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Contents

Commission Issues Reli- gious Liberties Report	39
The View from Vienna	39
Putin's Path on Human Rights	40
Supplementary Human Dimension Meeting on Human Rights and Inhuman Treatment	42
OSCE PA Expanded Bureau Meets in Turkey	43
The Human Dimension of the Helsinki Process	44
Summary of OSCE Commitments to Build, Consolidate and Strengthen Democracy	45

Shevardnadze Reelected in Election Seen As Flawed

ODIHR: Vote Counts, Tabulation Process Lacked Uniformity, Transparency

By Michael J. Ochs

Georgia's incumbent President Eduard Shevardnadze won reelection with about 80 percent of the vote in the nation's April 9, 2000 presidential election. According to the Central Election Commission, almost 76 percent of eligible voters turned out. Former Communist Party boss Jumber Patiashvili came in second, with 16.7 percent. The other candidates on the ballot were largely irrelevant.

Shevardnadze's reelection was predetermined by the October 1999 parliamentary contest, when his ruling party, the Citizens Union of Georgia (CUG), handily defeated the opposition Batumi Alliance. The CUG's triumph, despite its flagging reputation amid widespread discontent, demonstrated the party's influence over election commissions countrywide, as well as the power of incumbency in the absence of a credible alternative, and ensured Shevardnadze a second term 6 months later.

Though Shevardnadze's victory was anticipated, it remained unclear until election eve whom he would defeat. Batumi Alliance leader Aslan Abashidze, boss of the Autonomous Republic of Ajaria, had announced last year plans to mount a presidential race, but many expected him to drop out, as he had no real chance of winning. By threatening a boycott, Abashidze won concessions from

(Continued on page 38)



Leading members of Belarusian opposition in Washington to promote democracy and human rights in Belarus meet with Co-Chairman Sen. Ben Nighthorse Campbell (R-CO). From left to right: Pavel Zhuk, chief editor of the independent newspaper "Nasha Svoboda"; Sen. Campbell; Anatoly Lebedka, head of the United Civic Party; Dmitry Bondarenko, a leader of the Charter '97 human rights group; and Vintsuk Viachorka, head of the Belarusian Popular Front.

“[C]onsiderable progress is necessary for Georgia to fully meet its commitments as a participating State of the OSCE.”

—ODIHR Observation
Mission Statement

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The Commission on Security and Cooperation in Europe, by law, monitors and encourages progress in implementing the provisions of the Helsinki Accords. The Commission, created in 1976, is made up of nine Senators, nine Representatives, and one official each from the Departments of State, Defense, and Commerce. For more information, please call (202) 225-1901 or check the web at www.house.gov/csce/.

the CUG on the election law, but his overall strategy collapsed when his Batumi Alliance colleague, Jumber Patiashvili, announced plans to run against Shevardnadze no matter what. One day before the election, Abashidze withdrew, leaving Patiashvili as Shevardnadze's only serious contender.

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) election observation mission began its assessment by stating that “considerable progress is necessary for Georgia to fully meet its commitments as a participating state of the OSCE.” Among the problems in the election, ODIHR noted, *inter alia*, the authorities' support for the incumbent, the failure of state media to provide balanced reportage, and the dominant role of the CUG in election commissions at all levels.

While voting was generally conducted “calmly,” the “counting and tabulation procedures lacked uniformity and, at times, transparency.” The ODIHR also observed ballot stuffing and protocol tampering.

Considering the widespread cynicism and apathy among voters, the official results, especially turnout, strained credulity beyond the breaking point. Despite Shevardnadze's denials of chicanery, even his advisors and allies concede—some publicly, some privately—that the tallies were falsified, and blame local officials eager to present Shevardnadze with a landslide.

While everyone agrees nobody could have higher polling numbers than Shevardnadze and he would have won in any case, the announcement of implausible totals has discredited Georgia's democratization and surely aggravated public disillusionment. Nor has Shevardnadze's standing improved, as he has been reelected with figures more typical of Central Asian dictatorships than had been expected in reformist Georgia.

The newly reelected Shevardnadze's priorities involve addressing the related problems of economic decline and rampant corruption. Georgia has one of the world's worst records in tax collection, with a debilitating impact on state revenues: the government owes \$175–\$200 million in unpaid wages and pensions. After the October parliamentary election, Shevardnadze undertook no bold anti-corruption initiatives, apart from creating yet another commission.

But many hope that with the election behind him and mindful of his place in Georgian history, he will finally display the necessary statesmanship to put Georgia's fiscal house in order. Shevardnadze would have to arrest corrupt officials, dismiss others, create new law enforcement structures, and—considering stories in the Georgian press—perhaps move against his own family members and relatives.

