
**INTERNATIONAL
HELSINKI
FEDERATION FOR
HUMAN RIGHTS**

HONORARY CHAIRMAN
Yuri Orlov

EXECUTIVE DIRECTOR
Aaron Rhodes

DEPUTY EXECUTIVE DIRECTOR
Brigitte Dufour

ADVISORY BOARD (CHAIR)
Karl von Schwarzenberg

EXECUTIVE COMMITTEE
Sonja Biserko
Holly Cartner
Bjørn Engesland
Krassimir Kanev
Andrzej Rzeplinski

PRESIDENT
Ludmilla Alexeyeva

VICE PRESIDENT
Ulrich Fischer

TREASURER
Stein-Ivar Aarsæther

Wickenburgg. 14/7, A-1080 Vienna, Austria; Tel +43-1-408 88 22; Fax 408 88 22-50
e-mail: office@ihf-hr.org – internet: <http://www.ihf-hr.org>
Bank account: Bank Austria Creditanstalt, 0221-00283/00, BLZ 11 000

**OSCE Human Dimension
Implementation Meeting
*Warsaw, 9-19 September 2002***

**Statements by the
International Helsinki Federation
for Human Rights (IHF)**

The IHF has consultative status with the United Nations and the Council of Europe.

MEMBER AND COOPERATING* COMMITTEES IN:

Albania – Austria – Azerbaijan* – Belarus – Bosnia-Herzegovina – Bulgaria – Canada – Croatia – Czech Republic – Denmark –
Finland – France – Georgia*

Germany – Greece – Hungary – Italy – Kazakhstan – Kosovo – Kyrgyzstan – Latvia – Lithuania – Macedonia – Moldova –
Montenegro – Netherlands

Norway – Poland – Romania – Russia – Serbia – Slovakia – Slovenia – Sweden – Switzerland – Ukraine* – United Kingdom –
United States – Uzbekistan*

COOPERATING ORGANIZATIONS:

The European Roma Rights Center – Human Rights Without Frontiers

The International Helsinki Federation for Human Rights (IHF) is a non-governmental organization that seeks to promote compliance with the human rights provisions of the Helsinki Final Act and its follow-up documents. In addition to supporting and providing liaison among 41 Helsinki committees and cooperating organizations, the IHF has direct links with human rights activists in countries where no Helsinki committees exist. It has consultative status with the United Nations and the Council of Europe.

The IHF represents member and cooperating committees in Albania, Austria, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Italy, Kazakhstan, Kosovo, Kyrgyzstan, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Netherlands, Norway, Poland, Romania, Russia, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Ukraine, United Kingdom, United States and Uzbekistan. Other cooperating organizations include the European Roma Rights Centre (Budapest) and Human Rights without Frontiers (Belgium).

President:	Ludmilla Alexeyeva
Vice President:	Ulrich Fischer
Executive Director:	Aaron Rhodes
Deputy Executive Director/Legal Counsel:	Brigitte Dufour
Chief Editor:	Paula Tscherne-Lempiäinen

In addition to the IHF member committees and partner organizations, the following persons contributed to the preparation of this publication:

Brigitte Dufour, Joachim Frank, Janna Khloudneva, Natalia Lazareva, Lamija Muzurovic, Ann-Sofie Nyman, Aaron Rhodes, Paula Tscherne-Lempiäinen and Nicole Watson

International Helsinki Federation for Human Rights
Wickenburggasse 14/7, A-1080 Vienna, Austria
Tel: (+43-1) 408 88 22 Fax: (+43-1) 408 88 22-50
Email: office@ihf-hr.org
Internet: www.ihf-hr.org
Bank account: Bank Austria Creditanstalt, 0221-00283/00 BLZ 11 000

©2002 by the International Helsinki Federation for Human Rights and IHF Research Foundation. All rights reserved.

TABLE OF CONTENTS

This set of statements has been arranged to follow the schedule of the 2002 OSCE Human Dimension Implementation Meeting.

	page
Tuesday, 10 September:	
Rule of law I: Independence of the judiciary and fair trial	1
Rule of law II: Prevention of torture	5
Counter-terrorism measures	10
Wednesday, 11 September:	
Tolerance and non-discrimination I: National minorities	14
Roma and Sinti	17
Tolerance and non-discrimination II: Prevention of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and ethnic cleansing	21
Women's rights	24
Thursday, 12 September:	
Fundamental freedoms I: Freedom of expression, free media and information	28
Freedom of association and peaceful assembly	33
Human rights defenders	36
Freedom of thought, conscience, religion or belief	39
Friday, 13 September:	
Humanitarian issues: Migration, refugees and displaced persons	44
International humanitarian law	48

IHF Statement to the 2002 OSCE Human Dimension Implementation Meeting

RULE OF LAW: Independence of the Judiciary and the Right to a Fair Trial
(Tuesday, 10 September 2002)

Millions of people in the OSCE regions live in countries that have no independent judicial system. In many cases judges are dependent on the executive branch or misused by it for political purposes. Although judicial reforms are taking place, in many post-socialist countries the judiciary still operates on the basis of outdated legislation and does not follow due process standards. The right of defendants are frequently violated.

Particularly in **Uzbekistan**, a growing number of opposition members and independent Muslims face fabricated charges of terrorism, possession of or dealing in drugs or weapons or similar charges for their peaceful exercise of their basic rights such as the right to practice their religion. Recently particularly people suspected of being members of the Islamic Movement of Uzbekistan (IMU) and Hizb ut-Tahrir have fallen victim of violations of fair trial standards. These violations are even more worrisome in the light of the fact that the judicial systems in Central Asian countries do not fulfill the basic international standards: for example, judges frequently take sides with public authorities or presidents, and there is no developed system of independent attorneys. Judges are dependent on the executive branch not only to hold their posts but also economically. Only few independent attorneys dare to defend their clients under the threat of reprisals and loss of license. Moreover, while much of local legislation remains in conflict with international standards, even those provisions that are in line with them are often ignored if they would profit a defendant who belongs to political opposition.

In **Turkmenistan**, the judicial system is under total governmental control: trials generally serve the state, not the people.

In **Kazakhstan**, the judicial system remains weak and dependent on the executive power. By law, the president has wide-ranging powers, including the right to determine the organisation of the system of district and local courts, to appoint and dismiss judges, suspend the authority of the Supreme Court chairman and sanction the prosecution of judges. Courts at all levels frequently issue verdicts that reflect the interests of the president and his close circles, and in several cases the judicial system has been used as a weapon in the fight against the political opposition. Corruption is endemic in the judicial system. During trial, judges often apply laws that are in violation of the Constitution or outdated. The prosecutor's statements are generally accepted without critique, while the defendants are denied access to case materials and legal counsel. Complaints from the defendants of illegal treatment are generally ignored. Cases are frequently returned for further investigation, and a considerable part of court decisions are not implemented. The 1997 Criminal Code still contains many features typical of the old Soviet system.¹

Two Kazakh opposition leaders, Mukhter Ablayazov and Galymzhan Zhakaiov convicted on 18 July. None of the evidence presented in either trial supported the verdicts handed down. The violations of international fair trial standards included restricting the right to a proper defense and forcing witnesses

¹ Information from the Almaty Helsinki Committee and the Kazakhstan International Bureau for Human Rights and Rule of Law.

to perjure themselves. Ablayazov was held in harsh and inhumane custody conditions during the proceedings. The courtroom audiences were packed with government-sponsored observers.²

The absence of the rule of law is one of the main problems in **Kyrgyzstan** and leads to people's mistrust in the democratic process. Generally, court decisions do not follow the law. Courts are dependent on the presidential administration that appoints the judges, controls their activities, and grants an attestation for their competence after regular checks. It has been claimed that nearly all judges are appointed on the basis of bribes and devotion to the present regime. Furthermore, because of the low salaries the judges receive, they are materially dependent on the authorities and corruption is widespread.³

No trial of a political nature is known to have ended with a lawful ruling, and the courts generally ignore constitutional and international provisions. For example, on 8 May, the Pervomaiski District Court handed down a ten-year prison sentence to the prominent Kyrgyz opposition political figure, Felix Kulov on the basis of an unfair trial on trumped-up charges of economic crimes, but actually for political reasons.⁴ When the verdict was announced, the police surrendered the court building, no vehicles were allowed to pass it, and access to the courtroom was blocked. Most observers who had come to attend the trial were forced out of the building. After the sentence was announced, troops of the Ministry of Interior blocked the exit for some time.⁵

In **Tajikistan**, problems related to a fair trial are a serious concern, particularly the transparency of trial proceedings. Trials are frequently held in pre-trial investigation facilities or labor colonies. Although officially open, facility or colony officials usually do not allow observers to enter the area citing security reasons and the fact that the facilities are "closed" establishments. One such case was the trial against Khamidov, former chair of Khukumat of Sogdiiskaya oblast, another a case of 84 defendants accused of a series of crimes. Local monitors believe that observers are not allowed to attend the trials because the defendants often report that they have been tortured.

The **Belarusan** judicial system is highly dependent on the executive branch. It serves as an appendix of the repressive apparatus of the regime and is used as an instrument for fighting dissent.

It easily takes up cases initiated by authorities against the media, political opponents and human rights defenders but refuses to deal with charges brought by the latter against officials who have violated their rights. In some investigations people are hindered from using professional legal assistance, as it has been in the case of wives of the disappeared opposition members.⁶

The executive continues to decide about appointments and dismissals of judges. Arbitrary arrests are frequently carried out: persons are arrested for just about any reason and later charged with some offence that serves to justify the arrest. Prosecutors and courts typically back up the police actions. Trials seriously violate international standards. Falsified evidence and confessions extracted by coercive means are readily accepted, while suspects are denied an effective defence. The practice of presuming suspects to be guilty also prevails. Closed trials have been held on dubious grounds, including an unreasonably broad definition of state secrets.⁷

The judicial reform in **Moldova** started in 1995 and has brought about significant positive improvements in securing the independence of the judiciary, impartiality and due process guarantees. However, since the Communist Party again came into power, several measures taken by the authorities have shaken the judicial system and had a negative impact on the independence of the courts. For

² IHF, "Kazakh Convictions of Opposition Figures Part of a Larger Wave of Oppression, Will the Community of Democratic Nations React?" 8 August 2002. See also the IHf statement on freedom of expression.

³ Information from the KCHR to the IHF.

⁴ See the IHF statement on freedom of expression.

⁵ Kyrgyz Bureau for Human Rights and Rule of Law, 8 May 2002.

⁶ Belarusan Helsinki Committee, August 2002.

⁷ Information from the Belarusan Helsinki Committee to the IHF, 2002.

example, judges have been dismissed and others are under constant scrutiny. Moreover, judges are economically dependent of the executive branch. The Soviet style Prosecutor's Office remains largely unreformed.⁸

Arbitrary arrests are a grave concern. Typically, suspects are arrested and interrogated without having been informed of their rights, including the right to remain silent. Moreover, suspects are interrogated under the guise of them being heard as witnesses, but later they are heard as suspects on the basis of the information they have given. Detainees are also subjected to psychological pressure and physical abuse when interrogated. During trial, due process rights are not properly respected. From time to time, defendants and their counsels are not granted access to case files and sometimes not allowed to be present in the courtroom in order to defend their interests in person or through a legal counsel of their own choice. The ineffective execution of decisions is also a matter that gave rise to concern.⁹

Since the initiation of a judicial reform in early 2001, a number of legislative proposals have been submitted to **Russian** the parliament. The most important of them is a new Criminal Procedure Code to replace the one from 1960, which has long been outdated. The new code will introduce several positive changes; for example, prosecutors will no longer have the right to order search and arrest warrants without a court decision, and evidence obtained from a defendant in the absence of a counsel can be declared inadmissible upon a request from the defendant. However, the draft code also contains provisions that could have a harmful effect on legal process standards. These include the ban on non-professional counsels from offering defense during trials, and a change in the composition of the council which decides on the dismissal of judges so as to include members recruited from outside the court system. Although the judicial reform is essential, it must be stressed that the legislative proposals put forward will not solve all the major problems of the judiciary system, including the prevailing disrespect for the right of suspects to be presumed innocent, the readiness with which courts accept confessions extracted under torture, and the insufficient review of legal decisions¹⁰

In **Macedonia**, the 2001 strike of courts that lasted for several months paralysed the judicial system completely. The strike added to the huge backlog of cases and delays in the settlement of the already slow court proceedings. The most serious problem in civil cases is the failure to deliver court notices and documents correctly to the parties to litigation or to other participants in a trial, without which court hearings cannot take place. This leads to further delays in court hearings without any adequate reason and long extensions of court cases.¹¹

In cases involving alleged terrorism, the defendants are often charged without any relevant evidence. The courts accept the practice of bad or unlawful police procedure, which does not provide sufficient evidence obtained through legal means. Despite the lack of well-substantiated evidence, the courts deliver effective guilt verdicts. A particular cause for concern has been the unequal sentencing policy used towards Macedonians and ethnic Albanians for the same criminal act. Particularly in cases related to alleged illegal possession of arms and explosives ethnic Albanians have received heavier sentences than ethnic Macedonians.¹²

The upper house of the **Italian** Senate adopted a bill on 1 August that allows defendants to have their trial be moved elsewhere should they have any "legitimate suspicion" of the judge's impartiality. The circumstances in which Prime Minister Silvio Berlusconi rushed the bill through the Senate just prior to the summer break, ignoring the calls to withdraw the bill and without the Senate's Justice Commission completing its work on the bill, suggested that Berlusconi's main motive was to enable himself to have his trial for corruption moved from Milan. Berlusconi has often accused its judges of

⁸ Information from the Moldovan Helsinki Committee to the IHF, August 2002.

⁹ Ibid.

¹⁰ Information from the Moscow Helsinki Group to the IHF.

¹¹ Helsinki Committee for Human Rights of the Republic of Macedonia, *The 2001 Annual Report on the Practice of Human Rights in the Republic of Macedonia*, January 2002.

¹² Ibid.

having left-wing bias. Now he can call the trial to be moved and tried by a different judge. Moreover, moving the trial from Milan would mean that it would have to start anew, and could result in an acquittal for the Prime Minister, as the statute of limitation would mean the charges would expire.¹³

The IHF urges the OSCE governments to take all measures in their power bring through necessary judicial reforms in line with international standards. We appeal for the respect of independence of the judiciary; the impartial operation of the public judicial service; equality before courts of law; and abidance by all international fair trial standards.

¹³ BBC News, 31 July 2001.

IHF Statement to the 2002 OSCE Human Dimension Implementation Meeting

FUNDAMENTAL FREEDOMS:

Prevention of Torture and Other Police Misconduct (Tuesday, 10 September 2002)

Despite international commitments, torture, ill treatment and other misconduct by law enforcement officials remain one of the most widespread forms of human rights violations. While regular use of torture or other abuse of detainees has been reported in many countries (e.g. in the **Central Asian** countries, **Georgia, Turkey** and **Ukraine**), other police misconduct has been a problem in almost all OSCE states.

Torture has been a central human rights concern in **Georgia** for a number of years despite recommendations by international organizations to the government to take immediate measures to its end and to investigate all alleged torture cases. On 16 June, 38-year-old Merab Chukhasvili was allegedly tortured by police officers in the building of the Interior Ministry in Tbilisi to confess to a kidnapping. Chukhasvili fainted during the trial and doctors said he needs to undergo an urgent operation because electric shocks had damaged his internal organs.¹⁴

In **Turkey**, torture and ill treatment remain widespread practices at police detention centers and prisons. While the Diyarbakir branch of the Human Rights Association (HRA) recoded a 50% decrease in the number of applications made to this branch office for torture and ill treatment in the first five months of 2002, the number of cases is still very high. In police detention most people are ill treated during the first days of detention when they are held *incommunicado*. A report from the European Committee for the Prevention of Torture (CPT) noticed a gradual improvement of the treatment of persons in police custody in the Istanbul area, but stated; "...however, there are still credible allegations of resort to methods of ill-treatment." Methods such as prolonged standing and sleep deprivation were used mainly at the Istanbul police headquarters while allegations of physical ill treatment, including one occasion of *falaga*, were received from district and local police stations in Istanbul. Reports of serious ill treatment came particularly from Sanliurfa and Van regions.¹⁵

The sexual abuse of women continues, and in 2001 there were at least eight formal complaints made by male victims reporting anal rape with truncheons in "F-type" prisons.¹⁶

A July 2001 circular sent out by the minister of interior emphasizing the necessity to take measures to abolish torture and ill treatment appears to have been ignored.¹⁷ In August 2002 the Justice Minister issued a similar circular asking public prosecutors and prison administrators to ensure a secure environment for convicts and prisoners and to prevent the ill treatment of prisoners. The minister urged that those engaging in such conduct be punished.¹⁸ It remains to be seen, if this circular has more impact.

¹⁴ Human Rights Information & Documentation Center (HRIDC), *Human Rights in Georgia*, Monthly Bulletin, No. 6(40), June 2002.

¹⁵ *Preliminary observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited Turkey from 2 to 14 September 2001 and Response of the Turkish authorities*, at www.cpt.coe.int/en/reports/inf2002-03en.htm

¹⁶ *Human Rights Watch World Report 2002*

¹⁷ See footnote 15.

¹⁸ *Turkish Daily News*, 23 August 2002

The climate of impunity for torture has remained unchanged. Perpetrators have rarely been brought before justice and a 1999 law gives the local governor the power to block the prosecutions of security force members for torture, sexual assault, and unlawful killings. Torturers continue to be protected by the abuse of medical examination procedures.

