-İş), Siyami Erdem (former chairman of the Confederation of Public Laborers' Trade Unions - KESK), Hüsnü Öndül (president of the Human Rights Association), Yavuz Önen (president of the Human Rights Foundation of Turkey), Cengiz Bektaş (chairman of the Writers' Trade Union), Atilla Maraş (chairman of the Writers' Union), Yılmaz Ensaroğlu (president of the Mazlum-Der), Zuhul Olcay, Lale Mansur (actress), Şanar Yurdatapan (composer, spokesperson of the Initiative Freedom of Expression), Ali Nesin (professor of mathematic, comedian and human rights activist), Erdal Öz (writer and publisher), Ömer Madra (director of Actik Radyo), Etyen Mahçupyan (journalist) and Sadik Tasdogan (owner of the Berdan printing house).

⁷⁰ Human Rights Foundation of Turkey, <http://www.tihv.org.tr/eindex.html>

⁷¹ *Annual Report 2000 of the Kyrgyz Committee for Human Rights*.

Agym, were expected to become strongly independent and their publishers had been forced to shut down their earlier popular papers *Vechernii Bishkek* and *Asaba*. Sixteen media outlets were withdrawn their registration between April and 11 June.

In addition, the presidential administration prohibited the editor-in-chief of the newspaper *Tribuna*, Yrysbek Omurzakov, from criticizing the president and his family, and the state-owned publishing house Uchkun demanded that he remove some critical articles from his newspaper.⁷² On 7 June, the independent newspaper *Res Publika* was prevented from printing its Kyrgyz language issue because it planned to reproduce an article from British newspaper *The Guardian* in *Res Publika*'s Russian issue. The article from the reputed British newspaper was controversial because of allegations of President Akaev's wife interests in the newly built Hyatt Regency Hotel of Bishkek, claiming that stocks had been given to her. Before the 7 June issue in the Kyrgyz language was to be published, the editor-in-chief of the newspaper, Zamira Sydykova, was summoned to the state secretary who asked her not to publish the article. The Uchkunde printing house refused to print the paper before the critical article would be removed, citing instruction from state security services.⁷³ Moreover, on 12 September 2001 *Res Publika* was scheduled to face a suit against it requiring it to pay over U.S.\$30,000 to A. Eliseev for alleging that Eliseev has been used by the Kyrgyz authorities to, for example, discredit the Kyrgyz Committee for Human Rights (KCHR, IHF member).⁷⁴ Opposition figures have also faced various criminal charges: in two distinct cases, presidential candidate Feliks Kulov and long-time critic of the government Topchubek Turgunaliyev are serving 7 and 6-year prison sentences respectively on political motives.⁷⁵

In **Ukraine**, mass media outlets that criticize the government and other authorities are subjected to constant pressure, which usually takes the form of numerous checking commissions - including tax and fire inspections - to the editorial offices of the newspapers or TV and radio stations. Later, their bank accounts are frequently frozen under different formal pretexts. Increasing dependence of the media on the state in terms of funding effectively means that no resistance from the quarter of journalists and the media owners is possible. In 2000, more than 100 press outlets, including the most popular ones, received regular state financial support and the government decided which papers were to receive such support. Exclusion from the list in most cases meant bankruptcy or at least a catastrophic drop in circulation. The electronic mass media is virtually totally state-controlled, since the allocation of frequencies and air time for television and radio stations is the responsibility of the executive power. The 16 September 2000 "disappearance" of Georgy Gongadze, the editor-in-chief of an Internet edition *Ukrainskay Pravda* (The Ukrainian Truth) and who opposed President Kuchma, has not yet been resolved despite massive public attention and numerous demands from civil society, as in other cases of "disappeared" political opponents.

In **Serbia**, the underfunded independent media needs urgent support from international organizations to enable them to work adequately and report unbiased. In the wake of the 5 October 2000 political change, the former government-run media mostly covered so-called daily politics, i.e. statements and discourses of the ruling politicians. All the media have adopted the following model: all events and developments must be interpreted by the ruling politicians (and only occasionally by those belonging to the opposition) or representatives of other influential groups. Murder threats to journalists trying to delve into and divulge criminal cases and corruption scandals are a salient problem.⁷⁶

In **Romania**, a new law on protection of classified information that violates basic democratic values was adopted by the parliament in the spring of 2001 but was ruled unconstitutional by the Constitutional Court before it could be promulgated by the president. However, it was ruled

⁷² Information from the Kyrgyz Committee for Human Rights, July 2001.

⁷³ *International Helsinki Federation (IHF) Mission to Central Asia (Kazakhstan, Kyrgyzstan, Uzbekistan)*, 7-16 June 2001.

⁷⁴ Information from the Kyrgyz Committee for Human Rights, 23 August 2001.

⁷⁵ *International Helsinki Federation (IHF) Mission to Central Asia (Kazakhstan, Kyrgyzstan, Uzbekistan)*, 7-16 June 2001.

⁷⁶ Report from the Helsinki Committee for Human Rights in Serbia, July 2001.

unconstitutional by the court only on the basis of procedural errors in adopting the law, and not on its merit. The law seriously violated numerous standards upheld by the Helsinki signatory states and, if adopted, would have limited the transparency of the activities of public authorities and access by the media and public to information. The categories of classified information were defined in general ways that could have been abused, and they exceeded the parameters of national security concerns. There were no provisions for declassifying information. While the law denied public access to vital information, the government would have been given excessive powers to classify and withhold information, and no mechanism for parliamentary oversight was provided. In June, a new draft bill on classified information was introduced in the parliament, but it is only slightly better than the previous law. The IHF notes with concern that Romania, who currently holds the chairmanship of OSCE, may impose a law that will violate Romanian citizens' right of access to information.⁷⁷

In addition, articles 205 and 206 of the penal code, pertaining to "insult" and "libel," provide for prison sentences and should be repealed. In particular, "libel" should be punished only if the journalist can be convicted of having acted in bad faith. Article 207, pertaining to "truth proof" should be maintained and elaborated to include "good faith" and "public interest" as evidence against libel charges. Article 238, concerning "offence against authority," should be repealed as it is contrary to the jurisprudence of the European Court of Human Rights. Article 239(1) concerning "verbal outrage" should not include punishment for insulting and libeling civil servants.⁷⁸

In **Moldova**, a recent positive development has been the adoption of a law on access to information in early 2000. The law is considered to be a major breakthrough in guaranteeing the right of access to information. However, guarantees related to freedom of information can be significantly hampered by new provisions of the draft civil code (which has precedence over the law on access to information), which includes regulations on limiting access to records of parliamentary hearings, restricting access to court hearings dealing with issues of public interest, and providing excessive costs to be paid for disclosure of information. In addition, civil legislation provides that exclusively true information shall be published, thus lacking a "good faith" provision. Draft provisions of penal and civil codes extend public authorities' control over freedom of expression, aiming, for example, to reinstate penal liability for offending public authorities and undesired conduct. The law on audiovisual matters, which regulates the operation of radio and TV stations, provides, *inter alia*, for restrictions on the criticism of public officials when exercising their duties and a cumbersome registration procedure for media outlets that allows for government interference. In the so-called Transdniester region, all mass media outlets remain under serious censorship and political dissidence is not tolerated. In general, political interests unreasonably control the public media.

⁷⁷ IHF and the Romanian Helsinki Committee, "The New Law on Protection of Classified Information Would Put Democracy at Risk," 14 March 2001 and updates from the Romanian Helsinki Committee in August.

⁷⁸ IHF Open Letter to Prime Minister Adrian Nastase, 1 June 2001.

Statement to the 2001 OSCE Implementation Meeting

**FUNDAMENTAL FREEDOMS: FREEDOM OF ASSOCIATION, CIVIL SOCIETY AND
HUMAN RIGHTS DEFENDERS** (Monday, 24 September 2001)

In the Copenhagen Document of the CSCE, the participating States reaffirmed that “the right of association will be guaranteed” (paragraph 9.3.). They further ensured “that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms...” (10.3). In paragraph 10.1., States expressed “their commitment to ensure effectively the rights of the individuals to know and act upon human rights and fundamental freedoms, and to contribute actively, individually or in association with others, to their promotion and protection...” (10.1). The same rights have been confirmed in other OSCE documents. Despite these commitments, the International Helsinki Federation (IHF) is receiving an increasing number of reports about crackdowns on civil society associations and particularly on human rights defenders in the OSCE region.