According to Georgia's constitution, Shevardnadze may not run again. For several years, the two leading contenders to succeed him have been Zurab Zhvania, Speaker of Parliament, and State Minister Vazha Lortkopianidze. But after the election, Shevardnadze replaced Lortkopianidze. Though Zhvania now clearly leads the field, the strongly pro-Western, pro-reform Speaker is also identified with current power structures and current problems, and whether the ruling party can improve living standards will affect his prospects.

Since the beginning of Russia's latest campaign against Chechnya, Moscow has accused Tbilisi of allowing or abetting the transit of Chechen fighters through Georgian territory. These allegations also aim to pressure Georgia in negotiations about the withdrawal of Russia's four military bases.

High-level Russian political and mili-

tary figures have made it plain that Moscow will try to retain the bases and will reassert its interests in the region in the face of gains by Western countries, especially the United States. Against this background, Georgia has little reason to expect help from Russia in resolving the conflict in Abkhazia.

Tbilisi will need help from the United States in resisting a newly aggressive Russia. Eduard Shevardnadze has long enjoyed good relations with Washington, which gratefully remembers his contribution as Soviet Foreign Minister to ending the Cold War peacefully.

The United States has provided substantial assistance to Georgia and backed Shevardnadze morally as well. Presumably the congratulations tendered at the beginning of the State Department's April 10 statement reflected appreciation for his past services, rather than belief in the election's results. But Washington has long urged Shevardnadze to attack corruption and will step up pressure on him to take difficult, even radical steps, to address the country's most serious problem.

The report can be accessed at www.house.gov/csce.

Commission Releases Religious Liberty Report "The Legal Framework in Selected OSCE Countries"

By Karen S. Lord

In keeping with its mandate to monitor the religious liberty situation in the OSCE region, the Commission requested the Law Library of Congress to prepare a study of the legal systems in selected OSCE participating States and the effect of these laws on the freedom of the individual to profess and practice religion or belief.

The report is entitled, "Religious Liberty: The Legal Framework in Selected OSCE Countries."

Twelve countries—Austria, France, Germany, Greece, Netherlands, Poland, Russia, Turkey, Ukraine, United Kingdom, United States, and Uzbekistan—were selected for their diverse geographical, historical and religious composition.

The information contained in the report reflects the analysis and judgement of each researcher who prepared the individual reports and includes and appendix of laws in the vernacular and bibliography for further study.

The Commission has made the report available to the Congress, Administration and the public in order to further understanding of various legal approaches to religious liberty issues and encourage compliance with commitments made in the OSCE context.

The report can be accessed through the Commission web site at www.house.gov/csce.

The View From Vienna

By Janice Helwig

The OSCE Permanent Council (PC), the weekly decision-making body of the participating States, offers a dynamic forum in which current issues may be discussed by the representatives of the States, OSCE institution heads, and mission heads.

An ongoing topic is the return of an OSCE mission to Chechnya. The Istanbul Summit Declaration agreed on the swift return of the former OSCE Assistance Group Chechnya. The AG was withdrawn to Moscow in December 1998 for security reasons. The issue has been discussed by OSCE Chairperson-in-Office (CiO) Benita Ferrero-Waldner and Russian Foreign Minister Igor Ivanov both in person and through an exchange of letters.

Nevertheless, Austria as CiO reported to the PC in April and May that no progress had been made for the mission's return. The United States, European Union, and several other countries pressed Russia to move forward.

Austria has asked Russian authorities to facilitate a visit by logistical and security planners as soon as possible.

Developments in the Balkans also are a frequent topic. The United States raised the need for a speech media regulation in Kosovo following the murder of a Kosovar Serb working for the UN after accusations against him in a local ethnic-Albanian newspaper. OSCE Representative on Freedom of the Media Freimut Duve raised concerns about the crackdown on independent media in the Yugoslav Federation. He then received a threatening letter from Federal Secretary of Information Goran Matic, which was denounced by the U.S., the EU, and others.

The PC set the date for general elections in Bosnia for November 11, and adopted a budget to cover the supervision them. In doing so, the PC made it clear that it expects this to be the last time the OSCE will supervise general elections in Bosnia.

(Continued on page 41)

Commission Holds Hearing on “The Putin Path: Are Human Rights in Retreat?”

By John F. Finerty

The Helsinki Commission held a hearing on May 23, 2000, on human rights in Russia under recently-elected President Vladimir Putin.