In **Ukraine**, the new Criminal Code contains an article defining torture as a specific crime. However, in spite of this, the pattern of torture and ill treatment by law enforcement officials continues to persist. Police officers reportedly punch, hit and kick detainees and use various torture techniques on them, including suffocation. In the rare cases where investigations into alleged cases of abuse by police officers have been initiated, they have been slow and inconclusive.¹⁹ Also in the army, ill treatment and torture of conscripts remains common. Army officers often silently tolerate abuses, and sometimes participate in them. According to official information, approximately 15% of all cases brought to military courts deal with alleged hazing. Meanwhile those recruits who leave the army because of hazing can be sentenced to up to seven years' imprisonment. A considerable number of recruits who have been subjected to abuse reportedly commit suicide or attempt to commit suicide.²⁰

In **Kazakhstan**, 25-year-old Leyla Baiseitova, disappeared shortly after her mother Lira published in *Soldat* an interview with Swiss officials concerning the Kazakh president's Swiss accounts. On 21 June, police from the Medeo District in Almaty informed the mother that Leyla had committed suicide in custody following her arrest on drug charges. The IHF has received credible information that her body bore signs of torture and sexual abuse. The police refused a request of autopsy. Lira Baiseitova is hiding at the time of writing.²¹

In 2002, **Uzbek** police officers have on two occasions been sentenced for torture: in the most recent case, a court in Margilan on 6 June sentenced three security officers to imprisonment between 5 and 15 years for torturing 24-year-old Alikmuhammad Mamadaliev (suspected of being a member of Hizb-ut-Tahrir) to death.²² While the IHF welcomes the court decisions, it appears that impunity continues in other cases, and the convictions therefore appear to have been only window-dressing. Torture and ill treatment are known to be routine measures in Uzbek police stations and prisons. On 13 May, the UN Committee against Torture strongly criticized this practice and urged the government to review all convictions handed down since 1995 that were solely based on confessions, recognizing that they may have been coerced through torture. The committee also criticized the criterion of "solved crimes" as the basis for promoting law enforcement officials,²³ a practice that is common in many other OSCE states too.

Any signs of formal improvements were also overshadowed by the most recent cases of two prisoners whose bodies were in August returned to their relatives from the prison camp of Yaslyk. Both bore apparent signs of torture. Muzafar Avazov was a 35-year-old father of four. His body showed signs of burns on the legs, buttocks, lower back and arms. Sixty to seventy percent of the body was burned, apparently because Avazov had been immersed in boiling water. In addition, there were numerous other signs of torture on his body. The prosecutor warned the family against giving information about the case to the media or others, and the police hindered people from attending the funeral. The other victim, Husnidin Alimov, had also been held in Yaslyk. Authorities reportedly restricted viewing of his body that was accompanied by police who also were present during the funeral. Both men had been imprisoned on charges related to their religious activity. The prison camp of Yaslyk is notorious for ill treatment, torture and extremely poor conditions. It is situated in a former chemical weapons testing area.

¹⁹ Ukrainian Helsinki Committee, April 2002; *UN Committee Against Torture Issues Conclusions and Recommendations on Report of Ukraine*, 21 November 2001; Amnesty International, *Ukraine before the United Nations Human Rights Committee*, 15 October 2001.

²⁰ Amnesty International, *Ukraine Before the UN Human Rights Committee*.

²¹ IHF, "Kazakh Convictions of Opposition Figures Part of a Larger Wave of Oppression, Will the Community of Democratic Nations React?" 8 August 2002. See also the IHF statement on freedom of expression.

²² RFE/RL Newline, 7 June 2002.

²³ Human Rights Watch, "U.N. Criticizes Uzbekistan for Torture," 13 May 2002.

According to the Human Rights Society of Uzbekistan (HRSU), some ten bodies of dead prisoners are returned to their relatives every day from the prison hospital Uja 64/18 in Tashkent. Most of the persons have died of tuberculosis or jaundice. Now reportedly all prisoners are injected with an unidentified medicine, which, in the long run, is rumored to ruin the bones.²⁴

The Kyrgyz Committee for Human Rights reported about several cases of torture and ill treatment by **Kyrgyz** police officers. Ulanbek Israilov, was arrested by police on 19 March and severely beaten with truncheons and questioned at gun-point about who had organized an illegal picket. He was threatened to be shot if he were not to answer. As Israilov went to the hospital to receive medical treatment, he was arrested again, beaten and released. Habibula Zhaparov was arrested on 18 March. He was beaten with truncheons, stripped naked and hosed with cold water together with 5-6 other persons. After that they had to stand without shoes on a floor covered with cold water for two more hours. Their detention was not registered.²⁵

In **Tajikistan**, torture has become a widespread practice in during preliminary investigations. For example, during the Supreme Court hearings of the murders of Khabib Sanguinov, deputy minister of interior, and the former chair of *khukumat* (administrational body) of Sogdiiskaya oblast, defendants complained about torture while held in isolation. They said they had been treated with electro shocks, raped, and threatened that their families would be punished if they did not confess.

Torture, ill treatment and excessive use of force and firearms by law enforcement officials continue to be a serious problem in **Bulgaria**. No changes have been introduced to legislation and policy to make punishment and prevention more effective. The legal framework has not been improved to guarantee legal defense from the moment of detention, access to independent medical opinion and the possibility to inform one's family about the place and conditions of detention. As in previous years, at least 10 people died in 2001 in circumstances, which raised serious doubts as to excessive use of force and use of firearms by the police and private guards. On 28 February the European Court of Human Rights declared the case of Nachova v Bulgaria admissible. The case deals with the killing of two soldiers by the military police several years ago. On June 13 the Court ruled in the case of Anguelova v Bulgaria and found a violation of article 2 of the European Convention on Human Rights in a case of a murder of a Roma man while in custody in January 1996.²⁶

On the positive side, pending the visit of the European Committee for the Prevention of Torture (CPT) in April the government introduced declarations to be signed by detainees, in which they are informed of their right to contact family members, a lawyer and to meet a doctor.

In **Hungary**, Roma, foreigners and juveniles are those most likely to fall victim to abuse, a problem that remains a central human rights concern in that country. Defendants alleged that they had been struck with truncheons, punched, kicked or slapped by police officers. Verbal abuse of detainees is also common. In recent years, only about 11% of the reported cases of ill treatment and 8% of the reported cases of forced interrogation have ended with the Prosecutor's Office pressing charges against the accused police officers. The problem is aggravated by the fact that the sentences of the cases that have ended up in court have been lenient.²⁷

Police violence is a serious problem also in **Albania**. For example, on 19 April, Martin Penga was arrested because he had allegedly stolen hunting dogs. He claimed that he had been beaten at the moment of arrest and was not informed about the right to a defense lawyer. In another case, the head

²⁴ Information from the HRSU to the IHF, 30 August 2002.

²⁵ Information from the Kyrgyz Committee for Human Rights to the IHF, August 2002.

²⁶ Information from the Bulgarian Helsinki Committee to the IHF, August 2002.

²⁷ Hungarian Helsinki Committee, December 2001.

of the Berat special police department to fight criminality had, allegedly beaten two police officers that had been suspended from work. Charges were brought against the head of department.²⁸

Police brutality against immigrants and detainees continue to plague **Greek** society as a result of the general situation of impunity of police misconduct. In the past year several cases of police shootings have resulted in deaths. Roma were the most abused group in Greece, followed by the Albanians. However, law enforcement officials killed more Albanians. In addition, there have been cases of police attacks on ethnic Greeks.²⁹ Also illegal immigrants and asylum seekers have been targeted.³⁰ Moreover, in June, Nigerian national Joseph Emeka Okeke alleged that he had been subjected to electroshock torture by police officers. The minister of public order ordered that a Sworn Administrative Inquiry (EDE) be carried out. Instead of inquiry, police officers reportedly took Okeke to another interrogation, threatened and harassed him psychologically, refused contact to his lawyer and transferred him to a single-occupancy cell without access to a telephone.³¹

Sweden, a country that generally has a good human rights record, also violated international standards on torture and ill treatment. In the *Alternative Report to the Committee Against Torture Regarding Sweden's Fourth Report*, six NGOs (including the Swedish Helsinki Committee) cited failures of authorities to abide by the principle of *non-refoulement* of refugees. This has allegedly resulted in returning asylum seekers to countries where they may be subjected to torture or ill treatment. In addition, following the 11 September incidents, Muslims have been forcefully extradited to countries where torture is practiced. The NGOs also noted that in cases of victims of torture who have fled their countries to Sweden, professional treatment of traumas and injuries should be more than just emergency care. Further, Sweden has still not introduced the crime of torture into its Penal Code and it appears that public officials do not receive sufficient and adequate training in issues related to torture and ill treatment. In addition, the NGOs stated that the budget cuts have resulted in inadequate conduct due to overburdening. Finally, Swedish authorities have failed to carry out thorough investigations into all alleged cases of police ill treatment.³²

In Hamburg, **Germany**, a 19-year-old Cameroonian asylum-seeker died following the non-consensual administration of the emetic substance Ipecacuanha four days earlier. Archidi J. was arrested by police officers in the St. Georg district on 9 December after police officers had reportedly witnessed him swallowing small plastic bags believed to contain narcotic substances. In a hospital four police officers allegedly restrained him in the sitting position while two medical personnel administered 30 millilitres of the Ipecacuanha solution through his mouth and nose, followed by 800 millilitres of water. Shortly afterwards Archidi J. began to suffer serious medical difficulties, collapsed, fell into a coma and died three days later. The Hamburg authorities said that the practice of forcibly administering emetics to detainees would continue. Approximately 26 detainees had reportedly been forcibly administered emetics between June 2001 (when the practice was introduced) and end of the year.³³

²⁸ Information from the Albanian Helsinki Committee, 2002.

²⁹ Greek Helsinki Monitor/Minority Rights Group-Greece report (GHM/MRG-G), *Human Rights in Greece: Joint Annual Report for 2001-2002*. For details and sources of information, see the original report at www.greekhelsinki.gr

³⁰ See Greek Helsinki Monitor, "Week of Racism: Widespread Attempts to Cover Up Use of Violence by Policemen and Guardsmen," 22 March 2002.

³¹ GHM, "Besides a Sworn Administrative Inquiry and a Visit to Forensics, Allegations of Electroshock Torture Were Followed by Intimidation of Victim and Witness by Policemen," 28 June 2002.

³² Save the Children Sweden, Swedish Helsinki Committee, Swedish Iran Committee, Swedish NGO Foundation for Human Rights, Swedish Red Cross, Swedish Section of Women's International League for Peace and Freedom, *Alternative Report to the Committee Against Torture Regarding Sweden's Fourth Report*, 2002.

³³ Amnesty International, *Concerns in Europe June -December 2001*.

According to the European Commission against Racism and Intolerance (ECRI), the discrepancy between reports of police misconduct and the results of criminal proceedings remained high in Germany.³⁴

In **Austria**, allegations of ill treatment and misconduct by police officers, in particular against foreigners, are common, although, according to the European Committee for the Prevention of Torture (CPT), the number was in 2001 lower than some years before and the ill treatment less serious. In most cases, the victims have been male foreigners who have been suspected of having committed a crime. Ill-treatment has occurred at the time of their arrest or, on some occasions, during interrogation.³⁵

There were thousands of allegations of police abuse in the **United States** in 2001, including of excessive use of force such as unjustified shootings, beatings, fatal choking's, and rough treatment. However, overwhelming barriers to accountability remained, enabling officers responsible for human rights violations to escape due punishment. Victims seeking redress have faced obstacles that range from overt intimidation to the reluctance of local and federal prosecutors to take on police brutality cases. Only few officers have been either convicted or pled guilty to crimes under the civil rights statute stemming from complaints of ill treatment.³⁶

The IHF would like to recall the OSCE states' repeated formal commitments to the prevention of torture, as well as other international measures to this end. We welcome the 24 July adoption by the UN Economic and Social Council of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This protocol provides for a step further in the international anti-torture activities, i.e. the establishment of a system of regular visits to places of detention by a body of international experts as well as visits conducted by national visiting bodies. The IHF urges all OSCE participating States to ratify the protocol as soon as the UN General Assembly, including the United States of America that sought to block the adoption of the protocol, has adopted it.

The IHF further notes wishes to stress that the crucial weapons in the struggle against torture and ill treatment are practical measures taken by governments towards eliminating this flagrant practice. These include, inter alia, adequate training of law enforcement and prison officials; prompt and thorough investigations of all allegations of torture; disciplinary measures and judicial charges against all perpetrators of torture; abolition of incommunicado detention; inaccessibility of "confessions" extracted under duress as evidence in courts of law; and public statements by authorities make it clear that tolerance and ill-treatment is not tolerated.

³⁴ European Commission against Racism and Intolerance, "Second Report on Germany", 3 July 2001.

³⁵ CPT, *Bericht des Europäischen Ausschusses zur Verhütung von Folter und unmenschlicher oder erniedrigender Behandlung oder Strafe (CPT) an die österreichische Regierung anlässlich seines Besuches in Österreich vom 19. bis 30. September 1999*, CPT/Inf(2001)8, Strassbourg, 21 June 2001.

³⁶ *Human Rights Watch World Report 2002*

IHF Statement to the 2002 OSCE Human Dimension Implementation Meeting

RULE OF LAW:

Counter-Terrorism Measures

(Tuesday, 10 September 2002)

In the aftermath of the 11 September terror attacks in the United States of America all member states of the OSCE recommitted themselves to combating terrorism³⁷ and have taken a number of steps in pursuit of that aim. While the member states clearly have a right, indeed a duty, to protect their citizens from future terror attacks, international law sets clear limits on the types of measures that states may adopt and specifically prohibits derogation from certain fundamental rights. *The IHF is concerned that many OSCE participating states have adopted legislation or engaged in practices that may not comply with the principles of legality, proportionality and necessity that are required by international law, and that seriously compromise basic human rights standards.* The IHF is preparing a comprehensive report on this topic, but would now like to take the opportunity to discuss a number of examples from the post 11 September 2001 period.

A number of OSCE participating states have adopted laws that define terrorism in such a vague and imprecise way as to violate the principle of legality and raise concern that they may be interpreted to prohibit legitimate dissent or to infringe other protected rights. In **Russia**, the president signed a new anti-extremism law in late July 2002. Drafted and pushed quickly through the parliament during a period when dramatic hate crimes were reported from different parts of the country, the bill was greeted by Russian human rights activists and others as a fully inadequate tool to combat extremism.³⁸ The bill defines “extremist activity” *inter alia* as planning and committing actions aimed at “undermining the security of the Russian Federation” and “offending national dignity” without providing for any further description of the prohibited actions or making any reference to the gravity of threat they may represent. Critics stressed that this sweeping definition could cover almost any kind of political activity and might be used for ideological repression. As the definition reads, it could well serve, for example, to hold liable a human rights NGO publicly criticizing the military campaign in Chechnya.

In some OSCE participating states terrorist suspects, a vast majority of whom are non-citizens, have been detained without due judicial control and deprived of the right to a fair trial. In the **United Kingdom**, more than 140 people have been detained under the Terrorism Act 2000, which entered into force in February 2001 and allows for suspects to be held for up to seven days without charge. Most of the 140 were not charged with any offence and were ultimately released; 10 have been charged with terrorist offences.³⁹ These figures give rise to serious doubts as to whether the provisions of the law have been implemented, in all cases, in a non-discriminatory manner and whether the detentions have been fully justifiable. Moreover, 11 people have been detained under the December 2001 Anti-terrorism, Crime and Security Act, which allows for indefinite detention of non-citizens who are believed to be terrorists and who cannot be deported.⁴⁰ As the decisions have been made

³⁷ See, for example, Decision No. 1 on Combating Terrorism, which was adopted at the Bucharest Ministerial Council Meeting in December 2001.

³⁸ See Moscow Helsinki Group, “The Law ‘on Countering Extremist Activities’ – what is it like and why is it the way it is?”, July 2002.

³⁹ Statewatch, “U.K. Arrests and Detentions under Terrorism Laws”, May 2002, at www.statewatch.org/news/2002/may/11ukterfigs.htm

⁴⁰ *Ibid.* In order to enable the controversial provision to become operational, the United Kingdom derogated from Article 5(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms and

without any judicial review and those detained have been refused the right to *habeas corpus*, the detentions cannot but be considered arbitrary. On 30 July 2002, the Special Immigration Appeals Board concluded that the Anti-terrorism, Crime and Security Act provision on indefinite detention is unlawful, discriminatory and disproportionate and, in effect, incompatible with the United Kingdom's obligations under the European Convention on Human Rights and Fundamental Freedoms. The Government has appealed the decision, which is currently pending.⁴¹

In the **United States**, more than 1, 200 people, primarily citizens of Middle Eastern, South Asian and North African countries, were detained in raids following the 11 September events. An unprecedented level of official secrecy has surrounded the detentions, with the authorities refusing to make public any detailed information on those detained and categorically denying independent monitors access to detention facilities. According to available information, very few of those detained have been charged with terrorist offences, while hundreds of people have been held for months on immigration charges primarily related to routine violations such as overstaying a visa, until they were eventually tried in closed hearings. It is believed that most of those tried in closed proceedings have been deported.⁴² There are also reports indicating that those detained on immigration charges have been held in solitary confinement for lengthy periods of time; have been denied prompt access to lawyers; have been subjected to coercive interrogations; and have been verbally and physically abused.⁴³ *The IHF is deeply concerned that this record suggests that the authorities have used immigration charges to circumvent legal guarantees established by US criminal law, and that a large number of people may have been arrested, convicted and deported without due process and on flimsy evidence. The IHF is also seriously concerned that some 500 people have been detained for several months without charge at the US military base at Guantanamo Bay in Cuba⁴⁴, and that the US Government has indicated that it intends to try terrorist suspects who are not citizens in military commission proceedings that fall short of key fair trial requirements.*⁴⁵

In the aftermath of the 11 September events hundreds of individuals and groups believed to be involved in terrorism have also had their financial assets frozen in the OSCE area. The IHF is most

Article 9 of the International Covenant on Civil and Political Rights, both of which prohibit arbitrary detention. Pointing to post 11 September government statements according to which there is no indications of a specific terrorist threat against the United Kingdom, human rights groups have questioned whether the derogations were undertaken in conditions truly amounting to a *bona fide* state of emergency. See for example *Human Rights Watch World Report 2002*, at www.hrw.org/wr2k2/europe21.html.

⁴¹ Statewatch, "Special Immigration Appeals Commission Says Anti-Terrorist Law is Unlawful", July 2002, at www.statewatch.org/news/2002/jul/16siac.htm. The appeal case is scheduled to be heard in early October.