In **Azerbaijan**, the situation regarding the registration of legal entities has improved significantly since December 1999. Many associations and political parties that had been refused registration in previous years have now been registered. However, a number of officials have made statements to the effect that human rights defenders are a harmful force damaging the "international image of Azerbaijan." Some human rights defenders have also been labeled Armenian spies. On 19 June, in the newspaper *Ses*, editor Agabey Askerov - who is one of the leaders of the ruling Party New Azerbaijan (YAP) - accused the director of the Human Rights Center of Azerbaijan (IHF cooperating organization), Eldar Zeynalov, of being a foreign missionary. Askerov has also accused several prominent human rights activists of espionage. Moreover, activists of the Committee of Homeless Baku Residents (CHBR) have recently been harassed and threatened with arrest and fines. In June, the chairman of the Committee of Chechen Refugees in Azerbaijan (CCRA) was charged with offending police officers and was required to pay a fine because at a press conference he had mentioned the harassment of Chechens by law enforcement officers to extract bribes. Later, following public criticism, the case was dropped.⁷⁹

In **Belarus**, authorities systematically try to undermine the activities of opposition parties, critical NGOs and human rights defenders: several of them have been harassed, threatened, arrested and ill-treated. In addition, offices belonging to NGOs have been broken into and office sensitive documentation has been stolen. Police and tax authorities have raided NGO offices and confiscated important data. Over the last two years, the Belarus Helsinki Committee has received information about nine cases of burglaries in the offices of human rights and opposition organizations. The perpetrators were not found in any of the cases, and the inaction of the authorities gives rise to suspicion that the state uses criminals to carry out its politics of repression against democratic organizations in Belarus. In addition, the compulsory and cumbersome registration of associations and restrictive rules on their operation have made it difficult for NGOs to establish themselves and to operate efficiently. A new presidential decree has established a new procedure for receiving funds from abroad, which gives the presidential administration full control over NGO activities, a tool which could potentially be used to silence - or shut down - NGOs considered by the regime as critical. Belarus authorities have recently also taken measures to significantly restrict individuals' rights to

⁷⁹ Information from the Human Rights Center of Azerbaijan.

freely join trade unions.⁸⁰ Another worrisome development is the “disappearance” of many prominent opposition members (see Capital Punishment).

In the **Central Asian OSCE participating States**, the situation of NGOs and the human rights community in particular proves to be at its worst. In **Turkmenistan**, the country with the worst human rights record in the OSCE region, no organized civil society exists and its human rights monitors work in exile.

The 1995 constitution of **Kazakhstan** recognizes freedom of association but it contains restrictions inconsistent with the relevant international standards. For example, the state is not allowed to support financially public associations, foreign legal entities or individuals; foreign states and international organizations cannot finance the activities of political parties and trade unions; and heads of religious associations can be appointed by foreign religious centers only with the approval of authorized state agencies. The constitution prohibits organizations that incite "class and clan discord" – a formulation on the basis of which many organizations can be arbitrarily closed down. Freedom of association is frequently arbitrarily restricted and NGOs are under permanent surveillance. In addition, tax officers increasingly interfere in their activities, especially if an NGO receives foreign funds, and special services continue to openly spy on NGOs and their leaders. Defenders of the rights of pensioners - one of the most deprived groups of citizens - have been harassed and prevented from conducting peaceful demonstrations. Most recently, two opposition members were attacked. No investigation of the crimes started until three days after the incidents. There are fears that these attacks are part of a pattern of intimidation of opposition voices.⁸¹

Pressure against human rights activists in **Uzbekistan** is increasing dramatically, and they are the targets of a fierce campaign against so-called “anti-state activities.” Members of the Human Rights Society of Uzbekistan (HRSU) have, in particular, faced constant harassment. Shovrik Ruzimuradov was arrested on 15 June 2001 and died in custody in early July. Earlier, he had no access to a lawyer and his family was not informed of his whereabouts, two facts which may support the view that he died as a result of torture, as believed by local human rights monitors. Ruzimuradov was a practicing Moslem and an advocate of secular democratic political system and non-violence. In its 13 July letter to President Karimov the IHF expressed its dismay about the death of Shovrik Ruzimuradov and appealed to the president to order an investigation into Ruzimuradov’s death.⁸² The IHF received a reply from the Uzbek ambassador to the OSCE saying that Ruzimuradov has committed suicide. The IHF recommends that Shovrik Ruzimuradov’s death should be investigated by an independent body.

Talib Yakubov and Ruslan Sharipov, secretary general of the HRSU and the head of the HRSU press department respectively, are constantly harassed and tailed (including during a June IHF mission) by plain-clothed officials. Sharipov was also recently physically attacked. In addition, Uzbekistan seems to have revived the old Soviet practice of confining dissidents to psychiatric hospitals. Elena Urlaeva, an HRSU member, was forcibly held in a psychiatric hospital from 6 April to 30 June. The IHF mission that met with her was convinced that she was not in need of psychiatric care but was there only because of her human rights activities. Even Mr. Saidov, head of the Human Rights Committee, recognized that a mistake had been made in this case and that there was hope that an end would be put to this situation very soon. However, he criticized the fact that Ms. Urlaeva had mentioned discrimination against the Russian population in Uzbekistan at the 2000 OSCE Implementation Meeting. Nevertheless, a court ruled on 12 July that her forced detention in the psychiatric institute was legal. Ms. Urlaeva told the IHF delegation that she had met many other people like her, considered opponents to the regime and neutralized through mental confinement.⁸³

⁸⁰ Information from the Belarus Helsinki Committee, August 2001.

⁸¹ The Almaty Helsinki Committee, *Human Rights In Kazakhstan in 2000*; and *International Helsinki Federation (IHF) Mission to Central Asia (Kazakhstan, Kyrgyzstan and Uzbekistan) 7-16 June 2001*.

⁸² IHF, “Open Letter to the President of Uzbekistan Concerning the Death of Human Rights Defender Shovrik Ruzimuradov,” <http://www.ihf-hr.org/appeals/130701.htm>

⁸³ *International Helsinki Federation (IHF) Mission to Central Asia (Kazakhstan, Kyrgyzstan and Uzbekistan) 7-16 June 2001*.

In **Kyrgyzstan**, the Bishkek City Court in June upheld a lower court's decision to seize computers, copying machines, furniture and other valuables from the office of the Kyrgyz Committee for Human Rights (KCHR, an IHF member). Authorities sought to extract U.S.\$1,600 from the committee on the basis of a criminal case fabricated against the committee in 1997. This recent act was yet another step in the years-long harassment of the KCHR, which has led Chairman Ramazan Dyrlydaev to work in exile since July 2000. Numerous other members have been falsely charged, arrested and threatened. Interestingly, during the 6 June visit of the OSCE High Representative to Bishkek, two major figures in the officially-supported fight against the KCHR, Mr. Eliseev and Mr. Botaliev, succeeded in approaching the official delegation in front of the OSCE office and to block the official car, claiming that the KCHR had "violated their human rights" and asking for the OSCE help in forcing the return of the committee's chairman, to Kyrgyzstan. It should be noted that the police did not try to stop the two men.⁸⁴

In **Russia**, the right to freedom of assembly and association has, for the most part, been exercised without any major constraints. Although the authorities do seek to limit opportunities for holding rallies and creating public organizations, they generally refrain from encroaching directly upon these freedoms. Still, in order to assure state registration and achieve the status of a legal entity, local authorities require that an association guarantee that the official address of the association is not a private person's residence. This practice violates the Regulations on Registration of Public Associations (passed on the federal level), which explicitly states that "provision of a legal address of a public association as a place of residence of a private person shall not exclude state registration of the given public association." Still, in the Republic of Bashkortostan and in Moscow, the local statutes bar registration of public associations that have their headquarters on residential premises. The practice restricts freedom of association because the number of owners of non-residential premises is very limited, with a large portion of non-residential premises actually being governmental structures. Apart from these sorts of practices, a requirement that directly contradicts the relevant federal legislation has been applied in the Republic of Bashkortostan. Under its Law "On Public Associations," the minimum of 100 founding members is required for the establishment of a public association, while the corresponding federal law requires only three persons to achieve the same goal.⁸⁵

In addition, some local human rights activists have in recent years faced questionable charges and been held in custody for long periods of time in Russia. In **Chechnya**, the fate of Victor Alekseevich Popkov illustrated the dangerous work of human rights defenders: he died on 2 June from wounds he received on 18 April 2001 after being kidnapped near the village of Alhan-kala. Although Mr. Popkov was seriously wounded, he did not receive adequate treatment. He had been active in humanitarian work and a human rights activist since 1989.

In **Turkey**, NGOs face legal obstacles to their activities, and although there is an active civil society, any organization that incurs official disapproval remained subject to a storm of litigation in 2000. The law on associations is cumbersome and restrictive and affects NGO activities. The law, for example, includes heavy restrictions on membership and requirements to submit all publications and public meetings for approval by the local governor. Furthermore, associations are required to pay the fees and traveling expenses for an unspecified number of government agents to attend their meetings and record proceedings on paper, audio or videotape. Local governors frequently exercise their considerable discretion to stop meetings, suppress publications and posters, and close down associations. Criticizing the authorities or questioning the state's view of society is often viewed as a form of disloyalty bordering on treason. Organizations viewed as disloyal are frequently harassed, raided or closed down, and their members risk prosecution or worse.⁸⁶ Members of the Turkish

⁸⁴ Information from the Kyrgyz Committee for Human Rights; and *International Helsinki Federation (IHF) Mission to Central Asia (Kazakhstan, Kyrgyzstan and Uzbekistan) 7-16 June 2001*.

⁸⁵ Information from the Moscow Helsinki Group, August 2001.