Igor Malashenko, First Deputy Chairman of the Board of Media-Most and President of Russia’s largest independent television network NTV, testified before Chairman Christopher H. Smith (R-NJ) and other members of the Commission.

Malashenko was joined by former National Security Agency Director Lt. General (Ret.) William E. Odom, Tufts University Assistant Professor of International Politics Dr. Sarah Mendelson, Human Rights Watch Deputy Director Rachel Denber, Northwestern University Assistant Professor of Sociology Dr. Georgi Derluguian, and Representative Tom Lantos (D-CA).

Radio Liberty correspondent Andrei Babitsky, confined to Moscow under charges of “participation in an armed formation” for his reporting from Grozny during the Russian army’s siege late last year, provided written testimony for the hearing record.

Malashenko’s offices were the subject of a May 11 Russian Government raid, following an attack by armed government security agents on the Media-Most headquarters in Moscow. The raid was one of the more egregious incidents that have raised questions about President Putin’s commitment to protecting human rights, in particular the right of free speech in a country struggling to build a democratic system.

In addition to the difficulties experienced by Media-Most, Mala-

shenko also provided a list of repressions against journalists and media organizations throughout Russia.

“They carted away documents, tapes, computer discs and equipment. Russian officials issued contradictory and unsatisfactory justifications for this raid,” Malashenko testified. “Whatever the rationale, however, it is clear that the forces involved in the operation were clearly disproportionate to any declared purpose.”

General Odom questioned the entire premise upon which much of U.S. policy toward Russia is based. Russia is not, he contended, a great power, nor “becoming a liberal democracy,” nor has Moscow abandoned its imperial aspirations.

“These reports unquestionably document war crimes committed by Russian forces in their campaign in Chechnya.”

—Rachel Denber

Odom elaborated, “While Russia maintains some of the formalities of electoral democracy, its policy in Chechnya and its management of the recent parliamentary and presidential elections make it difficult to believe that it is even marginally liberal. Freedom of the press, due process in law, and personal security for all citizens of the Russian Federation have all suffered setbacks.”

In his written testimony submitted to the Commission, Babitsky said Chechens are often refused their civil rights because of their ethnicity.

“On the entire territory of Russia, the Chechens today are deprived of their civil rights simply because of their ethnic membership,” Babitsky said. “No serious positive changes in this situation can take place as long as the authorities and public opinion conceive the Chechen nation as a threat to the existence of Russia.”

Dr. Mendelson stated that the treatment of Andrei Babitsky and the FSB raid on Media-Most should be seen as part of a larger pattern of harassment that has grown steadily worse over the last year and a half.

“Babitsky’s treatment by the Russian authorities is well known. Less well known is the fear that permeates the activist community,” Dr. Mendelson said. “There are numerous cases,” she said, “of other journalists as well as environmentalists, human rights activists, scientists, journalists and academics—Russians but also Americans and Europeans—who have been intimidated, interrogated, trailed, jailed, robbed, accused of treason, run out of the country, and, in the case of Mr. Babitsky, ‘disappeared,’ all by the federal authorities.”

Rachel Denber devoted her testimony to the continuing carnage in Chechnya. She described documented atrocities committed by Russian forces in Chechnya including three large-scale massacres that claimed the lives of at least 127 civilians.

“Other violations of international humanitarian law include arbitrary detention and subsequent beating and torture of detainees, the indiscriminate bombardment of densely populated areas, systematic looting, and rape,” Denber said. “These reports unquestionably document war crimes committed by Russian forces in their campaign in Chechnya.”

The Human Rights Watch representative also testified of abuses by Chechen forces, including reports of summary executions of Russian soldiers and Chechen fighters often establishing their military positions in densely populated areas and refusing to leave civilian areas even when asked to do so by the local population.

Professor Derluguian testified that Putin faces an “uphill battle” to refurbish Russia’s status as a world power.

“The political change in Russia since Putin’s appointment [as Prime Minister] last August amounts to a successful coup carried out by formally constitutional means,” Derluguian maintained. “In the spirit of KGB culture, Putin gives every signal of being

pragmatic and professionally loyal to the idea of the Russian State rather than any ideology. He now faces the uphill battle to consolidate the new regime and use its levers to restore Russia as a respectable world power.”

“Human Rights are very much in retreat,” asserted Rep. Lantos, Co-Chairman of the Congressional Human Rights Caucus. The Putin era, he predicted, may last a quarter of a century or longer.

“If anyone really believes that Mr. Putin is eagerly looking forward to the next elections to peacefully relinquish his position of power, then I have a bridge that I would like to sell that person,” concluded Rep. Lantos.