⁴² Human Rights Watch, "Presumption of Guilt: Human Rights Abuses of Post-September 11 Detainees," August 2002, at www.hrw.org/reports/2002/us911/; Tamara Audi: "U.S. Held 600 for Secret Rulings", *Detroit Free Press*, 18 July 2002, at www.freep.com/news/mich/secret18_20020118.htm; Susan Sachs, "U.S. Deports Most of Those Arrested in Sweeps after 9/11", *New York Times*, 11 July 2002. For an overview of new relevant legislation (a September 2001 Immigration and Naturalization Service Rule; a September 2001 Chief Immigration Order; and the October 2001 Patriot Act) see, for example, *Human Rights Watch World Report 2002*

⁴³ Human Rights Watch, "Presumption of Guilt: Human Rights Abuses of Post-September 11 Detainees," August 2002; Amnesty International, Post 11 September detainees deprived of their basic rights, 14 March 2002, at <http://web.amnesty.org/ai.nsf/Index/AMR510452002?OpenDocument&of=COUNTRIES\USA>.

⁴⁴ For more information, see for example, Human Rights Watch, "Growing Problem of Guantanamo Detainees", May 2002, at <http://hrw.org/press/2002/05/guantanamo.htm>.

⁴⁵ The military commissions, foreseen by a November 2001 Military Order, will have the power to try members of Al Qaeda, people involved in acts of international terrorism against the United States and people who knowingly harbored such terrorists. The commissions will be subordinated to the executive branch; issue verdicts, including death sentences, that cannot be appealed to any independent and impartial court; be able to admit low standard evidence that are not acceptable in a regular trial, such as hearsay and – given a lack of any express prohibition thereof - statements extracted under coercion. For more information about the concerns the military commissions give rise to, see, for example, Amnesty International, Military Commissions: Second-class Justice, 22 March 2002, at <http://web.amnesty.org/ai.nsf/Index/AMR510492002?OpenDocument&of=COUNTRIES\USA>.

concerned by reports indicating that measures to this end have been adopted on the basis of unsubstantiated allegations, while those deprived of their funds have had few if any opportunities to challenge the measures. Last November **Swedish** authorities blocked the bank accounts of three citizens of Somali origin after the UN Sanctions Committee on Afghanistan had named them as terrorist suspects and the European Union had endorsed this decision. The three were designated terrorist suspects on the recommendation of the United States without being heard or informed and although no concrete evidence was presented against them. In addition, they did not have any effective means to challenge the decision at any level.⁴⁶ After the three had lived for nine months with their funds frozen and under the pressure of being accused of ties to the Al Qaeda network, the United States eventually agreed to remove the names of two of them from its files of terrorist suspects and to reconsider the case of the third one. As of this writing, an official decision by the UN Sanctions Committee to clear the first two ones of all allegations was expected.⁴⁷ In a welcome development, it was also reported in mid-August 2002 that the UN Sanctions Committee now has agreed on a formal procedure that will enable individuals and groups, via their Governments, to seek to be de-listed as terrorist suspects.⁴⁸

Finally, the IHF would like to draw your attention to a worrying trend to allow the retention and use of personal data for investigative purposes in a manner that may unduly compromise the right to privacy. In **Germany**, so-called *Rasterfahndung* has widely been used in an attempt to track terrorist suspects. This method, which is permitted under the German Criminal Procedure Code if approved by a judge, involves the screening of personal data registered in electronic databases. With information contributed *inter alia* by universities, resident registration offices, health insurance companies and utility companies, thousands of young men from Muslim countries who study natural science or technical subjects have been singled out for a control of their data since 11 September. The method grossly interferes with the right to privacy. In addition, by placing people who do not have any criminal record but who meet certain criteria – primarily an affiliation with Islam – under “general suspicion”, it fully contravenes the principle of presumption of innocence and encourages discriminatory and prejudiced practices.⁴⁹ It should also be noted that as of early August 2002 no one had yet been formally arrested or charged as a result of the post 11 September *Rasterfahndung*.⁵⁰

While acknowledging that effective means must be developed to prevent heinous attacks such as those carried out on 11 September, the IHF stresses that the examples discussed above, as well as similar measures in a number of other OSCE countries, set a dangerous precedent by compromising human rights protections in the name of national security. The IHF calls on the OSCE participating states to ensure that all measures adopted in the fight against terrorism are in accordance with OSCE and other international standards and urges the chairman-in-office and the Permanent Council to be particularly vigilant in monitoring member states' compliance with or derogation from OSCE norms during this time. The IHF also calls on the incoming Chairman-in-Office to devote one of the supplemental review meetings during 2003 to an evaluation of the policies and practices taken by member states in the war against terrorism. By making sure that all anti-terrorist measures are in strict compliance with the rule of law and international human rights standards, the OSCE

⁴⁶ However, the three Swedish citizens have filed a case against the European Council and Commission with the European Community Court, arguing that the decision to endorse the UN Sanctions Committee list was not compatible with EU law.

⁴⁷ “Svenskar avförs från terrorlistan”; *Svenska Dagbladet*, 23 August 2002, at www.svd.se/dynamiskt/Inrikes/did_2581189.asp; and Swedish Ministry for Foreign Affairs press Release, 22 August 2002, at www.regeringen.se/galactica/service=irnews/action=obj_show?c_obj_id=46040.

⁴⁸ Yahoo News, “UN Agrees on Procedure for Return of Assets Frozen Because of Alleged Terrorist Links”, 16 August, 2002.

⁴⁹ Compare Die Deutsche Vereinigung für Datenschutz: *Rasterfahndung Einstellen!*, 25 October 2001, at www.aktiv.org/DVD/Pressemitteilungen/2001_5.html.

⁵⁰ Ian Johnson and David Crawford, “Germany’s Terrorist Hunt Spurs Corporate Defiance”, *The Wall Street Journal*, 9 August 2002.

participating states can fulfill their obligation to protect their citizens without allowing fundamental rights and freedoms to become the “collateral damage” of the war on terrorism.⁵¹

⁵¹ In an appeal to the European Parliament last fall, more than 80 lawyers from different countries asked that the proposal for a EU framework decision on the combat of terrorism be rejected with the main argument that “democratic rights must not become the collateral damage caused by the war against terrorism”, at www.statewatch.org/news/2001/nov/07appeal.htm

IHF Statement to the 2002 OSCE Human Dimension Implementation Meeting

TOLERANCE AND NON-DISCRIMINATION:

National Minorities

(Wednesday, 11 September 2002)

The protection and promotion of the rights of national minorities has been anchored in all OSCE concluding documents, but in practice numerous OSCE participating States blatantly ignore them.

In **Turkmenistan**, authorities appear to see ethnic minorities as a potential threat and dissent. Non-Turkmen speaker have limited education and employment opportunities. The last Russian-language schools in that country were closed in 1996. In Russo-Turkmen schools the proportion of Russian-language pupils has drastically diminished. The lessons are mostly held in Turkmen. Ethnic Turkmen has replaced most ethnic Russian directors.⁵²

Two of the six Uzbek-language schools that were functioning in Dashogouz have had to close down. Also, a number of non-Turkmen newspapers have been shut down, for example, the Uzbek-language newspaper *Dustlik Bayrogi* in Darguz. In some cases, people have reportedly had to change their nationality in their passports from Uzbek to Turkmen in order to keep their jobs or not to be denied employment and professional training. For example, a case is known to the IHF in which an ethnic Uzbek man applied to the military school, passed the exams with highest marks, but when he was interviewed by the commission for admission, the head of the school told him that he would not be accepted because of his ethnic origin.⁵³

Only in its 2001 election campaign in **Serbia** has the ruling DOS spoken about the equality of minorities. This was apparently due to the necessity of gaining their support, which was subsequently obtained. However, since then, apart from occasional statements about the need for “positive discrimination” there has been no major improvement in the position of minorities. One of the reasons for this has been the fact that the Federal Government, under whose jurisdiction this issue lies, continues to adhere to a state ethnicity concept despite the fact that minorities account over 20% of the population of Serbia.

Following the ousting of President Milosevic, minorities themselves became more open in their requests and far more present in the media. With the Federal Government speaking in principle in favour of their rights and adopting a law on minorities, the impression was created that the situation would soon change for the better. However, two years later, the situation has remained the same. The ever-present nationalism of the majority and the general radicalisation of the society have contributed to a change in the general attitude towards minorities. The prevailing opinion is that their position is satisfactory and in line with European standards – and that there are other far more urgent problems in Serbia.

Meanwhile, the process of granting citizenship to Serb refugees has been stepped up in order to change the population structure, especially in Vojvodina, where a majority of the refugees have been systematically settled. The Bosniak population in Sandjak has been under pressure to move away from the Federal Republic of Yugoslavia. Following the 11 September, a campaign was launched against Muslims-Bosniaks, presenting them as potential terrorists.

⁵² IHF, *The Human Rights and Security Situation in Turkmenistan*, Vienna, 8-10 June 2002, seminar report.

⁵³ *Ibid.*

The Roma (numbering about half a million⁵⁴) are the most vulnerable minority and live in worse conditions than ever before. Non-governmental organisations continue to highlight the State's total disinterest in their fate. Around 50,000 Roma children do not go to school at all. About 60% are totally illiterate.⁵⁵

In **Turkey**, the recently adopted so-called "Harmonization Laws" touched upon many rights related to minorities, including the use of minority languages and freedom of association.

The Law on the Establishment and Broadcasting of Radio Stations and Television Channels was amended to allow broadcasting in the "different languages and dialects used traditionally by Turkish citizens" if the programs do not "contradict the fundamental principles of the Turkish Republic enshrined in the Constitution and the indivisible integrity of the state with its territory and nation" or "encourage the use of violence or incite feelings of racial hatred." Unfortunately, the two limitations can still be interpreted in the same highly restrictive manner that prosecutors and judges have interpreted some articles of the Turkish Penal Code the Anti-Terror Law Article and so restricted freedom of expression. While being an important formal step to the right direction in that for the first time ethnic minorities have the opportunity to broadcast in their own language, only the implementation of the new legislation will show if any real progress is being made. The framework for minority language broadcasts will be determined through a regulation to be issued by the Supreme Council of Radio and Television (RTÜK), which also monitor the broadcasts.

Moreover, instruction of languages "used by Turkish citizens in their daily lives" is now formally allowed in private educational institutions if **such** courses, again, do not threaten the national integrity. Such courses will operate within the framework of the Ministry of National Education and according to its regulations. Therefore, while in principle the legal restrictions are removed, it remains to be seen how much freedom the ministry's regulations will provide. Moreover, the IHF regrets that instruction of minority language can only be given in private courses and not within the public educational system, and that they are not allowed as the language of instruction even in private schools.

A new provision under article 1 of the Law on Foundations prescribes that associations representing minorities "can acquire and dispose of real property with the permission of the Council of Ministers." Again, although a positive step, the amended law has many shortcomings, It does not provide for the retribution of minority foundation property that has been lost since 1970s and the minority foundations cannot rent their property. Moreover, the minorities covered include only the religious minorities established by the Lausanne Treaty (Greek Orthodox, Armenian Orthodox and Jewish minorities), but excludes other religious minorities and ethnic minorities. Also, the prescription that the government has to approve acquiring and selling property is cumbersome and discriminatory.

Greece continues its policy not to recognize any national or ethnic minority in its territory despite the presence of large Turkish and Macedonian minorities. The word "Turkish" still creates difficulties for those who used it. For example, on 25 January 2002, the Komotini Court of Appeals once again confirmed the dissolution of the Turkish Union of Xanthi.⁵⁶

Macedonian activists are repressed, amidst almost complete silence and even outright hostility towards that minority in Greek political life, media and society. Even the use of Macedonian first names is discouraged. In the rare cases when, despite the prevailing hostility, parents try to give their children Macedonian names, the civil servants who are Orthodox priests refuse to do so and equivalent Greek names are arbitrarily imposed on the children. At the same time the recovery of Macedonian and Bulgarian last names forcefully converted into their Greek equivalents in the 1920s and 1930s, has been made virtually impossible by the Greek authorities: The Greek Ombudsman asserted in 2001 that

⁵⁴ Some estimate the number to be as high as one million.

⁵⁵ Based on information from the Helsinki Committee for Human Rights in Serbia to the IHF.

⁵⁶ Greek Helsinki Monitor/Minority Rights Group-Greece, *Human Rights in Greece: Joint Annual Report for 2001-2002*, at www.greekhelsinki.gr

during the first attempt to recover a Bulgarian name, the request was rejected and the individual was harassed.⁵⁷

Despite the fact that the European Court of Human Rights on 10 July 1998 found that Greece was found in violation of Article 11 of the European Convention protecting the freedom of association, the Florina Bar Association has failed for two years to appoint a lawyer to register the “Home of Macedonian Civilization” (*Stegi Makedonikou Politismou*). The Greek Ombudsman’s efforts to this end have not helped. The Bar Association’s refusal to appoint a lawyer has been used as a pretext by the local courts for acting in the same manner.⁵⁸

On 30 April the **Latvian** parliament amended articles 18, 21, 101 and 104 of the Constitution in a manner that may impinge on the rights of minorities. Article 18 introduces an oath of office for new parliamentary deputies by which they pledge to “be loyal to Latvia, to strengthen its sovereignty and the Latvian language as the only official language, to defend Latvia as an independent and democratic State.” Article 21 now states, “The working language of the Saeima is the Latvian language.” Article 101 was supplemented with the provisions that “Local governments shall be elected by Latvian citizens who enjoy full rights of citizenship. The working language of local governments is the Latvian language.” Article 104 now reads, “Everyone has the right to address submissions to State or local government institutions and to receive a materially responsive reply. Everyone has the right to receive a reply in the Latvian language.”⁵⁹

Whether these amendments violate minority rights will be largely determined by implementation. For example, problems could arise if the pledge to strengthen Latvian as the only official language is interpreted so that minority deputies cannot submit any proposals to strengthen the status of minority languages. Article 101 enshrines at the constitutional level the current situation in which only citizens may vote at the local level, creating two problems. If and when Latvia accedes to the European Union, this norm will have to be amended to permit EU citizen’s local voting rights in Latvia. Moreover, the amendment places an additional barrier in the path of granting voting rights for non-citizens at the municipal level. If Article 104 were interpreted in such a manner that replies may be received *only* in Latvian and not in any other language, this would contradict Latvia’s obligations under the ICCPR, which is binding on Latvia, and the Framework Convention for the Protection of National Minorities, which Latvia has signed but not ratified.⁶⁰

The IHF urges the OSCE participating States to live up their commitments under the OSCE concluding documents and other commitments to protect minority rights, particularly those provided by the 1990 Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (par. 30-40.7)

⁵⁷ Ibid.

⁵⁸ Information from GHM/MRG-G to the IHF, August 2002. For Roma, see the IHF statement on Roma and Sinti.

⁵⁹ Latvian Centre for Human Rights and Ethnic Studies, *Human Rights in Latvia, 1 January 2002 – 30 June 2002*.

⁶⁰ Ibid.

IHF Statement to the 2002 OSCE Human Dimension Implementation Meeting

TOLERANCE AND NON-DISCRIMINATION:

Roma and Sinti

(Wednesday, 11 September 2002)

Many OSCE participating states have failed to abide by the OSCE commitments to recognize the particular problems of Roma and Sinti and to provide them with special protection. Moreover, there have even been reports of strong anti-Roma campaigns initiated or supported by government or local authorities.

In **Russia**, the Interior Ministry in July carried out a ten-day "Operation Tabor" in Moscow and Leningrad oblasts. It was targeted against unregistered Roma and, according to Deputy Interior Minister Aleksandr Chekalin, designed "to combat the exploitation of children, who are engaged in vagrancy, begging, and con games" and drug trafficking. In Moscow, city police checked all persons who appeared to be ethnically Roma at train stations to make sure they are legally registered. According to newspapers, those who were not registered had their fingerprints taken and were escorted outside the city. Deputy Minister Chekalin said that 592 crimes were "solved" during the operation. The minister publicly labeled Roma as swindlers, drug dealers and other criminals.⁶¹

The IHF deplores the activities taken by Russian authorities, which were directly targeted at one specific ethnic group, legitimising prejudiced attitudes and fuelling ethnic intolerance, discrimination and violence among the majority population.

In several countries Roma have fallen victims of violence both by authorities (particularly while in detention) or civilians. In **Ukraine**, five members of the Romani Fedorchenko family were killed and another two seriously injured on 28 October 2001 in the village of Malaya Kokhavka. The children were between 3 and 15 years of age. The Roma died as a result of arson on their home. It appears that the prosecutor has not taken appropriate steps to investigate the case and to bring those responsible of the crime to justice. According to a member of the family who survived, local Police Major Ivanov and two other men sprinkled flammable liquid throughout the house and the family members, went out, barred the door and set the house on fire. He also claimed that the arson was a punishment because the family had failed to pay a bribe to the police major. Moreover, police officers had reportedly tried to persuade the fire fighters to state the fire had started because of straw had ignited. Despite overwhelming evidence, Police Major Ivanov was only suspended from work but no charges were brought against him. The other two suspects were in detention as of May 2002. This case is only one example of violence by police and civilians towards Ukrainian Roma.⁶²

The IHF urges the Ukrainian government to ensure that the perpetrators of the attack on the Fedorchenko family will be brought to justice and punished. The government should make publicly clear that crimes against Roma would not be tolerated.

In May, 57 families of Roma children in Medimurje county, **Croatia**, filed a legal complaint with a Croatian court challenging the segregation of Roma pupils into separate Roma-only classes in four otherwise "normal" primary schools Orehovica, Macinec, Kuršanec and Podturen. The Roma classes are educationally inferior and therefore disadvantageous for later employment or further education. As a result of this practice, the plaintiffs, like many other Roma children throughout Croatia, have

⁶¹ RFE/RL,(Un)Civil Societies, 31 July 2002.

⁶² European Roma Rights Center, "Killings of Roma Poltava Province of Ukraine," 22 May 2002.

suffered severe educational, psychological and emotional harm, including stigmatisation resulting in diminished self-esteem and feelings of humiliation, alienation and lack of self-worth. Moreover, they have been denied the benefits of a multi-cultural educational environment.⁶³

Together with the Croatian Helsinki Committee and the European Roma Centre (who help the Roma families with litigation), the IHF hopes that that the court will judge the practice of segregated education as racial segregation. It should order Croatian authorities to abolish it, to place the plaintiffs in racially integrated classrooms, and to provide them with the compensatory education necessary for them to overcome the debilitating effects of past discrimination. In addition, we appeal to the government to develop and implement a monitoring system and a plan to end racial segregation and discrimination in all schools.