⁸⁶ Human Rights Watch/Europe and Central Asia Division, *Turkey: Human Rights and the European Union Accession Partnership, September 2000, Vol.12, No. 10 (D)*.

Human Rights Association's and the Human Rights Foundation have been recent targets, and have been detained, tortured, imprisoned and subjected to death threats.

In **Greece**, one of the established democracies, the government has remained oblivious to the significant role that NGOs might play in the promotion of a human rights culture. The state in fact continues to demonstrate a worrying propensity to hinder their activities. For example, in 2000, it cancelled an international seminar on "Greece and the European Charter on Regional and Minority Languages," organized by the Council of Europe and the Minority Groups Research Centre (KEMO), at the last minute and closely followed observers of politically motivated trials, and refused Turkish human rights activists visas to Greece.

On 21 September 2000, the **Bulgarian** parliament adopted the final version of the new non-profit corporations act. The act is a sign of progress in that it establishes clear rules for the registration of associations of citizens and foundations, and enables them be granted privileged status, which entitles them to tax concessions or direct funding by the state. The act also enables non-profit corporations to carry on business linked with their goals and to facilitate the decision-making procedures of their bodies. At the same time, the freedom of association and the right to peaceful assembly in Bulgaria continues to be violated with regard to a number of ethnic and religious minorities and unpopular political and trade union groups. The most drastic violation in this respect was the February 2000 decision of the Constitutional Court to rule the United Macedonian Organization (UMO) "Ilinden"–PIRIN unconstitutional. The court held that the party presented threat to Bulgaria's national security with its separatist activities. The bulk of the evidence against (UMO) "Ilinden"–PIRIN consisted of statements of leaders and activists of the party and of publications in the press prior to its establishment. Nor did the Constitutional Court take into account the statutes and program documents of the party, which expressly state that the party shall pursue its goals in a peaceful way and with legal means.⁸⁷ However, judicial proceedings were not in conformity with the standards of fair trial then.

⁸⁷ Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 2000*.

Statement to the 2001 OSCE Implementation Meeting

**HUMAN RIGHTS/ HUMANITARIAN ISSUES: FREEDOM OF THOUGHT, CONSCIENCE,
RELIGION OR BELIEF** (Tuesday, 25 September 2001)

In the 1994 concluding document of Budapest, the participating States committed themselves to ensure freedom of religion and to foster a climate of mutual tolerance and respect between believers of different communities.⁸⁸ However, in some OSCE countries, the reality is in sharp contrast to this pledge. Thus, we would now like to draw your attention to a number of states, where religious minorities are subjected to treatment in clear violation of international standards acknowledged by their governments.

In **Russia**⁸⁹, the 1997 federal law on religion continues to be a focus of serious concern. This law introduced a distinction between religious groups and religious associations, formulating only the latter as legal entities with the right to organize public meetings, rent or buy facilities, provide religious training, and distribute religious literature. According to the law, a religious community must prove that it has existed at least fifteen years in the country in order to be registered as a full-fledged association. Though a Constitutional Court ruling from 1998 moderated this provision somewhat⁹⁰, it still serves to restrict the activities of new, small and independent congregations. Another controversial provision of the law was its requirement that all existing religious organizations be registered by 31 December 2000. Due to a slow registration process, a considerable number of communities seeking legal status were still not registered when the time limit expired. There is also reason to believe that in at least some cases registration was refused on fully falsified grounds. For example, such trivial reasons as mistakes in documents or expressions deemed unacceptable were used to reject applications for registration.

Furthermore, in some regions, particular clauses of the federal law on religion have been made the basis for measures against non-traditional communities. For example, both Jehovah's Witnesses and the Salvation Army now face closure in Moscow after the City Court upheld rulings establishing that the two communities do not meet the criteria of religious organizations. While Jehovah's Witnesses are alleged to have broken up families, tried to convert minors without their parents' consent and even pushed members towards suicide, the Salvation Army is stated to be a paramilitary body bent on toppling the government.⁹¹ The IHF rejects these arguments as absurd and believes that the rulings grossly infringe the rights of religious communities seeking only to pursue their mission peacefully and in accordance with the law.

Although federal law in Russia provides for the separation of the state and the church, formal agreements of cooperation have been concluded between the Orthodox Church and the authorities in some regions. This has enabled the Orthodox Church to influence political decision-making processes, and to proselytize in schools, military detachments, prisons and labor camps. Similarly, the Orthodox Church is often the only religious community able to spread information through the regional media. In fact, it is common for non-traditional communities to face aggressive reporting, which both creates and sustains hostile attitudes.

⁸⁸ Chapter VIII, paragraph 27.

⁸⁹ Unless otherwise noted, based on IHF: *Religious Intolerance in Selected OSCE Countries 2000*.

⁹⁰ The ruling also permitted the registration of organizations that already were registered in 1997 or that were willing to become a local branch of a larger registered denomination.

⁹¹ Radio Free Europe/Radio Liberty, several issues of the Newline in July 2001; and Reuters 15 July 2001.

In **Central Asia**⁹², religious freedom continues to be severely restricted in the name of the fight against Islamic extremism, which is considered a serious threat both to individual countries to the region as a whole. The IHF believes there is cause for concern about the aims and strategies of certain religious factions in the region. However, disproportionate measures directed at non-traditional religious associations at large constitute major human rights violations, and are not justifiable under any circumstances.

In **Kazakhstan**, a new law on freedom of religion and religious associations is under preparation, which represents a highly worrisome attempt to repress groups solely on the basis of their beliefs. Clearly targeted against minority religious communities, the draft requires all religious associations to register with the authorities, and failure to meet the requirements constitutes a reason for banning an association. In addition, the draft law restricts the right of religious communities to worship freely, organize religious training, proselytize, disseminate religious literature and deal independently with administrative and financial affairs. As the draft law only vaguely defines key terms such as “reactionary fundamentalism”, “religious sects” and “religious extremism”, it also leaves much to administrative discretion.

In **Uzbekistan**, the determination to undermine Islamic extremism has resulted in repressive measures and arbitrary crackdowns. During the current campaign, persons have been sentenced to lengthy jail sentences for membership in unregistered Islamic organizations, possession or distribution of literature of such organizations, or even due to the expression of sympathy with the views of such organizations. Moreover, persons have often been charged on the basis of falsified evidence and sentenced on the basis of confessions obtained under duress. It is believed that most of the “extremists” arrested and sentenced are moderate Muslims favoring a strategy of political dialogue. While the nature of the current campaign is of major concern, its ultimate effect can also be brought into question: illegal arrests, detention and trials cause great bitterness among victims’ relatives and friends, and thereby result in a turn to more radical strategies. In fact, there are already reports indicating the increased radicalism of members of the banned Hizbut-Tahrir who have been forced into exile.

In **the Balkans**⁹³, religious intolerance is linked to the close intertwinement of religion and ethnicity. As religious and ethnic affiliations overlap to a great extent in the region, religion inevitably remains an instrument in the hands of those in power as long as ethnic tensions prevail.

In **Bosnia and Herzegovina**, all the major parties continue to be closely associated with the religion of the ethnic group they represent. While the Serb Democratic Party (SDS) is ideologically committed to the Serb Orthodox Church, the Croatian Democratic Union (HDZ) cooperates with the Roman Catholic Church and the Bosniak-dominated Party of Democratic Action (SDA) with the Islamic community. Moreover, in violation of the federal constitution, the Serb Orthodox Church has been designated the “state church” in Republika Srpska. As a result, other religious communities and individuals who are not Serbs and Orthodox face discrimination from the government.

In the **Federal Republic of Yugoslavia**, the Serbian Orthodox Church also enjoys preferential treatment, although the equal treatment of all religious communities is constitutionally guaranteed at both the federal and the republican level. In Montenegro, this church has unproblematic access to state funds, state media, as well as politicians. At the same time, other churches, including the Montenegrin Orthodox Church, continue to be subjected to intimidation and harassment. In Serbia, the Ministry of Religion recently presented a new draft law on religion, which delineates guidelines for closer relations between the state and the Serbian Orthodox Church, the restitution of property to this church, and the introduction of religious education in schools. According to representatives of minority religions in the republic, the draft reveals an attempt to downgrade and discriminate against religious minority communities.⁹⁴

⁹² Based on the *Report on IHF’s Mission to Central-Asia June 2000*; and IHF, *Religious Intolerance in Selected OSCE Countries*, 2001.

⁹³ Unless otherwise stated, based on *IHF: Religious Intolerance in Selected OSCE Countries*, 2001.

⁹⁴ Keston News Service, July 20, 2001.

In **Croatia**, ties between the Roman Catholic Church and the state have weakened since the Croatian Democratic Union (HDZ) lost its power. Still, this church is in a better position than other religious communities because, unlike all other religious communities, it receives state financing to support pensions for priests and nuns.

Furthermore, despite a promise to counteract religious intolerance, the new authorities have not adopted any appropriate legal regulations to this end. In fact, a new law on religious communities currently under preparation promotes rather than combats discrimination. As the law establishes a distinction between “traditional Christian” and “other religious communities”, it seriously jeopardizes the equality of all religious communities before the law.

