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# **THE 1997 OSCE MEETING ON HUMAN DIMENSION ISSUES**



**A Report Prepared by the Staff of  
the Commission on Security and Cooperation in Europe**

**February 1998**

*“If participating States’ interest in such an instrument is serious and they wish for the Implementation Meeting to remain a significant and credible monitoring instrument, thought should be given to a different format.”*

—ODIHR Status Report, prepared by the Office for Democratic Institutions and Human Rights, November 1997

## **1. SUMMARY**

In November 1997, the participating States of the Organization for Security and Cooperation in Europe met for three weeks in Warsaw, Poland for their biennial review of compliance with their human dimension commitments. The implementation review meetings are intended to be the participating States’ principal venue for public diplomacy and are, potentially, an important vehicle both for identifying continued areas of poor human rights performance and for shaping the OSCE decision-making process with respect to human dimension concerns.

The 1997 meeting was, however, marked by diminished participation by governments and non-governmental organizations alike, bringing into sharp focus an overall weakened emphasis on the human dimension in the OSCE in recent years. Criticism was voiced from all quarters that the implementation review process is in need of reinvigoration and enhancement. Accordingly, on the margins of the formal meetings, many governments and non-governmental organizations (NGOs), in consultations with ODIHR representatives, held discussions on this subject.

As a result, the OSCE Ministerial Meeting, held December 18-19, 1997 in Copenhagen, tasked the OSCE Permanent Council with considering ways to make the human dimension implementation meetings more effective. This task is to be completed by August 1998.

## **2. BACKGROUND**

From November 12 - 28, 1997 the participating States of the OSCE met in Warsaw, Poland for their third formal biennial meeting to review the implementation of human dimension commitments. The term “human dimension” was coined in the 1989 Vienna Concluding Document to refer to the human rights and humanitarian concerns embraced by the Principles and so-called “third basket” of the 1975 Helsinki Final Act, as well as subsequent OSCE agreements in this field.

From roughly 1975 to 1990, human dimension issues were raised as part of the periodic “Follow-up Meetings” that were held to review the participating States’ compliance with the commitments they had already undertaken in all areas (i.e., military security, economic and environmental cooperation, and human rights and humanitarian concerns) and to negotiate new agreements. In addition, the participating States met during this period at inter-sessional meetings designed to address specific human dimension areas (such as human contacts or culture) and, between 1989 and 1991, at three separate meetings of the CSCE Conference on the Human Dimension. The desire to hold meetings devoted specifically to human dimension issues reflects both the Helsinki process’ traditional focus on actual performance—i.e., the belief that public review of a country’s record in implementing its commitments serves to foster compliance—as well as the desire to balance the ongoing military-security negotiations that have taken place on a continuous basis in Vienna since 1989.

Beginning with the 1990 signing of the Charter of Paris for a New Europe, however, the participating States initiated a still-evolving process of institutionalization and reorganization. Periodic “Follow-up Meetings” have become biennial “Review Conferences” that conclude with summits of Heads of State or government. Human dimension issues, along with all other issues falling within the scope of the OSCE, are raised at those meetings; in addition, in alternating years when no Review Conference is scheduled, meetings designed specifically to review compliance with human dimension commitments are held in Warsaw, the site of the OSCE Office for Democratic Institutions and Human Rights (ODIHR).<sup>1</sup> The Implementation Meetings on Human Dimension Issues<sup>2</sup> do not result in negotiated documents. Rapporteurs’ summaries of the recommendations made by delegations and NGOs are forwarded to OSCE decision-making bodies.

Although human dimension issues are sometimes also raised at the closed-door weekly meetings of the OSCE Permanent Council in Vienna, the biennial Review Conferences and the implementation review meetings in Warsaw are the only fora where these issues are reviewed publicly—i.e., it is the only OSCE forum in which governments can be held publicly accountable for their failure to raise and address human dimension concerns. In addition, they are the only OSCE fora which non-governmental organizations may attend and express their views.

### **3. PREPARATIONS**

In advance of this meeting, some NGOs issued reports tailored specifically for the Warsaw implementation review, providing detailed information about human dimension problems in numerous OSCE countries. These ran from short memoranda addressing very narrow subjects or shortcomings in one specific country to long compendiums describing a variety of problems in several countries (such as compilations prepared by Amnesty International and the International Helsinki Federation).

On October 28, the Commission on Security and Cooperation in Europe convened a public briefing in Washington. Rudolf V. Perina, Head of U.S. Delegation, participated in the briefing along with Holly Cartner, Executive Director of Human Rights Watch/Helsinki, and Adrian Karatnycky, President of Freedom House.<sup>3</sup>

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<sup>1</sup> The decision to hold three-week implementation meetings on human dimension issues in each year in which there is not a review conference was taken at the 1992 Helsinki Summit.

<sup>2</sup> This was the third Implementation Meeting on Human Dimension Issues. For information about the previous meetings, see *THE CSCE IMPLEMENTATION MEETING ON HUMAN DIMENSION ISSUES (1993)* and *THE 1995 OSCE MEETING ON HUMAN DIMENSION ISSUES (1995)* (reports prepared by the staff of the Commission on Security and Cooperation in Europe).

<sup>3</sup> Transcripts of this briefing are available from the Commission on Security and Cooperation in Europe.

#### **4. PARTICIPATION**

The meeting was attended by 51<sup>4</sup> of the 54 countries fully participating in the Helsinki process,<sup>5</sup> two Non-Participating Mediterranean States,<sup>6</sup> one non-participating State,<sup>7</sup> several international organizations or bodies,<sup>8</sup> representatives from the OSCE's own institutions (including the High Commissioner for National Minorities and representatives of current OSCE missions), and by representatives of more than one hundred non-governmental organizations. The Secretary General of the OSCE, Ambassador Giancarlo Aragona, did not attend the meeting.<sup>9</sup> Denmark, currently holding the position of OSCE Chair-in-Office, sent an eight-member delegation.

The U.S. Delegation was headed by Rudolf V. Perina. Assistant Secretary of State for Democracy, Human Rights, and Labor John Shattuck addressed the opening plenary of the meeting and held bilateral consultations on the margins of the opening plenary. U.S. Ambassador at Large for War Crimes Issues David Scheffer also attended the meeting and addressed the agenda item on international humanitarian law. Mr. Sam W. Brown, Jr., Head of the Vienna-based U.S. Delegation to the OSCE, joined the U.S. Delegation at the opening.

Other members of the delegation were drawn from the State Department in Washington, the Vienna-based U.S. Delegation to the OSCE, and the Washington-based staff of the Commission on Security and Cooperation in Europe.

In addition, four public members served on the delegation: Nicholas Daniloff, Consultant for the Committee to Protect Journalists; Douglas Johnson, Executive of the Center for the Victims of Torture; David Little, Senior Scholar at the United States Institute of Peace; and Phyllis Myers, President of State Resources Strategies. Their participation continued a longstanding U.S. practice of drawing on members of the public to provide U.S. delegations with valuable expertise. The inclusion of public members also reflects a U.S. desire to make information about OSCE activities more widely available to the public.

#### **5. STRUCTURE AND ORGANIZATION OF THE MEETING**

The agenda and modalities for the Warsaw meeting were adopted in Vienna by the OSCE Permanent Council. The meeting was organized by the OSCE Office for Democratic Institutions and Human Rights and held at a building owned by the Polish Ministry of Defense and, at one time, used for meetings of the Warsaw Treaty Organization.

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<sup>4</sup> Absent were Andorra, Bosnia-Herzegovina, and Iceland. As for past Implementation Meetings on Human Dimension Issues, a special fund set up under the auspices of the ODIHR collected and disbursed voluntary contributions from OSCE participating States to help fund the participation of representatives from newly-admitted OSCE countries.

<sup>5</sup> Serbia-Montenegro was suspended from participating in the Helsinki process in 1992.

<sup>6</sup> Algeria and Egypt sent representatives from their bilateral embassies in Warsaw.

<sup>7</sup> Japan.

<sup>8</sup> They were: the Council of Europe; the Human Rights Ombudsperson for Bosnia and Herzegovina; the International Committee of the Red Cross; the International Labour Organization; the U.N. High Commissioner for Refugees; UNESCO; and the U.N. Development Programme.

<sup>9</sup> In 1995, Wilhelm Hoeyneck, then Secretary General, attended the meeting during the discussions of the Comprehensive Security Model but did not address the Implementation Meeting.

During the course of the meeting, discussions were held in plenary meetings and two subsidiary working bodies. Subsidiary Working Body I was devoted to “a thorough dialogue on the implementation of Human Dimension commitments by participating States in the OSCE area, as well as consideration of ways and means of improving implementation, on the basis of the broadest possible information, in particular from OSCE bodies and institutions.” Subsidiary Working Body II focused on a “review of the Human Dimension of the OSCE with a special focus on monitoring and enhancing compliance with commitments and on the use of existing mechanisms and procedures.”

In an effort to address scheduling problems experienced during the 1995 Implementation Meeting,<sup>10</sup> the balance of time struck between the two subsidiary bodies shifted this year, with more time allotted to Subsidiary Working Body I and less time to Subsidiary Working Body II. Even though there was less time allotted to Subsidiary Working Body II than in the past, a number of those meetings still concluded early for a lack of speakers, and one session was canceled altogether.

Representatives of non-governmental organizations were permitted to make written and oral interventions, following the interventions by governments and international organizations. In contrast to most other OSCE fora (such as the military-security meetings or the decision-making meetings of the Permanent Council), all meetings were open to the press and the public. Significantly, many of the problems associated with the organization of the Vienna Review Conference (the most recent full-scale review of all OSCE commitments) did not occur in Warsaw.<sup>11</sup>

## **6. DEBATE AND DISCUSSION**

The meeting was opened by the Director of the ODIHR, Ambassador Gerard Stoudmann, and Polish Foreign Minister Bronislaw Geremek. A keynote address was presented by the OSCE High Commissioner for National Minorities, Max van der Stoep. Ambassador William Fris-Moeller, representing the Danish Chair-in-Office, also addressed the opening plenary.

Representatives of OSCE missions attended the meeting and some missions provided written summaries of their activities that relate to the human dimension. These materials provided welcome insight into the operations of the missions and how, in very practical ways, the missions address human dimension concerns. In Warsaw, government and non-governmental representatives repeatedly underscored their support for the human dimension activities of mission work.

Throughout the meeting, U.S. statements were characterized by references to specific problems and countries, often raising illustrative cases of violations. These included, for example: re-

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<sup>10</sup> At the Implementation Review Meeting on Human Dimension Issues in 1995, there was insufficient time to accommodate the large number of speakers wishing to take the floor in Subsidiary Working Body I. As a consequence, speakers were frequently cut off by the moderator in an effort to provide as many people as possible with the opportunity to speak. In contrast, there was so little said in Subsidiary Working Body II that those meetings frequently concluded early.

<sup>11</sup> These problems included inadequate physical facilities, an overly compressed schedule, and conflicts between the review meetings and other OSCE meetings. For a fuller description, see *The OSCE after the Lisbon Summit* (1997), a report prepared by the staff of the Commission on Security and Cooperation in Europe.

strictions on religious liberties, including the rise of intolerance towards minority religions or beliefs (e.g., in Germany) and the misuse of registration policies to impermissibly restrict religious groups (e.g., in Russia); restrictions of freedom of the press in Croatia and Kyrgyzstan, including through the imposition of criminal penalties on those who “insult” the government; the persistent pattern of torture in Turkey; systematic violations of the rule of law and a generally worsening human rights situation in Belarus; severe repression of the Kosovo Albanian minority in Serbia; the failure to hold free and fair elections in Uzbekistan; the continued use of psychiatric imprisonment of dissidents in Turkmenistan; and the violence and discrimination faced by Roma throughout Europe. (The statements of the U.S. delegation are printed in full as an appendix to this report.) The United States was also criticized with regard to the death penalty; Switzerland specifically called on the United States to suspend application of the death penalty to minors.

As at the 1995 Implementation Meeting, discussion was somewhat limited by the now common practice of the European Union to designate one of its fifteen member states<sup>12</sup> to take the lead in preparing a common intervention for each agenda item, to be presented on behalf of all EU countries. Accordingly, statements prepared by the European Union varied considerably in their approach. The EU statement delivered by the United Kingdom on freedom of expression, for example, identified, by name, specific countries where specific shortcomings were alleged. Some other EU statements, in contrast, seemed to reflect the lowest common denominator (i.e., the least critical position) of the fifteen members and failed to identify any specific human dimension concerns with any specificity. In at least two instances,<sup>13</sup> an EU country took the floor in a national capacity to address an issue, without doing so in the context of exercising a right of reply to a prior intervention. On one subject—the question of the abolition of the death penalty—the European Union made two interventions (one made for the EU by Italy, and one made for the EU by Portugal).

The European Union was itself criticized by two countries at the meeting. Romania strongly protested EU practices which, in the view of Romania, have led to decreasing opportunities for Romanians to travel to EU countries. Bulgaria raised similar concerns, stating that the “iron curtain” had been replaced by the “Schengen curtain.”<sup>14</sup>

The deteriorating situation in Belarus was a reoccurring theme throughout the meeting. Concern was also expressed by many delegations regarding the new Russian law on religion. A number of delegations raised the specific cases of Alexander Nikitin (Russia) and Layla Zana (Turkey).<sup>15</sup>

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<sup>12</sup> The member states of the European Union are: Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom.

<sup>13</sup> Denmark took the floor in a national capacity to address 1) migration and 2) conscientious objection; Ireland took the floor to address the human dimension aspect of OSCE missions. (At the 1995 Implementation Meeting, Sweden and Germany were the only two EU countries which spoke in a national capacity in addition to subscribing to the joint EU statement.)

<sup>14</sup> “Schengen” is a reference to the European Union treaty which standardized practices among EU countries regarding internal EU travel; it is perceived by its critics as making travel by non-EU citizens (including refugees) to the EU more difficult.

<sup>15</sup> Human rights groups and many governments have argued that the Russian Government has failed to respect the rule of law in its criminal case against Nikitin; he is currently at liberty but may not leave Russia, and the case against him continues. Layla Zana, along with fellow Turkish parliamentarians Selim Sadak, Hatip Dicle, and Orhan Dogan, have been convicted under charges which critics argue punish them for exercising their freedom of expression.



More than any other issue, inter-ethnic relations constituted the unifying thread that tied together many of the diverse agenda items for implementation review. For example, issues relating to the treatment of minorities were raised under a variety of agenda headings, including “free speech,” “freedom of association,” “culture and cultural heritage,” “tolerance and non-discrimination,” “national minorities,” and “citizenship.” More to the point, minority or inter-ethnic issues were raised more than any other single issue, reflecting the high priority that continues to be attached to this subject by the OSCE participating States and by non-governmental organizations. Two non-governmental representatives also raised issues relating to ethnicity with the Vatican: one group, representing Slovak speakers in Poland complained of the lack of Catholic services in their language; another group complained of the lack of priests in Moldova proficient in a particular Hungarian dialect.

The representatives of Greece continued to deny that there are national minorities on their territory other than the one (Muslim) acknowledged in the 1923 Treaty of Lausanne; such assertions were in turn described by some as a violation of the Copenhagen Document’s right to self-identification.<sup>16</sup> Bulgarian representatives asserted that Bulgaria had no Macedonian minority and called into question the existence of such a thing as an “ethnic Macedonian.”<sup>17</sup>

In addition to the oral interventions relating to inter-ethnic concerns, a number of countries used the occasion of the Warsaw meeting to circulate materials addressing minority-majority relations in their countries. Macedonia, for example, circulated a fairly detailed response to concerns that had been raised regarding violence which erupted during confrontations between police and demonstrators in Gostivar in July 1997. Hungary circulated the “Report of the Government of Hungary to the National Assembly on the situation of national and ethnic minorities living in the Republic of Hungary,” which provided a fairly thorough survey of minority issues in that country. (The fact that this report was prepared for scrutiny by Hungary’s own parliamentarians may have contributed to its frank discussion of the issues; in addition, the Hungarian Government—no doubt with a view to the large numbers of ethnic Hungarians beyond its own borders—appears to have adopted a lead-by-example approach to this subject.) Germany also circulated a report on minorities prepared specifically for the Warsaw meeting.

In this context, concerns regarding Roma and Sinti were given a higher profile in Warsaw by many delegations, including the American and Norwegian delegations, than at past meetings. (Norway will assume the post of Chair-in-Office in 1999.) The attention given to this subject reflected the increasing level of racially motivated violence against Roma in many OSCE participating States as well as increasing information about instances of discrimination against them.

During the course of the meeting, there were a few occasions when relatively timely issues were injected into the discussions. For example, criminal charges were imposed on representatives of the non-governmental Open Society Institute in Croatia during the last week in November, lead-

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<sup>16</sup> Para. 32 of the 1990 Copenhagen Document states: “To belong to a national minority is a matter of a person’s individual choice and no disadvantage may arise from the exercise of such choice.”

<sup>17</sup> On the one hand, this has given rise to the interpretation that Bulgaria is denying the “Macedonian” ethnicity or nationality of those in Bulgaria who describe themselves as such (considering them to be, instead, ethnic Bulgarians); on the other hand, Bulgarian representatives also appeared to echo the Copenhagen standard, stating: “Bulgarian citizens determine by themselves their belonging to any minority groups regardless [of] their common national self-consciousness.”

ing the U.S. delegation to protest that the Croatian Government was engaged in an effort to limit the Institute's contacts and activities. On the final day of the meeting, several delegations criticized the closure of *Svoboda*, the largest independent newspaper in Belarus. Several delegations also made strong pleas for a ban on the use of anti-personnel land mines, no doubt with a view to the global conference on land mine use, held in Ottawa on December 3.

## **7. MEETINGS ON THE MARGINS: BILATERALS, NGO ACTIVITIES, AND CONSULTATIONS**

As at most OSCE meetings, the U.S. delegation used the occasion of the gathering to hold bilateral meetings on the margins of the formal sessions. These bilaterals provided the United States an additional opportunity to discuss points of concern in greater detail than is possible during the course of a short intervention. A number of non-governmental organizations also held meetings with government representatives to press their causes.

The Implementation Meeting also served as the venue for less formal gatherings organized by NGOs—although, since fewer NGOs attended this year's meeting, there were fewer NGO—organized meetings. Two half-days were set aside specifically for NGO meetings during which Director Stoudmann also consulted with NGO representatives regarding the format of the Implementation Meetings.

Three NGOs took the opportunity to sponsor special briefings or round-table discussions on issues that concern both a broad range of governments as well as NGOs. The Coalition for International Justice (CIJ) held, on November 15, a meeting to discuss the status of efforts to establish a permanent International Criminal Court under U.N. auspices. On November 19, the International Helsinki Federation (IHF) sponsored a briefing by Judge Louise Arbour, the Chief Prosecutor for the International Criminal Tribunal. Significantly, Judge Arbour sharply criticized the OSCE Mission in Bosnia for announcing that there would not be arrests on the day of elections. In her view, this wrongly telegraphed the message that there is a hierarchy of priorities among the OSCE community, according to which holding elections is more important than holding war criminals accountable. In addition, the IHF briefing included presentations by Holly Cartner, Human Rights Watch/Helsinki (New York based); Tatyana Protsko, the Belarus Helsinki Committee; Ninel Fokina, the Almaty Helsinki Committee (Kazakhstan); Brigitte Dufour, the International Helsinki Federation for Human Rights (Vienna-based); and Oinihol Bobonazarova, Tajik Center for Information and Analysis on Human Rights.

Also on November 19, the New Jersey-based Project on Ethnic Relations organized, in cooperation with the ODIHR and the Council of Europe, a full day round-table discussion on Roma issues. The session was well attended by Roma representatives from many countries, as well as representatives from more than a dozen OSCE countries. The roundtable was designed to foster the identification and strengthening of mechanisms for the implementation of human dimension provisions relevant to the Roma and Sinti. By timing the roundtable to coincide with the OSCE Implementation Meeting, the organizers capitalized on the presence of a large number of NGO and government representatives with strong interest in this subject. The discussions also set the stage for the discussion of Roma and Sinti issues which were on the agenda for the Implementation Meeting for the 20<sup>th</sup> and 21<sup>st</sup> of November.



## 8. RAPPORTEUR'S REPORTS

The practice of preparing rapporteurs' reports originated at meetings and seminars convened by the ODIHR. After 1990, when the OSCE became more institutionalized, it was argued that seminars and other meetings that do not engage in decision making should, at least, be permitted to produce some kind of summary of the proceedings. (Proponents of this view also noted that seminars convened by other international organizations, such as the Council of Europe, also often produce summaries or reports of meetings or conferences.)

