

# OSCE

Office for Democratic Institutions and Human Rights

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## A NOTE FROM THE DIRECTOR

A Very Happy New Year !

This is the first edition of the Bulletin of the OSCE, the name which the participating States decided on at the Budapest Conference. In his opening address at that Conference the Hungarian Foreign Minister set out the role which the OSCE can play in to-days Europe and underlined the need for the implementation of existing commitments. This sentiment is one with which this Office agrees and to which its work is dedicated. Some excerpts from the Foreign Minister speech are produced here.

There are two articles in this edition on freedom of expression under the European Convention of Human Rights with the emphasis on the rights of journalism - one is by Chris Krueger, the well known Secretary to the European Convention on Human Rights and an associate and the other is taken from the Austrian intervention at the Mass Media Conference in Prague. The articles are certain-raisers to the workshop which we are holding in May on the media.

We have decided to have articles about the various regions in the OSCE. To start Professor Karpat has written a fascinating article on the foreign policy of the Central Asian States. We also have an interesting article from Elena Sodovskaya on conflict prevention in Kazakhstan explaining its efficacy.

The ODIHR has been given many new tasks since its inception and we thought it would be useful if we explained our mandate. We have started with Roma. The follow up action suggested at the Roma Seminar was endorsed by the participating States at Budapest. Jacek Paliszewski is the Roma contact person in ODIHR and has already had meetings with various groups.

In this edition we have started a new section "NGO paper". This will be a regular feature and will contain information about the ODIHR's contacts and activities with NGOs.

This year is the 20th Anniversary of the signing of the Helsinki Accords and we intend to produce a special edition of the Bulletin. The editor is looking for articles and would particularly appreciate ones from those who participated in negotiating the original document.

I hope that you enjoy this edition. We look forward to receiving your comments.

Audrey Glover  
Ambassador

# OPENING STATEMENT

**H.E. László Kovács**

**Minister for Foreign Affairs of the Republic of Hungary**

*Note from the editor: The CSCE Budapest Review Conference started on October 10, 1994 and finished on December 6, 1994, with the Budapest Summit. Below we publish excerpts from the opening statement made by the host country.*

[...] We have to face the fact that the CSCE does not belong to the most highly appreciated security institutions in Europe. Its conflict prevention efforts hit the headlines only if they fail. Its success rarely gets first page attention in the media. Who knows, for instance, about the very successful activities of the High Commissioner on National Minorities or of the CSCE Missions in Estonia and Latvia?

But are there really any European security institutions and arrangements that would enjoy the full confidence of the peoples for their ability to resolve the conflicts which have emerged on our continent? More generally, is it really international institutions that should be blamed for the lack of success in managing these conflicts? We have to recognise that conflict prevention and resolution require, on the one hand, the co-operation of the parties on the basis of the recognition that peace is more advantageous than war and, on the other, the commitment of the democracies of the continent to contribute with political, economic and, if need be, military means to the resolution of the conflicts. In most conflicts this co-operation or this commitment are still missing and in such situations international organisations have a much harder task to perform.

There is a certain security gap in Europe - a gap which has not yet acquired the characteristics of a vacuum, but is nevertheless dangerous: many countries, especially those in the Central and Eastern parts of Europe, feel insecure. Some of them are exposed to violence and tormented by bloody conflicts. And the countries in the Western part of Europe - which enjoy security thanks to powerful multilateral military, political, and economic organisations, the stability of their economies and the strength of their well-established democratic societies - are trying to cope with the necessities of the adjustment to a radically new situation, while seeming somewhat disturbed by the fact that the others seek their assistance and express the wish to become members of these organisations.

We all know that the expansion of these organisations will take some time, though hopefully not too long a period, and we are also aware that this process will have its limits as well. And we all feel - some more keenly than others - the need for a comprehensive security structure which would be available now, offering a forum to all - including those who are not, and will not become in the foreseeable future - members of these organisations.

There also is a gap in the mission CSCE is pursuing for European security. Its norm-setting activities have played an extremely important role in dismantling totalitarian regimes in Europe and have not lost their relevance for the present. But emphasis should be laid now on the implementation of the commitments already undertaken. New commitments might still be necessary in several fields, but existing commitments already offer an almost complete catalogue of what we call "shared and common European values." Had all these commitments been implemented in full everywhere, there would hardly be a need today for the other function of the CSCE, namely conflict-prevention, conflict management and resolution, and post-conflict rehabilitation. Under the present circumstances, this other CSCE function should not only be maintained but decisively strengthened.