In **Macedonia**, the Macedonian Orthodox Church reportedly strives to be granted the status of a “national church”. Such a privileged position would, for example, provide the church with financial assistance from the state budget, exempt it from all taxes, and allow it to give religious instruction in schools. As it stands, there are already close links between the Macedonian Orthodox Church and the state authorities. The IHF is concerned in particular that the church leadership encourages hostility towards other confessions among members of the church by openly expressing negative attitudes. Reportedly, members of the church have even undertaken direct attacks against minority communities.⁹⁵

⁹⁵ For example, instances of demolition of property and vandalism at cemeteries belonging to minority communities have been reported.

Statement to the 2001 OSCE Implementation Meeting

HUMAN RIGHTS/ HUMANITARIAN ISSUES: FREEDOM OF MOVEMENT

(Tuesday, 25 September 2001)

We would like to draw your attention to a remnant of the Soviet-era that limits freedom of movement in the former Soviet Union. Created primarily to prevent people from moving from poor countryside areas to wealthier cities, the so-called *propiska system* required every soviet citizen to register in his/her domicile. The residence permit issued at registration was attached to the internal passport of the person, and was a condition for the right to work, to sell or acquire property, as well as to receive social benefits and public services. This system virtually tied a person to his/her domicile for a lifetime. As a general trend, the application of internal registration processes has been moderated in the former soviet republics in the last decade. However, in a number of republics, such processes continue to restrict the right of persons to freely choose where to live and work.

Legislation sanctioning *propiska* systems remains in force in some republics. In **Belarus**, the government has stated an intention to do away with the old regulations and replace them with a less stringent system of registration.⁹⁶ However, such intentions have yet to be realized and citizens of the republic are subjected to the same legal restrictions regarding residence as under the Soviet era. For example, persons who move to other regions and have not properly registered there may be denied access to medical care or school education.

In **Azerbaijan**, *propiska* regulations also remain valid, although they are not implemented as strictly as in former times.⁹⁷ Nowadays, persons can move to and settle in a place other than where he/she is registered without facing any repercussions. However, if a person wishes to apply for a job with the government, or needs official documentation for some reason, it is necessary for him/her to be registered. Moreover, it is considered a serious failure not to have any *propiska* at all. Accordingly, persons who lack registration documents tend to be treated with great suspicion and hostility by the authorities.

The *propiska* system has been legally abolished in other republics, although it continues to be applied to an extent. In **Kazakhstan**, the introduction of a less severe system of internal registration has not resulted in any noticeable changes in the practices of the authorities.⁹⁸ Thus, citizens still have to register in order to be able to exercise a number of rights, such as applying for jobs and receiving pensions.

In **Moldova**, the citizens are required to have their place of residence noted in an annex to their identification cards.⁹⁹ As citizens must present these annexes, for example, when seeking unemployment compensation or wanting to vote or take part in privatization programs, it is also of vital importance for them to be registered properly. In addition, persons who for some reason do not have adequate identification documents are subjected to abuse at the hands of the police.¹⁰⁰

⁹⁶ *IHF Annual Report 1999*.

⁹⁷ Information from the Human Rights Center of Azerbaijan, July 2001.

⁹⁸ *Annual Report 1999 of the Almaty Helsinki Committee*.

⁹⁹ Information Moldovan Helsinki Committee for Human Rights, August 2001.

¹⁰⁰ Moldovan Helsinki Committee for Human Rights, *Detention of Vagrants, Persons with No Identification Documents in the Republic of Moldova*, June 2001

In Russia, new residential registration rules are commonly used to restrict citizens' rights in a similar manner as under the *propiska* system.¹⁰¹ Although the Constitutional Court held that all such practices are unconstitutional in 1998, many regional authorities continue to hold registration as a condition for citizens to benefit from public services. Old registration practices of this kind prevail especially in wealthier regions and cities, such as Moscow. As of this writing, there have been no reports indicating that the recent federal reform has brought any positive changes regarding the regional discrepancies in the implementation of the registration rules.

In addition, we would like to identify a number of further problems that result from the registration regulations and practices. Firstly, systems of registration contribute to the preservation of corruption. Typically, the police extort bribes when processing registration applications and impose excessive fines on persons who fail to present adequate registration documents during spot checks.¹⁰² Secondly, strict registration requirements encourage persons desperate to leave their place of birth to opt for such solutions as buying residence registrations or entering arranged marriages.¹⁰³ Inherent in this is the danger that others will exploit and profit from the desperation of their fellow citizens.

Finally, registration procedures place refugees and forced migrants in a particularly vulnerable position. In **Moldova**, all immigrants must go through a very complicated process when applying for authorization to reside in a certain place.¹⁰⁴ In addition, the decision taken by the local authorities cannot be appealed. In **Azerbaijan**, refugees not considered to qualify for official refugee status are often denied the right to regularize their residence.¹⁰⁵ As a result, they run the risk of being detained and intimidated due to the lack of proper registration documents. This is particularly true in terms of the thousands of refugees from Chechnya who are routinely refused official status in the republic.¹⁰⁶ In **Russia**, registration rules also tend to be taken to warrant discrimination of migrants from certain regions, such as Central Asia and Caucasus.¹⁰⁷ When seeking to register with the authorities, migrants from these regions who have not been granted "forced settler" status face great suspicion and aversion. In addition, not having proper registration documents, the migrants easily fall victim to harassment at the hands of the police.¹⁰⁸ For example, in Moscow, the determination to fight terrorism has served as a pretext for the local police to carry out a fully disproportionate campaign targeted at all "illegal" Caucasian migrants dwelling in the town.

¹⁰¹ IHF, *Human Rights in the OSCE Region 2000: the Balkans, the Caucasus, Europe, Central Asia and North America*.

¹⁰² See, for example, the chapter on Russia in the *Human Rights Watch World Report 2000*.

¹⁰³ For instance, such practices have been documented to occur in the countryside in Belarus. *IHF Annual Report 1999*.

¹⁰⁴ Information from the Moldovan Helsinki Committee for Human Rights, August 2001.

¹⁰⁵ Information from the Human Rights Center of Azerbaijan, July 2001.

¹⁰⁶ Human Rights Center of Azerbaijan, *Situation of Human Rights in Azerbaijan January-June 2001*.

¹⁰⁷ Olga Cherepova, Memorial Human Rights Center, *Ethnic Discrimination on the Basis of Place of Residence in the Moscow Region*, 1999.

¹⁰⁸ *Human Rights Watch World Report 2000 and 2001*.

Statement to the 2001 OSCE Implementation Meeting

**HUMAN RIGHTS/HUMANITARIAN ISSUES: ASYLUM SEEKERS AND
DISPLACED PERSONS** (Tuesday, 25 September 2001)

The fundamental idea underlying the system of asylum is the guarantee of the right to life, liberty and security, as well as protection from persecution. However, in practice, the rights of asylum seekers are not always given the highest priority in the asylum process. We would therefore like to take this opportunity to discuss certain features of asylum policies that we consider most problematic.

Firstly, we would like to draw your attention to a deplorable trend recently observed in several Western European countries. While the implementation of the Schengen Agreement has increased freedom of movement for the citizens of these countries, regulations regarding asylum seekers have been made stricter. For example, in **Belgium, Finland and the Netherlands**, the adoption of new asylum provisions has resulted in a considerable weakening of the legal protection of asylum seekers.¹⁰⁹ As accelerated procedures for the processing of asylum applications have been introduced, and such troublesome concepts as “manifestly unfounded claims” and “safe countries of origin” have been made the basis for decisions on asylum, there are no longer sufficient guarantees for the thorough investigation of individual cases. Moreover, the lack of effective means of regularization means that there are no safeguards against the enforcement of negative asylum decisions resulting from hasty and superficial investigations. Alarming, new restrictive asylum provisions are also reportedly in preparation in **Germany**.¹¹⁰

In **Great Britain**, the authorities decided in July to introduce a system of non-standard screenings of passengers travelling to London at the Prague international airport. The intention with this measure was to reduce the number of Czech citizens seeking asylum in the country.¹¹¹ As a result of strong criticism, the system was discontinued in early August, but a few weeks later it was resumed. We find this decision a matter of serious concern, as the system of non-standard screenings is degrading and humiliating for every one affected, denies individuals turned away the right to seek protection in another country and fuels negative attitudes towards certain groups of the population (in particular Roma).¹¹² Although there is certainly a need to adapt practices to changing situations, we strongly object to regulations and arrangements that infringe upon the fundamental rights of asylum seekers. We would also like to suggest that a more adequate way of dealing with taxed asylum systems would be to direct additional resources to the authorities in charge of processing the applications.

In addition to the above concerns, we find it regrettable that the restrictive asylum policies adopted in Western European countries have tended to serve as examples in Central and Eastern European countries. For instance, asylum laws recently passed in the **Czech Republic and Lithuania** exhibit clear similarities to the Western European provisions discussed above.¹¹³ In **Latvia**, a new draft law on asylum represents a positive step, inasmuch as it addresses several deficiencies of the current law; in

¹⁰⁹ IHF, *Human Rights in the OSCE Region 2001: The Balkans, the Caucasus, Europe, Central Asia and North America*.