The United States, at least early on, opposed efforts to provide such summaries, arguing that the process of drafting a summary might degenerate into a negotiating exercise that would detract from the exchange of views at these meetings.<sup>18</sup> Moreover, such records might create a mistaken impression for the public because 1) by their summary nature, they cannot reflect the full views of all participating States, let alone the NGOs which participate; and 2) they tend to record suggestions and proposals without regard to their real political viability. Eventually, however, the United States dropped its opposition, permitting this practice to emerge.

Accordingly, rapporteurs' reports were prepared on each of the two Subsidiary Working Groups to be forwarded to the decision-making bodies of the OSCE in Vienna.<sup>19</sup> These reports do not name the names of countries criticized or praised. They do not identify which participating State made which proposals, nor do they include all ideas or suggestions made. Often, the reports give equal time to alleged human rights violations (without naming names) and to the defenses offered by the criticized governments.<sup>20</sup>

Although the rapporteurs' reports prepared this year include some recommendations, the reports are not negotiated texts and the recommendations are those of the rapporteurs themselves and do not represent consensus-based agreements of the participating States. More the point, even when a recommendation is based on a suggestion made by one or more countries attending the implementation meeting in Warsaw, without sustained interest on the part of the participating States in Vienna, it is unlikely that these reports, in and of themselves, will lead to any decisions or action. For example, the now oft-uttered mantra—"human dimension compliance issues should be better integrated into the work of the Permanent Council and all other OSCE institutions and operations"—found its way into the report on Subsidiary Working Body II's recommendations. In fact, any participating State already has the right to raise any issue at any Permanent Council meeting.

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<sup>18</sup> This was, in fact, the disastrous experience of the 1991 Oslo Seminar on Human Rights and Democratization.

<sup>19</sup> These reports are available from the Office for Democratic Institutions and Human Rights.

<sup>20</sup> To give just one example, the report on Subsidiary Working Body I states: "Some participants pointed to the serious difficulties that many NGOs were facing in some participating States, including government harassment and cumbersome registration procedures and requirements." The report goes on to present, as though it were an equally valid view, the defense offered for restricting NGO activities: "One national delegation called for a *more responsible approach* on the part of some NGOs, whose work should be based on impartiality and objectivity. . . ." (Emphasis added.)

## 9. PROBLEMS AND PROSPECTS

Overall, the 1997 Implementation Meeting suffered in comparison with the meetings held in 1993 and 1995. In general, there was weakened interest in the implementation review process on the part governments and a weakened interest on the part of non-governmental organizations in the OSCE as a forum for implementation review.<sup>21</sup>

### *Reluctance of Participating States to Engage in Frank Discussions*

Many OSCE participating States are no longer willing to engage in a frank and specific discussion of most human dimension issues. The Russian delegation, in its opening statement, seemed to speak for many in the room when it asserted:

From Russia's point of view, our chief goal should not be a public denunciation for non-compliance with commitments, but assistance in compliance with them, joint search for optimum solutions. We proceed from the assumption that violations of commitments occur mostly not because of evil will and intentions of the leadership of this or that State, but because of difference in levels of development of democratic mechanisms and institutions . . .

In some instances, the gap between countries' professed concerns and their unwillingness to site specific instances of non-compliance to illustrate those concerns was quite striking. For example, during the negotiations by the OSCE Permanent Council in Vienna on the agenda for the Implementation Meeting, Swiss representatives argued that in order to engage in a review of implementation of the OSCE commitments relevant to the equality of opportunity for men and women,<sup>22</sup> it would be necessary to add a subheading on "the equality of opportunity for men and women" to the agenda item on "tolerance and non-discrimination."<sup>23</sup> While the Swiss delegation in Vienna ultimately prevailed, and the Swiss delegation in Warsaw "welcomed the fact that this subject is, for the first time, a separate point on the agenda of the implementation meeting," the Swiss delegation did not raise any specific implementation issues.<sup>24</sup>

### *Treatment of NGOs*

In many ways, access for NGOs at the OSCE is greater than, for example, at the United Nations. Virtually any non-governmental group is permitted to attend an OSCE Implementation

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<sup>21</sup> There were some scheduling improvements that actually made the 1997 agenda flow more smoothly and logically than the 1995 agenda and helpfully made available more time for discussion in Subsidiary Working Body I.

<sup>22</sup> These commitments are addressed in para. 40 of the 1991 Moscow Document of the Conference on the Human Dimension.

<sup>23</sup> In fact, agendas for the human dimension implementation reviews have always been designated as *indicative* in order to signal that any human dimension issue can be raised by any delegation; the inclusion of plenaries during the meeting ensure this. The fact that the agendas do specify certain broad themes (e.g., tolerance and non-discrimination) reflects an attempt on the part of the OSCE participating States to collectively organize their discussions in a coherent fashion and to provide some public notice of when issues of interest are to be discussed. The view that a specific human rights concern must be identified precisely on the agenda or it cannot be raised reflects a surprisingly unhelpful change in Switzerland's interpretation of the purpose of an agenda.

<sup>24</sup> Altogether, four government interventions specifically addressed the sub-heading on the equality of opportunity for men and women: Switzerland, Sweden and Finland on behalf of the EU, Canada, and Norway. None of those interventions raised any specific instances of alleged non-compliance with the relevant OSCE standards.

Meeting, provided that it is not connected with terrorism. The ODIHR provides the NGOs with work space, including computer access, and meeting rooms. In order to speak, NGOs must make written presentations in advance.

Still, there is more that could be done to make the OSCE more user-friendly for the NGOs. The very fact that NGOs are required to circulate written statements to all delegations prior to being permitted to make oral interventions, for example, was actually designed to limit NGO participation; representatives of governments and international organizations are not subject to such a requirement.<sup>25</sup>

A more serious problem for NGO participation stems from the role of the moderators. As mentioned above, the 1995 Implementation Meeting faced serious shortages of time in Subsidiary Working Body I. As a consequence, the moderator was forced to impose strict time limits on speakers. But the moderator also appeared to use the time shortage as an excuse to gavel down speakers he deemed “off topic,” and was disproportionately severe with the NGOs. Similarly, the moderator of Subsidiary Working Body I at the 1997 Implementation Meeting also sought to limit or restrict NGO statements which he felt were “off topic,” belonged under another agenda heading, or were in some other way objectionable.<sup>26</sup> He particularly admonished all NGO representatives who expressed an opinion on matters relating to the OSCE Representative on Freedom of the Media (RFRM), whose mandate had been adopted on November 4, just prior to the opening of the Warsaw meeting. The moderator’s criticism of NGOs who commented on the RFM underscored that, while NGOs have a certain degree of access at Implementation Meetings, the OSCE continues to limit input from NGOs on the decision-making that takes place in Vienna, even when the issues under review are directly related to the human dimension.

The moderator of Subsidiary Working Body I also sought, on several occasions at the 1997 meeting, to prevent non-governmental representatives from taking the floor because he deemed them to be improperly registered—even though the ODIHR considered them properly registered. Although each of these cases was ultimately resolved in favor of the NGO, it demonstrates the barriers to active NGO participation which continue to be present.

## 10. CONCLUSIONS

While the OSCE participating States have paid increasing lip-service in recent years to the notion that human rights violations often contribute to or exacerbate conflict,<sup>27</sup> the dominant reasoning among the OSCE participating States now seems to be that raising specific instances of non-compliance would be too confrontational. Accordingly, the United States stands as one of the few countries willing to continue the practice of naming specific names, cases and situations where human rights have been violated. Although the Warsaw meeting was a somewhat useful vehicle for raising outstanding human concerns, the opportunities it presented were not fully exploited by

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<sup>25</sup> All those who are making oral interventions are, however, encouraged to provide copies of the draft statements to the interpreters to facilitate the interpretation of the statements into the six official OSCE languages.

<sup>26</sup> In fact, the moderator also made a practice of criticizing the interventions of government representatives as well. Government representatives, however, were less vulnerable to the gavel than were NGOs.

<sup>27</sup> E.g., the 1992 Helsinki Summit Declaration states, in para. 12: “Gross violations of CSCE commitments in the field of human rights and fundamental freedoms, including those related to national minorities, pose a special threat to the peaceful development of society, in particular in new democracies.”

either governments or non-governmental organizations.

This may, to some extent, reflect cycles in the kinds of issues confronting the OSCE community. Around 1990, for example, there was a dramatic improvement in human rights compliance and democratization in many OSCE countries; there appeared to be a commensurate decrease in the willingness of OSCE participating States to engage in implementation discussion.<sup>28</sup> After an increase in violent conflicts, however, interest in implementation review picked up again.<sup>29</sup> The fact that some of the most violent conflicts to challenge peace and security in the OSCE (e.g., the wars in Bosnia-Herzegovina, Chechnya, and Nagorno-Karabakh) have, at least for the moment, subsided may have helped to decrease a sense of urgency regarding human dimension concerns.

Even so, there was widespread agreement in Warsaw that the implementation review process in the OSCE and, indeed, the OSCE's approach to human dimension issues in general, is in need of reinvigoration and enhancement. Moreover, the OSCE Ministerial meeting, held in Copenhagen on December 18-19, 1997, confirmed as much in its final communique, which stated:

The Ministerial Council,

Reaffirming OSCE commitments in the Human Dimension,

Recognizing the need to strengthen and increase the efficiency of the OSCE implementation meetings on Human Dimension issues, and

Taking into account the report from the Director of the ODIHR regarding reform of modalities,

- Tasks the Permanent Council with elaborating, in close co-operation with the ODIHR, a new set of modalities for the OSCE implementation meetings on Human Dimension issues. The Permanent Council shall take a decision not later than the 1998 OSCE summer recess which shall become final only after review and confirmation by Ministers through a silence procedure.

Notwithstanding this general agreement, there is not yet a consensus on, specifically, how to achieve this goal; on the contrary, one might suspect a few countries of wishing to re-organize the human dimension right out of business.

Follow-up actions to the Implementation Meeting will now move to other fora. First, the participating States themselves should take action on issues raised in Warsaw to improve compliance with their commitments. Other follow-up action must be taken by the Permanent Council in Vienna—both by addressing human dimension problems which persist after Warsaw (particularly those violations that are egregious, widespread, or systematic) as well as by taking steps to reinvigorate and enhance the human dimension review process.

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<sup>28</sup> “The resulting lack of focus on implementation, difficulty in viewing human rights violations or economic and environmental degradation as threats to security, and disinterest in the Human Dimension bring the foundation of the CSCE's activities into question.” *The Helsinki Follow-up Meeting, A Report Prepared by the Staff of the Commission on Security and Cooperation in Europe* (1992), p. 5.

<sup>29</sup> “The 1993 Implementation Meeting on Human Dimension Issues proved wrong those who assert that separate and detailed consideration of Human Dimension issues is bankrupt in the aftermath of the Cold War. [. . .] Why this change of heart? Sadly, states' inability to prevent or halt flare-ups of violence in the regions emerging from totalitarianism, as well as to cope with unsettling displays of prejudice in the west, has pointed up the relevance on human rights more bluntly than any ministerial communique ever could. Moreover, the long-term promise of conflict prevention through the Human Dimension may seem an attractive alternative to the politically and financially costly, unpopular and less-than-effective peacekeeping missions and grandiose international conferences contemplated in 1991-92.” *The CSCE Implementation Meeting on Human Dimension Issues, A Report Prepared by the Staff of the Commission on Security and Cooperation in Europe* (1993), pp. 19-20.

## MEMBERS OF THE U.S. DELEGATION

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* * * * *	
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## AN OVERVIEW OF THE OSCE

### THE TEN PRINCIPLES GUIDING RELATIONS AMONG STATES The Decalogue From The 1975 Helsinki Final Act

<i>Principle I:</i>	Sovereign equality, respect for the rights inherent in sovereignty
<i>Principle II:</i>	Refraining from the threat or use of force
<i>Principle III:</i>	Inviolability of frontiers
<i>Principle IV:</i>	Territorial integrity of states
<i>Principle V:</i>	Peaceful settlement of disputes
<i>Principle VI:</i>	Non-intervention in internal affairs
<i>Principle VII:</i>	Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief
<i>Principle VIII:</i>	Equal rights and self-determination of peoples
<i>Principle IX:</i>	Cooperation among States
<i>Principle X:</i>	Fulfillment in good faith of obligations under international law

### DECISION-MAKING BODIES OF THE OSCE PARTICIPATING STATES

#### *Summits of Heads of State or Government*

Heads meet every two years in rotating cities; their preparatory meetings, which may not exceed three months, are called “Review Conferences” and replace “Follow-up Meetings.”

#### *Chair-in-Office (CiO)*

Every year the Foreign Minister of one OSCE country assumes the position of the OSCE’s Chair-in-Office, effectively acting as the organization’s political agent. Participating States volunteer for this responsibility and must provide significant staffing and resources to perform effectively. Currently the CiO is Niels Helveg Petersen of Denmark. The previous, current, and next-in-line Chairs are collectively known as the “Troika” (currently Switzerland, Denmark, and Poland).

#### *Ministerial Council*

Foreign Ministers meet every year, usually in the capital of the country about to assume the responsibility of Chair-in-Office.

#### *Senior Council (formerly the Committee of Senior Officials)*

The Senior Council usually meets twice a year in Prague and increasingly concentrates on high-level long-term issues (e.g., European security structures). It also holds rare emergency sessions.

*Permanent Council (PC, formerly the Permanent Committee)*

The Permanent Council meets weekly in Vienna, the site of regular OSCE military-security negotiations (the Forum on Security Cooperation); it has become the main OSCE decision-making body in all fields.

*Joint Consultative Group (JCG)*

Like the Permanent Council, the JCG meets weekly in Vienna; it is tasked with promoting implementation of the 1992 Treaty on Conventional Armed Forces in Europe.

**OSCE INSTITUTIONAL STRUCTURES**

*OSCE Secretariat*

based in Vienna with a small office in Prague; provides administrative support for most OSCE activities, including the weekly meetings of the Permanent Council; currently headed by Secretary General Giancarlo Aragona, from Italy

*High Commissioner for National Minorities (HCNM)*

based in the Hague with small staff; is *not* tasked to be an enforcer of minority rights but is supposed to find common ground between differing ethnic groups and to facilitate a resolution of their differences; current HCNM is Dutch former Foreign Minister Max van der Stoep

*Conflict Prevention Center (CPC)*

based in Vienna within the Secretariat; provides operational support for OSCE missions; maintains the OSCE military security data base and communications network; currently headed by Director Jan Kubis, from Slovakia

*Office for Democratic Institutions and Human Rights (ODIHR, formerly the Office for Free Elections)*

based in Warsaw; hosts OSCE seminars for representatives of the participating States; organizes Moscow mechanism missions; organizes Program of Coordinated Support for newly independent states and emerging democracies; currently headed by Director Gerard Stoudmann, from Switzerland

*OSCE Liaison Office*

opened in Tashkent, Uzbekistan, in July 1995 with one year mandate to facilitate OSCE activities in the region and the integration of Central Asian states; mandate has been extended one year at a time

## **PARLIAMENTARY ASSEMBLY**

The Parliamentary Assembly is an independent body from the inter-governmental OSCE. It includes legislators from all OSCE participating States. The Assembly meets annually in different cities and has a permanent Secretariat based in Copenhagen. The current Secretary General is an American, R. Spencer Oliver.

## **OSCE MEETINGS**

*(Not empowered to adopt decisions)*

### *Human Dimension meetings organized by the ODIHR in Warsaw*

- Implementation Review Meetings (held every year in which there is not a Review Conference; these meetings of all participating States consider implementation of all human dimension commitments)
- thematic meetings for all participating States (e.g., national minorities)
- meetings organized under the Program of Coordinated Assistance (held in a newly admitted state or emerging democracy that has requested the assistance)
- specialized regional human dimension seminars

### *Economic Forum*

- organized by the Secretariat in Prague and usually held in Prague
- seminars may also be convened on a special theme (e.g., business and the environment, held in Tallinn)

### *Meetings Organized By Or Staffed Out Of The Conflict Prevention Center In Vienna*

#### *Forum for Security Cooperation (FSC)*

- oversees the Treaty on Conventional Armed Forces in Europe (CFE) and confidence- and security-building measures (CSBMs) agreements of the OSCE
- negotiates new CSBMs and arms agreements

#### *Seminars Or Expert Meetings (E.g., On Conversion Of Military Production Industries)*

## **OTHER OSCE TERMS**

### ***Peaceful Settlements of Disputes***

- *Valletta Mechanism* (adopted in February 1991; has not been used): Enables disputing parties to seek the creation of a special panel of people who are collectively if awkwardly called

“the mechanism.” These people are selected by common agreement of the disputants from a register of qualified candidates. Their task is not to resolve the dispute, but to facilitate the resolution of a dispute peacefully by the parties themselves. The mechanism is restricted to disputes involving not more than two parties, both of whom must be OSCE participating States. The procedure is perceived as seriously flawed by some because it is potentially time consuming, does not provide for interim measures, does not result in binding decisions, and has an expansive exceptions clause.

- *Directed Conciliation* (adopted in December 1992; has not been used): The OSCE Senior Council or Ministerial Council may direct two disputants to a conciliation procedure.
- *Convention on Arbitration and Conciliation* (opened for signature in Dec. 1992, entered into force December 5, 1994; has not been used): sold by French drafters as the tool to end Europe’s minority problems; includes the Valletta exceptions clause and is limited to inter-state problems.
- *Pact on Stability in Europe (also known as the Balladur Plan) (adopted in March 1995)*: also a French brainchild, also touted as the answer to Europe’s minority problems; a framework designed to bring together EU aspirants with inter-state minority issues and pressure them to resolve their differences as an implicit prerequisite to EU membership; mandates oversight of bilateral minority agreements to the OSCE.

### *Consensus-Minus-One*

Permits the adoption of limited political decisions without the consensus of one country; adopted at the meeting of the Council of Ministers in Prague, January 1992, under the heading “Safeguarding human rights, democracy and the rule of law”:

16. The Council decided, in order to develop further the CSCE’s capability to safeguard human rights, democracy and the rule of law through peaceful means, that appropriate action may be taken by the Council or the Committee of Senior Officials, if necessary in the absence of the consent of the State concerned, *in cases of clear, gross and uncorrected violations of relevant CSCE commitments*. Such actions would consist of political declarations or other political steps to apply outside the territory of the State concerned. This decision is without prejudice to existing CSCE mechanisms. [Emphasis added.]

Reflecting the extraordinary nature of this decision-making tool, it has only been used once, in 1992, to suspend Yugoslavia from participating in OSCE decision-making.

### *Emergency Meeting Mechanism*

In June 1991, the Council of Ministers met in Berlin and agreed that a participating State may request a clarification regarding an emergency situation that has developed and is of concern; the State in question is obligated to respond. If the situation remains unresolved, a request may be made to the Chair of the Senior Council, requesting a two-day emergency session of the Council. If 12 or more OSCE States second the request, the Chair will notify the participating States and a meeting will be held no earlier than 48 hours or later than three days from that time. The mechanism was invoked by Austria and Hungary (separately) in connection with an early phase of the war in Yugoslavia. The subsequent creation of a Permanent Committee/Council in Vienna and increasing centralization of work there undercuts much of the original impetus for establishing this tool.

### *Unusual Military Activities (UMA) Mechanism*

In Vienna in 1990, the participating States agreed that any state with a “security concern” about another state’s activities may address a request for clarification to that state and the requested state must reply within 48 hours. If the requesting state is not satisfied, it may call a meeting of the participating States at the Conflict Prevention Center to discuss its concerns. It was used during the early phase of the Yugoslavia war.

### *Human Dimension Mechanism, sometimes called the Moscow Mechanism*

- The original mechanism (established by the 1989 Vienna Concluding Document) provided for states to raise cases and situations with each other and to bring them to the attention of all participating States.
- As expanded in Moscow in 1991, a state may request a panel to be formed from a list of experts nominated by participating States to serve as a good-offices mission by investigating the human dimension problem of concern and to take actions it deems desirable to further dialogue and a resolution of the problem. If the panel is not successful, or if a state refuses to invite a panel onto its territory after it was requested to do so by another state, a state may be required to receive a rapporteur mission if six participating States support its creation for fact finding, and, in extraordinary cases, to do so immediately if 10 participating States agree. The Moscow Mechanism has been invoked regarding Croatia and Bosnia-Herzegovina, and was self-invoked by Estonia and Moldova.