In **Slovakia**, violence by skinheads and police has been one of the main concerns regarding the situation of Roma. There are also reasons to suspect that the Slovak judicial system does not treat Roma equally with other people before the law. In some cases it appears that Roma as defendants are charged under different provisions and receive heavier sentences than non-Roma that have committed the same crimes. For example, in February 2002 a 20-year-old Romani man faced trial under article 219 of the criminal code for murder after stabbing a non-Romani dead on a Bratislava tram. If convicted, he will receive a prison sentence between ten and fifteen years. The murder charge stands in stark contrast to decisions by Slovak prosecutory and judicial authorities in the premeditated killing by four racist skinheads of Anastazia Balázová, a Romani woman, in her home in Zilina in August 2000. The four skinheads, who broke into a house known locally to be inhabited by Roma and began beating the inhabitants with baseball bats, were found guilty only of racially motivated bodily harm (article 222 of the criminal code) and sentenced to prison terms between three and seven years. A raw comparison of the recommendations of prosecutors in connection with the two cases indicates that ethnicity may have played a key role in sentences sought.⁶⁴

The IHF emphasizes that equality before law is one of the pillars of due process standards in a society reigned by the rule of law. Therefore, courts of law should ensure that all people are treated equally before them.

Evictions of Roma remain frequent phenomena in many countries. In **Italy**, more than 30 *carabinieri* entered camp Gordiani on the southern periphery of Rome on 25 January and began searching the premises without providing search warrants and claimed to be checking documents. Allegedly, the police stated that camp residents found with documents “not in order” would be immediately taken to an immigration office and given orders to leave Italy. Only the immediate mobilization of two NGOs prevented the *carabinieri* from taking anybody out of the camp.⁶⁵

Greek Helsinki Monitor and Minority Rights Group-Greece (GHM/MRG-G) have on several occasions reported about measures of authorities to evict Roma from their settlements in Athens, **Greece**, claiming that infrastructure or other facilities have to be constructed in those sites for the 2004 Olympic Games. For example in Aspropygoros and Nea Kios threats of evictions and effective evictions have taken place since 2000. The evictions have been enforced in blatant violation of Greek legislation and international human rights standards, with the mayor of Aspropygoros only citing measures in order to “clean the area from garbage.” In addition, local authorities in Aghia Paraskevi, Ano Liosia, Halandri and (Nea Iona) Marousi have openly claimed that they want the land on which the Roma are settled, or were meant to be settled, to build sport facilities for the Olympic Games. Greece’s National Human Rights Commission (EEDA) noted in February “It is a fact that with the

⁶³ Croatian Helsinki Committee and ERRC, “Lawsuits filed by Roma Families Challenge Racial Segregation in Croatian Primary Schools, May 2002.

⁶⁴ ERRC, “Discrimination in the Slovak Judicial System,” *Roma Rights*, 1/2002, at www.errc.org/rr_nr1_2002/snap21.shtml.

⁶⁵ ERRC, “Continued Expulsions and Dismantling of Romani Camps in Italy,” *Roma Rights*, 1/2002, at www.errc.org/rr_nr1_2002/snap39.shtml

opportunity of the Olympic Games, evictions of Gypsies have been organized from many areas. The local societies invoke (usually falsely) the need for the construction of sport facilities in order to evict the Roma.“ Despite the fact that the Greek Ombudsman advised already in 2001 on the illegality of the evictions, the competent ministry has not imposed any of the prescribed sanctions. Nor has there been any reaction to EEDA concerns.⁶⁶

The IHF and GHM/MRG-G urge that prompt and impartial investigation of the evictions be carried out; those responsible be brought to justice and the victims be compensated; and that further illegal evictions be stopped. It should also be born in mind that the UN Committee on Economic, Social and Cultural Rights has asserted that "instances of forced eviction are prima facie incompatible with the requirements of the [ICESCR] and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law."⁶⁷ Also, the European Court for Human Rights has ruled that the destruction of the defendants' homes constitutes a form of ill-treatment, in breach of article 3 of the Convention which states that "no one shall be subjected to torture or to inhuman or degrading treatment or punishment."⁶⁸

Finally, the IHF would like to address all European governments about their increasingly restrictive asylum and immigration laws and policies, which all too often tend to be implemented in a discriminatory manner. As a result, many ethnic groups, including Roma, are put in a vulnerable position. Unfortunately, many EU candidate states have also adopted new laws, which are equally restrictive in nature as those of the EU countries. In recent years, asylum seeking Roma have been rejected by several countries, including Belgium, Finland, and the United Kingdom, in a manner that suggests that the authorities have not given adequate attention to individual cases. Such policies and practices often lead to direct violations of international standards, including to the right to life, the right to freedom from torture and humiliating, inhuman or degrading treatment, and the right to liberty and security of person.

Therefore, the IHF appeals to European governments that they uphold the basic provisions of the Geneva Convention and continue to offer shelter to those who have genuine reasons to seek asylum in their countries.

In several documents the OSCE participating State have recognized their particular problems and have committed themselves to provide Roma and Sinti with special protection and to initiate effective measures in order to enable them to achieve full equality of opportunities with the majority populations. To this end, for example, the participating States stated at the Istanbul Summit: "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 reinforce 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."⁶⁹ Furthermore, the States committed themselves "to ensure that laws and policies fully respect the rights of Roma and Sinti and, where necessary, to promote anti-discrimination legislation to this effect."⁷⁰

⁶⁶ GHM/MRG-G, "The National Human Rights Commission Subscribes to Views GHM and MRG-G on the situation of Roma in Greece," 27 February 2002; The World Organization against Torture, Greece: Evictions of Roma as part of the Preparation for the 2004 Olympic Games, 28 February 2002.

⁶⁷ General Comment No. 4 (1991) on the right to adequate housing.

⁶⁸ Selçuk and Asker v. Turkey, 24 April 1998, at

<http://hudoc.echr.coe.int/Hudoc2doc2/HEJUD/199810/selcuk%20and%20asker%20%20batj.doc> Information on Greece is based on GHM/MRG-G, Greece's National Human Rights Commission on the Problems of Roma in Aspropyrgos and Nea Kios, at www.greekhelsinki.gr/bhr/english/organizations/ghm/ghm_04_03_02.rtf; and OMCT, Evictions of Roma as part of the Preparation for the 2004 Olympic Games, 28 February 2002, at www.omct.org/displaydocument.asp?DocType=Press&Language=EN&Index=1549

⁶⁹ Charter for European Security, par. 20.

⁷⁰ Par. 31.

In order to improve the situation of Roma and Sinti in general, OSCE governments should, at the highest levels, speak out against racial discrimination against Roma and make clear that racism and segregation will not be tolerated; adopt and implement comprehensive anti-discrimination laws; investigate, discipline and prosecute police and other authorities for alleged acts of violence and other crimes against Roma and other authorities for acts of any form of discrimination; investigate and prosecute effectively anti-Roma crime as well as instances of discrimination against Roma by other population; adopt and implement effective policies and concrete measures to end racial segregation of Roma; implement special measures to ensure that Roma have equal access to education; and ratify the Optional Protocol to the ICCPR in order to open an avenue for communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

IHF Statement to the 2002 OSCE Human Dimension Implementation Meeting

TOLERANCE AND NON-DISCRIMINATION: Prevention of Aggressive Nationalism, Racism, Chauvinism, Xenophobia, Anti-Semitism and Ethnic Cleansing
(Wednesday, 12 September 2002)

Extreme nationalism, xenophobia and anti-Semitism are plaguing many OSCE countries and fuel discord, discrimination and hate speech.

Although anti-Caucasian attitudes are not new in **Russia**,⁷¹ they have gained ground in the 1990 and especially following the armed conflicts in the Caucasian region – particularly in Chechnya – which have forced hundreds of thousands of people to seek refuge outside their home regions.⁷²

Since early 1990s, the regional governments in Moscow, some regions of Southern Russia and the Far East have adopted unlawful measures aimed at curbing migration and in fact targeting non-Slavic visitors. Law-enforcement bodies, in their turn, have increased pressure against all migrants from the Caucasus region. With the beginning of the first Chechnya war in 1994, the status of Chechens in the internal regions of Russia became worse compared to other Caucasians, although extraordinary policing measures by the authorities were extended to the latter as well.

The main problem has been the practice in many regions (including Moscow) not to grant Caucasians residence registration. This has resulted in serious difficulties to find an apartment and work and to receive secondary or pre-school education. Moreover, local authorities usually refuse to pay pensions and social benefits to people who have no residence registration, and access to free medical care is restricted due to lack of local insurance. Since the autumn of 1999 the government has refused to issue foreign passports and internal passports to citizens arriving from Chechnya.

In addition, law enforcement authorities have carried out campaigns to force Caucasians – again, particularly Chechens and Ingushetians – out of their territories. They have conducted arbitrary identity checks, searched apartments and dormitories without warrant, seized and frequently destroyed ID papers, beat people or otherwise humiliated and arrested them. Some have been accused of possession of or dealing in drugs or weapons which have been planted on them or in their homes. Some of the detainees are kept in custody for more than three days and many of them are denied the opportunity to inform their relatives and friends about their whereabouts. In addition, extremist nationalist groups have harassed and ill-treated Caucasians, including paramilitary groups such as Cossacks in southern Russia. In such cases, authorities have preferred to turn a blind eye to violent acts and sometimes even collaborated with the perpetrators. The persecution of Chechens by the authorities receives support from a majority of the Russian population who – through media campaigns and disinformation from authorities – believe that Caucasian and particularly Chechens are terrorists and other criminals.

Hate speech, xenophobia and discrimination on the basis of nationality continue to hold a prominent place in **Serbian** society. Although removed from front pages and moved to columns for readers' letters, hate speech reflects the society's general attitude towards minority groups, which is practically the same as it was under the previous regime. The failure to bring up the question of the causes of the

⁷¹ See also the statement of the Moscow Helsinki Group on anti-Semitism.

⁷² The Russia part of this statement is based on information received from the Moscow Helsinki Group, August 2002.

bombardment of Serbia in 1999 and the relativization by the media of the role of Milosevic's regime in this represents an indirect justification of the use of excessive force in Kosovo. In this regard, the conflict in Kosovo has been interpreted exclusively as the Serbian forces' showdown with terrorism, which became especially pronounced after the US tragedy on 11 September 2001.

The language used by most of the media and an overwhelming majority of those in charge is hate speech. This language has acquired its most serious forms in excessive anti-Semitic pronouncements, which has considerably intensified after Milosevic stepped down from the political scene. Incidents including the desecration of Jewish facilities, the drawing of swastikas and writing of anti-Semitic messages have been registered approximately once a week in various places in Serbia in. Apart from Jews, these messages are also directed against Roma, the group towards which the new Serbian right wing has demonstrated the largest racist prejudice.

A major role in the dissemination of xenophobic ideas has been played by parts of the Serbian Orthodox Church and the Faculty of Theology in Belgrade, a large group of publishers, issuing numerous and mostly reprint editions of titles written by both fascists and those on the right-wing from the period before World War II and contemporary authors. A prominent place in this is held by the organization *Obraz* and the Students' Association *Sv. Justin Filozof*. All this has taken place with the tacit or overt support of state bodies; the District Prosecutor's Office in Belgrade dismissed criminal charges demanded by the Alliance of Jewish Communities against the publisher of the *Protocols of the Learned Elders of Zion*. The goal of the anti-Semitic activity is apparently to diminish the extent of the crimes committed during the Holocaust and, indirectly, to also belittle the crimes committed during the war on the territory of the former Yugoslavia.⁷³

Croatia is an exception among European countries in that it does not have full restrictions on disseminating hate speech and on inciting national, religious or racial intolerance. The corresponding provisions were repealed several years ago, and on the occasion of adopting the new Penal Code, the issue was simply ignored by the Tudjman government, according to which disseminating religious and national intolerance was not an offence, whereas spreading racist intolerance formally was.

Although hate speech in politics is not uncommon, particularly demonstrations organized to support the generals accused of committing war crimes have served as an ideal platform for some of the worst outbursts of hate speech. The organisers have mostly been veterans' associations, the central national coalition for the "dignity" of the Homeland War and some right-wing extremist parties. Many of these have been directed against President Stjepan Mesic, the authorities and members of various ethnic communities, especially Roma and Serbs. The demonstrators have called them "red bandits", "communist scum" and similar and demanded that action is undertaken to overthrow the current "anti-national Government." Vesna Pusic, an MP, was called a "Serb" and "whore" and was subjected to other sexist attacks. Since the dismissal of the old *Slobodna Dalmacija* editorial staff, the circulation of the newspaper decreased drastically; it had earlier served as the main forum for extreme right-wing sentiments.

In addition, skinheads have physically attacked numerous Croatian citizens and foreigners.⁷⁴

Xenophobia and racial discrimination remain serious problems also in **Germany**. In June 2001, the European Commission against Racism and Intolerance (ECRI) expressed its concern about developments in Germany. According to the ECRI, racial discrimination was no longer a small-scale phenomenon, but dominated the opinion of many young people. ECRI criticized in particular the high number of racially motivated offences in Eastern Germany, as well as the widely spread xenophobic attitudes of the population and the discrimination against foreigners in that part of the country.⁷⁵

⁷³ Based on information from the Helsinki Committee for Human Rights in Serbia.

⁷⁴ Information from the Croatian Helsinki Committee.

⁷⁵ European Commission against Racism and Intolerance (en 5); *Frankfurter Allgemeine Zeitung*, "Europarat kritisiert Deutschland", 4 July 2001.

Additionally, the UN Committee on the Elimination of Racial Discrimination (CERD) said it had received repeated reports about racist infringements in police stations and about ill treatment of foreigners by law enforcement officials in Germany. The Committee demanded action against racism and right-wing extremism.⁷⁶

Racial offenders are frequently only sentenced years after the offences have been committed. On 20 November 2001, the last trial concerning the 1992 racial riots in Rostock opened. Nine years after a hostel for asylum seekers was burnt down, the last defendants faced charges.⁷⁷

⁷⁶ Amnesty International, (en 4); UN Committee on the Elimination of Racial Discrimination, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Germany*, 27 April 2001, at [www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/814b05e8f6eb7ebfc1256a18005ab771?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/814b05e8f6eb7ebfc1256a18005ab771?Opendocument).

⁷⁷ *Tagesspiegel*, "Neun Jahre zum Protest um Rostock", 21 November 2001; *Frankfurter Allgemeine Zeitung*, "Gerechtigkeit ist kaum noch zu erwarten", 12 March 2002.

IHF Intervention to the 2002 OSCE Human Dimension Implementation Meeting

**NON-DISCRIMINATION AND EQUAL OPPORTUNITIES: Women's Rights in
OSCE Member States (Wednesday, 11 September 2002)**

Despite certain progress that has been made in the field of women's rights in OSCE member states, women continue to suffer myriad forms of discrimination. Inadequate and inefficient legal systems, improper monitoring and implementation mechanisms, and a limited social and political will to prioritize women's issues, particularly in the wake of terrorist activities which appear as a more legitimate threat to peace and security, all serve to inhibit the work of governmental and non-governmental organizations working towards ensuring *de facto* gender equality.

In **Greece**, the lack of compulsory health and sex education has had the disastrous effect of vastly increasing the use of abortion as a means of contraception, leaving Greece with one of the highest abortion rates in the world. The annual number of terminated births exceeded 250,000 – a figure that is more than double the number of births.

Although domestic violence remains widespread in Greece, and does not discriminate between social or ethnic groups, there is no legislation in place that specifically protects women against violence in their homes or takes into account the specific relationship between and inter-dependence that exist between victim and perpetrator. Nor is marital rape considered a crime under Greek Penal Law. In addition to the lack of effective legislation in place, the fact that police and other law enforcement personnel view domestic violence as a private matter has contributed to the large degree of impunity enjoyed by perpetrators of domestic violence. Unemployment is more than double among women, women make up considerably less than half of all general directors and directors, and as recently as 1999 women only earned approximately 76% of men's salary.⁷⁸

In **Russia**, Human Rights Watch (HRW) charged that Russian forces raped and sexually assaulted women during winter operations in Chechnya. Five women told HRW researchers about incidents of sexual violence they endured earlier this year; three of them tried to report the assaults to local authorities who refused to investigate the allegations. "Aset Asimova" (not her real name), a 43-year-old widow, told HRW that she was at home with her 8-year-old son when drunken soldiers came in early February. Three of them took her into a separate room, beat her with the butts of their rifles, and raped her while others looted the house. "Asimova" did not report the rape to the authorities, and HRW researchers have found that many women are reluctant to report crimes of sexual assault, fearing stigma and retaliation. "Asimova's" first action after the soldiers left was to hide what had happened, so her grown son would not learn of the rape.

These are not the first allegations of rape and sexual violence by Russian forces to emerge from Chechnya. In January 2002, HRW provided a memorandum documenting other cases of rape and sexual assault in Chechnya to the U.N. Committee on the Elimination of Discrimination against Women (CEDAW). In a public statement, the Committee raised serious concerns about the Russian Federation's failure to conduct proper investigations or hold perpetrators accountable in the vast majority of cases in the face of strong evidence that members of the Russian forces committed acts of rape and other sexual violence against women during the armed conflict in Chechnya.⁷⁹

⁷⁸ "OMCT, GHM and MRG-G Express Concern Regarding Gender Discrimination and Violence Against Women in Greece before the UN Committee on the Elimination of Discrimination against Women," August 2002.

⁷⁹ Human Rights Watch, "Russia: Investigate Sexual Violence by Troops in Chechnya," April 2002,.

In the **United States**, concerns have been growing regarding an adoption law that was adopted last year, and which could face possible amendments in 2003. The Florida law requires women of all ages (including minors) who do not know the identity of their child's father to publish details about themselves and possible sexual partners before placing the child up for adoption. Background searches are the first step, but when those fail, the law states that the woman/girl must (1) place legal notices in newspapers where the baby may have been conceived; (2) include her name and description; (3) include the name and/or description of the possible father(s); (4) list dates and places where conception may have occurred. The notifications must be published wherever conception may have occurred, even if outside the State of Florida. Lawmakers say the intent of the new law is to minimize the possibility of a biological father's not being notified and given an opportunity to contest or agree to an adoption.