¹¹⁰ *Die Presse*, 31 July and 4 August 2001.

¹¹¹ *Radio Free Europe/Radio Liberty Newslines* August 7, 2001 and August 31, 2001.

¹¹² *Compare press release by Czech Helsinki Committee, August 1, 2001.*

¹¹³ IHF, *Human Rights in the OSCE Region 2001: The Balkans, the Caucasus, Europe, central Asia and North America*.

particular, it broadens the definition of a refugee and establishes complementary forms of protection.¹¹⁴ However, the draft law also unfortunately introduces an accelerated asylum process to take place at the border. Due to the very short foreseen timeframes, the lack of competence of border officials in asylum issues, their lack of access to updated country or origin information and difficulties in finding interpreters and legal counsellors at the border, the new process involves a veritable risk of the *refoulement* of refugees.

Secondly, we would like to focus on two groups of asylum seekers that we consider to be in a particularly vulnerable position.¹¹⁵ The first of these groups is comprised of children. Under article 22 of the Convention on the Rights of the Child, children under 18 years of age enjoy special protection; in particular, they cannot be held in custody. Nevertheless, minors awaiting deportation are regularly detained in **Germany** and **Austria**, and, in the **United States**, unaccompanied children are detained for lengthy periods before being released to family members or appropriate guardians. Moreover, the conditions in the detention facilities do not always meet international standards. In **Norway**, various NGOs and the UNHCR have expressed concern about the fact that children often must spend prolonged periods in reception centers while their applications are being processed or while waiting to be resettled in a municipality.

The second vulnerable group to which we would like to draw your attention is comprised of women. Women specific persecution is rarely deemed to be politically motivated, with the result that women in true need of protection face severe difficulties in obtaining asylum. For example, in **Germany**, sexual violence at the hands of authorities is usually not recognized as a method of systematic persecution, and thus not considered to be a sufficient ground to grant asylum. Moreover, various forms of violence such as female genital mutilation, rape in periods of conflict, and punishment related to social and religious norms that exist within local communities are not accepted as grounds for asylum.

Thirdly, we would like to address certain particular problems that prevail in a number of countries.¹¹⁶ In **Turkey**, refugee status continues to be restricted to persons coming from Europe. Persons from other countries can only qualify for asylum status, which in this context means that they are granted a temporary residence permit allowing them to be considered for resettlement in another country. The current system is extremely dangerous for non-European refugees and puts them at risk of *refoulement* at various stages of the process. Many refugees are deported already at the border, and those who manage to enter the country are liable to deportation if they fail to meet the complicated preconditions for filing applications. Moreover, even if asylum seeker status is eventually granted, this is not a guarantee against *refoulement*, since asylum seekers who have not been resettled after a “reasonable period of time” can also be deported.

In **Russia**, refugees from former Soviet Republics can only be granted the status of “forced migrants”. In addition, it is virtually impossible for refugees from Chechnya to obtain even this status, which means that the best they can hope for is registration under the so-called reference no. 7. Such registration entitles the refugees to be accommodated in a camp for “forced migrants,” receive some products free of charge, and make a free roundtrip journey within the Russian Federation. However, the rights of registered persons are often ignored because the migration camps are overcrowded, and the administrative centers maintaining them do not have enough food, medicine or other necessities. In addition, the centers have been ordered not to register persons from areas in Chechnya declared to be “secure”, although there are no real guarantees for safety in these areas. One the whole, there is sufficient reason to claim that the Russian government is shunning responsibility for citizens fleeing the extreme situation in Chechnya.

¹¹⁴ Latvian Centre for Human Rights and Ethnic Studies, *Human Rights in Latvia January-June 2001*; and European Parliament, Committee on Foreign Affairs, *Human Rights, Common Security and Defence Policy: Draft Report on Latvia's Membership Application to the European Union and the State of Negotiations*, 6 June 2001.

¹¹⁵ Based on IHF, *Human Rights in the OSCE Region 2001: The Balkans, the Caucasus, Europe, Central Asia and North America*.

¹¹⁶ Unless otherwise noted, based on IHF, *Human Rights in the OSCE Region 2001: The Balkans, the Caucasus, Europe, Central Asia and North America*.

In the **United States**, the detention of asylum seekers continues to be the rule, and not the exception. Following the adoption of a new law in 1995, which broadened the criteria that require detention and eventual deportation, the number of asylum seekers held in custody reached a record high of 20,000 on average per day in 2000. This increase has led to overcrowding in the detention facilities of the Immigration and Naturalization Service (INS), with the effect that more than half of all asylum seekers who are detained are currently placed in prisons intended for criminals, where INS monitoring is minimal. In addition, due to insufficient resources, the INS is not capable of ensuring that the conditions in its own facilities are humane and safe in all respects.

The Greek Helsinki Monitor (IHF member) visited the detention center on Asklipiou Street in Piraeus, **Greece**, on 27 June to investigate a complaint concerning the six-month detention of a foreign national awaiting deportation, in contravention of article 44.3 of the new immigration law 2910/01. According to the article, it is illegal to detain individuals awaiting deportation for more than three months. During the visit the Helsinki Monitor discovered that 11 of the 18 detainees fell within the scope of this article, having been detained for periods ranging from 3 to 11 months while awaiting deportation. The police officers at the detention facility were not aware of the 3-month limit provided by the law.

In addition to excessive periods of detention, none of the detainees were ever informed in writing and in their own language of the reasons for their detention and their rights. The Helsinki Monitor also stated that it was impossible for a visitor – even a lawyer - to have a private conversation with the detainees.¹¹⁷

In a positive development, on 30 July, approximately 70 aliens who were being detained illegally in various police stations in Attica were released after having been detained pending deportation for a period exceeding 3 months. Many of them could not legally be deported, as the police department officially stated, and, without the ombudsman's intervention (to whom the Greek Helsinki Monitor had appealed) apparently would have been held in detention indefinitely. As a result of this action, the state admitted that dozens of aliens fall under the provisions of the new law.¹¹⁸

¹¹⁷ Greek Helsinki Monitor, "Urgent Complaint to Ombudsman on Illegal Detention of Aliens Awaiting Deportation," 28 June 2001.

¹¹⁸ Greek Helsinki Monitor, "Some 70 Illegally Detained Deportees Released from 'Cells of Illegality'. Decisive Intervention by the Greek Ombudsman, Greek Helsinki Monitor Vindicated," 30 July 2001.

Statement to the 2001 OSCE Implementation Meeting

HUMAN RIGHTS/ HUMANITARIAN ISSUES: RETURNEES

(Tuesday, 25 September 2001)

Even after an armed conflict has come to an end and actual warfare ceases, much remains to be done to ensure that peace in the region is both secured and maintained. Tremendous effort is necessary to re-build society and to initiate the process of reconciliation between the adversaries of war. One of the lengthiest and most complicated processes in this regard is the return of persons who have been forced to leave their homes as a result of the conflict. We would like to draw your attention now to a number of countries in which the process of return is currently a pressing issue.

In **Serbia**, the new authorities that came to power in October 2000 initially announced an intention to work to solve refugee-related problems. In particular, the authorities set out to establish good relations with the neighboring states in order to facilitate and step up the return of refugees.¹¹⁹ However, nearly a year after the shift of power, no real changes have been effected in the return policies. In fact, it seems also to be in the interest of the new authorities that as many Serb refugees as possible stay in the republic, as this contributes to the consolidation of an ethnic nation-state.¹²⁰ Despite this, no effective measures have been taken by the authorities to alleviate the most pressing problems faced by these refugees. As of late 2000, there were approximately 500,000 Serb refugees from Croatia and Bosnia and Herzegovina in Serbia.¹²¹ A considerable number of them continue to live in collective centers, which are overcrowded and whose sanitation is very poor.¹²²

The situation of internally displaced persons (IDPs) from Kosovo is even worse. Due to the lack of space in the collective refugee centers, the more than 100,000 IDPs¹²³ have been largely forced to find alternative accommodation. Many are housed in families, but some have had to settle in cellars, abandoned houses, workmen's huts and similar.¹²⁴ Faced by hostile attitudes, the IDPs also often experience difficulties when trying to integrate in the communities in which they now live. The plight of displaced Roma is exceptionally difficult in this respect.¹²⁵

In **Croatia**, attitudes toward the return of refugees and IDPs also changed in a positive way after the new authorities took office in early 2000.¹²⁶ Nevertheless, the issue of return still constitutes a major concern in the country. So far, approximately 80,000 refugees have returned to their homes in Croatia, while more than 300,000 continue to live in the Federal Republic of Yugoslavia and Bosnia and

¹¹⁹ Report of the Helsinki Committee for Human Rights in Serbia, July 2001.

¹²⁰ Information from the Helsinki Committee for Human Rights in Serbia, August 2001.

¹²¹ Information from Humanitarian Law Centre on refugees in Serbia, 20 June 2001.

¹²² Report of the Helsinki Committee for Human Rights in Serbia, July 2001.