### *Ad Hoc Missions*

- Sanctions Assistance Missions (SAMs); help enforce the sanctions against the former Yugoslavia; operated jointly by the OSCE and EU
- Missions of Long- or Short-Duration (currently in Bosnia-Herzegovina, Croatia, Estonia, Georgia, Latvia, Macedonia, Moldova, Tajikistan and Ukraine)
- Other kinds of ad hoc missions may be dispatched by the CiO

### **OSCE PARTICIPATING STATES**

Albania	observer as of 6/90; fully participating State since 6/91
Andorra	fully participating State since 4/96
Armenia	fully participating State since 1/92
Austria	original participating State
Azerbaijan	fully participating State since 1/92
Belarus	fully participating State since 1/92
Belgium	original participating State
Bosnia-Herzegovina	fully participating State since 4/92
Bulgaria	original participating State
Canada	original participating State

Croatia	observer as of 1/92; fully participating State since 3/92
Cyprus	original participating State
Czech Republic as Czechoslovakia,	fully participating State as the Czech Republic since 1/93 original participating State;
Denmark	original participating State
Estonia	fully participating State since 9/91
Finland	original participating State
France	original participating State
Georgia	fully participating State since 3/92
Germany	originally participated as Federal Republic of Germany and the German Democratic Republic
Greece	original participating State
The Holy See	original participating State
Hungary	original participating State
Iceland	original participating State
Ireland	original participating State
Italy	original participating State
Kazakstan	fully participating State since 1/92
Kyrgyzstan	fully participating State since 1/92
Latvia	fully participating State since 9/91
Liechtenstein	original participating State
Lithuania	fully participating State since 9/91
Luxembourg	original participating State
Malta	original participating State
Macedonia	observer as of 4/93; fully participating State as of 10/95
Moldova	fully participating State since 1/92
Monaco	original participating State
Netherlands	original participating State
Norway	original participating State
Poland	original participating State
Portugal	original participating State
Romania	original participating State
Russia	succeeded Soviet Union (original participating State) as fully participating State, 1/92
San Marino	original participating State
Slovak Republic	as Czechoslovakia, original participating State; as Slovak Republic, fully participating State since 1/93
Slovenia	observer as of 1/92; fully participating State since 3/92
Spain	original participating State
Sweden	original participating State
Switzerland	original participating State



Tajikistan	fully participating State since 1/92
Turkey	original participating State
Turkmenistan	fully participating State since 1/92
Ukraine	fully participating State since 1/92
United Kingdom	original participating State
United States	original participating State
Uzbekistan	fully participating State since 1/92
Yugoslavia	original participating State; membership suspended as of 7/92

**PARTNERS FOR COOPERATION  
(FORMERLY OBSERVERS)**

Japan  
South Korea

**MEDITERRANEAN PARTNERS FOR COOPERATION  
(FORMERLY NON-PARTICIPATING MEDITERRANEAN STATES)**

Algeria  
Egypt  
Israel  
Lebanon\*  
Libya\*  
Morocco  
Syria\*  
Tunisia

\*Whether these countries have a continuing relationship with the OSCE is a subject of controversy.

# STATEMENTS OF THE U.S. DELEGATION

## Opening Plenary Statement

JOHN SHATTUCK,  
ASSISTANT SECRETARY FOR DEMOCRACY,  
HUMAN RIGHTS, AND LABOR  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 12, 1997*

The United States has been one of the most ardent supporters of implementation review, and I am pleased to see that this event is so well attended. This meeting is important because for the next seventeen days, we will be looking together at how all of us comply with the promises we made at the Summit meetings in Helsinki, Paris, Copenhagen, and Budapest in the years past. Implementation review can give us a road map by which we can make necessary improvements in the observance of our commitments, but also can benefit our citizens, in the sense that expanding democracy and human rights benefits all countries in this region and beyond.

Mr. Chairman, this is the first Human Dimension Implementation Meeting at which the U.S. delegation will be without the services of Ambassador Sam Wise. On behalf of the U.S. delegation, I would like to express our appreciation for the kind words spoken earlier this year at the Permanent Council upon Sam's passing. Sam Wise had been with the OSCE process since its inception in 1972, and I am sure that all of us who knew him will miss the warm personality, diplomatic expertise, and spirit of OSCE that Sam personified.

Mr. Chairman, the leadership role of the OSCE in the great struggle for democracy and human rights is most dramatically illustrated today by what it is doing in Bosnia and Herze-

govina. If we look at what has happened in Bosnia in the past few years, we can see a country that is making slow but steady progress away from hate and towards respect for OSCE human dimension commitments. We can also see the operational impact of the OSCE and its new role in Europe: from a very small beginning in Bosnia, the OSCE first worked to build up the institution of the Federation Ombudsmen as part of the Washington Agreement, then, following Dayton in 1996 it became the fulcrum of civilian implementation through its responsibility for elections, human rights, and arms control measures. The precedent the OSCE established in Bosnia now resonates across the Balkans and the OSCE is now deploying substantial missions in Albania and Croatia.

How do horrendous human rights situations like Bosnia start? Typically, these are failed states with cynical leaders who seek to build their own power by fanning the flames of ethnic hate. Bosnia was a disaster also due to the international community's actions as well. We saw the failure of traditional peacekeeping, humanitarian relief supplies blocked, and human rights reporting completely unconnected to the actions of diplomats and politicians. Srebrenica will always remain a symbol not only of the largest single act of genocide in Europe since the Holocaust, but also of the greatest collective failure of international security in Europe since World War II. I became intimately involved in the search for peace through Srebrenica, initially traveling to Tuzla in July 1995 to interview fleeing Bosniacs.

Before negotiations were convened in Dayton, Ohio, we pursued four main avenues to force the parties to the negotiating table. First, it was important to connect human rights missions on the ground with the overarching effort. Second,

we sent a strong message that all involved must stop atrocities or face the consequences, as we collectively demonstrated through the use of NATO force. Third, justice remained at the center of our concerns as we supported the activities of the War Crimes Tribunal in The Hague. Last, we stated at the outset that there would be no negotiations with war criminals.

The result of all of the work was the Dayton Agreement, which I am pleased to say, puts human rights institution building at its center. There are no compromises on cooperation with the War Crimes Tribunal. Dayton establishes essential human rights institutions such as the Human Rights Chamber and Ombudsperson, and puts the OSCE at the center of human rights work in the region. It adopts a phased approach to five main areas: separation of warring factions, establishing freedom of movement, holding elections, allowing for refugee return, and apprehending war criminals.

Now let me fast forward to 1997, close to two years after the Dayton negotiations. NATO has signaled its support for the War Crimes Tribunal by moving against indictees in Prijedor in July. Most indicted Bosnian Croats, including the number three on the Tribunal's wanted list, Dario Kordic, are sitting in a Hague jail cell. On media issues, we have cracked down on state-sponsored exhortations to violence against SFOR, while meanwhile taken steps to build up independent print and electronic media. The feared paramilitary troops and police of the Republika Srpska are now being brought into compliance. Municipal elections have been held and municipal councils are being installed, and political diversity is slowly developing. Refugee returns, while still slow and difficult, are becoming steadily less controversial. We can take pride in the developments of the past few months, but we should not underestimate the hard work that remains to ensure that peace is sustainable.

What are the ingredients of this progress? First, coordination and agreement on objectives

among allies and among the huge international presence on the ground. In many ways, we are in agreement on our goals in the region as never before—within the contact group, the OSCE, the Peace Implementation Council, and other groupings. Second, pressure at all levels, which means grasping the political and economic levers necessary to compel compliance. This strategy was particularly effective in the case of Croatia's surrender of Dario Kordic and others. Third, the credible threat of force and its measured use—against Pale's transmitters and against indicted war criminals—has brought results. Taken together, these measures spell clearly to the parties their obligations to follow through on Dayton, or to accept clear consequences.

As I have mentioned before, we should not underestimate the challenges we still face in the region. When we build democratic institutions and protect human rights, we should all understand that this is a long term process that will require patience long after the television news crews have departed Sarajevo. The continued freedom of more than fifty indicted war criminals continues to stymie the peace process. We must accelerate refugee returns by removing legal impediments such as property laws that prevent the unqualified returns agreed to at Dayton. We must make sure that media pluralism has a chance to grow. We must capitalize on the forward momentum created by municipal elections to see that councils are installed, and Bosnian domestic capacity is sufficient for it to hold its own elections. We must also provide support to the Human Rights Chamber, Ombudsperson, and the Federation Ombudsmen. We should support reform of legal, judicial, and police institutions. Lastly, we should assist the International Commission on Missing Persons, now chaired by Senator Bob Dole, and the International Committee of the Red Cross, as they work to resolve perhaps the thorniest reconciliation issue, resolving the question of missing persons in the region.

Bosnia is rapidly becoming the chief example of how the international community functions in

a post-conflict environment. I raise the example of Bosnia at the review conference to stress that through effective implementation review, we can, I hope, avoid the billions of dollars wasted in cases such as Bosnia, through mutual assessment of compliance with human rights standards. As is widely known, disagreement within the OSCE on Bosnia nearly endangered the success of the Budapest Summit in 1994. We must learn from Bosnia and use it as a case study.

What can we learn? Traditional peacekeeping is not always the answer. We must turn to innovative conflict prevention mechanisms, many of which already reside in the OSCE's tool belt. Early intervention is far less costly and is likely to be more effective—a good example of this is the superb work of Max van der Stoep as High Commissioner on National Minorities. Lastly, we must hold human rights and the pursuit of justice high on the list of policy priorities if we are to achieve success. We must integrate these functions into our policy apparatus and give people hope by apprehending indicted war criminals.

Comprehensive implementation review is essential to the OSCE process, but also essential for participating States to identify problems at their root. The OSCE's broad definition of security is what gives it a comparative advantage in this area.

As we begin our implementation review today, we should think about ways to make it more meaningful. We should think about ways to emphasize another OSCE advantage: its ability to quickly deploy conflict prevention missions. The U.S. quite naturally views the OSCE as a logical focal point for the international community's efforts at crisis management, and we should buttress institutions that can add value to this process such as the Office for Democratic Institutions and Human Rights, now under the leadership of Gerard Stoudmann. We need to think about the types of assistance the OSCE can de-

ploy to address shortcomings that we will discover and make recommendations to the Permanent Council through our discussions here. We must also build on the effectiveness of the OSCE's missions of long duration by adding new capabilities such as police training and monitoring, improve the training of mission staff, and agree—this year—on a new financing mechanism to enable the OSCE to respond capably and effectively to future “Bosnias.”

The OSCE's strengths are its emphasis on human rights and democratization, its consensus-based decision making, and its ability to deploy teams of professionals to the field that can make a difference. As President Clinton noted in Budapest in 1994, the work of the OSCE “may not make for triumphant headlines, but can avoid tragic ones.” That is why the long and difficult work of implementation review is important to all of us. Thank you.



### **Principle VII and the Freedom of Thought, Conscience, Religion, or Belief**

WRITTEN SUBMISSION BY  
THE HONORABLE ALFONSE D'AMATO,  
UNITED STATES SENATOR;  
CHAIRMAN, UNITED STATES  
COMMISSION ON SECURITY AND  
COOPERATION IN EUROPE

*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues*

The United States Commission on Security and Cooperation in Europe, an independent agency of the United States Government which I chair, has become increasingly concerned by measures taken by the governments of some participating States that adversely affect the freedom of thought, conscience, religion or belief, rights that we thought were well understood and whose acceptance was no longer in question in the international community. I will address this

point today, citing specific instances in which we believe that this fundamental freedom has been limited.

First, I want to talk about Principle VII. As every delegation here is aware, every word in Principle VII was carefully negotiated during the Conference on Security and Cooperation in Europe, before the Heads of State or Government signed the Final Act in Helsinki on August 1, 1975. Neither the structure of Principle VII nor the words all participating States agreed to are accidental. No State may choose to accept part of this document and reject, through implication, action, or neglect, its responsibility to implement the whole of Principle VII.

Principle VII is captioned “Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief.” Its text reads as follows, in pertinent part:

“The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion, or belief, for all without distinction as to race, sex, language or religion.

“They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development.

“Within this framework the participating States will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.”

Principle VII was preceded by Article 18 of the Universal Declaration of Human Rights, which states that “Everyone has the right to freedom of thought, conscience and religion; this

right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

In addition, Article 18 of the International Covenant on Civil and Political Rights provides that “No one shall be subject to coercion which would impair his freedom to have or adopt a religion or belief of his choice.”

The OSCE has further elaborated on Principle VII in the 1986 Vienna Concluding Document, stating that the OSCE participating States should “take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life.” The 1986 Vienna Concluding Document further commits the participating States to “foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers.”

I take the time to recite the specific words of these commitments that every State represented at this table shares to refresh the recollection of all of the participants regarding their commitments. Since the last OSCE review meeting in Vienna, a number of governments have taken actions, and a number of senior officials have made statements that lead the Commission to question the fullness of their understanding of these commitments, and in some cases, the sincerity of their adherence to the underlying values these commitments represent.

The freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience, is a fundamental freedom inherent to the individual, not to a group.



Moreover, that individual freedom must be respected for all, without distinction as to race, sex, language or religion.

Some States have taken the position that an individual's membership in a group justifies limits on the individual's exercise of this fundamental freedom. In fact, some States have passed special legislation concerning specific groups that has the effect of limiting an individual's effective exercise of this protected fundamental freedom because of his or her membership in a disfavored group. Moreover, some of these groups have been identified in such a way as to be functionally the same as a classification by race or language, which is prohibited.

Moreover, some officials have ignored the fact that freedom of thought, conscience, religion or belief is wider in scope than freedom of religion. They have repeatedly asserted, when challenged concerning discrimination against both disfavored groups and individuals, that these groups are not religions, but are something else, and therefore the State-imposed limits and encouragement of public and private discrimination, both against these groups and against their individual members, are somehow not prohibited by these States' international commitments. Principle VII of the Helsinki Final Act renders that position incorrect.

Principle VII protects the freedom of thought, conscience, religion or belief, not just religion. A participating State may not choose to highlight one fundamental freedom and ignore another. "Belief" is a different word and its definition is different from the definition of "religion." The sentence in Principle VII is phrased in the disjunctive, with an "or" and not an "and" between the two words. They are not synonyms, nor are the concepts represented by these two terms the same, in any of the six official languages of the OSCE. And the differences between the words and their definitions do make a difference in whether a State is implementing its human rights commitments properly, or not.

In English, according to *Webster's New World Dictionary*, religion is defined as follows: "noun, 1) *a*: belief in a divine or superhuman power or powers to be obeyed and worshiped as the creator(s) and ruler(s) of the universe; *b*: expression of such a belief in conduct and ritual; 2) *a*: any specific system of belief and worship, often involving a code of ethics and a philosophy [the Christian *religion*, the Buddhist *religion*, etc.]; *b*: any system of beliefs, practices, ethical values, etc. resembling, suggestive of, or likened to such a system [humanism as a *religion*]; 3) the state or way of life of a person in a monastery, convent, etc.; 4) any object of conscientious regard and pursuit."

In English, again according to *Webster's New World Dictionary*, belief is defined as follows: "noun, 1) the state of believing; conviction or acceptance that certain things are true or real; 2) faith, esp. religious faith; 3) trust or confidence [I have *belief* in his ability]; 4) anything believed or accepted as true; esp., a creed, doctrine, or tenet; 5) an opinion; expectation; judgment [my belief is that he'll come]."

Clearly, these terms have different meanings, and the drafters of the Final Act made that clear by including both terms in Principle VII and separating them with an "or." Thus, to be protected, a belief does not have to be a religion. And denying an individual "...the freedom to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience," is a violation of Principle VII.

Let us further analyze the pertinent part of Principle VII and its meaning. This part of Principle VII begins "the participating States will recognize and respect..." This is an affirmative obligation on each participating State to take official note of this fundamental freedom in an appropriately public manner and to do nothing to disrespect it through state action or inaction.



Now comes the more difficult part of Principle VII: "...to profess and practice, alone or in community with others..." What does "profess and practice" mean? One thing it does not mean is that the individual is free to hold any religion or belief he or she chooses only so long as the individual never tells any other human being about his or her religion or belief and never behaves in public in such a manner that other persons could reasonably conclude that the individual holds a specific belief or is a member of a specific religion. In fact, what this part of Principle VII addresses is the right to exercise other protected fundamental freedoms in a religious context: speech, the press, assembly, and association.

Laws, regulations, administrative measures, and private discrimination practiced by governmental measures taken by certain participating States often do not directly attack disfavored religions or beliefs, or individuals who profess and practice them. These measures frequently limit practical access to printed or electronic materials published or created to make possible the profession or practice of the disfavored religion or belief. They also impose "registration" requirements that have the effect of allowing unfettered discretion to bureaucrats who are free to act on the basis of personal prejudice in denying or delaying such registration, when successfully completed registration is a condition precedent to a religious or believers' organization's attainment of legal status. Moreover, within the legal, regulatory, and administrative structures so established, a religious or believers' organization lacking such legal status is frequently unable to own property as an organization, to claim certain tax exemptions available to properly registered organizations, or to rent premises as locations for worship services or other group activities necessary to the practice of its religion or belief.

These limits not only affect believers, but also affect every individual's "...freedom to change his religion or belief" under Article 18 of the Universal Declaration of Human Rights, and

every individual's "...freedom to have or adopt a religion or belief of his choice," pursuant to Article 18 of the International Covenant on Civil and Political Rights. Without free communication of ideas between people, the freedom of the individual to adopt or change his or her religion or belief is disrespected and denied.

Without free exercise in a religious context of freedom of speech, freedom of the press, freedom of assembly, and freedom of association, no individual can learn the doctrines and tenets of other faiths, meet with religious leaders and believers, and exercise the freedom to adopt or to change his or her religion or belief on a rational basis. Actions by participating States to deny the exercise of these fundamental freedoms when their exercise is related to attempts to exercise of the freedom of thought, conscience, religion or belief, are especially to be condemned, and are explosively dangerous.

Some argue that these measures are necessary to protect their citizens from "sects" or to protect traditional religious institutions from "unfair" competition by "foreign" religions or beliefs that are trying to "exploit" the "confused" after the fall of communism. Not only is this argument wrong on the facts, it is not an admissible argument under Principle VII, under the Universal Declaration of Human Rights, or under the International Covenant on Civil and Political Rights. In fact, the underlying nature of this argument is authoritarian. First, it rests on the unstated assumption that it is the right and business of the government to control individual citizens' choices in matters of thought, conscience, religion or belief. This is plainly prohibited. Second, it rests on the unstated view that to be a "good" citizen of a specific State, an individual must be a member of a specific racial or ethnic group or groups, speak a specific language or languages, and believe in a specific religion. This is also plainly prohibited, and is a view that when carried to the extreme, has resulted in genocides. Finally, it tends to place the coercive machinery of the State, with its police powers, its

taxation powers, and its regulatory powers, in alliance with and at the service of the hierarchies of “traditional” religions, most often through political influence trading with political parties in power. When the governmental measures produced by this kind of alliance limit or deny the freedom of thought, conscience, religion or belief, such measures are plainly prohibited.

If a ruling political party, and the government it controls, will apply the coercive powers of the State to limit or deny the freedoms of speech, the press, assembly, and association when they are exercised in the context of disfavored religions or beliefs, what is there that stops them from limiting or denying these same fundamental freedoms in other contexts? The answer is, nothing.

I stated earlier that I would discuss specific examples of the problems I have reviewed in principle. Let me begin with the “Law on Freedom of Conscience and Religious Associations” recently passed by the Russian legislature and signed into law by President Yeltsin. This law contains discriminatory provisions against “new” religious faiths, burdensome registration requirements, and vague criteria for “liquidating” religious organizations. Russian religious believers’ rights have been limited by this law in comparison with the level of religious freedom created by the 1990 Russian law on religious organizations.

One of the most troubling provisions of the new law is the requirement that an organization be in existence for 15 years before being given full recognition as a religious organization. It is unclear how this provision will be implemented in practice, but the principle of this provision is shocking. Only religious groups that were in existence when Yuri Andropov ran the Soviet Union, a time of severe oppression of religious groups, will be recognized today as bonafide religious organizations. In a recent *Christian Science Monitor* article, a defender of the new law

wrote that:

“...New religious groups would be on a 15-year probation, during which their institutional rights would be limited. After 15 years, they could apply for the status of ‘organization’ which would permit them full rights of property, publishing, education, and access to public institutions.”

A burdensome and arbitrary process of registration for religious organizations has been established by the new law. In order to register, a group of religious believers must submit an application containing information on the individuals who make up the religious group, and the minutes of the group’s founding meeting. In addition, the group must explain its creed and practices, and its “attitude” toward a number of social issues. Registration is not automatic. The registration application must be approved by the government in order for the organization to be registered. In Bryansk Oblast, the Interior Ministry has told the leaders of a Jewish synagogue that it has not acted upon the organization’s application for registration, on the basis of the new law. Apparently, the organizers did not provide enough information about the history of their organization.

The law limits distribution of religious materials, in direct contradiction to OSCE commitments found in the Vienna Concluding Document. Specifically, “new” religious groups are denied the right to possess or distribute religious literature—unless they are associated with a so-called “centralized organization.” This provision would affect not only religious organizations that have been established since the fall of communism, but also groups that have existed in Russia for decades but refused to register under the Communist regime. These groups would include not only non-Russian Orthodox religious groups but also Russian Orthodox congregations that are not associated with the Moscow Patriarchate.