In addition to Chairman Smith, other Commissioners attending the hearing included Co-Chairman Senator Ben Nighthorse Campbell (R-CO), Ranking House Member Steny Hoyer (D-MD), Commission Members Senator Tim Hutchinson (R-AR) and Representative Matt Salmon (R-AZ).

(From Vienna, *continued from page 39*)

The United States raised concerns about deteriorating human rights conditions in Kyrgyzstan, including the sentencing of opposition leader Daniar Usenov and the sentencing of another, Feliks Kulov. The United States urged that all opposition parties be allowed to participate in an upcoming OSCE-sponsored roundtable to follow up on recommendations to improve the electoral framework. OSCE Office of Democratic Institutions and Human Rights (ODIHR) Director Gerard Stoudmann has raised similar concerns in his report to the PC.

The United States and EU also raised concerns about the human rights situation in Belarus, including the treatment of former Prime Minister Mikhail Chygir. The United States stressed that Belarus must make progress on the four conditions set by a recent OSCE Troika visit: improving respect for human rights, granting opposition access to the State media, electoral code reform, and giving real power to the parliament before the OSCE can consider observing parliamentary elections in Belarus scheduled for later this year.

Russia has taken several occasions to assail Latvia, including complaints about the prosecution of former KGB officer Mikhail Farbtuch for war crimes, and a vote in the Latvian parliament which Russia claimed blocked the ratification of a Council of Europe Convention on Protection of National Minorities. Russia asserted that

Latvia was not respecting the rights of its Russian minority, particularly concerning language and education issues. The United States, EU, and others cited positive developments in Latvia’s human rights record.

The PC also adopted an action plan to help promote equality between men and women. The plan contains guidelines for ensuring equality within the Organization, including its hiring and staffing practices. A second part of the plan provides guidance to the various OSCE Institutions and field presences concerning their assistance to participating States in implementing OSCE commitments on equality of women.

Bulgarian Foreign Minister Nadezhda Mikhaylova addressed the PC describing her country’s progress toward building democratic and market institutions. She said that Bulgaria’s main objectives include joining NATO and the European Union. Mikhaylova offered Bulgaria’s candidacy for the OSCE Chairmanship in 2003.

OSCE Parliamentary Assembly President Helle Degn also visited the PC, and described the PA’s active involvement in election observations, as well as its establishment of democracy teams to assist in the implementation of OSCE commitments (the most active of these teams is in Belarus).

Heads of the OSCE Missions in Kosovo, Skopje, and

(Continued on page 47)

Supplementary Human Dimension Meeting on Human Rights and Inhuman Treatment

By Erika B. Schlager

On March 27, 2000, 27 of the 54 fully participating States met in Vienna for the OSCE's fourth SHDM, which focused on human rights and inhuman treatment. They were joined by representatives of OSCE institutions and field presences, the Council of Europe, the United Nations Development Program, the United Nations High Commissioner for Refugees, and the International Committee of the Red Cross, and representatives from approximately 50 non-governmental organizations.

Egypt and Israel, as Mediterranean Partners for Cooperation, sent officials from their bilateral embassies in Vienna. The U.S. delegation was led by Ambassador David Johnson, Head of the U.S. Mission to the OSCE, and included staff from the U.S. Mission, the Department of State, and the Commission on Security and Cooperation in Europe.

The plenary session started with brief introductions by Ambassador Christian Strohal, representing the Austrian Chairmanship, and Ambassador Gerard Stoudmann, Director of the OSCE/ODIHR. Ambassador Stoudmann noted that inhuman treatment in the penal system is a problem in many countries—and not just countries in transition—as illustrated by a recent report on problems in the French prison system. He also suggested there are some specific problems which arise in countries in transition, such as the reliance on torture as a means of extracting confessions.

Ambassador Stoudmann stressed that while underscoring the fact that there is no OSCE commitment which prohibits capital punishment, procedural safeguards, however, are required in any instance where the death penalty is used, but such safeguards are not always respected.

A keynote address was presented by Sir Nigel Rodley, UN Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, and member of the OSCE/ODIHR Advisory Panel for the Prevention of Torture. Sir Nigel noted the status of ratification by OSCE participating States of various international instruments relative to torture. He also addressed the problem of overcrowded prisons (both as a condition which might, in and of itself, constitute inhuman treatment as well as an environment in which torture or other inhuman treatment might occur).

The participants then met in two working groups. Working Group 1 addressed “human rights and pre-trial detention.” Working group 2 focused on “human rights and the penitentiary system.” The meeting closed with a plenary session where the moderator presented a summary of the recommendations of both groups.