¹²³ There are no exact numbers of the IDPs. However, according to UNMIK, over 50% of the pre-war Serbian population of 230,000 in Kosovo has fled for Serbia, while Roma organizations in Serbia claim that up to 80,000 Roma have left Kosovo.

¹²⁴ Report of the Helsinki Committee for Human Rights in Serbia, July 2001; and information from Humanitarian Law Centre on refugees in Serbia, 20 June 2001.

¹²⁵ Information from Humanitarian Law Centre on refugees in Serbia, 20 June 2001.

¹²⁶ *Annual Report 2000 of the Croatian Helsinki Committee.*

Herzegovina.¹²⁷ In addition, more than 45,000 IDPs are scattered throughout the country.¹²⁸ Although the new authorities support the program for the return of refugees and IDPs, a number of factors prevent its realization. Firstly, economic difficulties and high unemployment rates discourage a great percentage of those who consider a return to their former home region.¹²⁹ Secondly, returnees often face problems in getting their property back. On the one hand, the housing commissions tend to obstruct the restitution process. For example, it is common for the commissions to refuse to deal with requests for restitution with the dubious motivation that no alternative accommodation is available to those temporarily using the property. On the other hand, if positive decisions are made, the local authorities are not always ready to implement them.¹³⁰ Finally, returnees are the targets of ethnically motivated harassment in many areas of the country. In particular, the stated willingness of the new authorities to cooperate with the Hague Tribunal has resulted in an intensification of inter-ethnic tensions. Disapproving of the change of policy, Croatian nationalists have increasingly voiced demands for measures against ethnic Serbs suspected of war crimes. As a result, the authorities have speeded up their dealings with such cases, despite the fact that the evidence at hand is seldom sufficient or even reliable. As of August 2001, some 450 citizens of Serbian ethnicity had been sentenced *in absentia*, including more than 60 persons detained on war crime charges. In addition, thousands of others have been labeled war criminals on unofficial lists in circulation. Hardly surprisingly, this recent trend of Croatian nationalism has caused negative reactions among ethnic Serbs who have already returned and generated fear among those planning to return.¹³¹

In **Bosnia and Herzegovina**¹³², no noticeable changes have taken place in the policies regarding the return of refugees and displaced persons and the three nationalist parties in power continue to show skepticism towards the 1995 Dayton Agreement. While some positive trends can be identified, the overall situation regarding returnees has not improved much either. In the last two years, the pace of return has increased slightly, and as of June 2001, the return of about 730,000 refugees and IDPs had been registered. However, over one million refugees and IDPs remain outside their home regions. It is also worrisome that the level of return is less than 15% in Republika Srpska (RS), compared to the near 30% in the Federation of Bosnia and Herzegovina (FBiH). In addition, while approximately 80% of returnees are members of ethnic minorities in FBiH, only 21% represent minority groups in RS. Perhaps the most encouraging development is that Bosniaks have begun returning in larger groups to eastern Bosnia, where severe Serbian atrocities were committed during the war. Apparently, the arrest of war criminals has created a new atmosphere in this region. Nonetheless, as in the rest of the country, the accelerated return is overshadowed by the fact that returnees who recently arrived often live in poor conditions. For example, many stay in tent settlements, where there is a lack of food and other necessities, such as blankets.

A further major problem is the slow rate at which returnees are able to repossess their property. By the end of 2000, tens of thousands of claims had been filed, but only a few percent were resolved. In re-adapting to life in their home regions, returnees also face difficulties regarding employment, education for their children, health services, social allowances, etc.¹³³ Furthermore, returnees have been subjected to severe discrimination and harassment in a number of regions. In particular, it seems that there is a

¹²⁷ Croatian Helsinki Committee for Human Rights, Regional Centers for Eastern Slavonia and Danube Region, *Semi-Annual Report*, August 2001; and UNHCR, *Provisional Statistics on Refugees and Others of Concern*, 2000, <http://www.unhcr.ch/statist/2000provisional/tab01.pdf>

¹²⁸ UNHCR, *Provisional Statistics on Refugees and Others of Concern*, 2000.

¹²⁹ Croatian Helsinki Committee for Human Rights, Regional Centers for Eastern Slavonia and Danube Region, *Semi-Annual Report*, August 2001; and UNHCR, *Provisional Statistics on Refugees and Others of Concern*, 2000.

¹³⁰ Croatian Helsinki Committee for Human Rights, Regional Centers for Eastern Slavonia and Danube Region, *op.cit.*; and *Annual Report 2000 of the Croatian Helsinki Committee*.

¹³¹ Croatian Helsinki Committee for Human Rights, Regional Centers for Eastern Slavonia and Danube Region, *op.cit.*

¹³² Based on Helsinki Committee for Human Rights in Bosnia and Herzegovina, *Analysis of the State of Human Rights in Bosnia and Herzegovina. Monitoring in the Period January-June 2001*; and, unless otherwise noted, Helsinki Committee for Human Rights in Bosnia and Herzegovina, *Report on the State of Human Rights in Bosnia and Herzegovina, January-December 2000*.

¹³³ *Report from the IHF Fact-Finding Mission to Eastern Bosnia*, April 2001.

considerable level of intolerance towards returnees in RS. For example, more than 260 assaults were reported in RS, while approximately 100 were reported in FBiH during the period March 2000 - April 2001. In addition to discrimination and verbal threats, returnees have also been physically attacked.

In **Georgia**, the government of the self-proclaimed republic of Abkhazia continues to obstruct the organized return of displaced members of the ethnic Georgian population in the area. During the conflict in the region in 1992-1994, about 350,000 of the original 540,000 inhabitants were displaced. Approximately 300,000 of those forced to flee were ethnic Georgians.¹³⁴ In 1994, the Georgian and Abkhazian governments signed a peace agreement, but no final solution regarding the status of the region has yet been reached, as the Abkhazian government refuses to relinquish its demand that the republic be internationally recognized.

The situation in Abkhazia has been characterized by perpetual insecurity and lawlessness.¹³⁵ As a result, the region still lacks any durable foundations on which to implement the 1994 agreement on the voluntary return of refugees and IDPs. However, even if no organized return has taken place, some ten thousand displaced persons have returned at their own initiative. An exact number of the returnees cannot be given, since their arrival was not registered and some of them have left again.¹³⁶

Back in their home region, the returnees live in constant danger. While the Abkhaz militia continues to harass and kill ethnic Georgian inhabitants, the Russian peacekeeping troops deployed in the area do not provide any effective protection. In fact, there are many well-documented cases in which peacekeepers participated in raids against ethnic Georgian civilians.¹³⁷ Most regrettably, the Russian government continues to contribute to the poor human rights situation in the area by supporting the self-proclaimed regime morally, politically and financially.¹³⁸ It seems a prolonged state of instability in Abkhazia lies in the interest of Russia, as it justifies its military presence and involvement in the region. Attempts of the Georgian government to change or broaden the composition of the peacekeeping troops, as a means to improve the protection of the non-combatant citizens in the self-proclaimed republic, have also met with severe resistance from the part of Russia.¹³⁹

In **Azerbaijan and Armenia**, a great number of persons still live in indefinite situations due to the conflict in Nagorno-Karabach. Years after the 1994 cease-fire was brokered, no peace agreement has come about. In addition, sporadic skirmishes continue to occur on the borders of the area occupied by Karabach and Armenian forces.¹⁴⁰ Due to the absence of a political solution no organized return of refugees and displaced persons has taken place.¹⁴¹ In May 2001, there were about 240,000 refugees in Armenia, most of whom had arrived from Azerbaijan during the peak of the conflict in Nagorno-Karabach.¹⁴² Although there has been a rapid increase in the number of naturalizations in the last 18 months, no more than 30,000 refugees have actually obtained citizenship. A considerable number of the refugees do not have appropriate housing and find it difficult to become economically self-reliant.¹⁴³ In comparison, almost all of the 185,000 refugees who left Armenia for Azerbaijan during

¹³⁴ UNHCR, Centre for Documentation and Research, *Background Paper on Refugees and Asylum Seekers from Georgia*, 1999, <http://www.unhcr.ch/refworld/country/cdr/geor1099.pdf>

¹³⁵ *Report of the UN Secretary-General Concerning the Situation in Abkhazia*, 19 July 2001, <http://www.un.org/Docs/sc/reports/2001/713e.pdf>

¹³⁶ Information from the Caucasian Centre for Human Rights, July 2001.

¹³⁷ *IHF, Human Rights in the OSCE Region 2001: the Balkans, the Caucasus, Europe, Central Asia and North America*.

¹³⁸ See IHF open letter to the President of the Russian Federation and the Federal Assembly of the Russian Federation, January, 2001, at <http://www.ihf-hr.org/appeals/010131.htm>

¹³⁹ Information from the Caucasian Centre for Human Rights, July 2001.

¹⁴⁰ U.S. Department of State, *Background Note on Azerbaijan*, 2001, <http://www.state.gov/r/pa/bgn/index.cfm?docid=2909>

¹⁴¹ UNHCR, Centre for Documentation and Research, *Background Paper on Refugees and Asylum Seekers from Azerbaijan*, 1999, <http://www.unhcr.ch/refworld/country/cdr/azerb1099.pdf>

¹⁴² BBC, 7 May 2001.