Finally, under the new law, an existing group can be “liquidated” for a number of vague reasons, such as “undermining the social order...,” or “igniting social, racial, national or religious dissension or hatred between people,” or “forcing a family to disintegrate.” These rules for “liquidating” religious organizations appear to assign responsibility to the group guilt for acts of individuals, which is contrary to international human rights standards.

What rule did the Evangelical Lutheran mission in the region of Khakassia violate that caused it to be informed by a letter from local officials on September 30, 1997 that its registration had been revoked “in accordance with the Law on Freedom of Conscience and Religious Organizations?” After protests by church supporters in Russia and abroad, the decision was reversed by the Ministry of Justice of Khakassia.

Russia’s adoption of this law creates a climate of intolerance toward religious minorities, especially in the outlying regions. The law has been described by one specialist at the Russian Institute of Social and National Studies as, “Basically...a licence for local authorities to do whatever they want.” We have received reports over the last few months since the law was adopted indicating that local authorities have seen the new law as authority to shut down minority religious groups. A Protestant church in the town of Semnadsat near Moscow has been driven out of the facility that it had been renting for worship services and told by the mayor to “go to a nearby forest.”

Even in Moscow, which is arguably more tolerant than the outlying oblasts, members of the Hari Krishna faith report an increase in harassment by city police since President Yeltsin signed the new law. Even before the law’s passage, a Roman Catholic priest of Slovakian nationality was arrested by local police in Belgorod and warned against leading religious services, even in a private apartment. Members of the par-

ish have been warned to stay away, at the risk of losing their jobs. The national office of Jehovah’s Witnesses in Russia has received reports of five religiously motivated attacks on missionaries and tourists during August and September of 1997.

The overall picture for religious liberty in Russia is much better than it was during the Cold War. Nevertheless, both in terms of the written law and local implementation, this law represents a major step backwards from the Russian commitment to OSCE standards on human rights and international standards on religious practice. The September 25, 1997 monthly religious supplement of *Nezavisimaya Gazeta* stated that, “It is absolutely unacceptable to divide religious believers into bearers of appropriate and inappropriate religions for the citizens of Russia. This contradicts the constitution of the Russian Federation as well as the Universal Declaration of Human Rights... .”

Moving on from Russia, there is the case of Word of Life, one of the largest churches of the minority Christian community in Azerbaijan. The Azerbaijani Government has denied this congregation legal status, while its sister organization engaged in charitable work with the refugee population received registration a few years ago. A similar situation exists in Uzbekistan, where minority religious groups are refused registration and continue to face harassment by security forces. Pastor Denis Podorozhny has been imprisoned a number of times, and his congregation continues to be harassed by Uzbek security forces. In Bulgaria, the government continues to restrict the practice of a number of non-Orthodox religious groups. In Albania, minority religious groups, including the Evangelical Alliance, are also refused registration, severely hindering their ability to freely practice their religion. Particularly worrisome is Macedonia’s new law that restricts the registration of religious communities, to groups having at least 100 adherents and refusing to register a community if it has the same creed as a previously registered faith community.

Jehovah's Witnesses have been denied registration in a number of OSCE participating States, including Armenia, Bulgaria, Greece, and Latvia and have been subjected to various forms of harassment, including the prohibition on importation of religious literature and denial of the freedom to assemble for worship services.

Religious liberty infringements persist for the Christian community in Turkey, where members of minority religions, including Armenian and Syrian Orthodox believers, as well as Roman Catholics, Armenian, Chaldean, Greek and Syrian Catholics, and Protestants have faced various forms of discrimination and harassment, including the inability to obtain permission to build modern facilities or to renovate existing churches. The recent visit of the Ecumenical Patriarch to the United States highlighted the plight of the small community of Greek Orthodox believers in Turkey and the repeated requests by the Patriarchate for permission to reopen the Orthodox seminary on the island of Halki closed by the Turkish authorities since the 1970s.

In Greece, evangelical Protestants and the Jehovah's Witnesses are relegated to second class status. When a minority religious community wishes to build a new facility or hold a large public meeting, they often must obtain permission to proceed.

Intolerance against individuals expressing alternative religious viewpoints has led to severe restrictions on religious liberty among OSCE participating States. With angry charges of proselytism, many governments prohibit religious groups from engaging in free speech or printing materials intended to persuade individuals to understand and perhaps join a particular religious community. Examples of restrictions on free speech that contradict Helsinki commitments can be found in the laws of Azerbaijan and Armenia and in the constitution of Greece. In addition, religious speech is restricted in practice in

Uzbekistan and Turkey.

Intolerance of minority points of view is rising in many of the participating States. In Germany, the Scientologists and at least one charismatic church have come under intense scrutiny by local officials and the German Bundestag's Commission of Inquiry on So-called Sects and Psycho-Groups, have faced other forms of harassment, and have been the target of vandalism and threats of violence. Also in Germany, Scientologists, including U.S. citizens, have been subjected to pervasive civil, political and economic discrimination, harassment, surveillance, and orchestrated boycotts.

Harassment, including police brutality and attacks and other vicious crimes by extremist groups against Muslims have been reported throughout Europe, including in Germany, France and the United Kingdom. Muslims have been denied permits to build or repair mosques in the Czech Republic, Bulgaria and elsewhere in Europe, and Muslim women are frequently the subject of attacks, discrimination and other forms of abuse and harassment because they choose to wear a head covering.

France's Parliamentary Commission on Sects has categorized Jehovah's Witnesses as a "criminal sect" for its prohibition against blood transfusions. Mormons continue to be the subject of continued acts of harassment, including confiscation of religious materials and physical assault in Bulgaria. The struggling Jewish communities in Eastern Europe are often made scapegoats for the pain of the transition from centrally planned economies to market capitalism. This scapegoating is seen in the rise in desecration of Jewish cemeteries and memorials while skinhead gangs and hatemongers increased their activity throughout Europe. Catholic believers face serious impediments to the practice of their faith in Russia, Greece, Turkey, and Romania.

Mr. Moderator, this listing of specifics reit-



erates points made in other presentations. While this is so, these specific examples deserve restatement, and the compliance issues they represent should be addressed by the responsible States as soon as possible to bring their performance into compliance with their commitments under the Helsinki Process.

In closing, I particularly want to emphasize that the international standards I discussed at length at the outset are not “American” standards. They are international standards agreed to by all participating States. While I have named specific countries and specific cases, I also want to make it very clear that the purpose of raising these points is to improve compliance with human dimension commitments. The citizens of every participating State should be able freely to enjoy the rights and freedoms their governments have promised them over and over again in these various international agreements. The closer we all come to realizing those promises in reality, the stronger and better our international relationships will become. Thank you.

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### **Freedom of Thought, Conscience or Belief**

STATEMENT OF DAVID LITTLE  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 13, 1997*

The U.S. delegation is greatly encouraged by the expansion of religious freedom among OSCE states that has taken place in recent years. Vast numbers of people long suppressed are at last free to express and practice their beliefs. However, there are three areas of continuing concern in respect to further promoting the freedom of thought, conscience or belief:

1) the misuse of the registration of religious groups;

2) the denial of religious free speech; and

3) the rise of intolerance caused by government interference, especially toward minority religions.

### **The Misuse of the Registration of Religious Groups**

Registration of religious groups can be—and often is—applied in a discriminatory manner, contrary to OSCE standards. The Government of Azerbaijan continues to deny legal status to the church sometimes called Word of Life, as does the Bulgarian Government. Several OSCE participating States refuse to register Jehovah’s Witnesses, including Armenia, Austria, Bulgaria, Greece, and Latvia. The Albanian Government denies registration to some minority religious groups, such as the Evangelical Alliance. Macedonia recently passed a law restricting registration to groups of at least one hundred members and refusing registration to more than one group with the same creed. In Greece, a non-orthodox religious group must qualify as a “known religion” before it can obtain a “house of prayer permit,” and the procedures and criteria for so qualifying are ill-defined.

Although the Turkish Government has made some attempts, mostly in Istanbul, to improve relations with minority Christian communities, there are still problems in regard to obtaining permission to construct modern facilities and to renovate existing churches. That is especially true of those minorities, such as the Syrian Christians and others, who were not designated in the Lausanne Treaty. Some specific cases of minority restrictions are particularly hard to understand, such as the refusal to reopen the Ecumenical Patriarch’s seminary on Halki Island after twenty-five years, despite repeated inquiries.

The U.S. delegation expresses particular concern over a new law, “On Freedom of Conscience and on Religious Associations,” adopted by the

Russian Federation on 22 September 1997. This law unfairly denies rights of property, publication, education, distribution of literature, and access to public institutions to religious groups who have existed less than fifteen years in Russia. The enactment of this law creates the danger that a climate of officially sanctioned intolerance could develop. We devoutly hope this will not occur. Still, a number of disturbing incidents associated with its application, involving new obstacles to registration and increased harassment of religious groups, have already been reported, particularly in the provinces and remote areas.

### **Denial of Religious Free Speech**

The provisions in the OSCE documents that guarantee free speech and protect it against fraud and other forms of coercive subversion are fundamental to the rule of law and the freedom of religion. Laws against proselytism not in keeping with those provisions constitute a violation of OSCE commitments. Such laws are to be found in Armenia, Azerbaijan, and Uzbekistan. The Government of Greece has given assurances that it is making an effort to narrow its understanding of illegal proselytism. Whether its interpretation conforms to the provisions of the OSCE documents is doubtful in light of the continued arrests of Mormons and Jehovah's Witnesses on charges of proselytism.

### **Rise of Intolerance and Governmental Interference**

The U.S. delegation notes with concern the general rise of intolerance toward minority religions or beliefs. We are troubled by reports that France's Parliamentary Commission on Sects has characterized Jehovah's Witnesses as a "criminal sect" for their beliefs concerning the impermissibility of blood transfusions, and Germany's Federal Administrative Court denied the same group the status of "public body" on the grounds that the church did not offer "indispensable loy-

alty" towards the state by refusing, for example, to participate in public elections. In Austria, a government initiative exists to protect citizens from so-called "dangerous" religious cults or sects not included among the thirteen officially recognized religious organizations.

Finally, the same difficulties apply to the treatment of members of the Church of Scientology in Germany, and of some evangelical and charismatic Christian churches. The state governments of Bavaria and Baden-Wuerttemberg screen civil service applicants for membership in the Church of Scientology, as do most major political parties. Some individuals have lost their jobs because of their affiliation and not because of any specific criminal conduct on their part, in violation of basic OSCE principles of freedom of association. The Bundestag's Commission of Inquiry on So-Called Sects and Psycho-Groups which is investigating the alleged "dangers" posed by some groups could lead to the black-listing of additional individuals. These instances contribute to a climate of intolerance and also appear to fall short of the obligations connected with protecting religious freedom or belief, in particular by attributing guilt by association.

We raise these criticisms in a constructive spirit, hopeful that all participating States will recommit themselves to the sometimes difficult task of fostering what the 1989 Vienna Concluding Document calls "a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers."

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**Enhancing Human Dimension  
Commitments; Human Dimension  
Mechanisms and Other Procedures  
Relevant to the Human Dimension;  
the Human Dimension Aspect of  
OSCE Missions**

STATEMENT OF ERIKA B. SCHLAGER  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 13, 1997*

Mr. Moderator, after the celebrated breakthroughs achieved in the 1989 Vienna Concluding Document, the 1990 Copenhagen Document, and the 1991 Geneva and Moscow Documents, I recall an American colleague of mine suggesting that the days of drafting new commitments in the Helsinki process was—as he put it rather categorically—over; history; finished. Certainly, it seemed by 1992 and 1994 that a great burst of extraordinary momentum had passed.

Sometimes, however, I wonder if we have really achieved all that can or should be achieved in this area, especially at a meeting like this one. Here, my delegation sometimes finds ourselves fundamentally at odds with certain delegations over the meaning of basic OSCE commitments that, we had thought, were perfectly clear in their meaning. Perhaps, I find myself wondering, we might do better to return to the negotiating table in an effort to resolve these differences of interpretation, and to elaborate ever more clear and more precise standards.

I am still not sure.

But without doubt, there is more that all governments around this table, including my own, can do to implement the commitments we already have. Implementation by OSCE participating States remains the primary obligation of governments themselves and implementation review remains the most important tool we have at our disposal to achieve that goal. In short, while I sometimes find myself wondering if we might

need more fully elaborated commitments, I rarely if ever find myself imagining what new institutional procedure or mechanism might instill political will in this or that capital where none seemingly exists.

The very existence of most OSCE missions suggests, of course, an environment in which some threshold level of political will to cooperate with the OSCE already exists in the host country. We might reasonably ask if there is more we can do to foster the effectiveness and efficiency of the missions we establish.

For this reason, my delegation was particularly heartened that an Irish non-governmental organization, the International Human Rights Trust, has given serious thought to this issue and offered its views at a recent ad hoc meeting of the Permanent Council. Non-governmental scrutiny of OSCE activities helps ensure greater accountability for our actions and we welcome those who offer their views on all aspects of OSCE work.

In general, we believe that many of the ideas raised by the International Human Rights Trust were constructive ones that warrant further consideration. In particular, we agree that training for mission members should be reinvigorated and enhanced. The ODIHR, of course, should be a central player in any efforts to improve mission-member training. De-briefing of mission members would also form a useful part of evaluating the effectiveness of training programs and assessing mission needs.

At the same time, I must also admit that cost matters, and the United States has no desire to spur a new cottage industry. But failing to ensure that mission members are adequately prepared for the tasks we give them is potentially penny wise and pound foolish.

Thank you.

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## Freedom of Expression and Free Media

STATEMENT OF NICHOLAS DANILOFF  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 14, 1997*

My name is Nicholas Daniloff. I have been a journalist since 1956 largely in Washington and Moscow. Some of you may recall that in 1986 I became involved in one of the last crises of the Cold War. I was arrested in Moscow in obvious retaliation for the arrest in New York of a Soviet citizen who was charged, found guilty of espionage, and expelled. The fabricated case against me was dismissed before the Soviet Union collapsed. Since then, the Russian authorities have gone out of their way to make me feel comfortable while travelling in the Russian Federation and I am pleased to express my appreciation for that to the Russian delegate here today.

I am a public member of the U.S. delegation. That means that I speak for myself and, I believe, I reflect the views of most of my journalistic colleagues.

My imprisonment in Moscow gave me an unusual appreciation of free media. Official journalists of the Soviet Union denounced me loudly, on command, in an effort to make me appear to be the exact equivalent of the Soviet citizen arrested in New York in preparation for an exchange. I was seriously libelled and had little chance to reply.

That bitter experience prompted me to inquire how and why the United States developed such broad freedoms of expression. It also propelled me to examine to what extent the post-Soviet states are creating independent media. It is clear that some of these states are developing democratic instincts, but some, unfortunately, are retreating towards authoritarian rule.

On the bright side, the Czech Republic recently rescinded a law which treated attacks on

the president to be seditious and criminal.

But on the other side, there are negative developments. Let me cite three:

- On October 30, 1997, a Turkmen journalist Annakurbanov, who was travelling to Prague for a training session at Radio Free Europe/Radio Liberty, was arrested on suspicion of helping the political opposition transmit information abroad.

- In the recent past, two Kyrgyz journalists Omurzakov and Sydkova were arrested for exposing corruption and offending the president with what was described as insults.

- And, thirdly, the actions of President Lukashenka—reported only yesterday in the International Herald Tribune and available here in Warsaw—suggests that he continues to tighten control over the media and is generally undermining the rule of law in Belarus.

Mr. Moderator, these adverse tendencies call for the judicious application of countervailing pressures if democracy is to be assisted. For that reason I believe—on balance—the creation of a Media Representative is a hopeful development.

However, I am concerned how this representative will be chosen. I hope it will be through an open, international search aimed at finding the best candidate. The Media Representative will need to develop a reputation for accuracy and fairness. He must have credibility with the media and the authorities. It will be important for the Media Representative to have journalistic resources at his disposal. I personally hope that this person will be an advocate for free media, rather than a mediator who resolves disputes with authority through imaginative compromises.

Regrettably, my experience as a journalist in Moscow and in Washington confirms Lord Acton's observation that "power corrupts, and absolutely power corrupts absolutely."

The Media Representative will have many challenges. Let me mention only three.

First, it is a fact that real freedom of expression is sometimes hard to tolerate. In this regard, my colleagues and I would regard the European Convention on Human Rights as an insufficient safeguard of free expression because of the restrictions it could impose on media. The remarkable American Supreme Court Justice Oliver Wendell Holmes once said that freedom of the press means “freedom for the expression of ideas that we loathe and believe fraught with death.” In 1996, 10 journalists in Russia, Ukraine, Tadjikistan and Uzbekistan were murdered because someone loathed the ideas they put forward.

Second, there is the economic situation. Journalists in the newly independent states are generally poorly paid. Until the economies of these states become strong, journalists will be vulnerable to taking payoffs and bribes. That, in turn, diminishes their credibility in the eyes of the public and the authorities.

Third, there is the constant challenge of new technologies, particularly satellite communications which carry e-mail, fax, and voice messages. These satellite messages can be monitored by foreign intelligence agencies, and aborted by hostile powers.

Take Chechnya, for example. We hear little these days about Chechnya.

Two reasons account for this. Journalists have stopped going to Chechnya for fear of being kidnapped. A second reason is that Russia has been creating a territorial and information blockade around Chechnya. I have personal experience with satellite-borne messages which travel towards Chechnya and Dagestan but which never arrive. In the meantime, I wonder who is reading my mail. This sort of experience chills reporting and induces self censorship.

A few details about Chechnya leak out, but

we have little means to confirm them. We hear that respiratory diseases, parasitic and intestinal ailments are rampant. If Chechnya had open communications, not only would we have more accurate information, but doctors in the West could, at least, offer medical advice.

If Chechnya had open communications, we would also have a much better fix on the land mine situation. A million landmines are reported to be scattered across Chechnya but their locations are uncertain. These mines represent a threat to anything that moves.

Finally, consider the number of individuals who have been kidnapped. We think the number is now about 114. Of these, some 30 are reported to be foreigners—aid workers and religious representatives from Britain, Austria, Germany, Hungary, France and Japan. At least another 40 are Dagestanis, and the rest are individuals from post-Soviet states.

Mr. Moderator, anyone who has been held against his will, in isolation and under primitive conditions, knows how desperate their situation is.

In conclusion, let me wish the future Media Representative success. May he keep in mind this thought: information aborted is enlightenment denied, is democracy diminished.

Thank you.

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### **Freedom of Association and the Right of Peaceful Assembly**

STATEMENT OF JOHN J. FINERTY  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 14, 1997*

The right to peaceful assembly and association is a fundamental prerequisite for the creation of a civil society and democratic system of gov-

ernment. What these rights ensure, at their most basic level, is that the will of the people serves as the basis of the authority of government. As Thomas Jefferson said in 1801, “the will of the people is the only legitimate foundation of any government.” Without the right of citizens to meet and articulate their concerns—whether through non-governmental organizations, trade unions or, for that matter, in peaceful protests—a genuine democracy simply cannot exist. In short, these rights hold in check the unfettered power of the state. While the right to freedom of association and assembly is generally respected in most OSCE states, there are some violations which persist, and some instances of backsliding.

In Belarus, for instance, the government has acted to control the activities of independent organizations, harassing and intimidating non-governmental organizations by raiding their headquarters, arbitrarily raising rents, auditing books, or freezing bank accounts. The Belarusian Congress of Democratic Trade Unions continues to be denied registration and activities of independent trade unions are hindered, their leaders and members threatened or dismissed. Many state enterprises ignore the independent trade unions and refuse to negotiate with them.

Perhaps the most visible form of the restriction on the exercise of these rights, however, has been in connection with public rallies protesting government policies. Throughout 1996 and 1997, citizens participating in these rallies have been arbitrarily arrested, beaten, and fined. Police violence against demonstrators, and even bystanders, has been common, and police often broke up demonstrations. Detainees taken to regional police stations during and after demonstrations have been mistreated and their rights violated. In some instances, individuals have been detained by the Belarusian Government in an effort to prevent demonstrations from being held. In other instances, innocent bystanders have been detained. Demonstrators have faced repercussions

in their workplaces or universities. Organizers of demonstrations, including leading members of the now-disbanded parliament, have been harassed, arbitrarily arrested, tried and sentenced to administrative detention or large fines. Last month, twenty-one-year-old Nadezhda Zhukova, who works as a trial and demonstration observer for the Belarusian Helsinki Committee, was assaulted and warned not to participate in future demonstrations or attend trials.

A March 1997 Presidential Decree in Belarus severely inhibits the organization and preparation of demonstrations and sets limits on how demonstrations could be conducted. Among other restrictions, it forbids the use of unregistered flags, posters and other objects considered insulting to the honor of state officials. A system of extremely high penalties was established for violations of the decree. Indeed, it is not accidental that the clampdown on freedom of association and assembly in Belarus has grown at the same time that President Lukashenka has steadily amassed more powers.