In July 2002, one Palm Beach County Circuit judge ruled that the law is unconstitutional in instances where women/girls were forcibly raped, but that it stands for all other cases, including minors. Among those contesting the law was a 12-year-old girl who fell pregnant after being raped by a 27-year-old man. Six lawsuits, claiming the law violated the right to privacy, are pending. Senator Skip Campbell (D-Tamarac), the sponsor of the notification measure, has come under intense criticism from women's rights organizations and other advocacy groups after the lawsuit made national news. The Florida Bar Association, which initially supported the bill, is drafting new legislation on behalf of Campbell. It is not clear to what extent the proposed legislation will change the notification requirement.⁸⁰

In **Bosnia and Herzegovina**, the involvement of local police in the trafficking of persons ranged from visiting brothels as 'gratis' clients to facilitating the trafficking of women in the country. This complicity and corruption on the part of local police officers facilitated and exacerbated these human rights abuses. Victims spoke of police officers that visited the brothels to partake of free sexual services in exchange for assistance in procuring false documents and tipping off owners to upcoming raids. Some police officers moonlighted as waiters in the brothels. Still others engaged in trafficking directly. For the most part, the police engaged in these activities with complete impunity. As of April 2002, according to a letter from the United Nations Headquarters in New York to HRW, only six local police officers faced de-authorization (removal) as a result of UNMIBH investigations. In one case a police officer received a prison sentence of one year and three months for trafficking women from Belgrade to Banja Luka. Unfortunately, the paucity of successful criminal investigations and disciplinary proceedings against local police underscored the record of failure in this area.⁸¹

Also in **Bosnia and Herzegovina**, former UN police officer Kathryn Bolkovac was vindicated earlier this month when an employment tribunal in the United Kingdom held that she had been unfairly dismissed from her job after reporting fellow staff members' involvement in the Bosnian sex trade. Bolkovac had told her superiors in October 2000 that UN peacekeepers patronized nightclubs where girls as young as 15 were forced to dance nude and have sex with customers. Peacekeepers in some instances did nothing to intervene when pimps beat and raped girls who refused to have sex. Bolkovac also reported that one officer charged with investigating the sex industry paid more than US\$1,000 to a bar owner for a girl he held captive in his apartment to work as a prostitute. Bolkovac's employer, DynCorp, demoted her within days of her report and fired her six months later for allegedly falsifying timesheets. She said DynCorp fired her because her allegations threatened the company's "lucrative contract" to supply officers to the UN mission.⁸²

⁸⁰ "Law Requires Women to Reveal Sexual Past Before Adoption: Publish Your Sex Life – It's the Law," at www.adoption.about.com; Alisa LaPolt, "Adoption Law Draws Lawsuits", *Florida Today*, 14 August 2002; James R. Langford, "Scarlet Letter adoption law may turn more women to abortion", *Florida Today*, 18 August 2002.

⁸¹ Testimony on Trafficking of Women and Girls to Bosnia and Herzegovina for Forced Prostitution, Marinta Vandenberg, Europe Researcher, Women's Rights Division, Human Rights Watch, before the House Committee on International Relations Subcommittee on International Operations and Human Rights, April 24, 2002.

⁸² "Bosnia: U.N. Sex Trade Whistleblower Vindicated," *UN Wire*, United Nations Foundation, 7 August 2002. See also UN Worker Allegedly Fired For Reporting Sexual Misconduct, *UN Wire*, 24 June 2001.

In interviews with the AP, Bolkovac and other current and former members of the UN mission in Bosnia described how international police monitors – sent to set an example for the local police and root out corruption in their ranks – allegedly have been involved in criminal activities.

The UN concedes that two dozen officers with the 2,000 members UN International Police Task Force (IPTF), including either Americans, have been dismissed for offenses ranging from bribery to sexual impropriety, but insists that most officers carry out their duties in exemplary fashion. Charles Hunter, a spokesman for the US State Department, acknowledged “occasional disciplinary problems” with the American contingent. Lamb, a former Philadelphia policeman working as a UN human rights investigator in central Bosnia, leveled even more serious charges. He provided evidence that IPTF members were directly linked to forcing girls into prostitution. Most prominently, he named two Romanian officers who sold women directly to brothels. Lamb filed his findings. He said that he and others routinely forwarded evidence of wrongdoing to the mission’s internal affairs unit, only to be told, “not to look too deep.”⁸³

Corruption remains rife in the field of trafficking in human beings, and police in **Bulgaria, Moldova** and **Ukraine** have reportedly extorted bribes from those who have tried to report cases of trafficked women and to ask for appropriate investigations. In some cases, police claim that payments are required to contact Interpol about trafficking cases. Police are often in collusion with criminal traffickers, for example in forcing women back to brothels from which they have escaped, receiving sexual favors and bribes in return for such cooperation with traffickers. Courts in many post-communist countries often do not keep the persons charged with trafficking in detention pending trial, while these same courts generally detain others accused of a wide range of less serious crimes. Courts also routinely violate the confidentiality surrounding victims and witnesses in trafficking cases, exposing them and their families to threats from criminals and other pressures.

Border guards in **Poland** participated in the abduction of two Ukrainian women, who were taken off a bus along the Polish-Ukraine border and turned over to traffickers who picked them up in a car. The women were taken to a hotel near Warsaw where they were sold at an auction that was held under the protection of the local police station.

In **Moldova**, during information meetings, the police “mildly and diplomatically” warn NGOs not to put too much hope or efforts into anti-trafficking campaigns and activities, since they will fail anyway due to the “important and powerful people involved in the business.”

Gender equality and equal opportunities have been gaining visibility and attention in the context of EU accession, since **candidate countries** are required to transpose their national legislation with the *acquis communautaire* in order to join the European Union in the coming years. However, despite improved legal frameworks in many countries seeking accession, deep structural gender inequalities persist, monitoring and implementation mechanisms are limited, and there have been insufficient social dialogue and on the need for and benefits of equal opportunities. Furthermore, equal opportunities are too often looked as isolated from other women’s rights issues, such as violence against women, trafficking in women, and women’s political visibility and participation, with the effect that important opportunities to adopt more a comprehensive approach towards ending all kinds of discrimination are missed. Gender inequalities also persist in OSCE member states already part of the European Union. Gender pay gaps, sexual harassment in the workplace, and difficulties in reconciling personal and professional responsibilities are just some of the consequences that stem from gender inequality.

⁸³ Based on William J. Kole and Aida Cerkez-Robinson, “U.N. Police Accused of Prostitution”, The Associated Press, June 13 2001 and Wendy McElroy, “Is the U.N Running Brothels in Bosnia,” *Fox News*, January 22, 2002.

In order to address these blatant forms of discrimination and ensure the adoption of a more contextual approach to gender equality, the IHF once again urges OSCE member states to:

- *Ratify and/or implement international human rights norms which are related to women's rights, in particular the Optional Protocol;*
- *Organize trainings on various gender issues for field missions, law enforcement bodies and officers, social workers, the judiciary, and the media, and encourage the active involvement of local NGOs in the process;*
- *Facilitate activities in the region related to awareness raising, training, exchange of skills and information, support for legislative reform and the monitoring of implementation;*
- *Promote the integration of equal opportunities for women and men in all policies and activities in relation to education, vocational training and the labor market;*
- *Promote women's better integration into the labor market and their improved status in society;*
- *Promote gender balance in decision-making processes and positions;*
- *Make an unambiguous commitment, where none exists, to combating violence against women in all its myriad forms, including but not limited to the problem of trafficking;*
- *Take increased steps to fight corruption and complicity in relation to violence against women, and support NGO efforts in this field.*

IHF Statement to the 2002 OSCE Human Dimension Implementation Meeting

FUNDAMENTAL FREEDOMS I:

Freedom of Expression, Free Media and Information (Thursday, 12 September 2002)

Despite OSCE governments' international commitments, violations of freedom of expression are reported on a daily basis from the OSCE region.

In **Belarus**, independent media have been under constant threats. Recently, a campaign has again been carried out to eliminate the few remaining free media outlets. On 26 July, Anatoly Tozik, chairman of the Belarus State Control Committee, filed a libel suit against the newspaper *Nasha Svaboda* for "insulting his honor, dignity and business reputation" for claiming in its 16 July article that Tozik had complained to President Lukashenka about former Prosecutor General Victor Sheiman. In 1999, a court of law had fined the paper nearly US\$ 50,000 in a libel suit filed by Sheiman, the then chairman of the Belarus Security Council.⁸⁴ In another incident, on 25 June a Minsk court found Mikalay Markevich, editor-in-chief of the independent weekly newspaper *Pahonya*, and Pavel Mazheika, a journalist for the same paper, guilty of libel against President Lukashenka and sentenced them to 2.5 and 2 years of hard labor respectively. The convictions stem from two September 2001 articles by the newspaper that criticized the president prior to the 9 September presidential elections. At the same time they represent the first use of criminal libel laws, passed in 1999, which carry a maximum sentence of five years in prison.⁸⁵

While libel charges have been filed against journalists, courts have refused to deal with libel charges against authorities by NGO members, who have been libeled.⁸⁶

On 5 August, unidentified persons broke into the offices of the independent newspaper *Zgoda*, taking with them hard discs and the entire database while leaving other assets, including money and video equipment. Moreover, on 11 September, a court in Minsk is to set to try Viktor Ivashkievich, editor-in-chief of another independent newspaper, *Rabochy*. He is charged with attempted murder and slander against President Lukashenka,⁸⁷ charges that are believed to be fabricated.

The international anti-terrorism campaign has granted the **Central Asian** governments a new excuse to repress freedom of expression, political and religious pluralism and civil society activities. Referring to the need to "secure stability," the regimes have cracked down on activities perceived by them as "extremist." As a result, mass arrests of peaceful Muslim have taken place⁸⁸ and political opponents and journalists face increasing harassment while the already dire human rights record of that region is further deteriorating.

Turkmenistan remains the most repressive OSCE country in terms of freedom of expression. After a short while of flourishing of civil society and opposition movements during *perestroika*, repression gathered new strength in mid-90s when most opposition figures were imprisoned or forced go underground or into exile. Mukhametkuli Aimuradov, a prominent opposition figure, is serving a 33-

⁸⁴ International League of Human Rights (ILHR), 8 August 2002.

⁸⁵ International Press Institute, 29 June 2002; Belarusian Helsinki Committee, August 2002..

⁸⁶ See the IHF statement on human rights defenders.

⁸⁷ ILHR, op.cit.

⁸⁸ See the IHF statement of freedom of religion.

year prison sentence on fabricated charges in particularly harsh conditions and is apparently in poor health. Some ordinary people have been summoned to the KNB (formerly KGB) after they had complained to their relatives abroad during a telephone call about their difficulties to live on their low salaries.⁸⁹

There are neither independent newspapers, nor radio or television stations in Turkmenistan. The only Internet server is state-run. Censorship and self-censorship stifle any expression of critical voices, and the government does all in its power to prevent critical information from entering or leaving the country. The programs of the Turkmen Service of Radio Free Europe/Radio Liberty (RFE/RL) are often the only sources of independent information inside the country and its correspondent -- the only international media representative in the country -- has been frequently summoned to the secret service and his telephone line bugged.⁹⁰

The **Uzbek** government informed on 16 June that President Islam Karimov had signed a decree to transform the former State Committee for Press into an Agency for Press and Information, to forbid censorship, editing and imposing bans or any form of its illegal interference into the activity of mass media, and to ensure that media rights are not violated.⁹¹ However, considering that Uzbekistan's human rights record has continuously deteriorated since the fall of 2001, it is difficult to believe that the practice would change significantly. For example, in March the Uzbek government ordered that all editors have to provide descriptions of their future articles and schedules for their publication in the next year.⁹²

In the same month, the Union of Independent Journalists in Uzbekistan (UIJU) reported that there has been a sharp increase in pressure and threats on journalists and media outlets and violence against them and their family members. It has cited numerous cases of arbitrary arrests, including of Asadullo Artikov and Tulkin Karaev on 15 February, ill treatment of and pressure on Evgeniy D'yakonov and his relatives, and continuing surveillance of Asadullo Ortikov, and his family and barring them from work. Poet Yusuf Djumaev, who was sentenced on 21 December to three years' imprisonment for the contents of his poems and criticism of officials e.g. in a Radio Liberty interview, but released on the same day due to international attention, continues to be under pressure and surveillance and receives threats against him and his family. All this forced him to go into hiding in Tashkent in March. Madjid Abduraimov, a correspondent for several Uzbek newspapers and known for his criticism of officials, who was sentenced to 13 years in prison (later reduced by 1.3 years) for alleged framed taking of bribe on 4 August 2001, remains in prison.⁹³

In **Tajikistan**, the Ministry of Communications and the State Committee for Television and Radio routinely deny independent television and radio stations broadcast licenses or charge excessive fees (up to USD 3,000) for short-term licenses. As a result, there is only one genuinely independent radio station in the whole country. Since February, nominally independent radio stations are not supposed to broadcast programs which they have not produced themselves, an order that seriously jeopardizes the stations' financial well-being. The government continues to intimidate and attack journalists' impunity. Most recent incidents have been related to reporting on the military, organized crime, drug trafficking, official corruption, opposition parties, and criticism of officials.

Since 1992, the Committee to Protect Journalists (CPJ) has documented 19 murders of journalists in Tajikistan. In addition, the printing industry is under strict state control, with little or no room for

⁸⁹ IHF, *The Human Rights and Security Situation in Turkmenistan-- Vienna, 8-10 June 2002, Seminar Report.*

⁹⁰ Ibid.

⁹¹ Uzbek Embassy in Austria, "The New Developments in the Sphere of Mass Media in Uzbekistan," press release, 16 July 2002.

⁹² IWPR, *Reporting Central Asia*, No. 111, 27 March 2002.

⁹³ UIJU, 28 February, 21 and 27 March, 4, 11 and 24 April 2002.

independent papers. It censors articles or publications that criticize the government, although the press law bans censorship.⁹⁴

In **Kazakhstan**, a large wave of oppression has been underway since early 2002. The government has forced through parliament a package of legislative acts that make it virtually impossible for citizens to exercise any political will. There has been widespread harassment of leading reform proponents; violent attacks by special police units against peaceful demonstrators; the ridicule in state-run media (controlled by the daughter of President Nazarbaev) of civic minded, independent citizens interested only in the integrity of the government and promoting human rights and democratic values; and death threats and physical intimidation against journalists and reform advocates.

As a part of this wave, opposition leaders Mukhtar Ablyazov and Galymanzhan Zhakianov have been sentenced to prison terms. Ablyazov, a former government minister, was charged with "economic crimes" and convicted on 18 July. He was fined 3.5 million Euros, and sentenced to six years in prison. Zhakianov, who was charged with corruption during his tenure as an oblast governor, was sentenced to seven years' incarceration on 2 August, and fines of 13,000 Euro. None of the evidence presented either trial supported the verdicts handed down, and the trials violated international due process standards.⁹⁵

The regime of President Nazarbayev has insisted that these trials are part of a process of prosecuting allegedly corrupt former government officials. However, such claims are questionable since the trials clearly followed the formation of the alternative self-governing Choice of Kazakhstan, which proposes political changes aimed at introducing more pluralism into the increasingly authoritarian society, and raising questions about the possible corruption of public officials, including the president.⁹⁶

On 28 August, unknown assailants attacked journalist Sergei Duvanov outside his home in Almaty. He suffered serious injuries. The attackers reportedly said, "you know why we're doing this" and "next time we'll make you a cripple." It is believed that the attack was in retaliation for his recent criticism of government policies. Earlier this year, the Kazakh government brought a case against Duvanov for his Internet postings about government attempts to silence journalists covering Swiss and US investigations into alleged corruption by President Nazarbaev and family members. On 9 July, officers from the national security service KNB arrested Duvanov and informed him that a case against him had been opened for "insulting the honour and dignity of the President," under article 318 of the Criminal Code.⁹⁷

Lira Baiseitova, an independent journalist who writes for *SolDat* newspaper, has reported repeated attacks. In addition, her daughter "disappeared" in May and later died in police custody.⁹⁸ Also in May, employees of *SolDat* were beaten by unknown assailants and suffered severe injuries. The same month a firebombing destroyed the offices of another newspaper, Respublika. Police reportedly failed to investigate the incident. On 16 August, independent television reporter Artur Platonov was physically attacked and suffered injuries requiring hospitalisation.⁹⁹

In **Kyrgyzstan**, a court on 8 May ruled that Feliks Kulov, former Bishkek mayor and minister of national security and now leader of the Ar-Namys Party, would serve 10 years in prison. Additionally, his property was confiscated and he and his co-defendant, Aleksandr Gassanov, must reimburse a fee of about 415,000 Euro. They will be barred from occupying state or municipal posts for three years

⁹⁴ Committee to Protect Journalists, 8 May 2002.

⁹⁵ IHF, "Kazakh Convictions of Opposition Figures Part of a Larger Wave of Oppression, Will the Community of Democratic Nations React?" 8 August 2001. See also the IHF statement on independence of the judiciary and the right to fair trial.

⁹⁶ Ibid.

⁹⁷ Human Rights Watch, "Journalist Violently Attacked in Kazakhstan," 30 August 2002.

⁹⁸ See the IHF statement on prevention of torture and other misconduct.

⁹⁹ Ibid.

upon his release from custody. Kulov was charged with abuse of his position while minister, but it seems obvious that the long judicial proceeding were initiated because of his political activity.