¹⁴³ Information from the Civils Society Development Union in Armenia; and UNHCR Information on Armenia, 1999, <http://www.unhcr.ch/world/euro/armenia.htm>

the warfare in Nagorno-Karabakh have been naturalized and are reported to be well integrated in their new living environments.¹⁴⁴ However, the over 550,000 persons internally displaced due to the hostilities in Nagorno-Karabakh are not as well off.¹⁴⁵ More than 50% of the IDPs are accommodated in public buildings or special settlements, where sanitation is very poor. As they hope one day to return to their home regions, these persons are now also dependent upon external assistance. So far some 60,000 IDPs have returned to their areas of origin along the front-line of the disputed area, but a more large-scale return is unlikely to succeed without more intense efforts toward peace and reconciliation.¹⁴⁶

¹⁴⁴ IHF, “Azerbaijan: Restrictive Human Rights Atmosphere Makes Civil Society Engagement in Nagorno-Karabakh Solution Difficult,” press release, <http://www.ihf-hr.org/appeals/000530.htm>; and UNHCR Information on Azerbaijan, 1999, <http://www.unhcr.ch/world/euro/azerbaij.htm>

¹⁴⁵ UNHCR, *Provisional Statistics on Refugees and Others of Concern*, 2000. <http://www.unhcr.ch/statist/2000provisional/tab01.pdf>

¹⁴⁶ UNHCR Information on Azerbaijan, 1999, <http://www.unhcr.ch/world/euro/azerbaij.htm>

Statement to the 2001 OSCE Implementation Meeting

INTERNATIONAL HUMANITARIAN LAW

(Wednesday, 26 September 2001)

Several armed conflicts in the OSCE region result in large-scale violations of international humanitarian law and the individuals' basic human rights. Arbitrary detention, torture, ill-treatment, extrajudicial executions, destruction of property and flows of refugees are daily phenomena in many parts of the OSCE region. The situation in Chechnya demands special attention.

On 20 April 2001, the UN Commission on Human Rights adopted a resolution expressing its grave concern about human rights violations in **Chechnya**. The resolution strongly condemned the use of disproportionate force and serious human rights violations by Russia's forces and called on Russia to investigate all violations of international human rights and humanitarian law. It also raised concern about the pattern of forced disappearances, torture and summary executions perpetrated by Russia's forces in Chechnya. However, the resolution stopped short of calling for an international commission of inquiry.¹⁴⁷ The Europe and Central Asia Division of Human Rights Watch (HRW, IHF member) reported in July 2001 on an unprecedented level of arbitrary detention of hundreds, perhaps thousands, of Chechen men in a new round of sweep operations by Russian forces. Eyewitnesses from several villages alleged torture, ill-treatment, and extortion of the detainees. In at least two villages, Sernovodsk and Alkhan-Kala, Russian forces went from house to house rounding up men without so much as conducting an initial passport check. During a sweep operation in Sernovodsk, prompted by a bomb explosion the previous day, hundreds of men were detained; the Alkhan-Kala sweep, which aimed to seize rebel leader Arbi Baraev, took place from 19 to 25 June. According to HRW, the sweep amounted to collective punishment. Sweep operations took place in Assinovskaia, Kurchaloi, Mairtup, Staraye Atagi, as well as two districts of Grozny. The Russian troops released the majority of the detainees in the early hours of 3 July. Several witnesses said soldiers forced detainees to sign statements saying they had no complaints about their treatment in detention. The new-style sweeps in Sernovodsk and Assinovskaia led to a new influx of fleeing civilians into Ingushetia.¹⁴⁸ The above-mentioned operation was but one in a series of atrocities that Russian troops have committed in Chechnya with impunity. Russian authorities have literally buried evidence of extrajudicial executions in Chechnya, according to HRW. For example, the Russian government has botched investigation of a mass gravesite discovered in late February 2001. Fifty-one bodies were found in Dachny, an abandoned village less than one kilometer from the main Russian military base in Chechnya. According to HRW, of the 19 victims whose corpses were identified by relatives, 16 were last seen as Russian federal forces took them into custody. Two weeks later, the authorities buried the rest of the bodies without prior notice and without performing adequate autopsies or collecting crucial evidence that would have helped to identify the perpetrators. The Russian government failed to provide help or resources for the only forensic examiner for Chechnya, whose only tools were a scalpel and a pair of rubber gloves.¹⁴⁹

¹⁴⁷ Human Rights Watch/Europe and Central Asia Division, "U.N. Resolution on Chechnya Welcomed," 20 April 2001.

¹⁴⁸ Human Rights Watch/Europe and Central Asia Division, "New Round Of Russian Sweep Operations Triggers Outflow of Civilians, Allegations of Collective Punishment Against Chechens," 16 July 2001.

¹⁴⁹ Human Rights Watch/Europe and Central Asia Division, "Russia Buries Evidence of Atrocities: New Report Details Botched Investigation of mass Grave," 15 May 2001. For more details, see *Burying the Evidence: The Botched Investigation into a Mass Grave in Chechnya*, at <http://www.hrw.org/reports/2001/chechnya2/>

The IHF urges to the OSCE to take appropriate measures to guarantee that violations of international humanitarian law by both sides of the conflict in Chechnya are investigated thoroughly by an independent body and those found guilty of atrocities are punished.

Statement to the 2001 OSCE Implementation Meeting

TRAFFICKING IN HUMAN BEINGS

(Wednesday, 26 September 2001)

It is widely known that trafficking in human beings is a global problem affecting a growing number of women and children each year. Despite international efforts to address and combat this phenomenon, however, all available evidence indicates that it is on the rise, which in turn underlines the need for a more coherent and holistic strategy with clearly defined roles and goals for everyone involved. The IHF believes it is also important to note that most persons affected by trafficking in the OSCE region are in fact women and girls, thereby highlighting the need for a gender sensitive approach to addressing this problem. As the feminization of poverty has been widely cited as a leading cause of gender inequality, by the same token the feminization of migration can be seen to explain the proportionally larger number of trafficked women.

While the factors that lead women and young girls to leave their countries of origin are well-documented, much remains to be done to tackle these factors. More specifically, there remains a tendency to view trafficking in women as an isolated human rights issue, outside of the social, economic and political context in which trafficking is able to flourish.

The IHF believes that trafficking is not only a cause of discrimination against women, but also a consequence of discrimination against women. By failing to acknowledge, protect and promote women's rights in social, economic and political spheres, states essentially act as accomplices in the perpetuation of the trafficking cycle. Practice has shown that women experience increased vulnerability due to a lack of resources, equal opportunities, and gender-based discrimination, all of which are predominantly accepted by society. Sadly, this experience is often institutionalized and maintained – sometimes overtly and sometimes covertly – by state structures. We therefore call upon the OSCE to closely examine women's social, political and economic status within its member states and to recognize that raising this status will constitute an important step in creating equal opportunities, gender equality, and will therefore serve to minimize the risks of being trafficked.

There also remains a disturbing tendency to view trafficked women as criminals, as illustrated by the recent case of five women from Moldova and Romania trafficked to **Albania**. In this case, the women were arrested on charges of prostitution (article 113-25 of the penal code) and illegal border crossing (article 297-25 of the penal code), and remained in prison beyond the legally prescribed limit for pre-trial detention. An IHF mission visited the women in prison in February 2001, and protested their unlawful detention. All the women were convicted on the above charges, which carry a term of imprisonment of 12 and 13 months respectively, although their time spent in pre-trial detention was in fact equal to the term of imprisonment. Some of the women ultimately accepted shelter offered by the ICMC and later returned to their countries of origin. Regrettably, there is no accurate information as to the whereabouts of the other women. It is clear, however, that existing legislation in Albania, together with the generally negative attitude towards trafficked women, gives rise to concern about the fate of other victims.

In **Greece**, the following example illustrates the desperate situation in which far too many women increasingly find themselves:

“I paid a man [approximately U.S.\$162] to go to Greece since I had no papers. Instead, he brought me to Greece and sold me to a bar. He told me he would kill me if I left. We could not leave the house. There were twelve women, all of us 15-20 years old. The place was clean. We

slept with a lot of men, ten men a day. We were beaten if we tried to leave. I was beaten with a belt. I was hurt. The others, too. The police came and arrested all of us women and brought us to a small prison. We were all there. The women were from Bulgaria, Romania, Russia, not from Africa really. I stayed for four months in prison. After that I went to court. Because I did not have papers, the court gave me three months [suspended sentence and immediate deportation] and told me I could not return to Greece for five years”.¹⁵⁰

Through the establishment of the Stability Task Force on Trafficking in Human Beings and *inter alia* the activities of ODIHR, the OSCE has demonstrated its commitment to uphold existing human rights standards, and also to move beyond them. In this way, the Ministerial Council Decision made in Vienna in November 2000 is to be welcomed as a positive articulation of some of the further steps that need to be taken. At the same time, the IHF is concerned that the decision does not sufficiently address the larger context in which trafficking occurs, and that the already well-developed rhetoric is not sufficiently matched by concrete action.