The new mission to be assumed by the CSCE could fill the existing gaps by setting up a unique structure for the countries of the continent. The CSCE is already in a position to offer the basic principles that should guide our behaviour, the behaviour of states both towards each other and towards their citizens. These principles are in full conformity with and expressive of our shared European values. On this basis, the CSCE can provide us with a unique conflict-prevention, management and resolution, and post-conflict rehabilitation capability, so badly needed in present-day Europe.

CSCE can play a central role in strengthening security and stability in Europe, but it cannot do it alone. There is a need for co-operation with other security institutions and, even more importantly, for the full support of governments in this endeavour. Accordingly, we expect the Summit to devote great attention to this potential of the CSCE. Participating states should manifest tangibly their willingness to observe the principles adopted and the commitments undertaken within the CSCE, and should translate it in their behaviour both internationally and internally, individually and also collectively, i.e. in regional and sub-regional organisations. Participating states should make full use of the CSCE's comparative advantages in conflict prevention, management and resolution, and should also try to develop its post-conflict rehabilitation capabilities, if progress in the resolution of conflicts makes this possible.

With these objectives in mind, the CSCE should also concentrate on making its existing instruments more effective. We do not think that there is a need for substantial changes in its instrumentarium. It seems to us not only easier, but also more to the purpose, to make full use of existing institutions rather than try to invent new ones. In this spirit, we think that in the Budapest Review Conference and Summit emphasis should be made on making the existing instruments, the Chairman-in-Office and the Troika, the Secretary General, the High Commissioner on National Minorities, the ODIHR, etc., more effective - possibly without changing their mandates. In our view, only a very limited number of structural changes might be needed.

In conclusion, I want to emphasise another issue which is of direct and immediate relevance to our work. Some suggest that with the end of confrontation, the implementation debate has lost its significance. I would humbly disagree. The confrontational approach to the implementation debate may have lost its importance but not the debate itself. Looking at the situation on the continent, we cannot but stress the need for a serious and regular implementation debate, since commitments in various fields, notably in the field of the human dimension, are, unfortunately, violated every day and not only in countries where armed conflicts are going on.

Our approach should be non-confrontational. This means that raising cases where commitments are violated should not be interpreted as an act of accusation against countries or governments. It also means that friendly criticism should not be received and understood by those who feel criticised as an offence and should not be turned down as "interference with internal affairs." Nobody is perfect. Any country's human rights record can be improved. And it is much better to get constructive advice and help in the CSCE fora than being exposed to criticism in public. In the course of the implementation debate during this Review Conference, Hungary will adopt such an approach and will also show the shortcomings of its own record in the past two years in several fields, such as the freedom of the media and the implementation of the Law on Minorities, and will also show present efforts to remedy these laws.

# THE EUROPEAN CONVENTION ON THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

**Hans Christian Krüger**

Secretary to the European Commission of Human Rights, and

**Wolfgang Strasser**

Member of the Secretariat

Fragment of a book

"The use of international instruments  
to protect the rights of migrants and ethnic minorities"

edited by Julie Cantor and Jan Niessen,  
(Strasbourg, 1994)

*The European Convention on Human Rights contains provisions which may be used against manifestations of racism, in particular if they emanate from the State. However, in practice no cases of discriminatory practices have so far been established. On the other hand, the Convention has been more effective where the prevention of the expression of racist ideas is concerned. Generally the Convention organs have refused to allow protagonists of racism to benefit from the protection of Articles 10 or 11, while critics of racist behaviour in fact can rely on those provisions.*

## HISTORY AND STRUCTURE OF THE CONVENTION

The European Convention on Human Rights was the first Convention adopted by the Council of Europe in 1950 and has ever since remained very much tied up with the particular identity of this regional international organisation, giving concrete shape to the three principles contained in the Council of Europe's Statute: democracy, rule of law, and protection of fundamental rights. Because of the close link to the statutory aims of the Council of Europe, the Convention has been given the status of a "closed instrument," i.e. it is open to ratification only by States which are members of the Council of Europe.