As for the media, President Akaev on 26 July accused the Kyrgyz service of Radio Azattyk of participation in terrorist activities and being sponsored by the US against the Kyrgyz state. The radio station is the only one that can be heard in almost all Kyrgyzstan.¹⁰⁰

In **Russia**, in addition to concerns about the media concentrations, a serious problem is the lack of progress made in the investigation of the cases of several journalists who have been murdered in 2002. Nattaly Skryl was attacked in Rostov-on-the-Don on 8 March and died later in hospital. While the death was first believed to be linked to her profession, police later stated that it was a robbery, but has not brought the case to court despite eyewitness testimonies. Sergei Kalinovsky, editor-in-chief of the daily newspaper *Moskovsky Komsomolets-Smolensk* and a reporter for the local SCS television station, was found dead beside a lake outside the city of Smolensk on 2 April. His colleagues believe that his death is connected to his profession as a reporter on crime and politics. Valery Ivanov, editor of the newspaper *Tolyantinskoye Obozreniye* in Togliatti was shot dead on 29 April, as was Alexandr Plotnikov, co-owner of the regional newspaper *Gostini dvor* in Tumen Siberia on 20 May. None of the above cases have any suspects been arrested, even in those with clear evidence.¹⁰¹

Media freedoms are also seriously violated in **Ukraine**. While state-owned media are biased in reporting, independent media face various forms of pressure and impediments: they are subjected to arbitrary tax audits, sanitary inspections, and sometimes even outright censorship while critical journalists have been fired from their jobs, intimidated, violently assaulted or detained and charged with criminal offenses. Several journalists have died in recent years under suspicious circumstances.¹⁰²

Viktor Vorotnikov, editor-in-chief of the newspaper *Grani*, has been threatened and intimidated by the Council for National Security and Defense (CNDSU) after his contribution to an article that appeared in the paper's Internet version on 14 June 2002. It dealt with business dealings of the CNDSU's secretary, Yevgeiy Marchuk, including smuggling of weapons to war zones embargoed by the UN.¹⁰³

In **Latvia**, an unknown assailant beat up Ivars Abolins, then journalist at the daily newspaper *Neatkarīga Rita Avīze*, who had, among other issues, written about person who was detained for placing false explosives in Riga's Dom Square during an event there in 2001. Further, the defamation case by former Economic Minister Laimonis Strujevics against the daily newspaper continued. The paper was sued for claiming that Strujevics had acted in the interest of an oil transit industry to the detriment of the state budget. The Riga Regional Court for the second time found in favor of Strujevic, despite the fact that the High Court had returned the case there with a different judge emphasizing that adherence to the case law of the European Court of Human Rights was obligatory and that journalists enjoy wide latitude in criticizing politicians and that news should be separated from opinion.¹⁰⁴

Regarding language issues, the Russkoe Radio continues to challenge the language law restrictions, which limit the share of broadcast time in another language than Latvian to 25% of the total. The Senate of the High Court rejected its appeals and the radio station has appealed to the Constitutional Court. Finally, Daugavpils Mayor Rihards Eigims has continued his practice to bar certain media outlets from news conferences: on 16 March, at the congress of Eigims' political party "Latgale's Light," entry was denied to journalists from the *Diena*, the main nightly television program "Panorama", as well as *Nasha gazeta* and *Kapital Lathalii*. The justice minister stated that the party

¹⁰⁰ Information from the Kyrgyz Committee for Human Rights to the IHF, August 2002.

¹⁰¹ International Press Institute, 1 August 2002.

¹⁰² International Press Institute, 8 July 2002.

¹⁰³ Ibid.

¹⁰⁴ Latvian Centre for Human Rights and Ethnic Studies, *Human Rights in Latvia, 1 January 2002 – 30 June 2002*.

had violated the law by excluding the journalists and that they had right to turn to courts. However, law only reviews complaints about the illegal activity of social organizations reviewed after submission by the justice minister.¹⁰⁵

The recent legal reforms in **Turkey** brought about some half-hearted improvements to legislation dealing with freedom of expression. Amendments to Article 159 of the Criminal Code (dealing with crimes against the state or state institutions) reduced the maximum prison sentences. On 3 August it was further: “crimes against the state or state institutions” are punishable only when there is the “intention to insult” such institutions. Article 312 (incitement to religious or racial hatred) was reworded in that incitement can only be punished if it presents “a possible threat to public order.” Additionally, many articles of the Press Act were amended (or removed) so as to abolish prison sentences and replace them with severe fines ranging from TL 10 billion to 100 billion.

However, many restrictive provisions have remained: Penal Code articles 312, 160 (insulting the Turkish Republic), and 169 (aiding an illegal organization); Anti-Terror Law article 8 (disseminating separatist propaganda); the Law to Protect Atatürk; and over 150 articles of the Press Act, including a provision against commenting on ongoing trials. Moreover, some changes aggravated access to and the free exchange of information, including the right given to the state to close down internet cafés if their guests visit websites which are “detrimental to the constitutional order, general security, general morals and the indivisible integrity of the state with its territory and nation.” As a result, there are still more than sufficient tools for police, prosecutors and courts to continue imprisoning and fining heavily citizens who have expressed their non-violent opinions. It can also be feared that prosecutors and judges, in their (sometimes idiosyncratic) interpretations of Turkish law, continue to ignore the jurisprudence of the European Court of Human Rights and its succession of judgments against Turkey on matters of free expression.

Western Europe is not without free media problems either. In **Italy**, media magnate and Prime Minister Silvio Berlusconi controls more and more broadcasters directly or indirectly. Moreover, the prime minister has also used his power to put pressure on reporters: On 23 June, critical political programs on the public television RAI of Enzo Biagi and Michele Sanzoro on the national television RAI, were cancelled allegedly due to pressure from the Italian government. The decision followed April criticism by Prime Minister Berlusconi of these two popular programs. He accused the reporters of making “criminal use of public television” and added that RAI “should not allow that to happen again.” In May, the government had asked RAI to suspend the programs pending local elections. According to the International Press Institute, incidents that displeased the government were investigations into the alleged Mafia connections of one of Berlusconi’s closest associates and Biagi’s hosting of a comedian who said he would vote for Berlusconi’s rival in 2003 general elections.¹⁰⁶

Free expression of all people is one of the basic prerequisites for truly democratic societies, and has been guaranteed by most OSCE concluding documents. The IHF appeals to OSCE governments to abide by this commitment. We also urge the governments to genuinely commit themselves to addressing the threats to the independent media and ensuring media freedom in their countries. Moreover, we urge them “take no measures aimed at barring journalists from the legitimate exercise of their profession other than those strictly required by the exigencies of the situation” (Moscow Concluding Document, par. 34).

¹⁰⁵ Ibid.

¹⁰⁶ International Press Institute, 29 June 2002.

IHF Statement to the 2002 OSCE Human Dimension Implementation Meeting

FUNDAMENTAL FREEDOMS I: Freedom of Association and the Right of Peaceful Assembly **(12 September 2002)**

The IHF would like to draw your attention to the continued serious threats to freedom of association and the right of peaceful assembly in the OSCE region.

In June, **Kazakhstan**'s parliament approved a revised bill tightening restrictions on political parties. The bill stipulates that parties must have at least 50,000 members to be registered. Only two currently registered parties have the required number of members: OTAN (Fatherland), with 250,000 members, and the Civil Party, with more than 100,000. Both parties are seen as pro-government. In addition, the law reportedly provides that any party has to have its branches in all the regions, and each regional branch must have at least 7,000 members.¹⁰⁷ Such stipulations are abusive and clearly directed against the political opposition.

In **Kyrgyzstan**, at least five persons were killed and dozens were injured on 17-18 March when police fired at hundreds of people marching through the Aksy district of Jalal-Abad province to protest the detention of parliamentarian Azimbek Beknazarov. His trial was due to open the following day. No investigations are known to have been initiated after the shootings, suggesting that the order to shoot may have come from the highest authorities.¹⁰⁸

In May, some 90 people were arrested outside the parliament building as they were peacefully preparing to protest the government's decision to cede contested territory to China, the arrest of political leaders and the country's poor economic situation. Among those arrested were Ramazan Dyrlydaev, chair of the Kyrgyz Committee for Human Rights and MPAzimbek Beknazarov.¹⁰⁹

More and more pickets and demonstration have been recently held in front of ministries and other state institutions in Tashkent, **Uzbekistan**. In August only, four pickets were held. On 27 August, law enforcement authorities severely beat the 14-15 protestors. All of them were arrested, taken to police stations and made undergo speedy legal procedures. On 28 August, police hindered hundreds of Muslim women from holding another picket.¹¹⁰

In **Turkey**, the so-called Harmonisation Laws adopted by parliament on 3 August brought about some improvements but left numerous open questions and even worsened some human rights related legislation.

Now Turkish associations will be able to work abroad, foreign associations will be able to operate in Turkey, and the restriction that forbid civil servants, academics and students to found associations was removed. However, by law, authorities are still allowed to inspect the officials' documentation of association "when deemed necessary."

¹⁰⁷ RFE/RL, Bruce Pannier, "Kazakhstan: Opposition Parties See Draft Bill As Possible Death Sentence", 26 June 2002.

¹⁰⁸ Kyrgyz Committee for Human Rights, August 20002; "Human Rights Watch, Kyrgyzstan: Government Crackdown on Peaceful Dissent," 17 May 2002.

¹⁰⁹ Human Rights Watch, "Kyrgyzstan: Government Crackdown on Peaceful Dissent," 17 May 2002.

¹¹⁰ Information from the HRSU to the IHF, 30 August 2002.

In addition, it remains open if NGOs are still expected to submit all publications and public meetings for approval by the local governor – a practice that has been frequently exercised to halt meetings, suppress publications, and close down associations. It also seems that the requirement for associations to pay a fee for a government commissioner to attend their general assemblies and record proceedings remains valid, and that the funding of civil society from foreign sources will continue to be subject to the approval of the Ministry of the Interior.

As for the right to peaceful assembly, the provision which proscribes advance “notification” for the organization of any meetings by Turkish citizens although the time limit was reduced from 72 hours to 48 hours. A new provision stipulates that foreigners who wish to address a crowd or participate in demonstrations must inform the Ministry of Interior about their intention at least 48 hours before the gathering takes place.

In **Georgia**, President Shevardnadze has publicly stated that terrorists might support the country’s NGOs. He has also proposed that legislation be adopted to restrict and control foreign funding of Georgian NGOs. This would be a serious threat to most human rights NGOs, whose activities are dependent on Western funding.¹¹¹

In **Belarus**, the independence of civil society groups has grown worse in the past year, as NGOs have come under increasing pressure from the authorities. Two principal methods have been used to restrict civil society activities: Firstly, organizations have been threatened with closure for purely formal reasons, such as failure to stamp or fill out an official document correctly during registration or re-registration. For example, the Regional Centre for Supporting Civic Initiatives Vyezha was threatened to be closed down in March.¹¹² Secondly, pseudo-NGOs have been established within the state structures with the task to advocate state interests rather than those of people. In addition, several NGOs have been arbitrarily evicted from their premises.

A presidential decree of March 2001 stipulates that an NGO cannot use foreign funding for preparing and organizing meetings, demonstrations, pickets and strikes.¹¹³

Also the right to assembly has been constantly violated. While the 15 March “Freedom March-2” was carried out without incidents,¹¹⁴ the Freedom Day of 24 March resulted in the arrest of some 50 people, some of whom were later convicted: Dzmityr Chabatarenka and youth leader Tsimafey Dranchuk were both sentenced to 10 days in jail for violating public order, and Lyudmila Hraznova (a deputy of the opposition Supreme Soviet) was fined 20 minimum wages (about 90 Euro) for the same offense.¹¹⁵

Also in **Azerbaijan** President Aliyev has proposed to parliament that changes be made to the law on grants to restrict and control foreign funding of civil associations. According to the new amendments, grant received by Azerbaijani recipients are subject to registration by responsible state organs (par. 4); and no operations can be carried out with unregistered money (par. 5). Local observers note that the aim of the new provisions is solely to create fake obstacles for independent NGOs and to give information to authorities about the financing of NGOs. They also emphasize that the regular reports which have until now been submitted to tax authorities are sufficient.¹¹⁶

¹¹¹ Civil Georgia, “Civil Society Builds Terror in Shevardnadze’s Mind,” 9 May 2002.

¹¹² IHF, “Belarusian NGOs Face Liquidation,” 7 March 2002.

¹¹³ Information from the Belarusian Helsinki Committee to the IHF, 2002.

¹¹⁴ Amnesty International, Belarus: “Day of Freedom Protest Must be Free from Human Rights Violations,” 23 March 2002.

¹¹⁵ Belarus in March, a Digest of Events, at www.belcentrum.org/en/d12en.htm; RFE/RL Newline, 30 July 2002.

¹¹⁶ *Azerbaijan Daily Digest*, 29 May 2002, at

www.eurasianet.org/resource/arezbaijan/hypermail/200205/0075.shtml For more information, see the IHF Statement of freedom of association and peaceful assembly.

The IHF urges the OSCE governments to ensure that people living in their countries can fully enjoy their right to establish their own parties and associations and to allow them to operate unhindered and without restrictions on their already precarious funding. This freedom should not be unduly restricted as it is now happening in many countries. The right of peaceful assembly and demonstration shall be enjoyed without interference by authorities, as guaranteed in the OSCE Copenhagen Document (par. 9,9.2).

IHF Statement to the 2002 OSCE Human Dimension Implementation Meeting

FUNDAMENTAL FREEDOMS I:

Freedom of Association – Human Rights Defenders (Thursday, 12 September 2002)

Despite the fact that the OSCE has repeatedly expressed its guarantees for human rights defenders to carry out their duties, this right has been frequently violated in several OSCE states.

Most recently, on 10 July, a group of 10-15 well-organized men beat the institute's director Levan Ramishvili and five other members attacked the office of the Liberty Institute in Tbilisi, Georgia. Ramishvili was hospitalized with multiple contusions, eye injuries and speech problems. The institute's office equipment and furniture were smashed. The Liberty Institute has recently been known for its outspoken advocacy of the rights of religious minorities.¹¹⁷ MP Guram Sharadze, whose supporters, together with Orthodox extremists, held a hostile demonstration in front of it two days earlier, has targeted the Liberty Institute.¹¹⁸

While **Belarusan** media outlets and journalists have been convicted on libel charges against officials on non-existent grounds, courts have refused to deal with libel charges brought by civil society activists against state-run newspapers. For example, the chair of the Belarusan Helsinki Committee Tatsiana Protska brought charges against *Sovietskaya Belorussia* for damaging her honor, dignity and reputation. After Protska had met with OSCE Ambassador Wieck, the paper on 27 July claimed in its article "White Stork" that she had met with a representative of a foreign intelligence service to whom she had passed on information. However, a court refused to hear the case on the grounds that the newspaper was only engaging in a "political discussion."¹¹⁹

In **Central Asian** countries the international anti-terrorism campaign has resulted in increasing pressure on journalists, political opponents and Muslims who do not want to carry out their religious activities within the confines of state-sponsored Islam. In many cases, strives for more religious and media freedoms overlap with human rights activities. As a result, numerous people have risked being accused of anti-state activities, terrorism, illegal possession or distribution of illegal literature or drug-related crimes.

In **Tajikistan**, human rights activity is not yet well developed. Government officials or persons close to the government lead most so-called human rights organizations. Due to the war in recent past, genuine human rights defenders do not wish to take a strong, open stand against the government policies and be labeled anti-government organizations but are mainly active in analyzing legislation, human rights training and similar fields.

In **Kyrgyzstan** human rights organizations can operate relatively freely, but many activists have faced judicial proceedings on trumped-up charges, including the IHF affiliate Kyrgyz Committee for Human Rights. Its Chair Ramazan Dyrlydaev spent over two years in exile because of several trumped-up judicial proceedings against him. In early 2002 he was able to return to Bishkek after the charges were finally dropped. However, soon after his return, new accusations started that Dyrlydaev had faked the registration documents of the KCHR. The registration issue was the origin of the initial charges

¹¹⁷ See the IHF statement of freedom of religion.

¹¹⁸ Human Rights Watch, "Georgia: Vicious" Assault on Rights Leaders, Georgian Government Must Investigate," 12 July 2002.

¹¹⁹ Information from the Belarusan Helsinki Committee to the IHF, August 2002.

against Dyryldaev. On the positive side, the measures taken by OSCE Ambassador Stoudmann to have the fabricated charges against Dyryldaev dropped were a good example of what the OSCE can achieve on the ground.

Other charges are still pending against the KCHR. For example, on 20 May, the Kochor branch (Naryn *oblast*) of the KCHR was stormed by more than 150 angry people, many of whom were supporters and relatives of the local *akim* (regional governor) and the head of the *aityl okmotu* (smallest administrative unit) who apparently had been advised by the *akim* of the region, Mr. Omuraliev, and head of the *aityl okmutu*, Mr. Jumakadyrov, to go there. They demanded that Mr. Bulatov, head of the KCHR office, leave the office and the region immediately or he would be stoned to death. Then the mob destroyed most of the office's furniture and documentation and other materials and offended Bulatov verbally. The whole scenery was videotaped with a camera that belonged to the local police.¹²⁰

While the government of **Kazakhstan** has forced through extensive legislation to make it virtually impossible for people to have any say in politics, pro-governmental "movements," contrived to resemble civil society but in reality puppets of the regime, are proliferating. At the same time, civic-minded citizens interested in the genuine protection of human rights and striving for democratic developments have faced increasing harassment and intimidation.¹²¹

In **Turkmenistan**, no organized human rights activity has survived the repressive regime. There is no possibility for foreign human rights defenders to meet Turkmen citizens without government approval and without its interference. This makes the factual gathering of information virtually impossible. Still, as it was noted during an IHF-sponsored meeting of Turkmen activists in exile, it appears that more and more people are less scared to speak out. One reason for this can be found in the disarray of the government elite following government reshuffles, dismissals of high-ranking officials as well as defections of leading political figures. In order to pretend that a civil society exists in the country, the government has created a number of "independent" groups that in many cases receive funding from foreign grant-giving organization.¹²²

In **Uzbekistan**, at least three human rights activists have faced serious harassment in the past 18 months. One of the cases resulted in death.

In July 2001, a member of the Human Rights Society of Uzbekistan (HRSU) from the Kashkadaria province, Shovrik Ruzimuradov, died clearly as a result of torture while in police custody.

Elena Urlaeva, another HRSU members, and Larissa Vdovina were arrested on 27 August 2002 as they participated in a protest against human rights abuses by the government. The two women were first taken to a district police station but were then transferred to a psychiatric hospital for compulsory treatment.¹²³ This is the third time Urlaeva has been confined to a psychiatric hospital. In the summer of 2001, she was first held in a closed psychiatric ward and later in an isolation compartment of a hospital for infectious diseases. As she was arrested for the second time on 6 November 2001 by a special anti-terrorist unit, she was told that the reason for her arrest was that she allegedly had an envelope with dangerous white powder in her possession. Urlaeva was released on 14 November after she had been taken to a court, but the court refused to consider her case, as there were no documents relating to it. On the following day the judge sentenced Urlaeva to five days' detention on allegedly false charges of insult.¹²⁴

¹²⁰ Information from the KCHR to the IHF, August 2002.