Freedom of association is not respected in Uzbekistan. There are no opposition political parties, since Erk and Birlik, founded in the late 1980s, were forced underground in 1992 and 1993 respectively. Authorities have refused to register an independent human rights organization, the Human Rights Society of Uzbekistan. A presidential advisor told the chairman of the Society last summer that it would not be registered for at least a year. In contrast, a pro-government human rights society was registered quickly, without meeting all legal requirements.

Freedom of association is not respected in Turkmenistan. Not only are there no opposition political parties, only one party—the Democratic Party headed by President Niyazov—is registered. Turkmenistan simply does not permit NGOs which would take positions contrary to official policy or are not under the control of the government.



In Azerbaijan, the opposition parties Musavat and the Popular Front are under constant pressure. Representatives of both parties report that local authorities refuse to allow them to hold meetings with their representatives or to engage in political work among the population. Both parties also maintain that they have members who are in prison for political grounds.

In Turkey, the authorities have occasionally prevented peaceful gatherings from taking place, usually on the pretext that organizers or participants may be linked to separatists. In early May, for example, a conference on "A Peaceful Solution to the Kurdish Question in Turkey" organized by the Human Rights Association of Turkey and nearly a dozen other Turkish NGOs that was to have been held in Ankara was banned in a decree that referred to "the presence of people and organizations carrying out activities against our country." Such noted NGOs as the Sakharov Foundation and Physicians for Human Rights were to have participated. In a more recently reported development, Ufuk Uras, Akin Birdal, Yavuz Onen and Ahmet Turk have been charged with violating Article 2911, the law on meetings and demonstrations, for "illegally" reading the Susurluk Report in public. The four face up to three years if found guilty.

Mr. Moderator, it is unfortunate that some governments, instead of moving forward in respecting the basic human rights of freedom of assembly and association are moving in the direction of increased authoritarianism. This is directly contrary to the commitments which these governments have undertaken in the Helsinki Accords and deserves our strongest expressions of concern.

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## **Freedom of Movement**

STATEMENT OF RONALD J. MCNAMARA  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 14, 1997*

Mr. Moderator, among the cherished rights enshrined in the Helsinki Final Act and other OSCE documents is the right of the individual to travel freely at home and the right to leave and return to one's country.

I vividly recall one weekend in the late 1980s when tens of thousands of Hungarians, recently issued passports for the first time, invaded Vienna, exercising en masse their right to leave and return to their country. Within a year, the Berlin Wall—not only a symbol of the ideological division of Europe, but a formidable barrier to freedom of movement—fell.

With the passage of time and as more and more individuals have exercised this fundamental right, it is easy to lose sight of the barriers that remain.

In Bosnia-Herzegovina, a number of policies and measures have served to discourage the return of persons to their former homes, though some progress has been made. Notwithstanding provisions of the Dayton Accords, the parties have failed to implement adequate amnesty laws and substantial obstacles to freedom of movement and return of refugees and displaced persons remain. In general, the pattern of violations of freedom of movement in the Republika Srpska suggest a systematic policy of attempting to achieve ethnic homogeneity.

Problems persist in Croatia both for Serbs trying to return to their original homes and for non-Serbs returning to homes in Eastern Slavonia.

In Serbia, some ethnic Albanians from Kosovo have been denied their right to return to

that country after travelling abroad.

While the situation with respect to freedom of movement in the Newly Independent States has markedly improved, some problems continue. The “*propiska*” or resident registration requirement—a symbol of state control during the Soviet period—reportedly continues to be employed to varying degrees in several participating States, including Belarus, the Russian Federation, Kazakhstan, and the Kyrgyz Republic.

It is worth noting the particularly high fees for registration in Moscow, fees that can reach into the thousands of dollars. Those not registered in Moscow cannot work legally, are not eligible for social benefits, may not send their children to school, and may not vote. Discriminatory document searches and expulsions in the Russian capital occur periodically.

Exit visa requirements remain on the books in Belarus, Kazakhstan, Turkmenistan, Ukraine and Uzbekistan, though enforcement varies widely.

Finally, access to so-called “state secrets” can be used as a pretext to deny an individual the right to freedom of movement in Armenia, Belarus, Moldova, the Russian Federation and Ukraine.

Mr. Moderator, as we approach the 10th anniversary of the fall of the Berlin Wall, the United States delegation urges the participating States to remove those remaining barriers to the free exercise of the right to freedom of movement.



## Prevention of Torture

STATEMENT OF DOUGLAS A. JOHNSON  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 17, 1997*

A close friend recently returned as an election monitor in Bosnia and called me to talk about a disturbing phenomenon. In the course of monitoring the elections, she became close to a number of Bosnians who confessed to her in private that they suffered from nightmares, a sense of despair, and had frequent thoughts of suicide. They talked to her because she was an outsider; they were not able to talk about these feelings to their families and friends for fear of being thought crazy or weak. They each brought to her a sense of isolation, a belief in the uniqueness of their suffering. But since no one was talking to another, they failed to understand that their symptoms are how normal people react to the perverse situation of war and atrocity.

Victims of torture, including rape, and other human rights abuses, often blame themselves and their imagined weaknesses, both for what happened to them and how they cope with the after-effects. The humiliation and shame accompanying torture, coupled with the loss of trust in institutions and people and a pervading sense of fear, make victims often unable to function as advocates for their interests and needs. And the fear of torture, its very ugliness, encourages the rest of society to turn away from the subject, and even to deny its pervasiveness or its serious impact. These mutually reinforcing tendencies allow governments to use torture as policy while begging for time and understanding from the international community about their special needs as societies.

The world community’s concern about egregious human rights abuses must incorporate both our alarm and shame about what is occurring now, in the police stations and prisons of our nations, but also must be informed by a sense of



urgency about the long-term impact torture has on our societies.

I come from a peaceful part of U.S., with a relatively small population. Yet our state is now home to 14,000 survivors of torture from around the world, including many from states in the OSCE. Perhaps 400,000 torture survivors now reside in the U.S. We have become a repository for a tremendous reservoir of pain and suffering, not only of the victims, but also through the pain passed on to the victims' families, especially the children. I say this to underscore that the outrage about torture we express also emerges from the growing realization of how our societies—all societies—are damaged by the sin of torture.

This means that the criticisms of states which willfully plan, or condone, or tolerate the practice of torture will not go away. The criticisms cannot be waited out. In fact, as we learn more and understand our connections more profoundly, those governments which tolerate torture will face increased isolation, disappointment in them from civilized nations, and even anger.

The State of Minnesota recently gave the Center for Victims of Torture a major grant to train all of the health and human services systems in the state to recognize, assess, and treat survivors of torture living in our state. In doing so, legislators recognized their responsibilities to provide care for our new citizens; but they also began to discuss how the state could seek legal redress and compensation from those states which employ torture.

Many Americans have come to see torture survivors as leaders stolen from their societies, often the natural leaders of our refugee populations intentionally disabled by the political strategy of other nations.

The unqualified commitment of OSCE states in the 1989 Vienna Concluding Document prohibits torture and promises effective measures to prevent and punish such practices. These com-

mitments appear to be ignored by a number of states. These OSCE members have not ratified the Convention against Torture: Andorra, Kazakhstan, The Holy See, and San Marino. We strongly urge that they do so.

There are also a number of countries where torture is still actively used.

Despite its many commitments and promises, torture continues unabated in Turkey. The Turkish constitutional ban on torture notwithstanding, the Government of Turkey has failed to effectively stop this pernicious and widespread practice. Human rights lawyers and physicians who treat victims of torture have concluded that most persons detained for political crimes usually suffer some torture during periods of incommunicado detention in police stations and other facilities. Rather than working with these human rights leaders, the Government of Turkey has repeatedly pursued spurious charges and legal attacks to try and silence their calls for justice.

Unfortunately, it appears that the much heralded reduction of periods for the detention of those accused of certain crimes is circumvented by the police with great frequency. I note the letter from Mr. Yavuz Onen, President of the Human Rights Foundation of Turkey, distributed last week to all delegations at the conference, which described, among other aspects of the Turkish human rights record, how official police logs are postdated to give the appearance that the person's detention was limited to the proscribed period. As a result, the law has failed to deter the use of torture in Turkey.

While believing the need to effectively respond to the murderous terrorism of the Kurdistan Workers Party (PKK), we do not find this an acceptable excuse for torture. Torture occurs throughout the nation and is not limited to the southeast; torture is used against children, common criminals, political opponents of many persuasions. Torture's purpose is to frighten and control society. I recently held talks with a promi-

nent Turkish Government official with responsibility for human rights monitoring. "We are a country of 60 million people, but only 1 million are involved in any form of civic organization. And do you know why?" he asked me. "It is fear. Turks have learned to be fearful of public engagement and activity. We have retreated to private life."

The situation of the children and young people tortured in Manisa in December 1995, illustrates the depth of the problems the nation faces. Twelve young people, as young as 14, were accused of supporting an illegal organization. They were brutally tortured, including sexual molestation, beatings, and electric shock. Despite the nation's horror, one year later, many of these youth were convicted and sentenced to jail terms; the only evidence against them was their confessions under torture. Just a few weeks ago, a three-judge panel in Manisa backed down in the prosecution of the police officers accused of torturing the young people; the officers refused to appear in court, claiming it would jeopardize their counter-terrorism duties. Needless to say, the officers are still on active duty.

In this and many other cases, the Turkish Government has failed in its duty to protect its citizens, and its obligations to seek justice and provide compensation and rehabilitation to the victims.

Ironically, those who seek to assist the victims of torture in Turkey, rather than gaining the support and encouragement they deserve, are themselves subject to harassment and intimidation by the authorities in Turkey. Just two weeks ago, the Turkish Government brought the fourth set of charges against leadership of the Human Rights Foundation in as many years. While three of these harassment charges stem from Turkey's blatant violation of the principles of freedom of thought and speech, the charges leveled in Adana are truly bizarre. The Turkish Government prosecuted the medical director of the Adana branch of the Human Rights Foundation of Turkey for

refusing to turn over the names of his clients to Turkish authorities, an action that would seriously breach the requirements of doctor-patient confidentiality enshrined in medical ethics around the world. His case is currently on appeal.

In Russia, prisoners' rights groups have documented numerous cases in which law enforcement and correctional officials tortured detainees and prisoners. Law enforcement officials have admitted unofficially to the Moscow Center for Prison Reform that they use torture to coerce confessions from suspects, often by cutting off oxygen to a gas mask, a form of torture known as "the elephant." Brutality by the guards is rampant and notorious.

A 75-page report entitled "Torture in Russia: This Man-made Hell" issued by Amnesty International describes numerous instances of torture and ill-treatment of criminal suspects in the Russian Federation, as well as reiterates another report on the pervasive use of torture and violence against new recruits in the army. Among the practices of physical abuse described are partial asphyxiation, beatings, and hanging individuals by their arms tied behind them. Members of ethnic minorities and the disabled are particularly vulnerable to abuse, with a specific pattern of ill-treatment of detainees from the Caucasus by law enforcement officials in Moscow and other parts of Russia.

During 1996, the Moscow Committee for Prison Reform reported that, according to official Interior Ministry statistics, over 3,000 detainees died in temporary holding isolators and SIZO's and over 9,000 convicts died in prisons and penal colonies.

To its credit, the Russian Presidential Human Rights Commission has pointed out that existing legal norms and administrative instructions failed to provide specific, clear regulation of the application of physical force and that this allowed "the use of impermissible physical coercion di-

rected against prisoners virtually without restraint.”

Detailed reports of the use of torture can also be cited in Republika Srpska, Georgia, Azerbaijan, Uzbekistan, and the Ukraine. The Ukrainian Government, like the Government of Turkey, has chosen to repress the treatment center for torture victims in Kiev, rather than seeing it as a useful ally to halt the pernicious use of torture. It is this calculated move that undermines both governments’ claims to act in good faith to control their security forces and to end torture.

### **What Can Be Done?**

Action must be taken to increase transparency, to promote accountability and to end impunity, and to restore and to heal individuals and communities. A combination of approaches must be used in all three spheres of purpose.

#### **Prevention of Torture Requires:**

##### *Transparency*

1. Training of forensic specialists to assess and diagnose torture, giving them structural independence, including private meetings with victims away from police observance, and strengthening ethical and legal obligations to report the crime of torture.

2. Permitting neutral monitors and observers to appear at police stations, prisons, and other areas of detention, with full access and protection for monitors.

3. Establishing, permitting, and protecting independent care facilities for torture survivors, which can also play the role of documentation and testimony as neutral third parties. They provide balance and a check to the official forensic system to assure its impartiality and technical capacities.

4. Encouraging the formation of human rights NGOs which will monitor and report local con-

ditions and create new constituencies to protect human rights.

5. Permitting and encouraging full press reportage of human rights violations.

##### *Breaking impunity*

Impunity is both a legal and a moral issue. Torture continues where a veil of silence is permitted and where those who torture are cushioned from their actions. From as diverse experiences as Argentina and South Africa, we hear of police torturers who return home at the end of the day to play with their kids. It is as painful for them when their families learn of what they do as it is to face legal sanctions. We need to break both forms of impunity, so they feel shame for what they do and feel legal jeopardy. These are both needed for either to work successfully.

1. Public officials need to demand punishment for police who torture. As torture is a violation of law for every level, actions should be pursued on the local, national, and international levels. (As in New York, where police face local charges and national charges.)

2. Where courts have been unsuccessful dealing with torture cases (as in Turkey), special courts should be established to address these sensitive questions. The judges should be chosen for a reputation of high competence, independence, and honesty. They should have special training on the issues of torture and its impact. They should be institutionally isolated from pressure and protected. They should have full access to medical (including forensic) and legal experts to evaluate evidence. Their experience, and the precedents established, should encourage and train the general judicial system to respond to these issues, making it eventually possible to return cases to the normal judicial system.

3. Those officials who neglect their duties to stop torture, as well as those involved in promoting, designing, and training systems of tor-

ture, should be held legally liable for their actions. National laws should permit civil cases as well as criminal complaints, and prosecutors should be encouraged to pursue cases up the chain of command.

4. National action can be encouraged by international action; sometimes international action can embarrass a country to act when it has not. Legislation, such as the U.S. Torture Victim Protection Act, can be enacted throughout the OSCE region to reduce safe havens for perpetrators.

5. A legal assistance fund could be established to help survivors who wish to apply to the European Human Rights Commission or the European Court.

### *Restoration*

Torture's purpose is the destruction of leadership and community, to create cultures based on fear. Torture's impact is tremendous pain and suffering. But it is also the creation of public apathy and non-involvement in public life. Democratic cultures only develop where civic society is active and involved. Torture is one of the most effective weapons against democracy.

Our notions of prevention of torture must also incorporate ideas of rehabilitation and restoration of leadership and community.

The Convention against Torture requires all ratifying states to provide for the rehabilitation of torture survivors. Most survivors, as victims of government action, would prefer this care to take place in a non-governmental organization or clinic. This does not absolve the government from its responsibility to assure that care is available.

A number of OSCE nations have recognized their obligations to provide for rehabilitation for torture survivors: We should celebrate the leadership of Denmark in this regard, and the fine

work accomplished in a partnership between NGOs and governments in Canada, Sweden, Norway, Germany, France, and the Netherlands.

Other governments have tolerated but not actively supported the treatment of survivors at specialized centers in their borders, and so have partly fulfilled their obligations. In this group we include the U.S., Greece, Lithuania, Estonia, Latvia, and Russia.

Elsewhere, such as the Ukraine and Turkey, excellent programs are being suppressed to mask government activity in torture.

1. Each OSCE nation should have at least one model treatment center for torture victims, adequately funded for delivering care to a number of survivors and for functioning as a learning and training center for other health and human service systems in the country. The centers can provide independent documentation, providing a necessary check and balance to formal forensic systems. But their primary purpose must be the restoration of health of the victims and their families, plus aiding communities to deal with the problems associated with trauma-based fear.

2. Torture victims should be compensated for pain and suffering, fully reinstated in their jobs, and protected from retribution.

3. Where human rights atrocities have been widespread (as in Bosnia), steps should be taken to educate the public about the normal human response to extreme traumas. Radio and television spots, as well as other forms of public health education, should intend to remove the sense of isolation that often arises from these normal symptoms, and propose basic first aid and self-help programs, as well as referrals to specialists.

4. Human rights atrocities leave symptoms that last a life time in the victim, but also have enduring impact on future generations. Programs should be undertaken to understand the impact



of trauma on children wherever repression has been used, and assistance provided to reduce the symptoms and impact of trauma.

5. OSCE nations should dramatically increase their contributions to the UN Voluntary Fund for Victims of Torture, which invests in treatment centers for torture victims around the world. With a minimal need of \$25 million per year, the Voluntary Fund has only \$3.2 million per year to distribute to this important task. Every nation of the world should be a full participant as donor to the Fund, and should make contributions indicating their appreciation of the scale and the seriousness of torture as a problem for individuals with long-term consequences for our societies. The U.S. has increased its own contribution by a scale of 15 times over the past 5 years, and efforts are underway to expand this contribution still further. But we must all work together so that the Fund represents our mutual and deeply felt concern for torture survivors and our common aspirations for healing and rehabilitation of the victims.

How might these approaches and others be developed, evaluated for effectiveness, and disseminated to states and NGOs within our community?

The OSCE could establish an experts group similar to that established on freedom of religious practice to highlight tactics to promote tolerance. But this experts group will make judgments and recommendations on how to promote *zero tolerance for torture*. It should examine what mechanisms have been successful in other nations to end the practice of torture, and what vehicles, both encouragements and disincentives available to the OSCE community, can be used to pressure those states using torture to comply with their international obligations and their duties to their citizens.

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### **The Functioning of The ODIHR; Further Integration of the Human Dimension into the Regular Activities of the Permanent Council**

STATEMENT OF JANICE L. HELWIG  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 17, 1997*

Mr. Moderator, in the time since the OSCE participating States first established an Office for Free Elections, that institution's tasks have evolved and expanded, as reflected in the change of its name. Unfortunately, while the ODIHR has been given ever increasing responsibilities, it has not always been given a clear sense of priorities or the resources commensurate with its expanded mandate. Moreover, some of the specific tasks assigned to the ODIHR, such as supervising elections in Bosnia and helping to re-establish order in Albania, were of an unprecedented and extraordinary nature.

Reflecting the need to revisit the framework for ODIHR activities, the Permanent Council approved in June a new *concept* for the ODIHR, one that addresses structural needs and outlines future priorities. Ambassador Stoudmann had begun to implement this *concept* and, while it is premature to draw final conclusions regarding these changes, we believe the ODIHR is on the right track.

One of most important aspects of these changes is a heightened attention to the ODIHR's operational activities. Such programs are often initiated at the request of a country which receives assistance. By building on such a country's demonstrated interest, the ODIHR can channel its limited resources to areas where they are likely to be well received and effectively utilized. We also believe that coordination and contact between the ODIHR and missions in the field can be usefully increased, with each drawing on the expertise and resources of the other.

Another way to increase the effectiveness of ODIHR programs is to adopt regional or country-specific plans. One commendable example of this is the recently signed Memorandum of Understanding with Uzbekistan. In this way, the ODIHR programs can be seen as part of a whole program aimed at improving human dimension implementation and not simply a series of unrelated activities.

The ODIHR is also honing its proficiency in election-related activities. Consistent with a greater emphasis on more operational activities, this does not mean that the ODIHR is engaged only at the time of an election, but may provide pre-election training or follow-up programs based on the final election report and recommendations.

We support recent steps to expand the ODIHR's personnel and other resources so that it may fulfill its ambitious program. We should all remember, however, that while the ODIHR is one of our most important assets in building democratic institutions and fostering the rule of law, the burden of raising instances of non-compliance with OSCE commitments remains a task for the participating States themselves. If the governments represented around this table do not have the political will to raise and report on human rights violations when and where we know they occur, it is not reasonable to believe that international civil servants will be able to criticize the very governments who pay their salaries and give consensus to their budgets.

As it now stands, the Permanent Council already has a flexible agenda which permits any participating State to raise human dimension concerns at any Permanent Council meeting. Some have suggested establishing a regular agenda item devoted exclusively to human dimension issues. This, we believe, would be a mistake.

If governments fail to raise human dimension concerns at Permanent Council meetings, it is not because they need a special tic on the agenda to do so; it is because they lack the political will to do so. Moreover, we believe that creating an agenda item for the exclusive discussion of human dimension issues might actually serve to ghettoize an issue that is, in fact, central to much of the work that we do in the OSCE and could actually create a procedural barrier that would prevent human dimension issues from being discussed at the moment when they are most pressing and relevant.

Thank you.