Working Group 1: Human Rights and Pre-trial Detention

Four and a half hours were allotted to the single theme of Working Group 1, moderated by Canadian Ambassador Mary Mosser. Claudine Haenni, Secretary-General for the non-governmental Association for the Prevention of Torture, and Donald Bisson, Rule of Law Advisor for the OSCE/ODIHR, were tapped in advance of the meeting to serve as “introducers”—people who would make short presentations intended to initiate and stimulate a dialogue.

NGOs dominated the discussions and made some ambitious recommendations which would, they argued, diminish the prospects of torture or other forms of cruel, inhuman or degrading treatment during pre-trial detention. Their recommendations included ensuring detainees' access to trained medical personnel of their choice; increasing independent monitoring of those held in pre-trial detention; and training police to develop evidentiary alternatives to forced confessions as a means of achieving convictions.

A U.S. delegate raised the issue of Kosovar Albanians in Serb prisons and the deteriorating justice system in Kosovo which results in human rights violations, including vigilante justice.

Representatives from Turkey and Greece took the floor to respond to concerns that were directed at their countries, and officials from Azerbaijan and Russia discussed their governments' efforts to improve prison conditions.

Denmark, on behalf of the European Union and associated member states, delivered a statement describing torture prevention efforts of the E.U. Sweden took to task those countries which have failed to ratify various relevant international protocols and accept individual complaint procedures.

The UNHCR presented a set of concrete recommendations relating to the treatment of non-nationals and

asylum seekers in detention, thousands of such persons, he said, are held in administrative detention in the OSCE region, with no prospect of trial.

Near the close of the session, Sir Nigel Rodley proposed that, in the case of a country that systematically uses torture as a means of repression (a description that could apply to Turkmenistan or Uzbekistan), the OSCE participating States should consider using the OSCE's Moscow or other mechanism.

Working Group 2: Human Rights and the Penitentiary System

Working Group 2 was moderated by Ian Gorvin, OSCE/ODIHR Human Rights Advisor. For the first session, Silvia Casale, President of the European Committee for the Prevention of Torture and Inhuman Treatment or Degrading Treatment, and Alan Walker, OSCE/ODIHR Consultant on Prison Service, served as "introducers."

NGOs expressed concern about the conditions of prisons in specific countries. The main problems cited were over-crowding, lack of health care, and inadequately trained prison staff. Several NGOs recommended that states consider planned release of prisoners, alternatives to incarceration, and increased training for prison staff. The NGOs pressed for increased transparency and access to prisons and penitentiaries in all OSCE participating States.

Renate Wohlfeld, Rapporteur on the Abolition of the Death Penalty and Vice-Chairperson of the Sub-Committee on Human Rights of the Parliamentary Assembly of the Council of Europe, served as "introducer" for

the second session devoted largely to an exchange of information on capital punishment in the OSCE region.

The speaker representing the European Union offered its assessment of the issue, emphasizing European Commission efforts to educate the public in states still imposing capital punishment.

NGO representatives from Uzbekistan, Kazakstan and Kyrgyzstan were highly critical of their respective governments' practices. An Uzbek Government representative explained that the urgent need to combat terrorism, criminality and instability meant that the time was not ripe to abolish the death penalty. The United States acknowledged that capital punishment is a controversial and emotional issue in the United States but noted that, at present, a majority of Americans support the use of the death penalty and therefore both the majority of states and the federal government retain the authority to impose capital punishment, albeit only for the most serious crimes.

Concluding Plenary

During the concluding plenary, rapporteurs presented a summary of the recommendations made during the course of the meeting and participants offered final observations. In particular, the rapporteurs noted the recommendations to establish and implement a right of detainees to medical assistance and to refuse examination by certain doctors; to ensure that independent monitoring bodies can examine allegations of torture; to undertake a "mapping" project to identify those most at risk for torture; to ensure that confessions extracted through torture are excluded from evidence; and to ban incommunicado detention.

Turkey Venue for OSCE PA Expanded Bureau

By Chadwick R. Gore

A meeting of the Expanded Bureau of the OSCE Parliamentary Assembly, comprised of the Bureau Members and the elected officers of the three General Committees, was held April 10-11 in Antalya, Turkey.

Ad Hoc Committee on Election Monitoring

The *Ad Hoc* Committee on Election Monitoring was convened prior to the meeting on the 11th by OSCE PA President Helle Degn. She characterized the Russian election as "a significant step toward consolidation of democracy and the electoral system. Russian media was, however, compromised."