¹²¹ IHF, "Kazakh Convictions of Opposition Figures Part of a Larger Wave of Oppression, Will the Community of Democratic Nations React?" 8 August 2002. See also the IHF statement of freedom of expression.

¹²² IHF, *The Human Rights and Security Situation in Turkmenistan—Vienna, 8-10 June 2002, Seminar Report*.

¹²³ HRSU, 30 August 2002; Human Rights Watch, "Uzbek Rights Defender in Psychiatric Detention," 30 August 2002.

¹²⁴ Information from the HRSU to the IHF.

Yuldash Rasulev, head of the HRSU Kashkadaria office, was arrested on 24 May 2002. He has been charged with infringement of the constitutional order (article 159 of the Criminal Code); organization of an illegal organization and participation in its activities (article 242); dissemination of materials which endanger the security of society and public order (article 242.2.1); and religious extremism and fundamentalism (article 244). Rasulev was assigned a lawyer whom he dismissed because he was believed to collaborate with authorities. In the trial that will start in September Rasulev's sister and the chair of the HRSU will act as his legal defenders.¹²⁵

The IHF wishes to emphasize that if Uzbekistan wants to become the closest partner of Western countries in the campaign against terrorism, as it seems, its activities in this field need to be more transparent and in compliance with the country's international human rights commitments. In line with this, the government should stop placing bureaucratic obstacles to the registration of the HRSU. Otherwise the registration of only one human rights organization (the Independent Human Rights Organization of Uzbekistan, IHROU) in the country will remain an empty token. In addition, it should change its policy of not issuing visas to foreign human rights activists to carry out investigations in the country.

The IHF stresses that the way governments treat human rights activists and respond to assaults against them reflects their commitment to the protection of human rights.

In the Vienna Concluding Document the CSCE/OSCE participating States expressed that they “ (13.5) – respect the right of their citizens to contribute actively, individually or in association with others, to the promotion and protection of human rights and fundamental freedoms [...] (21) – [...] will ensure that the exercise of the above-mentioned rights will not be subject to any restrictions except those which are provided by law and are consistent with their obligations under international law [...] These restrictions have the character of exceptions. The participating States will ensure that these restrictions are not abused and are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured.”

Therefore we urge the OSCE participating states to live up to their commitments and allow human rights defenders and other members of the civil society to carry out their tasks unhindered; to bring promptly to justice all who use violence against them or in other ways try to stop their activities; and to support their work with all possible means.

¹²⁵ HRSU, 21 August 2002.

IHF Statement to the 2002 OSCE Human Dimension Implementation Meeting

FUNDAMENTAL FREEDOMS II:

Freedom of Thought, Conscience, Religion or Belief (Thursday, 12 September 2002)

Since the 1975 Helsinki Final Act, the OSCE participating States have repeatedly expressed their commitment to the respect of the freedom of thought, conscience, religion and belief. Moreover, the participating States have committed themselves “to foster a climate of mutual tolerance and respect between believers of different communities.”¹²⁶

Such commitments, however, are constantly violated. Most recently this has happened during the Balkan conflicts and in the aftermath of the 11 September 2001 terrorist attacks in New York and Washington. In the Balkans, religion was commonly made an integral part of the process of military, political and ethnic mobilization, which resulted in violence, discrimination and inter-ethnic discord. Following the 11 September incidents, many governments have not been cautious enough to prevent the spread of anti-Muslim sentiments: neither have they reacted promptly to campaigns labeling all Muslims as potential terrorists, nor ensured that all violent acts against Muslims are properly investigated and those responsible brought to justice.

It also appears that intolerance towards religious minority groups is increasing throughout the OSCE region. Legislative measures have been taken or are being taken in former socialist states to strengthen the status of the so-called “traditional” or “national” religions. New laws and draft laws on religious associations guarantee privileged status to majority churches, mainly in Orthodox countries such as **Armenia, Belarus, Georgia, Kazakhstan, Macedonia, Moldova and Russia**. The new laws usually provide for various privileges for the majority churches, such as state financing, access to the media, the right to religious instruction in schools, distribution of religious literature, tax exemptions, right to build places of worship, etc.

In most **Western European** countries state churches or a limited number of state-recognized religions traditionally enjoy privileged status. In many countries, conscientious objection to military service remains a problem. For example, in **Cyprus**, a candidate to the European Union, reservists who refuse to carry out military service are repeatedly sentenced to a prison term or a fine as conscientious objectors although there are provisions for civilian service. In addition, Jehovah’s Witnesses are repeatedly sentenced to prison terms because they refuse to perform military service every.

Activities of minority religions are increasingly restricted. Registration with the state is often obligatory, and in some it is cases made cumbersome to impossible. Some laws require regular re-registration (e.g. in **Latvia** annually). Minority religious associations are typically granted lower status than “traditional religions.” Religious associations may need to submit extensive documentation that is impossible to get in many countries (e.g. in **Russia**), they may have to submit lists of their founding members (e.g. the new draft law in **Georgia**), and authorities often reject applications on unreasonable grounds or process them extremely slowly, discriminatorily, or not at all (e.g. in **Belarus, Ukraine, Moldova**). Registration of Jehovah’s Witnesses is systematically rejected in **Armenia** and 21 youths of that denomination are in prison as conscientious objectors. Majority churches often have influence in the registration procedure and the activities of minority religions.

¹²⁶ Vienna 1989, par. 16.2; Budapest 1994, Chapter VIII, par. 27.

A new draft law in the **Czech Republic** potentially endangers registration of some so-called “new religions,” and the draft law establishes different rights for different religious communities. In **Estonia**, the president in 2001 vetoed a draft law that would have hindered the registration of churches conducted from abroad and thus could have banned the activities of the Russian Orthodox Church. In early June 2002, the Justice Ministry in **Georgia** circulated its draft of a new law on religion, which has already been criticized by human rights activists and a number of Georgia's minority faiths as discriminatory, although the draft is better than the previous ones. The draft law includes, for example, a provision that could limit religious minority groups from carrying out social care activities as they could be regarded as a method of proselytism. The draft law also stipulates obligatory registration and suspension of activities of those groups that fail to be registered. Also, alleged acting against the concordat between the state and the Orthodox Church could be used to prevent registration.¹²⁷

In **Georgia**, a wave of mob attacks (about a hundred recorded cases) by extreme Orthodox believers has escalated for over three years. They have been directed against religious minority groups, primarily Jehovah's Witnesses as well as Pentecostals, Catholics and Baptists. The police have been inactive in protecting the victims, and, what is more, in many cases police officers have participated in the attacks. Although numerous charges have been brought against the leader of the mobs, defrocked Georgian Orthodox priest Vasily Mkalavishvili, no trial has opened as the police have failed to secure the hearings from attacks by the defendant's followers. In May, Mkalavishvili and his followers “visited” the Evangelical TV Studio Stereo One, attacked its staff and demanded them to stop broadcasting.¹²⁸ In July, a mob of 30-40 people (led by two Orthodox priests) stormed a Pentecostal church in Tbilisi, beat and threatened people, including children, and stole their belongings.¹²⁹

Another problem is that local authorities often do not abide by the appropriate provisions of laws on religious freedom and that regional authorities have adopted laws that often are in total contradiction to the national law on religion. For example in **Russia**, in contrast with federal legislation, local authorities often require many minority religions to register even though this is not obligatory according to the federal law. The failure to register means that the groups are “illegal,” and leads to refusals to hire public buildings to minority religions; harassment in schools and work places; violence against members of religious minorities; banning the distribution of literature, religious instruction, and building and renovation projects; and denying visas to their foreign leaders, among other things. Particular targets have been Jehovah's Witnesses, and small Protestant groups such as Pentecostal Churches and Adventists. In line with these developments, Jehovah's Witnesses and the Salvation Army have been refused registration in Moscow (although both of them have been registered at the federal level and in many other regions). Both have faced many years' legal proceedings in which the former have been accused, for example, of inciting religious strife, breaking up families and infringing upon individual rights, and the latter of being a “paramilitary body.”

In **Belarus**, the Autocephalous Orthodox Church has been repeatedly denied registration and described by authorities as a “non-existent religious group” although it has some 70 parishes in the country. On 1 August, its church in the village of Pahrnichny was surrounded by troops in uniforms and the church was bulldozed. This was the first known case in the former Soviet Union outside Central Asia where a place of worship has been deliberately destroyed by authorities to prevent religious activities from taking place.¹³⁰

In that country, the parliament on 27 June adopted in what appeared to be a pre-determined act a repressive religion bill that had just a day before been officially postponed until fall. The law would outlaw unregistered religious activity; introduce compulsory prior censorship for all religious

¹²⁷ Keston Institute, “Serious Concerns over Draft Religion Law,” 9 July 2002.

¹²⁸ CIPDD/HRWF, “Zero Tolerance Towards Evangelicals,” 8/10 May 2001.

¹²⁹ Keston Institute, 12 July 2002.

¹³⁰ Keston Institute, “Belarus: Independent Orthodox Church Bulldozed,” 2 August 2002.

literature; restrict publishing, education and charitable activity to faiths that had ten registered communities in 1982; and ban all but occasional, small religious meetings in private homes.¹³¹

In **Moldova**, a new law that the government submitted to parliament in July might bring an end to the longstanding conflict revolving around the registration application of the Bucharest-subordinated Bessarabian Orthodox Church. The Moldovan Orthodox Church, subordinated to the Moscow Patriarchate, has apparently blocked its registration. PACE required its prompt registration upon Moldova's accession to the Council of Europe. On 27 June, the deadline set by the European Court of Human Rights to the government to pay compensation to the Bessarabian Church expired.¹³²

In the **Central Asian** OSCE member states "Islamic fundamentalism" appears to be regarded as the enemy number one. Devout Muslims have been increasingly targeted. Generally, Muslims are allowed to operate only under central national Muslim administrations. For example in Uzbekistan, the Muslim clergy is under total control of authorities that dictate who may become an imam and what they can say at Friday prayers.¹³³ Numerous non-registered mosques have been closed down and registered mosques are under stricter control. The repressive campaigns against "fundamentalists" have alienated the region's Muslims and increased rather than decreased solidarity towards and support of Islamic opposition movements. Islamic political parties are tolerated only in Tajikistan.

At the same time, non-Muslim minority groups face serious harassment. Jehovah's Witnesses and members of small Protestant groups have been arrested, ill-treated and imprisoned in all Central Asian countries and they face serious harassment by both authorities and individuals.

In **Uzbekistan**, numerous non-violent Muslims have fallen victim to repressive measures, including intimidation, arrests and unfair trials. Thousands have been imprisoned during the last three years to prison terms of often 10-25 years for membership in Hizb ut-Tahrir (Party of Liberation) and distribution of anti-government leaflets.¹³⁴ Local observers estimate that 7,000 independent Muslims are currently imprisoned.¹³⁵ They are held in extremely poor conditions, e.g. in the Yaslyk prison camp situated in a former chemical weapons testing area. The relatives of suspects have also faced threats, harassment and ill treatment. For example, on 23 March, a court in the Fergana region announced its verdict on a first group of 14 people accused of Wahhabism. Ten of them were sentenced to 13.5 years in prison, the rest to 3.5 to 7 years, most of them under strict regime.¹³⁶ Several trials are under way at the time of writing and one more will open on 3 September. The defendants of two group trials, which started in late August, said that they had signed their "confessions" under torture.¹³⁷

According to President Karimov, the 11 September attacks proved that previous measures aimed at curbing "Islamic extremism" had been justified. There has not only been a clampdown on suspected sympathizers of the banned Hizb ut-Tahrir and the Islamic Movement of Uzbekistan (IMU) but also on other Muslims exercising their religious beliefs in a peaceful manner. They have been arbitrarily arrested and given unfair trials at which fabricated evidence and confessions obtained under torture have been routinely used.

In **Kyrgyzstan**, members of Hizb ut-Tahrir have been increasingly arrested and received longer prison sentences than prior to 11 September, but the governments approach has been softer than in Uzbekistan: most peaceful Hizb ut-Tahrir members of supporters have been fined but some received

¹³¹ Keston Institute, 28 June 2002.

¹³² Keston News Service, 27 June 2002, distributed by Human Rights Without Frontiers, 1 July 2002.

¹³³ Imams require periodic re-approval from a joint panel of the representatives of the muftiate, the governmental religion committee and the National Security Committee (formerly KGB). Keston Institute, 26 April 2002.

¹³⁴ According to Zamira Eshanova, "Uzbekistan, Kyrgyzstan, differ in approaches to Hezb ut-Tahrir," in RFE/RL Newslines, July 2002.

¹³⁵ Human Rights Watch, "Uzbekistan: Release Rights Defender Now," 26 July 2002.

¹³⁶ BBS Monitoring Service, 26 March 2002, citing Birlik website 25 March 2002.

¹³⁷ Information from the Human Rights Society of Uzbekistan (HRSU) to the IHF, 30 August 2002.

about five-year sentences.¹³⁸ In November 2001, the authorities in the southern Jalal-abad region banned the reading of the call to prayer via loudspeakers, and Kyrgyz students studying abroad are under scrutiny as is Islamic education at home.

In **Kazakhstan**, a new restrictive law on religious organizations was passed in January 2002, but in April some parts of it were declared unconstitutional. Members and supporters of Hizb ut-Tahrir have been targeted and accused of instigating religious and social hatred and attempting to overthrow the constitutional order. Jehovah's Witnesses and Evangelical denominations and others face harassment and charges for their peaceful exercise of the right to freedom of religion. In June, some Krishna community members faced deportation.

Also in **Tajikistan**, the authorities have grown increasingly worried about the threat of religious extremism, and several Islamic Renaissance Party (IRP) members have been harassed and arrested.

In **Turkmenistan**, the authorities continue to deny registration to all religious communities except to those loyal to the officially recognized Sunni Islam Board and a few parishes of the Russian Orthodox Church. Minority religious communities without legal status, including Baptist, Adventist, Pentecostal, Jehovah's Witness, Hare Krishna and Baha'i communities, have been subjected to serious harassment, intimidation, and abuse: they have been arrested, tortured and ill-treated, dismissed from work, and their relatives have been harassed. In some cases their leaders have been deported from the country. Some of their members have been forced to publicly renounce their faith. Many have not been released from prison upon completion of their term because they have refused to swear an oath of loyalty to the president. For example, Kurban Zakirov, a Jehovah's Witness, is serving his eight-year prison sentence in very harsh conditions. He received a one-year sentence in May 1999, but has not been released because he has twice refused on religious grounds to swear an oath of allegiance to the president. Following his second refusal, he was reportedly sentenced to an additional eight years' prison term.

In **Tajikistan**, the process attestation of employees of religious establishments has started. The Ulem Council (the central body for Muslims) and the Governmental Committee on Religious Matters of the presidential administration examine the knowledge of Islam, customs, methods of teaching, etc. The attestation has been already completed in Sogdiiskaya *oblast*. About 15 persons reportedly failed and they have been dismissed. According to local monitors, it is hard to say whether the attestation really aims at examining the religious officials' actual level of knowledge or if it is some kind of selection process. Interestingly, the attestation started soon after President Rakhmonov's visit to Sogdiiskaya *oblast* and his remark that there are more mosques than necessary in that region.

Also religious minorities face problems. The Baha'i community in the city of Chkalovsk (Sogdiiskaya *oblast*) was able to register only after several appeals to the Government Committee on Religious Matters. In the cities of Gafurova and Nau, the Baha'i communities' registration applications have been pending for 6-7 years. In Nau, the inspectors on religious matters of the local *khukumat* (administrative body) and Muslim *mullahs* visit Bakha'i homes and condemn the believers, and the local media publish false information about them.

In some **Western European** countries, such as France and Belgium, the so-called sect issue has been in the focus of public debate in the past few years. In both countries parliamentary commissions published in the middle of the 1990s their own lists of sects to be fought against. Although the lists have no legal value, they have been widely used. The result has been victimisation of members of minority religions at school, at work and in the neighbourhood; hate speech in the media; defamation and slander; professional damages; denial or loss of child custody or visiting rights in divorce settlements, etc. The targets have been, for example, Jehovah's Witnesses, Scientology, Evangelicals, Pentecostals, the Anthroposophic Society, Hare Krishna, Sahaja-Yoga, Mandarom, The Family, etc. Of great concern is the fact that these lists have been used in total impunity by the media in programs

¹³⁸ Zamira Eshanova, op.cit.

fuelling religious hate speech and by public authorities to discriminate against minority religious groups (denial of access to public halls for their meetings, refusal to grant a building permit, etc.)

In **France**, the controversial About-Picard (anti-sect) Bill was adopted in May 2001 although it faced strong opposition by French churches and NGOs. The law, among other things, gave courts the permission to order the dissolution of an officially registered religious association if it or its representatives have been convicted of more than one criminal offence.

Moreover, a number of mayors have refused to rent Jehovah's Witnesses public halls for their meetings, basing their arguments on the 1996 Parliamentary Report on Sects. In 2002, however, two administrative courts¹³⁹ have declared that the Parliamentary Report lacks any legal value and the religious discrimination practiced by certain mayors was illegal. In two further cases, the mayors of Paris and Sorel-Moussel tried to get rid of Jehovah's Witnesses by claiming their pre-emptive right to buildings already occupied by two associations of Jehovah's Witnesses but they were both non-suited.¹⁴⁰

The French anti-sect policy carried out by the head of the Interministerial Mission of Fight Against Sects (MILS), has been largely contested at international forums, as well as the dozens of trips he made, mainly to former communist countries, to promote his aggressive anti-sect policy. He even sided with the Chinese policy against Falun Gong. Since the installation of a new government a few months ago, the head of the MILS has not been replaced.