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## **Cultural Heritage**

STATEMENT OF PHYLLIS MYERS  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 18, 1997,*

I am pleased to have this opportunity to speak as a public member of the United States delegation. And I am especially pleased to be in Poland, where the OSCE in 1991 took the initiative, as civil society emerged in Central and Eastern Europe, to convene the Krakow symposium on cultural heritage.

Although my remarks are not the official views of the U.S. delegation or one NGO, my participation here today reflects the growing importance of cultural and architectural preservation in my country, the emphasis it places on the message of inclusiveness in cultural heritage policies, and the emergence of new risks and opportunities, especially in rapidly developing post-Communist states, that relate to the OSCE's human rights agenda.

I want first to acknowledge Poland's increased attention to minority issues in its cul-



tural heritage policies in recent years, including documentation and commitments to restitution and reprivatization. I was awed in the mid-1970's—and still am—by the spirit and quality that its renowned conservation professionals brought to the task of restoring the old cities of Warsaw and Gdansk. Later, the darker influences of communism on development in Central and Eastern Europe came to be better understood, including widespread neglect of the remnants of historic sites associated with minority and ethnic cultures following on tragic destruction under Nazi occupation.

Today, we meet in a new era. There is far more recognition of the pluralistic values of irreplaceable cultural and architectural heritage; the tremendous losses that individuals and groups have experienced; and the opportunities that private investment, private property, and democracy bring for safeguarding cultural heritage and strengthening the links between historic preservation, sustainable development, and human rights.

Countries protect cultural heritage for many reasons. In this forum it is appropriate to emphasize the critical role that cultural heritage can play in restoring a rightful place in the collective history of peoples who have been discriminated against, murdered, or forcibly evicted.

It is essential to document, acknowledge, safeguard, and bring fresh understanding to places where they lived, worked, and contributed to the stream of national history. Including these places in national patrimony makes a profound statement about people's right to identify with their cultural, religious, or ethnic heritage and at the same time to be treated as belonging to the nation. It provides tangible places where honest dialogue, education, and renewal can most effectively replace often painful and repressed memories.

Americans respond to this struggle for ac-

ceptance in the national patrimony because so many of us trace our heritage to this part of the world. More to the point, we are struggling with similar issues of truth in preservation—documenting the underground railroad that led African slaves to freedom in the North and the varied ethnic heritage and protests of workers in 19th century factories; restoring traditional names of Native American sites and adjusting their management to reflect cultural sensitivities; and changing exhibits at Mount Vernon, the home of George Washington, our first president, so that what were once called “outbuildings” are now presented clearly as “slave quarters.” Some people were uncomfortable at first, but visitors, especially children, learn much more, and more are coming.

We find that these initiatives work best when they rest on solid history, acknowledge mistakes as well as achievements, and involve people associated with the relevant cultures or events. Moreover, when places tell authentic stories they are more likely to have more success in stabilizing and revitalizing communities and attracting partners and support.

The stronger interest in cultural heritage preservation evident today presents opportunities for fuller implementation of commitments by OSCE participating States to protect cultural heritage and minority rights. Now cultural heritage revitalization has welcome new actors and partners, ranging from local governments looking for business to international investors, like the World Bank, and major international foundations.

Still, even well-meaning efforts face challenges that suggest a role for the OSCE. These include promoting a more inclusive view of national patrimony and resolution of ownership and compensation issues without inflaming ethnic and religious tensions; widening social and economic benefits while relying primarily on market forces; ensuring effective review of historic places and values while giving more say in deci-

sions to local self-government; and encouraging tourism without overwhelming often modest and sensitive sites.

Cultural continuity is threatened not only by xenophobia, but also by poorly planned large scale investments in roads, utilities, and other development; by thoughtless siting of supermarkets on ancient cemeteries and by skyscrapers that needlessly threaten precious remnants of historic settlement.

Some people see a parallel between protecting the complexity of cultural heritage and the strong movement today to safeguard biodiversity in the natural environment. Interestingly, many of the strategies that are likely to be helpful in both cultural and natural heritage protection are similar also to those discussed in more traditional human rights issues: solid information; access to decision making; transparent processes; accountability; local and community action; partnerships; and education.

It is not my intention to present easy solutions here to difficult issues of harmonizing conservation and development or recommend precisely what the OSCE can and should do. It is obvious, however, that the new democracies face common challenges in managing their diverse cultural heritage and achieving sustainable economic benefits that are shared with disadvantaged people. It is my hope that OSCE members, acting in this forum and in concert with others, will see an opportunity to advance their distinctive commitment to cultural diversity and minority rights and play an influential, constructive, and proactive role in the search for models and solutions to this important, emerging cultural heritage issue.

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## **Tolerance**

STATEMENT OF OREST S. DEYCHAKIWSKY  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 19, 1997*

Mr. Moderator, in 1928, U.S. Supreme Court Justice Louis Brandeis made a well-known reference to “the right to be let alone—the most comprehensive of rights and the right most valued by civilized man.” Though more is inferred when we speak of tolerance, “the right to be let alone” is undeniably central to it. Tolerance doesn’t necessarily mean liking someone, nor does it mean that action on someone’s behalf is required. Tolerance does mean respecting equally the rights of those with whom we share interests, as well as those with whom we do not.

If tolerance may be passive, why is intolerance such a problem that it is regularly discussed in OSCE fora, including seminars devoted specifically to the topic? The answer is twofold. First, there has been in recent years a rapid rise both of extreme nationalism and of demographic diversity in many OSCE States, and the two are not compatible. If countries must choose between the two, extreme nationalism must be abandoned. In fact, countries should and can express patriotic pride in the diversity of their populations.

A second reason for the persistence of intolerance is the fact that intolerance can be insidiously imbedded in society at large, not just in government policies, making the problem more difficult to counter. Moreover, the persistence of intolerance requires governments to deter intolerance from manifesting itself as a violent act against the rights of the individual, to condemn forcefully such acts when they do occur, and to take legal action against the perpetrators in such cases.

Instead of leading the effort to combat intoler-

erance, too many government leaders not only ignore it, but some actually encourage it and engage in it themselves.

Law enforcement officials in Moscow, particularly during the celebration of that city's 850th anniversary, targeted people with dark hair and skin, people from the Caucasus and Central Asia, refugees from developing countries, and homeless persons. Detainees have been required to undergo harassing identity checks, as well as detention and eviction from urban centers. What message does this send?

Greece asks its citizens to indicate their religious affiliation on their identity cards, implying that their answer is something of concern and implements different criteria for revoking citizenship based on one's ethnic identity. What message does this send?

In the Czech Republic, Czech citizens like Alena and Jan Petirovi are punished for adopting Romani children who lack Czech citizenship. Because the Petirovi's adopted a stateless Romani child, they have lost all financial support from the government—to which they would otherwise be entitled—for their biological child. What message does this send?

Government-controlled media in Croatia criticizes opposition figures regularly and calls their independent media counterparts "traitors" for their reporting. This created an environment in which an opposition presidential candidate was attacked and severely beaten in June and death threats are frequently received by independent journalists and editors. Meanwhile, President Tudjman recently asserted his view that some Croats are genetically inclined to dissent from the majority. What message is being sent here?

No country represented at this table, including most definitely the United States, can claim complete harmony at home, or an absence of prejudice, bigotry and hatred in society. It is critical that government leaders openly and honestly

recognize that fact, make certain they are not encouraging it further, and take the lead in combating manifestations of intolerance. Doing the latter, I would add, does not mean denying those holding intolerant views their rights to freedom of expression or even association. Tolerance does mean, however, ensuring that these people do not succeed in violating the rights of those whom they intend to victimize and speaking out loudly and forcefully against their views.

My delegation believes that, certainly, the first priority of governments is to ensure the minimum: that government officials not foster an environment which encourages people to hate and to think they can get away with committing violence against those they hate. There are, of course, more active policies that can be considered to combat intolerance—in the fields of education, the media and local government, and others. Many of these ideas were incorporated into the conclusions of the International Seminar on Tolerance organized by the OSCE, the Council of Europe and the Romanian Government in Bucharest in May 1995.

Those who are comfortable in the majority of the population which surrounds them, including government officials, should recall Martin Neimoeller's often quoted but always wrenching reminder of the consequences of ignoring intolerance:

"In Germany, they came first for the Communists, and I didn't speak up because I wasn't a Communist. Then they came for the Jews, and I didn't speak up because I wasn't a Jew. Then they came for the trade unionists, and I didn't speak up because I wasn't a trade unionist. Then they came for the Catholics, and I didn't speak up because I was a Protestant. Then they came for me, and by that time no one was left to speak up."

In a time when a 14 year-old Roma is beaten to death on the streets of Belgrade, when the head of the Bulgarian Orthodox Church calls Bulgar-

ian Evangelical Christians “traitors of faith and country,” when a member of the Czech Prime Minister’s own party offers to rid her community of Roma by buying them all plane tickets to Canada, we must combat intolerance.



### **International Humanitarian Law**

STATEMENT OF DAVID SCHEFFER  
*U.S. Ambassador at Large for War Crimes  
Issues, U.S. Delegation to the OSCE  
Implementation Meeting on  
Human Dimension Issues  
November 19, 1997*

I am grateful for the opportunity to speak before this distinguished group of governmental and non-governmental representatives today on a human rights issue that has seized so much of our attention and yet so little of our collective action.

The commission of serious violations of international humanitarian law has known few limits since the inception of the OSCE and of its predecessor, the CSCE, two decades ago. But since 1993 the International Criminal Tribunal for the former Yugoslavia has been the instrument by which the international community has sought to bring international justice to the Balkans and to deter further genocide, war crimes, and crimes against humanity. It has been a difficult but essential undertaking, and its work is far from over. Earlier this week, five new judges were sworn in to begin their four-year terms. Chief Prosecutor Louise Arbour, who will speak to us this evening, has done a superb job and deserves the full support of all of our governments.

In my capacity as U.S. Ambassador at Large for War Crimes Issues, I want to take this opportunity to bring to your attention several critical challenges facing the Yugoslav Tribunal, and suggest how they be addressed by the parties in

the region and by the governments of the OSCE.

First, three individuals indicted by the Tribunal for egregious crimes against the people and city of Vukovar, Croatia in 1991 remain at large in Serbia. The failure of Serb authorities, particularly FRY President Slobodan Milosevic, to apprehend and transfer the “Vukovar 3” to The Hague merits the public condemnation and diplomatic and economic pressure of this organization and of every OSCE government. The Serb excuse that Serbia’s extradition law prevents transfer of the “Vukovar 3” to The Hague lacks justification under international law. The time has arrived for the OSCE to challenge Belgrade on this fundamental issue of compliance.

It is instructive that no effort has been made by Serb authorities to change their domestic law in order to overcome their own discredited legal obstacles to transfer of the “Vukovar 3.” Belgrade needs to hear the same message that the indictees, including the 20 now in custody, have heard: There is no way out. If Serbia and Montenegro seek to join the international community, then their territory cannot serve as a sanctuary for individuals indicted by the Yugoslav Tribunal.

Bosnian Serb authorities in Pale and Banja Luka, who have failed to transfer a single indictee, also need to hear from OSCE governments that there is no alternative but the Tribunal for the indictees, and that there is no access to international diplomatic or economic support for those who do not cooperate with the Tribunal. We all must ensure that Radovan Karadzic and Ratko Mladic know that they have no friends and no opportunities for sanctuary anywhere within the OSCE.

Second, the Government of Croatia took an important step recently when it facilitated the voluntary surrender to the Tribunal of nine Bosnian Croat indictees, including Dario Kordic, and the transfer of one other apprehended Bosnian Croat. Croatian authorities need to take another critical step now and pursue the appre-



hension and transfer of Ivice Rajic, another notorious fugitive from the justice of the Yugoslav Tribunal. As a member of the OSCE, Croatia has a special responsibility to cooperate fully with its international obligations, particularly those relating to the protection of human rights and to the rule of law.

Third, OSCE governments have the power and responsibility to respond to several priorities of the Yugoslav Tribunal. In New York, the Calendar Year 1998 budget for the Tribunal is currently under consideration at the United Nations. The United States urges OSCE governments to give the full budget request of the Tribunal the most careful and serious consideration when it comes before the Fifth Committee of the General Assembly next month. The General Assembly must act quickly to adopt the budget for the Yugoslav Tribunal so that it may meet the full range of its responsibilities professionally and speedily.

Fourth, the United Kingdom has recently taken a pioneering step by being the first State to conclude a witness relocation agreement with the Tribunal. We understand that Norway is also completing its own work on a similar agreement with the Tribunal. These are vital tools for the Tribunal and for the safety and well-being of key witnesses who sometimes take considerable risks by stepping forward to testify. We applaud the United Kingdom and Norway and encourage other OSCE governments to follow these important initiatives and enter into witness relocation agreements with the Tribunal.

We also appeal to OSCE governments to conclude agreements with the Tribunal to provide for long-term incarceration of indictees convicted by the Tribunal. The vast majority of OSCE governments, including the United States, have not yet concluded such agreements. A larger pool of governments must be willing to incarcerate the guilty, fully recognizing that legal, financial and security considerations must be addressed by each government.

Fifth, the United States commends the German and Swiss Governments and, most recently, the Dutch Government for their willingness to prosecute individuals from the former Yugoslavia for the commission of war crimes after the Yugoslav Tribunal has exercised its primacy and determined not to use its scarce resources to pursue such cases. Such efforts by the national courts of OSCE governments must continue and, indeed, national legislatures should be encouraged to confirm jurisdictional requirements for national prosecutions of suspects from the former Yugoslavia.

Finally, the precedents being established in the rulings of the Yugoslav Tribunal are sending a clear signal across Europe, Asia, and the rest of the world: Not only can individuals charged with egregious international crimes be prosecuted and brought to justice, but each of our governments must recognize its own responsibility to use the dispute resolution instruments of the OSCE and other diplomatic initiatives to stop such criminal behavior before it inflicts massive injury to our societies.

We also must work together to establish a fair, effective, and efficient permanent international criminal court by the end of this century so as to deter such crimes and provide a readily available court for the prosecution of those individuals who threaten our collective future with genocidal ambitions.

Mr. Moderator, the U.S. Government wishes to thank Mr. Gerard Stoudmann, the Director of ODIHR, for his able leadership in this conference. The Government of Poland also deserves our deep appreciation for hosting this conference and recognizing the importance of a periodic review of the implementation of human rights principles which are the heritage, and the future, of the OSCE. Thank you.

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## **Migration, Refugees, and Displaced Persons**

STATEMENT OF E. WAYNE MERRY  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 19, 1997*

Thank you, Mr. Moderator, I will seek to be brief and to the point.

Nowhere in the OSCE region is the issue of migration more current and more problematic than in the former Yugoslavia. The number of persons, including refugees, displaced by conflict in both Croatia and Bosnia is in the millions. In addition, tens of thousands of persons from neighboring areas, especially from Serbia, fled their homes either to avoid forced military conscription or to escape the general repression of the years of open armed conflict from 1991 to 1995. With the application of the terms of the Dayton Agreement, aimed at ending the conflict in Bosnia-Herzegovina, many persons now can return home and many seek to exercise this right.

However, this process continues to be very difficult, especially in the many instances where displaced persons occupy the housing of other displaced persons because their own homes were destroyed or are denied to them. The situation is frequently made worse by local officials who prevent people from returning to their home communities despite the commitment undertaken by the parties to the Dayton Agreement that returnees are assured that right. How often during these past two years have we observed abuses of displaced persons in Bosnia—for example, the frequent instances of returning persons encountering a shower of stones by mobs organized to prevent their return to their legitimate places of residence? How many times have we witnessed the wanton destruction by fire of the houses of returnees? Despite a UNHCR Open Cities program and other inducements to returnees, repatriation in Bosnia-Herzegovina in 1997 remains below fifty percent of what the United Nations

had expected.

The most serious problems remain in Republika Srpska. My country is dismayed that even the more moderate leaders of that entity are still unwilling to facilitate the return of displaced persons and refugees despite their clear obligations and undertakings in this regard. This must change.

Officials in parts of the Federation must also improve their record, while the results of the September municipal elections in Bosnia must be implemented through the return and installation in office of the newly-elected municipal officials.

My country hopes to see a quickened pace of refugee return in Croatia. This should include the return of non-Serbs to Eastern Slavonia and the return of Croatian Serbs—who fled to Eastern Slavonia, Bosnia, and Serbia in 1995—to their original towns and villages. A very practical and helpful improvement in this regard would be a reduction in the current amount of paperwork required to process refugees and displaced persons. We also want to see additional measures to ensure adequate police protection for returning populations regardless of their ethnic identity. Such improvements have a much broader application than in Eastern Slavonia and should encompass the tens of thousands of Serb refugees from the fighting in Krajina. My country believes the Croatian Government must do much more than it has done to assure the rapid, safe, and peaceful return of these people to their homes.

In a different but also very important region for migration issues, the United States wishes to encourage continued OSCE engagement in the follow-up to the 1996 Geneva Regional Conference to Address the Problems of Refugees, Displaced Persons, Other Forms of Involuntary Placement and Returnees in the Countries of the Commonwealth of Independent States and Relevant Neighboring States. We would particu-



larly like to highlight the potential for an expanded OSCE role based on the Organization's expertise in the fields of human rights, rule of law, democracy-building, early warning and crisis prevention, and in other areas relevant for the goals of the CIS Conference. In this regard, the United States supports the work of the Migration Advisor at the ODIHR in Warsaw and regards this position as essential for maintaining OSCE engagement in follow-up activities to the CIS Migration Conference, both through the work of the ODIHR itself and by OSCE missions in the field. Finally, we support the proposed OSCE human dimension projects in the newly independent states.

Thank you, Mr. Moderator.

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**Review of the Activities of  
the High Commissioner on  
National Minorities;  
The Contact Point for  
Roma and Sinti**

STATEMENT OF JANICE HELWIG  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 20, 1997*

Mr. Moderator, I will not belabor what I believe is a widely shared view in this room: the United States has the highest regard for the work of Max van der Stoel. We will continue to support his work fully and hope all other participating States will as well.

I would like to point out, however, one concern. As you are aware, Mr. van der Stoel has been unable to obtain a visa from Belgrade to travel to Kosovo in his role as Personal Representative of the Chair-in-Office. Meanwhile, Belgrade has invited the OSCE to observe Serbian and Montenegrin presidential elections. Singling out and refusing one part of the OSCE while using another is unacceptable; it is also a

step backwards if Belgrade hopes to be reintegrated into the international community. We hope states here will join us in pressing Belgrade to issue Mr. van der Stoel a visa and to work with him to ameliorate conditions in Kosovo.

My delegation also supports the work of the Contact Point for Roma and Sinti. Nevertheless, in light of the growing threats to Roma and Sinti in OSCE participating States, we believe it is time to re-think and reinforce our activities in this area.

Mr. Moderator, in an editorial in *Transitions* magazine last month, Michael T. Kaufman wrote: "More than half a century after the Holocaust that devastated European Jewry and claimed as many as one and a half million Romani lives, rampant anti-Roma sentiment persists, disgracing Europe as the millennium lapses. It is not primarily a historical problem, though the roots of anti-Roma prejudice run deep. It is a daily social problem: a problem of lynchings, pogroms, abuse, discrimination, poverty, racism." We concur.

Is the current response of the OSCE to this crisis sufficient? It is not. More to the point, the response of the OSCE participating States is insufficient.

Bringing these issues more into the mainstream discussions in Vienna would be a step forward in getting our states to take action to correct these problems and we hope to examine ways in which the Office for Democratic Institutions and Human Rights can help us receive more information, in a more systematic way, on Roma and Sinti issues in the future.

Thank you.

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## National Minorities

STATEMENT OF DOROTHY DOUGLAS TAFT  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 20, 1997*

Mr. Moderator, it is always a bit unusual for an American to take up the subject of national minorities. As many around this table know, the United States' approach to human rights focuses, first and foremost, on individual rights. Nevertheless, we think it is appropriate to devote special attention to this agenda item in this forum for several reasons.

First, clearly some individuals continue to have their basic human rights denied or restricted because they belong to a particular ethnic, religious, or linguistic group. Please let me present some examples.

In Macedonia, some minorities continue to complain of prejudice by the ethnic Macedonian majority and point to the dominance of ethnic Macedonians in the preeminent positions in all institutions. Although education in minority languages is more developed in Macedonia than in any other country in the region, we were disappointed by reports of a proposed new law on higher education which would exclude education in those languages, even at private universities. This would seem to violate the Copenhagen Document.

In Kazakhstan, the government continues to discriminate in favor of employing ethnic Kazakhs in all government positions, where ethnic Kazakhs predominate, as well as in education and housing opportunities.