Degn had received messages indicating fraud and mishandling of ballots since the electoral statement by the OSCE PA Election Monitoring Group and hoped that the report of long term observers in Russia would include these allegations. She also commented that the electoral campaign was the most silent she had ever witnessed, that the media was improved but not enough.

Regarding Chechnya, while the Central Elections Commission (CEC) concluded elections could take place there, "our Ambassador [ODIHR Director Gerard Stoudmann] had the opposite conclusion." Stoudmann decided not to monitor Chechnya because the normal pre-election environment did not exist; lack of mobility; the demographic disaster; and, safety reasons. "Personally," said Degn, "I didn't want to be involved in local poli-

(Continued on page 46)

The Human Dimension of the Helsinki Process

By Erika B. Schlager

When the Helsinki Final Act (HFA) was signed in Helsinki, Finland in 1975, it enshrined among its ten Principles Guiding Relations between participating States (the decalogue), a commitment to “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” (Principle VII).

In addition, the HFA included a section on cooperation regarding humanitarian concerns, including transnational human contacts, information, culture and education. The HFA and subsequently adopted OSCE agreements are not treaties and are therefore viewed as political commitments, not legal obligations.

The Role of the Helsinki Commission: The Commission on Security and Cooperation in Europe (the Helsinki Commission) is a U.S. Government agency, established in 1976 pursuant to Public Law 94-304. It is mandated to “monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to Cooperation in Humanitarian fields [i.e., the human dimension].” (Emphasis added.)

Since 1990, the Helsinki Commission has particularly focused on restrictions on the freedoms of speech, press, and assembly; the treatment of persons belonging to ethnic, linguistic and religious minorities, including Roma; human rights violations in conflict settings and the prevention of torture. In addition, the Commission has monitored aspects of the transition to democracy, including challenges to the rule of law, free and fair elections, and the impact of corruption on the human and other dimensions of the OSCE.

What is the “Human Dimension”? “The Human Dimension” was a term coined during the drafting of the 1989 Vienna Concluding Document. This term was designed as a short-hand phrase to describe the human rights and humanitarian provisions of the agreements concluded within the framework of the Helsinki process. In addition, since 1989, this term has embraced the more recently adopted “democratization” commitments of the OSCE, summarized on the next page.

Consensus: All of the agreements of the Helsinki process have been adopted on the basis of consensus; i.e., each participating State has agreed to every provision in each OSCE document.

Universality: Each participating State is equally bound by each document. All countries which joined the Helsinki process after 1975 have pledged, as a condition for membership, to “accept in their entirety all commitments and responsibilities contained in these documents and [...] to act in accordance with their provisions.”

Establishing Common Standards on Human Rights: Through the negotiation of successive agreements, the OSCE participating States gradually expanded the body of shared commitments. It was often the case, however, that Soviet-bloc countries might concede to a provision in principle, only to undermine it through the operation of national laws, rules, or regulations. The 1989 Vienna Concluding Document stated, “In this context, [the participating States] confirm that they will respect each other’s right freely to choose and develop their political, social, economic and cultural systems as well as their right to determine their laws, regulations, practices and policies.

In exercising these rights, *they will ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration on Principles and other CSCE commitments.*” (Emphasis added.) By 1990, as the Iron Curtain began to fall, the OSCE Heads of State and Government declared in the Charter of Paris for a New Europe: “*We undertake to build, consolidate and strengthen democracy as the only system of government of our nations.*” (Emphasis added.)

Two OSCE documents enshrined the practice of raising human rights concerns. First, the 1989 Vienna Concluding Document committed each participating State (1) to respond to requests for information and to representations from any other participating State on specific cases or broad situations relating to commitments in the human dimension; (2) to meet bilaterally with participating States requesting such a meeting to examine these cases or situations; (3) to bring these cases and situations to the attention of the other participating States; and (4) to provide, if it deems necessary, information on what has transpired under the first two points at OSCE meetings.

Further establishing the OSCE commitments as the basis for bilateral and multilateral dialogue, the 1991 Moscow Concluding Document stated: “The participating States emphasize that issues relating to human rights, fun-

(Continued on page 45)

Summary of OSCE Commitments to Build, Consolidate and Strengthen Democracy

Democracy and the Rule of Law

The OSCE participating States have identified the protection of human rights and fundamental freedoms as one of the basic purposes of government and reaffirmed that recognition of these rights and freedoms constitutes the foundation of freedom, justice and peace.

They have acknowledged that democracy is an inherent element of the rule of law.