In **Belgium**, the fight against "harmful sects" is carried out by two state agencies: an Observatory of Sects and an Inter-ministerial Agency of Fight against Sects. The members of the Observatory, who are all appointed by the House of Representatives, are mainly representatives of political parties and anti-sect movements, and supporters of the Catholic Church. The Observatory is under the authority of the Ministry of Justice and decides what religious groups are "good" or "bad." The Observatory is reproached with keeping silent about acts of discrimination carried out against minority religious groups and their members by public authorities (ministers, mayors, tax administrations, etc.) Early in 2002, several US citizens who were working as teachers on a voluntary basis in a private English-speaking Pentecostal school outside Brussels were arrested, jailed for one night and deported back to the US.

The IHF urges all OSCE participating States to be on guard against discrimination against religious minority groups and ensure that they are equally allowed to enjoy their basic rights. Moreover, we appeal to all governments to live up to their commitments in fostering a climate of tolerance toward all members of their societies. Particular attention should be paid to the protection of non-violent Muslim communities that have suffered from illegal and inadequate acts in the name of anti-terror activities.

¹³⁹ The Administrative Court of Rennes on 21 February 2002 against the city of Lorient and the Administrative Court of Poitiers against the city of La Rochelle.

¹⁴⁰ Human Rights without Frontiers (HRWF), Administrative Courts Declare the Parliamentary Report on Cults as Devoid of Legal Value, 30 July 2002.

IHF Statement to the 2002 OSCE Human Dimension Implementation Meeting

HUMANITARIAN ISSUES:

Migration, Refugees and Displaced Persons

(Friday, 13 September 2002)

Researches on widespread and serious violations of migrants' and asylum seekers' rights in Europe and North America show that the issue must be urgently addressed. The problems include arbitrary detention of immigrants; inadequate legislation related to work and residence permits; rejection of asylum seekers who are in need of protection; refusal of access into asylum procedure or the right to legal assistance and translation services; insufficient care of those admitted into asylum proceedings; inadequate care of unaccompanied children; and provisions such as "safe third country" rules that virtually hinder asylum seekers from arriving in many countries legally. It is also obvious that present EU asylum and immigration policy does not address these concerns in a proper and adequate manner.

Applications of asylum seekers who enter **Austria** (and most **European countries**) via any of its neighboring non-EU states are not investigated on their merits and the individuals are returned to those countries because they are deemed to be "safe" even if their asylum procedures would not be in line with international standards. In addition, local human rights organizations criticize the insufficient care by authorities of asylum seekers. For example, many – including minors – awaiting deportation are held in prisons or police custody. A decision to lock up an asylum seeker or immigrant is taken without a court decision. The time in police custody can last as long as six months.

The Ministry of Interior reportedly plans to establish a new, accelerated asylum procedure by which a decision could be made within two weeks.¹⁴¹ Although the IHF believes that asylum application should be processed without delay, it notes that such short procedure might result in superficial proceedings and in the end lead to the *refoulement* of people in genuine need of protection.

Also the planned integration program for immigrants raises questions about its adequacy. According to it, newly arrived non-EU foreigners would be obliged to attend a compulsory course in the German language and civics. If they failed to do so, they would soon have to pay for participation in such classes themselves. After two years, they would face monetary sanctions and their residence permit would be withdrawn. Also, foreigners who lived in Austria for a longer time would be obligated to participate in such a course if they were unemployed: a refusal would lead to a cut in their unemployment payment.¹⁴²

In **Germany**, the Second Anti-Terror Law restricts the categories of people who can be considered eligible for asylum seeker status: supporters of organizations that promote "international terrorism" or that use violence for political reasons are explicitly excluded from the list. The term "terrorism", however, lacks a precise legal definition. Information about alleged terrorist activity of the asylum seeker will mostly come from his home country, resulting in a conflict of interest between the asylum seeker and the home country.¹⁴³ Also the airport asylum procedure continues to raise concern: all asylum seekers who arrive in Germany by plane are obliged to stay at the airport in poor conditions while awaiting a decision on their application. The airport asylum procedure does not provide for

¹⁴¹ *Die Presse*, 19 October 2001.

¹⁴² *Die Presse*, 6 February 2002.

¹⁴³ Amnesty International Deutschland, "Stellungnahme von amnesty international zum Entwurf eines Gesetzes zur Bekämpfung des internationalen Terrorismus, 28 November 2001, at www.amnesty.de

personal interviews between asylum seekers and the decision-maker. Legal advice is provided only after the asylum seeker's application is rejected.¹⁴⁴

In addition, there are no special regulations for victims of torture: often being traumatized and suffering from their experiences, they may not be able to describe the reason for their application in order to conform with procedures. Although the authorities have improved the treatment of traumatized asylum seekers, there is still a lack of legal provisions.¹⁴⁵

Contrary to Article 22 of the UN Convention, Germany does not grant special protection for minor asylum seekers: they are not entitled to health care, education or pedagogical support. In addition, young people aged 10 to 15 are held in deportation custody.¹⁴⁶

Also in **Greece**, asylum seekers and (un) documented migrants are detained pending deportation.¹⁴⁷ Typically there are no competent translators during examination by law enforcement officials or in court. Authorities frequently fail to inform foreigners of their rights refuse them asylum application forms or even provide misleading information. Many have been tried without benefit of legal counsel, and sentenced to imprisonment or deportation after trials lasting only a few minutes. Detention conditions are in many cases degrading and inhumane, and access to lawyers and NGOs has been severely and arbitrarily limited. When authorized representatives of detainees have requested the full documentation for their cases, the authorities have denied this on the grounds that this might hinder efforts to deport them.¹⁴⁸ In addition, coast guards have resorted to violence against illegal immigrants and asylum seekers: for example, Kurds were physically and sexually abused as they arrived in Greece illegally in the summer of 2001. Only in exceptionally serious cases have perpetrators been punished.¹⁴⁹

The lower house of the **Italian** parliament in June passed a series of anti-immigration measures known as the Bossi-Fini law. Should the bill be approved also by the upper house and be signed into law, non-EU foreigners will only be able to live in the country if they have arranged work before entering, and they will receive a residency permit only for the duration of their employment contracts – not longer than two years. Family reunifications get more difficult as immigrants' children can only join their parents if they are under 18 years of age. The government, rarely linking immigration with crime, will oblige foreigners to provide fingerprints for identification purposes. Those who return to the country after being expelled will be treated as if they had committed a crime. The bill also targets those who assist immigrants in reaching Italy's coasts illegally with severe prison punishments and fines.¹⁵⁰

The implementation of **Spanish** Law 8/2000¹⁵¹ and the law's regulations for the application of Spanish Law on Foreign Nationals contravenes national, regional, and international standards for the treatment

¹⁴⁴ Amnesty International Deutschland, "Stellungnahme von amnesty international zu dem Entwurf eines Gesetzes zur Steuerung und Begrenzung der Zuwanderung und zur Regelungsgesetz", *Bundestagdrucksache 14/7387*, 14 January 2002, at www.amnesty.de. *Frankfurter Allgemeine Zeitung*, "Und wider blickt alles nach Potsdam", 20 February 2002

¹⁴⁵ Amnesty International Deutschland, *ibid.*

¹⁴⁶ *Frankfurter Rundschau*, "Gleiche Rechte für Flüchtlingskinder verlangt", 24 November 2001: Pro Asyl, "Tag der Menschenrechte 2001. Auch unter ROT-GRÜN nur leere Deklamationen? PRO ASYL kritisiert die Praxis der Abschiebungshaft: In der Bundeshauptstadt Berlin werden auch Minderjährige inhaftiert", Press Release, 8 December 2001

¹⁴⁷ See full text at the IHF website www.ihf-hr.org/appeals/020615.htm

¹⁴⁸ Greek Helsinki Monitor/Minority Rights Group-Greece, Human Rights in Greece. Joint Annual Report for 2001-2002, at www.greekhelsinki.gr

¹⁴⁹ Greek Helsinki Monitor, "Week against Racism: Widespread Attempts to Cover Up Use of Violence by Policemen and Guardsmen," 22 March 2002.

¹⁵⁰ BBC News, *Italy Toughens Immigrant Stance*, news.bbc.co.uk/2/hr/world/europe/2024876.stm

¹⁵¹ Organic Law 8/2000 of 22 December, Reforming Organic Law 4/2000 of 11 January, Regarding the Rights and Freedoms of Foreign Nationals Living in Spain and their Social Integration) [Law 8/2000]; Royal Decree

of migrants, violating migrants' procedural rights, their rights to legal assistance, translation services, individualized consideration of their cases, access to asylum determination procedures, and appellate review of decisions affecting their legal status in Spain. The experience of migrants who arrive in Spain depends also on the way of entry or place of detention. The law vests significant authority with officials who exercise it without the assistance of clear implementing guidelines. Migrants, their lawyers, and representatives of NGOs face arbitrary execution of police powers.¹⁵²

Migrants and asylum seekers arriving through airports and held detained there do not enjoy the right to legal counsel and translation services. Moreover, it is a current practice that the detention of asylum seekers exceeds the seven days permitted under the law while they await decisions on their asylum claims. In addition, there are large discrepancies in the form and quality of legal services available to migrants.¹⁵³

Since the beginning of 2002 the Spanish security forces have registered some 18,000 illegal immigrants.¹⁵⁴ It is impossible to know the number of illegal immigrants who have drowned while trying to reach the Spanish coast from the African continent. However, in the period between August 2001 and August 2002 only, 73 deaths of illegal immigrants were registered.¹⁵⁵

The return of people and restitution of property to their original proprietors remain the key human rights issues in **Bosnia and Herzegovina**. During June 2002, 12,653 returnees had returned in their pre-war municipalities, a figure higher than during the same time in the last three years.¹⁵⁶ Thirty thousand persons have returned to both entities in the course of the first five months of 2002, the highest number since the end of the war. If this return rate prevails, it is expected that about 100,000 persons will return by the end of this year.¹⁵⁷ More than 40,000 so-called minority returns were recorded by the UNHCR in first five months of 2002.¹⁵⁸

The return of the non-Serbian population to Republika Srpska (RS) has been extremely difficult.¹⁵⁹ Authorities have stated in public that they support their return, however, in practice they have obstructed it. Due to discrimination against the non-Serbian population, returnees cannot get jobs neither at municipal or at entity institutions nor in courts and at the health sector. While some 10,700 Bosniaks have been able to return in the municipality of Zvornik in 2002, return to the area of Bratunac has been burdened with numerous difficulties and obstruction by local authorities.

According to the records of the Property Laws Implementation Plan (PLIP), the implementation of property laws has increased up to 48%. The Federation has resolved 52% of the submitted cases, the RS 39%. In Bijeljina, Doboj and Prijedor (RS), many lots of land have been illegally allocated to Serb returnees. Also the Serbian Orthodox Church has usurped land owned by Bosniaks. The number of attacks on the non-Serbian returnees in RS have increased over the past three months: in only 2% of the cases have investigation been carried out and the perpetrators found.¹⁶⁰

864/2001 of 20 July, approving Regulations for the Application of Spanish Organic Law 4/2000, of 11 January, on the rights and liberties of foreigners in Spain and their social integration, reformed by Organic Law 8/2000 of 22 December [Regulation].

¹⁵² Human Rights Watch, *Discretion without Bounds: The Arbitrary Application of Spanish Immigration Law*, Vol. 14, No. 6 (D), July 2002

¹⁵³ *Ibid.*

¹⁵⁴ *Der Spiegel*, No. 34, 19. August 2002

¹⁵⁵ *El País*, 20 August 2002

¹⁵⁶ The UN Refugee Agency, Office of the Chief of Mission in Bosnia and Herzegovina, *Record numbers in minority returns in the first six months of 2002*, 6 August 2002 at www.unhcr.ba/press/2002pr/060802.htm

¹⁵⁷ Helsinki Committee for Human Rights in Republika Srpska, *Narrative Report "Protection, Promotion and Monitoring Human Rights in Republika Srpska"*, 1 April – 30 June 2002.

¹⁵⁸ The UN Refugee Agency, Office of the Chief of Mission in Bosnia and Herzegovina, "Encouraging Pace of Return Continues in May," 9 July 2002.

¹⁵⁹ Helsinki Committee for Human Rights in Republika Srpska, *op.cit.*

¹⁶⁰ *Ibid.*

The return of refugees to **Croatia** has improved significantly during the current government but remains unsatisfactory. Of the 560,000 pre-war Serbs in Croatia some 350,000 fled in 1991-1995 and only about 25% have come back. In a huge number of cases returnees who own houses still cannot enter their own homes although the government set a deadline of December 2002 for returning all refugees their homes. The problems can largely be attributed to insufficient government assistance in the reparation of houses.¹⁶¹

Another factor that slows down the return is that public social care and employment programs for returnees are still inefficient. In addition, from time to time there are still aggressive or violent incidents against minorities particularly in smaller towns, a fact that discourages return. Also, there has not been enough political will on the part of the government to cooperate with NGOs on issues related to the return of refugees. Moreover, the proposed law on national minorities was rejected by the government on the ground that it would give minority's extensive rights in local communities and in the election process.¹⁶²

¹⁶¹ Information from the Croatian Helsinki Committee to the IHF, 29 August 2002.

¹⁶² Ibid.

IHF Statement to the 2002 OSCE Human Dimension Implementation Meeting

HUMANITARIAN ISSUES:

International Humanitarian Law

(Friday, 13 September 2002)

The International Helsinki Federation for Human Rights (IHF) and the Moscow Helsinki Group are deeply concerned that **Russian** federal and provincial authorities are planning to shut down services in camps where about 50.000 former residents of **Chechnya** are now living, in effect forcing them to return while their lives are threatened because of the continuing lack of security there.

An IHF mission that visited Ingushetia and Chechnya in July found deep anxieties among camp populations about returning to Chechnya, anxieties that are confirmed by evidence of murders, disappearances, torture, rape, harassment and intimidation of the Chechen population by Russian military and security forces. In rural regions of Chechnya bombings and shootings continue to be common.

According to documentation by Memorial Society and other organizations, the numbers of disappeared Chechens in recent months indicate a continuing assault against the Chechen people that borders on genocide. While the authorities will release no statistics, human rights groups are documenting that between 50 and 80 bodies are recovered in average months and in some months the figures are much higher, and they report a clear trend toward increasing overall numbers of the disappeared. Those dying are generally men in their productive years. The Russian forces are often beheading, burning, mutilating, and otherwise destroying bodies in an effort to conceal this process, which is claiming more lives than the bombings during the two military campaigns. But corpses are also often dumped alongside highways.

Many of the disappearances occur when men are hauled off during “mop up operations” (*zachistki*), which are aimed at “screening” or “cleansing” the population of “illegal combatants (*boeviki*).” Entire villages are surrounded and systematically “checked.”

Displaced persons residing in camps in Ingushetia reported to IHF cases in which Chechen men over 15 years of age living in those camps had been kidnapped and killed by Russian soldiers. The IHF delegation spoke with the family of a young boy who had been abducted by security forces – they informed the delegation that they had paid a fine of \$5000 for his release.

According to testimonies given by residents of the camps to IHF, persons detained during “mop up operations” are often held in makeshift facilities, such as pits in the ground and oil tanks. They are routinely tortured, *inter alia* through electric shock, prolonged and painful shackling, mutilation and rape. Torture victims included women and persons under age. The federal forces also often extorted the relatives of detainees for bribes, sometimes thousands of dollars, in exchange for their family members or bodies of the detainees already killed.

By General Moltenski’s order No. 80 of 27 March 2002 in the Northern Caucasus district, clear procedural rules were established for “mop up operations”: for example, federal servicemen carrying out a “mop up operation” must introduce themselves properly when entering residential premises, armored vehicles’ plate numbers must remain visible, representatives of the procuracy must be present, etc. However, this order is persistently ignored by federal troops, violations are pervasive, and perpetrators, as a rule, are not identified and brought to justice.

The process of accountability regarding abuses against the civilian population remains almost totally ineffective. According to official information that was submitted to the Council of Europe by Russian authorities in September 2001, only 393 cases of alleged abuses had been investigated since 1999. This number cannot but represent a small fraction of the total number of violations committed and complaints made. In spite of compelling evidence from victims or witnesses as to the identity of the soldiers or the unit responsible, cases were often dismissed because the perpetrators “could not be located.” Only around 40 cases were referred to court, and in most of these cases the sentences were lenient. An unprecedented case is that of a high-ranking military official, Colonel Budanov, who murdered a Chechen girl in 2000. Currently, yet another psychiatric examination of the colonel is scheduled. As a result of the two previous examinations he was found “insane at the time the murder was committed.”

During the year 2001, steps were taken to restore the legal system in Chechnya; the Supreme Court and ten local courts were re-opened. However, the work of the courts was not effective. Furthermore, there have been great difficulties with accessibility to courts for people living in certain districts who have had to make long trips to courts, through numerous checkpoints notorious for their extortion practices. Also, residents of Chechnya note that judges are unwilling to consider claims against military servicemen.

There is today more freedom of movement allowing travel in and out of Chechnya than in previous months, although checkpoints are operating in an inconsistent and arbitrary manner. The city of Grozny today is in a completely ruined condition; virtually no structure has been spared bombing and artillery damage, and virtually none have been repaired. Residents report frequent shootings, some meant to clear roads and streets. There is no water, electricity, or any other public service. Medical care is rare; death in childbirth is common and residents cannot find treatment for serious health conditions.

Russian authorities have established several Temporary Accommodation Centers (TACs) in Grozny, which can house a few thousand returnees – only a small fraction of the internally displaced persons from Chechnya.

The IHF insists that adequate security conditions, under which IDPs can safely return to their former homes, do not exist in Chechnya. Many of the camp residents cannot produce full identity documents, official files having been destroyed, and these people are thus especially vulnerable. No IDP among scores interviewed by the IHF said it would be possible to return to Chechnya absent the removal of Russian troops. We demand that Russian authorities refrain from any actions aimed at forcefully returning IDPs to Chechnya. The state must take decisive measures in order to improve living conditions of refugees, ensure that they receive fair compensations for damages inflicted during the war, and provide for their physical and psychological rehabilitation.

Most importantly, the highest levels of Russian state authority must order military and security forces immediately to cease any further actions that threaten the security of civilians in Chechnya and in IDPs' camps, and ensure that violations will be fully investigated and prosecuted in accordance with Russian domestic law and international standards.