In Greece and Turkey, the governments extend certain rights to specific minority religions in their countries on the basis of the Lausanne Treaty signed in 1923. That treaty, however, does not negate the existence of other ethnic minori-

ties nor does it provide a license to deny basic rights to members of other groups. Both Greece and Turkey are bound by the 1990 Copenhagen Document which states that "to belong to a national minority is a matter of a person's individual choice." Yet in Greece, the government placed a person on trial for asserting the existence of a "Macedonian" minority, and in Turkey, the government denies its ethnic Kurd population basic cultural and linguistic rights, most recently closing down a private Kurdish language school.

Mr. Moderator, we also focus on minority issues at OSCE meetings because tensions between differing ethnic groups, often manifested by the denial of rights for persons belonging to minorities, continue to contribute to instability and, in some areas, to a threat of conflict. We need look no further than the former Yugoslavia where policies directed at differing ethnic groups proved to be the harbinger of a horrific war.

In Kosovo, the Serbian Government continues to perpetrate egregious human rights violations against the almost two million ethnic Albanians living in the region. Police brutality is commonplace and clearly designed to intimidate ethnic Albanians from pressing for their legitimate political and civil rights. The Serbian Government has failed to move forward with implementation of the Kosovo education agreement, a potentially important confidence-building measure supported by every member of the international community.

Finally, Mr. Moderator, the systematic denial of rights of persons belonging to minority groups usually stands as an indicator that democracy itself is at risk. This is, we believe, certainly the case in Slovakia.

In that country, the government's refusal to pass an omnibus law on minority language use has heightened fears among the Hungarian minority that the ruling coalition is slowly but surely seeking to whittle away and restrict practices that

have long been permitted. The decision taken earlier this year to prohibit bi-lingual grade school report cards in areas where such report cards have been issued for decades has further heightened fears among the Hungarian minority. And Prime Minister Meciar's most recent proposal of so-called "population exchanges" with Hungary sends a strong message that this particular government simply does not want its Hungarian minority.

While my delegation does not believe that these are really "inter-ethnic" problems or disputes, we do believe that they are symptomatic of the overall shortcomings of democratic development in Slovakia which effect all the citizens of Slovakia.

We know that a number of countries represented around this table share this concern. However, we do not believe that this concern is constructively manifested by calls to re-draw the borders in this region, as a member of the Hungarian Smallholders Party suggested two weeks ago. Accordingly, Mr. Moderator, we invite our Hungarian colleagues here to reiterate once again their respect for and commitment to its current borders, consistent with the Helsinki Final Act. Thank you.

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### **Roma and Sinti**

STATEMENT OF ERIKA B. SCHLAGER  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 21, 1997*

Mr. Moderator, our time is short, so permit me to be frank. It has not been a very good year for Roma anywhere in Europe. The recent vicious murder of a Romani boy in Belgrade is only the latest example of a rampant problem. Violent, racist attacks against Roma are a common occurrence in much of central Europe. Police are often described as unresponsive or, worse

still, appear to be complicit in some attacks; outright police brutality against Roma has also been reported by human rights organizations in a long list of countries. Violent attacks against Roma are seldom successfully investigated and, on the rare occasions when they are prosecuted, public prosecutors seem loathe to use statutes which permit more severe penalties to be imposed when violence is racially motivated. In a number of cases, judges themselves have shown bias against Roma.

Roma refugees from Bosnia-Herzegovina carry especially heavy burdens, as they return or are repatriated to a country which has been torn apart on ethnic lines and has not yet formed a civil society in which they can find their place. And while bilateral treaties concluded within the framework of the Stability Pact have sought to improve conditions for many minorities, Roma—one of the most disadvantaged groups in Europe today—have been left in the cold.

Mr. Moderator, three years ago at the OSCE Seminar on Roma issues, U.S. Ambassador Norman Anderson underscored the urgency of combating this deadly violence against Roma. "I am convinced," he said, "that the protection of the most fundamental rights of Roma must be respected by [OSCE] participating States before other social and economic problems can be addressed. If Roma die under suspicious circumstances while in the custody of police, if they are killed by their neighbors, if they are driven from their homes by hate crimes, if they are stripped of their citizenship and then denied the most basic rights of political participation, then programs for improving their literacy or increasing unemployment will have few chances for success."

In fact, since that seminar was held three years ago, and in the time which has passed since the High Commissioner on National Minorities issued his 1993 report on the situation of Roma, prejudice, discrimination and violence against Roma have not only persisted, it has flourished.

In many post-Communist countries, unemployment rates for Romani communities are dramatically higher--for example, ten times higher--than for majority populations. Educational and housing opportunities for Roma also remain vastly inferior to those available for majority communities. Roma children are sometimes forced into segregated schooling or, by virtue of their race alone, are automatically but unjustifiably placed into "remedial" programs. Roma have also been wrongly discriminated against in post-communist privatization plans.

Most significantly, effective legal machinery that would permit Roma to achieve legal redress through the courts simply does not exist in many emerging democracies, turning the promises of non-discrimination made in OSCE documents and national constitutions into impotent utterances.

Regrettably, most OSCE governments have either not responded to these problems at all or responded only after widespread and systematic violations of human rights have taken on the dimensions of public relations disasters.

The Government of Hungary stands as a notable exception in this regard. It has sought through a number of ways, to address the concerns of Roma. For example, the 1993 law on national minorities creates an opportunity for some local self-government by Romani communities and the parliamentary ombudsperson for ethnic and national minorities provides practical oversights of the implementation of Hungary's laws. We also welcome the establishment of the Roma Press Center, which receives some support from the Hungarian Government and seeks to improve reporting on issues relating to Roma.

My delegation also learned here, at this meeting, of a Slovak Government initiative taken on November 4 of this year to address Romani issues. Similarly, the Czech Government has also taken steps recently to step up the pace of

addressing the problems of the Romani minority there. This has included the establishment of an Inter-Ministerial Commission on Romani, initiating a collaboration between the Ministry of Labor and the Romani Civic Initiative, and hiring a Romani representative as an advisor to the Ministry Education. All of these are welcome developments. At the same time, the United States believes that eliminating, once and for all, the problem of statelessness that derives from the citizenship law and from which members of the Roma community suffer disproportionately would offer the clearest signal of the Czech government's commitment to addressing the problems of Roma.

Finally, Mr. Moderator, I must acknowledge that anti-Roma sentiments are, unfortunately, not unknown in my own country. In the past, a number of jurisdictions in the United States had passed legislation which could be called "anti-Gypsy" statutes--laws which purported to restrict the movement of those identified as Gypsies. Of course, such statutes have been unenforceable for decades and, in almost all instances, have been removed from the books. This June, the Assembly of the state of New Jersey unanimously passed a measure that would repeal what we believe is the last remaining "anti-Gypsy" statute of any U.S. State. The measure will now go to the New Jersey State Senate for final action.

Thank you.

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**Programme of Co-ordinated Support For  
The Recently Admitted Participating States;  
Improved Dissemination of Information  
Regarding The Human Dimension; Out-  
come And Improvement of, And Follow-up  
To, The Human Dimension Seminars And  
Regional Seminars; Proposals For Seminars  
In 1998**

STATEMENT OF ELIZABETH BONKOWSKY  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 21, 1997*

Mr. Moderator, I would like to make three brief, related points about seminars.

First: It strikes us that there is a disconnect between suggestions for special OSCE focus in the form of seminars, and the points which are brought to our attention in the Human Dimension Implementation Review meetings. We believe that whenever possible, seminars, meetings, and workshops should be organized to deal with problems which are raised in these meetings.

Second: We agree with ODIHR Director Stoudmann's statement during the NGO meeting last Saturday that there should be less finger pointing and more effort to assist in solving problems. We believe, in fact, that many of our participating States have made significant progress toward solving some of the problems we raise here. Accordingly, the United States has proposed a meeting dedicated to looking at successful models for integrating diverse groups into governmental structures. It is our hope that participants can be shown a variety of successful models from which they might be able to find structures and mechanisms helpful to their own particular situations.

Finally: The United States believes firmly that the purpose of these review meetings is to encourage participating States to implement the commitments they have made in the human di-

mension. While we probably all need to work harder at this task, we should also be prepared to ask for help. From time to time, we all experience growing pains and are faced with new situations. When we need new ideas, or want to look at ways other participating States have coped with similar problems, this may be the time to request a seminar or study, or to ask the ODIHR and the office of the HCNM for advice.

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**Plenary Statement**

RUDOLF V. PERINA  
*Head of Delegation  
U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 22, 1997*

Mr. Chairman:

This plenary meeting, two-thirds of the way through our conference, provides an opportunity to try to step back from our day-to-day agenda of very focused interventions and ask some larger questions:

- What, if any, is the common theme of our discussions?
- What does our conference have to say about the type of world we have inherited and will be passing on to our children?
- Why is our work here important?

These are the types of questions that we Americans, in a tribute to Hollywood, like to call the "big picture," and they are usually not conducive to condensing into seven minutes. However, I will do my best.

I would like to share with you two impressions that have come to me as I have listened to our proceedings. The first is a very positive one. The second gives cause for some concern.



First of all, the good news.

As one who has been participating in OSCE meetings, on and off, for the past twenty years, I have again been struck by how much our world has changed. The Cold War is indeed over. Listening to interventions around the table, it is clear that the ideological debates of the early years of the OSCE are a thing of the past. The great totalitarian threats to humanity which emerged in the 20th century appear to be passing away with it.

Today, we all profess to believe in democracy, in free elections, in the rule of law, in free market economies. Remarkably, for the first time in history, Europe and the entire OSCE region are areas with no competing ideologies and no competing empires. We are all united in the type of world we would like to see in the 21st century. It is an unprecedented opportunity for Europe and for the world to make progress.

What then is the problem?

The problem is that, contrary to predictions some years ago, history has not come to an end and is not likely to. New threats and new challenges to the human dimension will always be emerging, and it is important for us to be aware of them. Like a vaccine against a virus, recognition can be our first line of defense. And our discussions at this conference can help provide such recognition.

One new danger, that has recently been much talked about by political observers in my country, is something called “illiberal democracy.”

What is “illiberal democracy?”

For those interested in more than the three and a half minute answer, I would recommend the lead article in the current issue of *Foreign Affairs*, probably the most prestigious American journal on international relations. The article is called “The Rise of Illiberal Democracy.” I

would not endorse all of the article’s observations, but it is a piece worth reading.

Let me summarize how I understand illiberal democracy.

Very briefly put, it is democracy in form but not in spirit, and ultimately not in substance.

It is the dangerous notion that if one wins an election, especially a free and fair election, anything is subsequently justifiable. It is the mistaken concept that majority rule can be separated from other elements that have traditionally been vital to a successful democracy -- elements like limited government, separation of powers, protection of the individual, and tolerance of those who are different.

Illiberal democracy is particularly dangerous because of a number of its characteristics:

- First, it is hard to recognize because it emerges from within and wraps itself in lofty slogans of democracy.
- Secondly, it is infectious.
- Thirdly, none of our countries are immune to it because we all have proponents of illiberal democracy in our societies. It is a condition to which not only the so-called “new democracies” are vulnerable.
- Finally, at least according to the author of the article I mentioned, it is on the rise.

Mr. Chairman:

I would not wish to bore this meeting with a political science treatise if I did not think it very relevant to our proceedings. Indeed, I think it is even relevant to the question of how we structure and organize these implementation review meetings, but that is a subject I hope to touch upon during our final plenary session next week.

For the moment, let me just say that in listening to our discussions over the past ten days, I have become convinced that we in the OSCE community must remain very much on guard against the rise of illiberal democracy. The issues we talk about here—the rule of law, tolerance, the treatment of minorities, respect for human rights and fundamental freedoms, the abolition of brutality and torture, the condemnation and punishment of war crimes—all have as their common theme the question of how genuine and how enduring democracy will remain in the 21st century.

If we succeed in strengthening democracy—real democracy—in our societies, the future looks bright. But if we decide that the battle has been won, that we can afford to lower the standards, that democracy is, after all, a relative concept, that more important things are on our agenda, then we will open the door to an evolution whose consequences may be far different from the democracy for which so much has been sacrificed in this century.

The OSCE review of human dimension implementation, as modest as it is, is one tool to help us keep a perspective on where we are going. We must try to use it well.

Thank you, Mr. Chairman.

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### **Rule of Law; Independence of the Judiciary; Right to a Fair Trial**

STATEMENT OF BRUCE NEULING  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 24, 1997*

Forty years ago in the United States, President Eisenhower used federal troops to integrate public schools in Little Rock, Arkansas, after the Supreme Court ruled that racial segregation in the schools was unconstitutional. This was a troubled

time in American history, as my country struggled to address the bitter legacy of slavery.

The Supreme Court's ruling was very controversial in parts of the United States. In fact, there is evidence that President Eisenhower did not actually agree with the Court. Nevertheless, the President upheld the decision, referring to the U.S. Constitution's "binding effect." He said: "There must be respect for the Constitution—which means the Supreme Court's interpretation of the Constitution—or we shall have chaos." When President Eisenhower made his historic decision, he did more than strike a blow at legally sanctioned racism in the United States. He also upheld a basic principle of the rule of law.

Five years ago, the Speaker of the Slovak parliament, Ivan Gasparovic, also spoke of the "supreme binding force" of the Slovak Constitution, which was adopted in 1992. Unfortunately, respect for the Slovak Constitution has diminished. During the last year in particular, the ruling coalition has shown worrisome disregard for the rule of law and constitutional democracy.

In May of this year, the Slovak Ministry of Interior manipulated the administration of a referendum, violating clear orders of the Slovak Constitutional Court and effectively preventing the referendum from being held in a constitutional manner. Later this year, the ruling coalition refused to respect the Constitutional Court's finding that Frantisek Gaulieder had been wrongfully stripped of his parliamentary mandate.

Mr. Moderator, the job of interpreting the constitution belongs to the constitutional court—not to the Prime Minister and not to the parliament. When there is a difference of opinion as to what a constitution means, whether the difference arises among different branches of government, or between the government and its citizens, the constitutional court should have the final word.

Belarus is an example of the dangers inherent in a lack of respect for the rule of law. Three

years ago, President Lukashenka's drive to consolidate his power began with a disregard for constitutional court rulings. As his authoritarian practices escalated, respect for the rule of law has eroded. For all practical purposes, the government now operates by decree. Although the participating States committed themselves, in the 1990 Copenhagen Document, to a form of government that is representative in character, and in which the executive is accountable to the legislature or to the electorate, these elements of democracy are failing in Belarus.

The 1990 Copenhagen Document also states that the government and public authorities must act in a manner consistent with the law. Too often, however, police forces act as though they are above the law, and not accountable before it.

In the Former Yugoslav Republic of Macedonia, for example, it has been reported that the police used excessive force in responding to a demonstration by ethnic Albanians in Gostivar on July 9. The police clashed with the demonstrators, many from both sides were wounded, and three of the demonstrators were killed. In addition, there are reports that many of the protestors taken into custody were severely mistreated.

The Macedonian Government has established a commission to investigate the possibility of excessive police force. The parliament also mandated that an independent investigation take place. Such steps are correct responses, but the investigations must be impartial, thorough and forthright if they are to have credibility.

Mr. Moderator, in Russia, one serious departure from rule of law has been a rise in the harassment of human rights activists and so-called "whistle-blowers." Probably the best known case is that of Alexandr Nikitin, who has been indicted and re-indicted five times after an investigation for "espionage" that has dragged on for almost two years. Mr. Nikitin assisted in the publica-

tion of a report that exposed environmental dangers caused by the Russian Navy. Several of the charges against Mr. Nikitin are based on unpublished secret regulations. I would like, therefore, to recall paragraph 5.8 of the Copenhagen Concluding Document, which states: "legislation, adopted at the end of a public procedure, and regulations will be published, that being the condition for their applicability. Those texts will be accessible to everyone."

Finally, we would note that in at least five other Russian cases, persons who had been involved in legal cases against local authorities found themselves charged with a variety of civil cases.

In many other OSCE countries, particularly those still making a transition from communism, the rule of law and the independence of the judiciary is not yet secure. In Albania, the new government has promised to address these concerns and we hope this will include reforming the High Judicial Council and insulating the funding of the courts from political pressures. In Croatia, Uzbekistan, and Turkmenistan the judiciary is subject to outside political influences. In other countries, such as Georgia, Ukraine, and Kazakhstan, insufficient post-Communist reform of the judicial system has fostered a climate where corruption can flourish.

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## **Election Observation**

STATEMENT OF CHADWICK R. GORE  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 24, 1997*

Foreign observation of elections has grown considerably in the past two years. During the first round of multi-party elections in what were Communist States in 1990 and 1991, sometimes only a handful of observers would be present.

Today, there are dozens, sometimes hundreds, of foreign observers at an election. In addition, long-term observers are deployed early on, in order to assess the campaign period and the organization of the elections.

The OSCE/ODIHR is to be commended for organizing the bulk of this foreign observation effort, which must include people who understand various types of electoral processes, are familiar with the country being observed and can handle the logistics of deploying large numbers of people. It is no easy task. The OSCE should also recognize the substantial contribution of the OSCE Parliamentary Assembly to the election observation effort. The presence of parliamentarians from other States adds not only quantitatively but qualitatively to the observation effort. The recent agreement between the Parliamentary Assembly and the ODIHR to integrate their observation programs will, in my delegation's view, produce a unified assessment, and lend considerable weight to the OSCE's election observation efforts.

It is, however, ironic and disturbing that the elections in some countries warrant more, not less, foreign observation in the years since the collapse of the one-party states. Indeed, we have witnessed with concern in the last few years various elections which left much to be desired or were flagrantly unfair. It would be quite detrimental to the cause of democratization if governments considered it safe to hold such flawed exercises, or if societies still emerging from the legacy of communism became sufficiently disillusioned with elections to lose interest in voting.

Based on the experience of some American observers of elections in several OSCE States, my delegation would like to make the following suggestions where some further improvements can be made in election observation to try to reverse this trend:

First, we must address a common di-

lemma how do we maintain common OSCE standards as the basis for judging elections? Recent elections have been scheduled, sometimes at the urging of the international community, in response to instability or crises in a country. Elections can contribute enormously to enhancing stability in countries where tensions exist. At the same time, under conditions of instability and crisis, it is practically impossible to have free and fair elections. Election assessments have sometimes therefore been based on less stringent criteria than those in OSCE provisions, especially those of the Copenhagen document. In such cases, while we must focus on the *administration* of an election, it is necessary to recognize that the overall political environment for the election is bad. Under such circumstances, it is important to make the conditions for the elections as normal as possible. Bosnia is one example. The OSCE did an excellent job in preparing the elections, and caught major attempts at fraud. However, the election would have been so much better had freedom of movement been fully secure, or had those indicted for war crimes and still involved in politics been surrendered to the authorities. While it is true that elections cannot necessarily wait for perfect conditions, only elections conducted under the *appropriate* conditions can enhance stability in the long term.

Second, we should solicit and support local non-governmental organizations. Human rights organizations, independent media, and domestic civic groups can be the best sources of information on what is actually happening in a country, and their views should be sought. In some cases, they may also be harassed during a sensitive election period, and interaction with foreign observers could improve their situation. Indeed, in some countries—Serbia, Croatia, Romania, for example—domestic civic organizations were discouraged if not prohibited from observing elections, a violation not of the letter but certainly of the spirit of the Copenhagen document. Ultimately, it is these groups and not



foreign observers that can best judge the quality of an election, and they also can be stronger advocates of reform when it is needed. OSCE efforts, therefore, should focus on encouraging the activity of these groups, and consider whether and how they were able to function when assessing the fairness of an election.

Third, we must follow-up on OSCE recommendations. Frequently, foreign observers will return to observe an election in a country, only to find that not one of the previously made recommendations had been taken into account. The most blatant example of this right now is in Serbia, where the Gonzalez recommendations of December 1996 were ignored in the Serbian elections nine months later. The ODIHR may have suggestions on how the OSCE can better follow-up on the recommendations in its elections reports with the country of concern.

Mr. Moderator, important elections are coming up in numerous OSCE states, such as Ukraine's parliamentary election and Azerbaijan's local and presidential election. No less than the legitimacy of governments and legislatures are at stake, and the assessment of OSCE observation is a critical, if sometimes politically sensitive component of that equation. My delegation believes we must treat the issue of improved observation efforts with the seriousness it deserves.

Ultimately, it is not the foreign observer but the voter who must trust the integrity of the election process. Maintaining high standards, encouraging civic activity and pressing for implementation of recommendations are just some of the ways that the OSCE, through its impressive observation efforts, can help the voter find that trust.

Thank you for your attention.



## **Citizenship and Political Rights**

STATEMENT OF JAMES DONEGAN  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 25, 1997*

Mr. Moderator, the United States continues to be troubled by the failure of newly independent states to adequately address and resolve citizenship problems which exist in the context of state succession or the re-establishment of independent statehood.