They have declared that the elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings include (in addition to protections of civil and political rights):

- a form of government that is representative in character, in which the executive is accountable to the elected legislature or the electorate;
- the duty of the government and public authorities, which are not above the law, to comply with their constitution;
- a clear separation between the state and political parties; in particular, political parties may not be merged

with the state (the “no establishment clause” for political parties);

- military forces and police under the control of, and accountable to, the civil authorities;
- independent judges and impartial operation of the public judicial service.

Free and Fair Elections

The participating States have declared that the will of the people, expressed through periodic and genuine elections, is the basis of the authority and legitimacy of government.

To that end, they will respect the right of individuals and groups to establish freely political parties and organizations and enable them to compete with each other on a basis of equal treatment before the law and the authorities;

Recognizing that the presence of observers, both foreign and domestic, can enhance the electoral process, they agreed to invite governmental and non-governmental observers for national elections.



(Continued from page 44)

fundamental freedoms, democracy and the rule of law are of international concern, as respect for these rights and freedoms constitutes one of the foundations of international order. They categorically and irrevocably declare that the commitments undertaken in the field

of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned.” (Emphasis added.)

(Turkey, continued from page 43)

tics.” She concluded, “whether democracy has become deeply rooted in Russia is yet to be seen.”

Concerning Croatia, Degn said “there is a totally different scenery in Croatia, new political music.”

Dr. Eric Rudenshiold, outgoing Director of Programs, commented that in the elections in Kyrgyzstan there was “a high degree of interference by prosecutors and public officials. The elections [were] not in full compliance with OSCE commitments.”

Adrian Severin, Chair of the *Ad Hoc* electoral Committee on Belarus, expressed concern about how the OSCE PA should express opinions about any process in Belarus. “We must speak with one voice,” he said. “To observe does not mean we recognize legitimacy. We should wish to observe the election. We should not, however, become the hostage of the opposition. But, on the other hand, we should not accept a fair system that will not lead Belarus to a pluralistic society. There can be no democracy without opposition.”

Bruce George, a Vice President of the OSCE PA and Chair of the Defence Committee of Britain’s House of Commons, discussed the role of the Council of Europe observers that often are present with the OSCE PA observer delegations. He was highly critical of their procedures, and felt they produced “poor quality results.”

A lengthy discussion of the possibility of elections in Kosovo in October followed, with Freimut Duve, OSCE Representative on Freedom of the Media, and Amb. Stoudmann expressing skepticism as to the probability.

While Mrs. Degn noted that the election monitoring budget for 2000 has already been spent, Hrair Balian,

Head of the Elections Section of ODIHR, noted that there has been an excellent response to efforts to put together joint consortium observer groups from the U.N. and OSCE.

Expanded Bureau Meeting

The Expanded Bureau was opened by President Degn with a gracious welcoming address by Ahmet Tan, Head of the Delegation from Turkey. A report from the Secretary General on the activities of the International Secretariat was received, followed by the report of the Treasurer. The report was approved and accepted.

A general discussion of the Ninth Annual Session of the Parliamentary Assembly to be held in Bucharest July 6-10 followed with some attention to detail. The most constructive time of the Expanded Bureau Meeting was dedicated to the review and amendment of the draft reports and draft resolutions that had been prepared for Bucharest.

Rapporteur of the General Committee on Political Affairs and Security András Bársony of Hungary submitted his draft report. Mr. Bársony felt that the fall of the Berlin Wall has led to the re-emergence and revitalization of the nation-state. His report was thus concerned with finding a solution between sovereignty and human rights as a concern of all States.

The theme for this year’s assembly was *Good Governance: Regional Cooperation, Strengthening Democratic Institutions, Promoting Transparency, Enforcing the Rule of Law and Combating Corruption*.

Bársony was especially concerned about actions and policy against arms smugglers, i.e. what is the role of parliaments, and what is the key role of the Parliamentary Assembly? “This is the time to address our governments

and the Permanent Council,” said Bársony, “and maybe the next Summit. The lessons of Kosovo, the Balkans and the Caucasus show that we can’t limit conflict within the borders of one country.”

Bársony was critical of arms dealers in general, calling for their limitation, but Bruce George reminded the group that while “it’s an excellent report, arms sales *is* a legitimate business.”

Adrian Severin felt the report should deal more with corruption, especially in the former Soviet Bloc countries where “corruption is the number one problem.”

Jerahmiel Grafstein of Canada, Vice-Chair of the Second Committee, felt there was a failure in Western history to look back at the origins of conflict. “We still do not pay enough attention to rule of law *before* conflicts to prevent them as we do afterward,” Grafstein said.