In particular, the overly legal nature of the document fails to consider that such a framework, even when extensive and all-encompassing, is not sufficient to guarantee women’s rights. More specifically, the decision does not include such concepts as gender equality and equal opportunities, both of which are vital to solving the endemic problem of trafficking in the long term. Nor does it stress the importance of creating viable economic opportunities for women and building in-country infrastructures, both socially and economically, to support women’s rights.

In addition, while the decision does emphasize the importance of raising awareness within OSCE institutions and among OSCE personnel, by stressing their enhanced capacity to monitor, report and respond to the problem of trafficking, the decision fails to acknowledge that those OSCE member states which are countries of destination have a particular duty to address and attempt to eliminate the *demand* for trafficked women.

In order to address all of the above issues, the IHF appeals to all OSCE member states to support anti-trafficking legislation and to ensure that victims of trafficking are not unduly punished. We also recommend that the OSCE elaborate the Vienna Ministerial Decision to include such concepts as “gender equality” and “equal opportunities”, and recognize them as vital, both as a matter of policy and as a matter of practice, to any strategy that aims to combat trafficking. At the same time, the IHF urges all OSCE member states to recognize the urgent need to uphold existing commitments to women’s rights in all fields and to ensure effective means for their implementation.

¹⁵⁰ An interview in Korydallos Women’s Prison, Athens, 16 November 2000. Taken from Human Rights Watch, *Memorandum of Concern: Trafficking of Migrant Women for Forced Prostitution into Greece*, July 2001.

Statement to the 2001 OSCE Implementation Meeting

RIGHTS OF THE CHILD

(Thursday, 27 September 2001)

A combination of political, economic and social crises as well as massive instability and insecurity have gradually eroded the status of children's rights in a large number of OSCE States. Structural inequalities, changes in the forms of families, the rise of racism, intolerance of diversity, and the failure of social welfare services to fulfill their duties have all contributed to the deterioration of the situation of the children.¹⁵¹

Among OSCE states, the United States is the only country that has not yet ratified the UN Convention on the Rights of the Child. But even in 2000, on the occasion of the 10th anniversary of the Convention, it was concluded on the basis of national and regional reports that none of the countries have fulfilled all the requirements laid down by the provisions of the Convention.

Restrictions on fundamental freedoms such as the freedom of thought, expression and association have an inevitable impact on children. Children who belong to ethnic or national minorities often face particular discrimination and violence, and the right of minority children to practice their religion is restricted in many OSCE states. In addition, inadequate citizenship policies strip children of many basic rights such as the right to health care and education. Continuing violations of human rights force some children to flee their countries – sometimes alone – and to go through asylum processes while held in detention or other facilities unsuitable for minors. Ill-treatment of children by the military, the police and, increasingly, by informal militias, gangs or others raise serious concern. In March 2000, the Children's Human Rights Centre of **Albania** interviewed 35 children in detention centers. All of them stated that during their arrest and investigation the police officers used different forms of torture to extract "confessions."

The ability of the family to provide protection and offer positive prospects for children have been considerably eroded by increasing unemployment, poverty and insecurity. In **Bulgaria**, childcare allowances of a mere U.S.\$ 4 per month in 1997 only covered half of the expenses it covered in 1992.

Instead of strengthening partnership between families and the state in terms of childcare, families are often left to deal with their problems raising children alone, and the role of the state is too often believed to come into play only when families fail. In such cases, the state frequently intervenes by placing the child in institutionalized care, often in large, remote and inadequate facilities. While in **Hungary** the number of children placed in public institutions has decreased in the last decade, in **Bulgaria** and **Romania** - where the number of such children was already extremely high in 1989 – the number has increased. In both of those countries the number of children placed in homes designed for disabled children has also increased.

It appears that in many OSCE states there is still a lack of sufficient interest in developing alternative childcare programs, such as placing children in foster families or - preferably – preventing the institutionalization of children through an adequate system of family support and services.

The crisis in healthcare affected children most seriously in **former Soviet Republics**. For example, in **Kazakhstan**, 80% of children are believed to suffer from anaemia and malnutrition but do not receive adequate medical care. In a positive development, infant and under-5 mortality rates have fallen in all

¹⁵¹ Based on IHF, *Rights of the Child in the OSCE Region*, September 2001.

of **South-Eastern Europe**, except **Bulgaria**, although massive disparities remain between countries: for example, an infant is five times more likely to die in **Albania** than in **Slovenia**.

Another worrisome trend that is not adequately addressed is the proportion of children who die as a result of external causes, such as violence, poisoning, accidents and suicide. The rate remains about 2.5 times higher in **Central and Eastern Europe** than in the **European Union**.

Educational reforms are a major priority throughout Central and Eastern Europe, but they have had mixed results, with declining public subsidies for education and the introduction of fees for textbooks, a practice that undermines the right to free education.

The right to education for Roma children is particularly limited in terms of access, quality and choice. In **Bulgaria**, where Roma make up some 3,7% of the total population, they constitute only 0.1% of persons with college education and 0.6% of those with high school education. However, they make up almost 10% of person with incomplete primary education and 19% of those classified as illiterate.

The right of children to be educated in their mother tongue is also an important issue that needs to be addressed. In **Macedonia**, where 29% of primary school pupils are instructed in the Albanian language, there has been a lack of suitable textbooks or adequately trained teachers. It is feared that in **Bosnia-Herzegovina** the educational system is being transformed into a tool of national and demographic division.

The legacy of war, vulnerable peace, and the continuing dominance of militarization have had a fundamental impact on the everyday life of all children in areas of armed conflict. In particular, an increased culture of violence and weapons in homes may have led to an increase in physical abuse. In discussions concerning the return of refugees, too little attention has been paid to the rights of the child. As a result, both those who remain displaced (often in inappropriate collective accommodation) and those forced to return - perhaps prematurely - have their rights violated.

Some authorities have promoted the idea that children can have a supportive role as combatants of war. An example of this is the case of 12-year-old boys in the **Federal Republic of Yugoslavia** involved in armed conflicts and whose activities were presented in the media as an example of "patriotic duty".

Since the adoption of the Convention on the Rights of the Child, the development of juvenile justice has been much less the focus of attention than expected. A recent study covering 13 countries and conducted for the Council of Europe pointed to a rise in the number of juvenile delinquency and to an increasing emphasis on the social control of juvenile offenders. The initiatives of developing a system that would focus on the prevention of delinquency and introduce alternative, innovative approaches into the juvenile justice system have been always postponed, mainly due to the lack of resources.

While child labor is not sanctioned in many countries in the region, an increasing number of children are involved, for reasons of poverty, in some forms of economic activities.

Child prostitution in OSCE countries has also increased and there has also been a notable rise in trafficking in children, particularly young girls as child prostitutes. Based on Italian statistics, as many as 900 Albanian young girls between the ages of 14 and 18 may be working as prostitutes in Italy, many involuntarily.

Within the widespread "culture of violence," the fate of children as victims of war, violent crime, violence in schools and by the police cannot be overemphasized. The issues of violence, abuse and the neglect of children within the family are only just emerging as an issue in many OSCE countries. While public awareness about child abuse is increasing in many countries, legal and institutional provisions have been slow to respond to this development.

In **Albania**, domestic violence in the form of *vendetta* has claimed the lives of numerous children. As of this writing, some 112 children are being kept indoors in Northern Albanian because of threats against them.

It appears that in the OSCE region there is not a sufficient understanding of the fact that without a much more explicit commitment to the rights of the child, wider initiatives on human rights, democracy, economic development, and regional security are unlikely to have the desired positive impact. There is a lack of coordination and clarity of roles in the new environment of Europe, and this has led to failures in defining and implementing a policy in favor of children.

In order to improve the status of millions of children in the OSCE region, the IHF recommends that participating States explicitly and coherently address all issues concerning the rights of the child and to develop a Regional Agenda for the Rights of the Child. Within this Agenda, the OSCE should, *inter alia*, strongly promote the establishment of a National Action Plan for Children in every participating State in cooperation with NGOs; establish a realistic framework for the gradual elimination of child and family poverty in the region, and renew emphasis on adequate health care for all, including families with very low income and members of minority groups.

The participating States should also consider educational reforms a priority and in this respect increase public subsidies for education and reconsider the existing legal provisions in order to provide equal chances for children with disabilities in reaching their full capacity. They should also closely follow the process of reforming childcare services, and promote realistic alternatives to institutionalization. Moreover, priority should be given to the reform of juvenile justice through increased emphasis on prevention and the establishments of juvenile courts.

The OSCE should explicitly address the needs of an increasing number of street children and working children to prevent their extreme exploitation. Moreover, it is of utmost importance to focus attention on the neglect and abuse of the child within families, including physical, emotional and sexual abuse; to promote therapeutic resources and comprehensive information campaigns on education, prevention, legislative and judicial reform.

More attention should also be paid to developing a coherent strategy for preventing the involvement of children in armed conflicts, to the plight of refugee children, and to tackling discrimination against minority children. In this context, special attention should be given to Roma children.