In April 1996, the Czech citizenship law was amended to ameliorate some of the problems that had emerged in the implementation of this law. We welcome the 1996 amendment as a step forward and were especially heartened by reports that more than 2,000 former Czechoslovaks have been granted Czech citizenship since then. At the same time, however, hopes that the 1996 amendment would resolve *all* problems in the area of Czech citizenship have not been fulfilled. The Czech Helsinki Committee recently reported, for example, that there are several thousand applications for citizenship that have been lodged with the Ministry of Interior, some dating back to 1993, which have neither been rejected nor accepted by the Minister of Interior but simply languish without action.

My delegation is also troubled that, in both the Czech Republic and Estonia, some children (including—in the Czech Republic—orphans) may be left stateless. In the case of Estonia, this appears to be the result of a gap in the current citizenship law that we hope will soon be filled. In the case of the Czech Republic, this result appears to stem from a failure to ensure that citizenship which is theoretically available under the existing law is, in fact, granted. We hope the governments of these countries will move quickly to close these gaps. Let me underscore here that a recent announcement that the Czech Government intends to grant waivers for all ap-



plications is helpful, but will not address the specific problems of stateless children and more will need to be done on their behalf.

Mr. Moderator, Ukraine adopted a citizenship law that we believe is, in many respects, a model law which emphasizes civic rather than ethnic concepts. However, there are currently an estimated 70,000 Crimean Tatars in Ukraine who do not yet have Ukrainian citizenship. Ukraine requires that these people must renounce any other citizenship before they can be considered for Ukrainian citizenship. If such a step is taken, however, and then Ukrainian citizenship is not granted, these people would become stateless. We hope the Government of Ukraine will address this loophole in the existing legislation. At the same time, we hope the Government of Uzbekistan, where many of the Crimean Tatars currently live, will simplify its procedures to renounce Uzbek citizenship.

The ability of the Slovene ombudsperson to address issues of citizenship in Slovenia is, we believe, a constructive tool in addressing problems in this area. At the same time, we are concerned by reports that the process of applying for citizenship by non-Slovene residents has been slow and complicated. Currently, there are between 5,000 and 10,000 residents (mainly former Yugoslavs) without any legal status. The processing of applications is four years in arrears.

In Croatia, the ability of some ethnic Serbs to gain citizenship has improved, thanks in particular to the Erdut Agreement which paved the way for local elections in Eastern Slavonia and throughout Croatia in April of this year. Nevertheless, the citizenship law on its face blatantly distinguishes between those with a claim to Croat ethnicity and those without. In short, this discriminatory citizenship policy is designed to pre-

vent hundreds of thousands of ethnic Serbs from returning to their homes in Croatia.

As a practical matter, the citizenship application process in Croatia has always been much easier for the tens of thousands of Croats who actually reside in Bosnia-Herzegovina than for many Serbs from Croatia. Moreover, the so-called Croat diaspora, represented in fact mostly by Bosnian Croats, is granted the right to almost one-tenth of the seats in the lower House of the Croatian Sabor. Granting preferential voting treatment to one group over others, based on that group's ethnicity, is not only discriminatory but may have been designed to enhance the power of the ruling party, which did win all 12 seats.

In the Former Yugoslav Republic of Macedonia, the 15-year residency requirement for citizenship disenfranchises a large number of ethnic Albanians who were permanent residents in the republic for years before it declared independent statehood in 1991 and who were eligible to participate in Macedonia's November 1990 multi-party elections.

In closing, I would like to make one positive observation. The Government of Estonia has issued approximately 140,000 aliens' passports to its non-citizens. We commend the Estonian Government for its efforts in bringing this issue, upon which the OSCE mission and the High Commissioner for National Minorities have focused much concern, close to resolution. Both the Governments of Estonia and Latvia have demonstrated good will and access at the international level and we hope that other governments will follow this example.

Thank you, Mr. Moderator.

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## Democratic Institutions

STATEMENT OF MICHAEL R. HATHAWAY  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 25, 1997*

There is no better place to begin talking about democratic institutions under the OSCE than with the language—and the commitments—every participating State made in the Charter of Paris for a New Europe on 21 November 1990. Since the purpose of this Meeting is to review implementation of our commitments, in the area of democratic institutions, we must start with the promises we made in 1990, and ask ourselves how well they are being kept.

For our purposes today, the operative part of the Charter of Paris is quite short, but it deserves repeating to refresh everyone's recollection of the standards by which we must measure our actions—and our failures to act.

In Paris, we said, and I quote, that:

“We undertake to build, consolidate and strengthen democracy as the only system of government of our nations. In this endeavour, we will abide by the following:

“Human rights and fundamental freedoms are the birthright of all human beings, are inalienable and are guaranteed by law. Their protection and promotion is the first responsibility of government. Respect for them is an essential safeguard against an over-mighty State. Their observance and full exercise are the foundation of freedom, justice and peace.

“Democratic government is based on the will of the people, expressed regularly through free and fair elections. Democracy has as its foundation respect for the human person and the rule of law. Democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each per-

son.

“Democracy, with its representative and pluralist character entails accountability to the electorate, the obligation of public authorities to comply with the law and justice administered impartially. No one will be above the law.

“We affirm that, without discrimination, every individual has the right to:

- freedom of thought, conscience and religion or belief,
- freedom of expression,
- freedom of association and peaceful assembly,
- freedom of movement;

no one will be:

- subject to arbitrary arrest or detention,
- subject to torture or other cruel, inhuman or degrading treatment or punishment;

everyone has the right:

- to know and act upon his rights,
- to participate in free and fair elections,
- to fair and public trial if charged with an offence,
- to own property alone or in association and to exercise individual enterprise,
- to enjoy his economic, social and cultural rights.

“We affirm that the ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right freely to express, preserve and develop that identity with-

out any discrimination and in full equality before the law.

“We will ensure that everyone will enjoy recourse to effective remedies, national or international, against any violation of his rights.

“Full respect for these precepts is the bedrock upon which we will seek to construct the new Europe.

“Our states will co-operate and support each other with the aim of making democratic gains irreversible.”

Mr. Moderator, that is a formidable commitment, adopted with full seriousness by our Heads of State or Government.

The question is, how well are we keeping those commitments today.

Over the past year there have been numerous successes in the Human Dimension among the OSCE participating States. We have seen watershed elections followed by peaceful transfers of power in Romania and Bulgaria. These elections met the free and fair standard, and are elections of which these countries should be proud. We have seen a unified effort to bring about peaceful change in the former Yugoslavia and Albania.

But very serious problems still remain in our efforts to keep our commitments to the bedrock precepts upon which the New Europe must rest.

The development of genuine democracy and civil society in Turkey proceeds slowly. Mindful of the challenges faced by Ankara in its decade-long armed conflict with the terrorist Kurdistan Workers Party, known by its initials as the PKK, the United States condemns acts of terrorism perpetrated by the PKK. That said, the ongoing struggle against terrorism has become an excuse to deny or limit the exercise of those fundamental freedoms and human rights whose

protection and promotion is the first responsibility of government.

For example, four former parliamentarians from the now banned Kurdish-based Democracy Party (DEP), Leyla Zama, Hatip Dicle, Orhan Dogan, and Selim Sadak Cremain remain imprisoned at Ankara’s Ulucanlar Prison. Among the actions cited in Mrs. Zama’s indictment was her 1993 appearance at a public briefing of the United States Commission on Security and Cooperation in Europe, the Helsinki Commission, in Washington, D.C., of which I am the Chief of Staff. I can tell you that Mrs. Zama did not speak at this session, but was merely present.

There is also the case of human rights lawyer Hasan Dogan, a member of the People’s Democracy Party, known as HADEP, who like many members of the party, has been subject to detention and prosecution.

In addition, we continue to closely monitor developments in the ongoing attempt to outlaw Refah (Welfare), the largest political party in the Turkish Grand National Assembly.

The Government of Turkey has announced that the state of emergency in southeastern Turkey will end next month. There have been indications, however, that this seemingly positive development could actually lead to an enhancement of the powers of the military at the expense of civilian authority throughout the entire country.

Mr. Moderator, developments in Turkey this past year reminded us of the unique role and influence of the Turkish military in the Turkish Government. This has serious implications for the duly elected civilian authorities and the prospects for democratic development in Turkey.

The strong tendency in most newly independent States towards overwhelming executive branch power and correspondingly weak parliaments is a serious problem. This tendency is par-

ticularly strong in central Asia.

In Tajikistan, with the civil war apparently over, and the regime and the opposition apparently moving towards a coalition government and elections in 1998, a genuine parliament may emerge that would counterbalance the presidency. But in Uzbekistan and especially Turkmenistan the parliaments follow the president's will, as the result of the neither free nor fair elections of those parliaments. In Kazakstan, President Nazarbaev twice disbanded parliaments he did not like. In the Caucasus, Azerbaijan's and Armenia's parliaments were elected in contests that international observers found unfair, giving the presidents of those countries cooperative legislatures.

All these leaders claim to believe in the separation of powers, an idea enshrined in each of their constitutions. But in practice, the separation of powers is sadly undeveloped, with corresponding long-term negative implications for the growth of democracy.

Additionally, these leaders claim to believe in an independent judiciary, again a principle enshrined in their constitutions. In practice, however, in many newly independent States, the courts remain dependent on executive authorities. In cases where the government does not intervene for political reasons, some have complained that decisions go to whomever pays the highest bribe. Unfortunately, instead of promoting the rise of an independent judiciary, presidents and executive authorities have either ignored the issue or worked to perpetuate the judiciary's subordination to executive authority.

Turkmenistan still finds political dissidents mentally ill and incarcerates them in psychiatric institutions. Durdymurad Khojimuhamad, leader of the Democratic Development Party, is a genuine opposition activist, highly critical of the government of President Niyazov. But instead of engaging him

in a dialogue, or merely arresting him on fabricated charges, Turkmenistan's authorities have thrown him into a mental hospital. And he is not the only Turkmen dissident so treated.

The misuse of mental health institutions against political dissidents violates OSCE commitments, UN commitments, and the most fundamental norms of human decency. The Government of Turkmenistan must put an end to this practice—and the OSCE must settle for nothing less.

Mr. Moderator, time will not allow a complete catalogue of the instances in which the participating States have fallen short of meeting their goals in building democratic institutions. The specific cases I have reviewed in this intervention are the ones of highest concern at this time.

In closing, the political authorities in those states need to review the commitments we all made to each other and that I recounted at the beginning of this speech. Through such OSCE mechanisms as this Meeting, we can keep our promise to "co-operate and support each other with the aim of making democratic gains irreversible."

Thank you, Mr. Moderator.

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### **The Role of Non-Governmental Organizations**

STATEMENT OF OREST S. DEYCHAKIWSKY  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 26, 1997*

Mr. Moderator, non-governmental organizations are the lifeblood of the Helsinki process. Soon after the signing of the Helsinki Final Act the process came to life through courageous NGOs, the various citizens' groups in the former Soviet Union and Central Europe which visibly gave public attention to the importance of the



Helsinki process. These Helsinki Monitoring and related citizens' groups took OSCE commitments seriously and used them to press their respective governments to protect human rights. They usually paid the price of their personal freedom and sometimes even their lives for this cause. From those seeds came many of the current NGOs in that region. In fact, non-governmental organizations played an essential role in the historic changes that occurred in 1989 and 1991.

Today, for the most part, it is a different world for NGOs—both within and outside the OSCE. Within the OSCE, NGOs have more direct access to meetings like this, where they can present their own views, in their own voices, and NGOs can contribute more directly through other activities of the OSCE. For example, NGOs have played a critical role in OSCE-supervised elections in Bosnia and Albania, as well as a growing and increasingly important role in OSCE's conflict prevention efforts.

The OSCE website has been a valuable tool in increasing the openness and access of the OSCE to the public which, we believe, helps foster the accountability of the participating States. With this in mind, the U.S. delegation believes we must remain vigilant to ensure that OSCE activities remain transparent.

Outside the OSCE there has been dramatic growth of NGOs in some post-communist countries. At the same time, there are all too many OSCE states that continue to hinder NGOs and their activities through such measures as cumbersome registration requirements. Some governments—instead of viewing NGOs as part of a normal, democratic, civic society—view them as threats, especially those NGOs which may oppose governmental policies or expose the government's violations of human rights. Even in some participating States where free and fair elections have taken place, there is a lack of understanding that for democracy to work, citizens must participate in the political system not just on election day but in between elections as well.

Governments at times fail to recognize the fact that NGOs provide a vehicle for citizens to participate in civil society and voice their concerns within society and the political system.

In Uzbekistan, many aspects of civil society remain severely curtailed. We are encouraged that Human Rights Watch/Helsinki and Radio Liberty have opened offices in Tashkent, but believe much more needs to be done. We urge the government to register the Human Rights Society of Uzbekistan, the country's leading human rights NGO.

In Belarus, the government has cracked down on NGOs, undermining the work of those who seek to “know and act upon their rights,” as guaranteed in the Helsinki Final Act. Within the last month, for instance, two members of the Belarusian Helsinki Committee have experienced harassment and intimidation linked to their efforts to monitor human rights. The Belarusian Government has utilized other tactics to strangle the NGO community, including tax audits with the apparent goal of paralyzing NGO activity, the outright deprivation of financial resources, arbitrary rent increases, and other forms of harassment. This has greatly impeded the work of humanitarian organizations such as the Children of Chernobyl or independent think-tanks such as the East-West Center for Strategic Initiatives. Perhaps the biggest blow to Belarusian NGOs has come from the closure of the Belarusian Soros Foundation—the largest international funder of Belarusian NGOs—due to harassment of its employees and other barriers to its activities, including the seizure of its bank accounts.

In Slovakia, a 1996 law that requires foundations to have substantial financial resources in order to function legally, has served to inhibit NGO activities. Approximately two thousand organizations have ceased their activities or decided not to carry out their activities as a result of the new law. In fact, this law seems intentionally designed to restrict the activities of civic



organizations. In Azerbaijan, the government has simply refused to register some non-governmental organizations, including human rights groups.

Independent, non-governmental activity is threatened in Croatia. A new law on associations makes registration of non-government organizations compulsory; indeed, without official registration, NGOs cannot operate. Once registered, an organization cannot legally deviate from its statutes, even if the activity it is undertaking is not itself illegal. The law also makes it difficult to hold meetings that are not open to the public, making close observation and intimidation of independent organizations possible.

Recent developments in Croatia only heighten our concerns that the new law will be implemented in an unduly restrictive manner. Right now, for example, leaders of non-governmental organizations are being subjected to legal proceedings which appear to be designed to silence their criticism of the government. First, Croatian Helsinki Committee Chairman Ivan Zvonimir Cicak is charged with disseminating false information because of his views about the origins of the war in Bosnia. Second, two officers of the Open Society Institute-Croatia have been given criminal convictions in what appears to be an effort to limit the organization's contacts and activities. Similarly, Viktor Ivancic, editor of the *Feral Tribune*, is currently facing charges stemming from newspaper articles regarding the Jasenovac concentration camp memorial. My delegation is also alarmed that statements by government officials and in the media which essentially portray independent organizations like these as "traitors of the state" may encourage threats and violence against members of such groups. In fact, there have been incidents when bombs have exploded near the houses of some of the NGO leaders, and some activists have also received death threats.

In Turkey, the authorities have pursued, and continue to pursue a campaign of harassment of non-governmental organizations, including the

Human Rights Foundation of Turkey and the Human Rights Association. The Association's branch offices have been raided and three remain closed in Diyarbakir, Mardin, and Urfa. In addition, seven members of the Association, including its president, Akin Birdal, have been sentenced to jail terms from one to two years. Such actions are detrimental to the development of a civil society in Turkey and run counter to the right to freedom of association.

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### **Cooperation between the OSCE and Other International Organizations in the Human Dimension**

STATEMENT OF ELIZABETH BONKOWSKY  
*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 26, 1997*

Mr. Moderator, we believe cooperation between the OSCE and other international organizations should be encouraged. It should focus on improving practical contact between the OSCE and other organizations which may be able to offer capabilities which complement OSCE tools in addressing specific human dimension problems. As we have said in the context of Security Model discussions, however, we will reject any effort to develop a hierarchy of organizations or an exclusive list of which organization will conduct which types of tasks. Organizations do not need straitjackets at a time when new challenges are around every corner.

The OSCE already has a network of consultative mechanisms with many other organizations. These range from the regular meetings at a high level between the OSCE, Council of Europe, and the United Nations (and its various components) to working level contact and coordination between the ODIHR and the CoE on specific projects. A number of Memoranda of Understanding have been signed in connection with OSCE field missions. In fact, cooperation

between the OSCE and other organizations has been particularly effective in specific missions, most notably in Bosnia and Herzegovina and Albania. We believe such task-oriented cooperation is the most effective way forward; we do not need to repeat the same calls for cooperation in every OSCE document.

Sometimes it is suggested that tasks should be divided among international organizations to avoid duplication of effort. In this time of dwindling resources, we of course do not want redundancy. On the other hand, working in different and complementary ways on the same problems can serve to reinforce the work of each institution.

We also need to avoid competition. There are plenty of human dimension problems to go around. Particularly when faced with a crisis situation, we should not spend precious time and energy vying with other organizations for control of assistance missions. Each international organization has its strengths and weaknesses. We can work out on a case-by-case basis how best to work together in pursuit of our common goals.



### **Final Plenary Statement**

RUDOLF V. PERINA  
*Head of Delegation*

*U.S. Delegation to the OSCE Implementation  
Meeting on Human Dimension Issues  
November 27, 1997*

Mr. Chairman:

With this plenary meeting, we are concluding our proceedings in Warsaw, but not the effort which brought us all together—the effort to motivate full OSCE implementation by all participating states.

In the view of our delegation, our deliberations have been a useful and necessary endeavor. They have shown that, overall, the process of OSCE implementation in the human dimension

is moving forward. We are making progress, and in some cases significant progress.

The contributions of the OSCE toward resolving the crisis in Albania earlier this year and toward helping to rebuild civil society in Bosnia are achievements in which the entire OSCE can take particular pride. The work of the many OSCE missions, as well, is an example of the unique and valuable role this organization can play in reducing tensions and building trust and confidence among people.

At the same time, Mr. Chairman, our discussions have shown that serious shortcomings in OSCE implementation still persist:

- The policies of the government of Belarus, across a wide range of OSCE commitments, are of very serious concern to my government;
- The plight of the ethnic Albanian community in Kosovo shows flagrant disregard of OSCE standards by the authorities in Belgrade;
- The difficulties of Roma and Sinti communities in a number of participating States cry out for international attention;
- The governmental tolerance of practices such as torture, in our day and age, is simply inexcusable.

Mr. Chairman, I cannot repeat here all of the implementation problems that have been identified during our meeting. The record of interventions speaks for itself. A larger question is: What will be the results of our efforts? In OSCE language, what is the follow-up?

Well, Mr. Chairman, in our view the one truly meaningful follow-up to implementation review meetings is implementation itself. We hope that the many words spoken here will be taken back to capitals and result in some real progress on the issues raised. That is the primary test of what we have achieved.

But if we fail to enhance implementation, Mr. Chairman, there is another message from our proceedings, and that is that these issues will not go away. As we have seen from many of the NGO presentations to our meeting, these are issues which transcend governmental concerns and directly touch the lives of citizens in our countries. These issues are firmly on the international agenda, and only by dealing with them forthrightly and courageously can we hope to put them behind us.

Mr. Chairman:

There has been much discussion at this meeting about how our proceedings might be restructured to enhance the impact and effectiveness of our work. Let me say that the United States is open to creative ideas that would genuinely reinvigorate the implementation review process, which we see as a cornerstone of OSCE activity. At the same time, we believe that there are vital features of these meetings which must be retained in any future structure.

One of these features is the continued active participation of non-governmental organizations, which brings an invaluable dimension of insight and experience to our work. Another is to retain the separate identity of these meetings in a manner which keeps them relevant to—but distinct from—the day-to-day business in Vienna. A third feature is to avoid time-consuming drafting exercises which would distract from our key task of reviewing the implementation record. Finally, Mr. Chairman, we must devote adequate time to these meetings to allow an implementation review that is detailed, thorough, and credible.

This last point relates to my statement at last Saturday's plenary session. Precisely because we have moved beyond the stage of debates about ideology or setting of standards, our implementation review is only meaningful if it deals with specifics—specifics across a broad range of commitments and countries. But to be specific, one needs a reasonable amount of time.

Mr. Chairman:

In conclusion, I would like to add the voice of my delegation to those expressing thanks and appreciation to all who have made this meeting possible:

- To our Polish hosts—who will soon be assuming the chairmanship of the OSCE—for their warm hospitality;
- To Ambassador Stoudmann and the ODIHR staff for their able organization of our proceedings;
- To our working group moderators and rapporteurs for their hard work in guiding our discussions;
- To the international organizations and NGO's for enriching our exchanges;
- And last but by no means least, to our untiring interpreters for accurately translating our words while invariably enhancing our eloquence.

Thank you, Mr. Chairman.