Dorota Simonides of Poland, Vice-Chair of the Third Committee, said, “The three texts are almost identical. Corruption, money laundering, organized crime. These problems are not behind us, we’re in the midst of them. I suggest we look in the detail of the texts to avoid repetition.”

Mrs. Degn said, “One theme is well covered but others are not. While corruption and economic crimes are well covered along the lines of before, one can see unfairness toward other themes. I would like to see balance in the text as per its headline. I would like to see good governance and division of labor between military and civil police branches for the operation of a civil society. What is the push or threat coming from globalization?”

Rapporteur for the General Committee on Economic Affairs, Science, Technology and Environment Barbara

Haering of Switzerland submitted her draft report entitled *Good Governance: Regional Co-operation, Strengthening Democratic Institutions, Promoting Transparency, Enforcing the Rule of Law and Combating Corruption—Good Governance as a Precondition for Sustainable Development and Interregional Cooperation*.

Haering felt that although good governance was originally intended in this context for developing countries, it has become important for all. Also, "current corruption in Germany and Italy shows it can happen in all countries," she said.

Severin called for the regulation of campaign finance, especially of political parties, in all countries due to the developments in Germany.

Gert Weisskirchen of Germany, Chair of the Third Committee, commented, "The role of the State has become smaller every day. What should remain of the State is to direct the market economy in small ways. We do not want to live in a market economy, but of course we do live in one. It was Margaret Thatcher's classic answer that 'there is no civil society.' But there is one."

Rapporteur for the General Committee on Democracy, Human Rights and Humanitarian Questions Nino Burjanadze of Georgia submitted her Draft Report entitled *Good Governance: Regional Co-operation, Strengthening Democratic Institutions, Promoting Transparency, Enforcing the Rule of Law and Combating Corruption*.

After the introduction, Severin asked, "How can we fight corruption and organized crime, and yet respect human rights? We don't yet have the appropriate answer."

Tana DeZulueta of Italy, Vice President of the OSCE PA, said, "We must understand it is impossible to protect

rights when pursuing organized crime, especially when it permeates organs of the State. The separation of powers is necessary, and we need legal protection for victims."

Weisskirchen said, "The press is the most important instrument we have to find out about corruption. There is a kind of reversion in Eastern Europe."

Reports were then received from the *Ad Hoc* Working Group on Belarus and the Parliamentary Team on Moldova. Regarding Belarus, however, Bársony asked if, since the 1994 Supreme Soviet is no longer valid because their term of office has expired under their own constitution, do we observe elections under a law we no longer accept? There was a general consensus that, until the Belarusian elections are genuinely free and fair, the 13th Supreme Soviet would still be recognized.

The U.S. delegation delivered a letter to President Degen concerning the status of Turkish human rights activist Akin Birdal under imprisonment. A discussion was held, with a consensus of concern for Mr. Birdal's well-being.

Dr. Ahmet Tan, President of the Turkish Delegation to the OSCE PA, delivered a response to the U.S. delegation which said, in part, "Mr. Akin Birdal was sentenced to 2 months imprisonment according to Article 312.2 of the Turkish Penal Code which prohibits discrimination and incitement to hatred and enmity based on ethnicity, race, class and sect."

"As a result of ongoing medical treatment to his right hand for injuries sustained during an unsuccessful assassination attempt, the execution of Birdal's sentence was suspended by 6 months, although Article 400 of the Law on Procedures of Trials allows

for only a 4-month suspension," Tan said.

"None of us in Turkey is satisfied that Mr. Birdal is back in prison. We all find this situation regrettable including my party in government... I very much value your interest in Birdal's case, nevertheless, I also believe that the rule of law must be upheld without reservations or exceptions. Turkish laws apply to all Turkish citizens. In my opinion what has to be done in the medium term is to enlarge the scope of freedom of expression so that such cases do not occur again in the future."

(From Vienna, *continued from page 41*)

Yerevan have reported to the PC on their work. HOM in Kosovo Daan Everts joined UN Mission in Kosovo Head Bernard Kouchner who recounted five major concerns: having enough time to undertake his mission, resolving the questions of missing and detained persons, improving security through a functioning judicial system staffed by internationals, organizing the return of refugees in a safe and gradual manner, and defining what was meant in the settlement of the conflict by "substantial autonomy."

Everts briefed the PC on the status of voter registration for municipal elections this fall. Some 200 registration sites are operating in Kosovo, each averaging about 135 registrants per day. Only about 3 percent of applicants have not had sufficient documentation, which should allow for all disputed claims to be processed. Although Kosovar Serbs are not yet registering, Everts was cautiously optimistic that they would participate.

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