The European Convention marked a major breakthrough in the development of international law in that it was the first ever treaty creating binding obligations for States in the area of human rights. The Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations in 1948, to which the Preamble refers, still had been limited to a catalogue of rights which the States undertook to respect, without subjecting themselves to an international control machinery. Such a control machinery was provided for in the European Convention and constitutes its principal achievement.

The structure of this control mechanism provides for three supervisory organs: the European Commission of Human Rights; the European Court of Human Rights; and the Committee of Ministers of the Council of Europe. These organs can examine two types of complaints: complaints by one State against another (which are rare in and, by their nature, limited to particularly serious situations likely to be taken up in a Government decision), and individual complaints against a Contracting State by persons claiming to be victims of a violation of their rights. The latter type of complaint has to be accepted by the State concerned under an optional clause (Article 25). All cases must first be examined by the Commission as to their admissibility, following which the Commission, in a second stage of the

proceedings, tries to secure a friendly settlement between the parties and, if non can be reached, expresses its opinion as to whether or not the Convention has been violated. This opinion, however, is not the final decision on the merits which will be taken either by the European Court of Human Rights or, if the case is not referred to it, by the Committee of Ministers. The competence of the Court is again dependent on the acceptance of an optional clause by the State concerned (Article 46).

Already in 1953 the Convention entered into force after 10 ratification. In 1954 the European Commission of Human Rights was set up, and it started to operate effectively and on a large scale as from 1955 when the requisite number of States had accepted its competence to examine individual applications. The European Court of Human Rights was established in 1959 after a sufficient number of States had also recognised its compulsory jurisdiction. By 1989 all member States of the Council of Europe had accepted the full range of obligations under the Convention (ratification and acceptance of the optional clauses), so that from then onwards it was made a political condition for new member States to do the same. By now the system embraces 28 of the 32 member States of the Council of Europe, including several Eastern European countries. The four remaining States have signed the Convention when they acceded to the Council of Europe and are expected to ratify it within the not too distant future.

The Convention did not remain unchanged. It was supplemented by a number of additional Protocols which extended its scope to further rights. Other Protocols brought about certain changes in the international control procedure, in particular the 8th Protocol which entered into force in 1990, and which empowered the Commission to set up Chambers and Committees, thereby considerably increasing its working capacity in response to the rising tide of applications. An Amending Protocol is now under elaboration which will bring about a fundamental change of the system by establishing a single Court to replace the existing complicated structure of several supervisory bodies. The new Court will incorporate the functions of the Commission concerning the selection of admissible cases and negotiating friendly settlements. The Amending Protocol should be ready for signature in May 1994 but, as it must be ratified by all Contracting States, several years will certainly elapse before it can enter into force. In the meantime the existing Convention organs must try to cope with the ever-increasing workload as best they can.

Since 1955, more than 20 000 applications have been examined by the Commission; the annual number of registered cases approaches 2 000. It has tripled since 1985. A large proportion is declared inadmissible, but over the years some 1 500 cases have been declared admissible and examined as to the merits. Of these, approximately 200 were settled before the Commission and about 400 were dealt with by the Court. On the whole, a very considerable body of case law has developed. As a consequence of friendly settlements and decisions establishing breaches of the Convention, the law and practice of Convention States has been changed in many instances.

However, this is not the only impact of the Convention. In fact, the international control mechanism is subsidiary, and the primary implementation of the Convention has to take place on the domestic level. There is no legal obligation under the Convention to incorporate its substantive provisions into the domestic law, but the majority of the Convention States have done so. In those States the Convention can be directly invoked before the national authorities and, accordingly, a case law on the Convention, often inspired by the Strasbourg jurisprudence, has also been developed in the framework of the internal legal systems. Even where the Convention has not been made part of the internal law, States are required to comply with it in substance. The individual has a right to effective domestic remedies to this effect (Article 13), which he must exhaust prior to appealing to the Strasbourg Convention organs (Article 26).

## PROTECTION AGAINST RACIAL DISCRIMINATION UNDER THE CONVENTION

When considering what protection is available under the European Convention of Human Rights against various forms of racial discrimination, it is necessary to bear in mind some essential characteristics of the rights guaranteed in the Convention. Firstly, they are minimum rights of such importance that their protection through an international instrument is justified. A number of rights which might be important for racial or other minorities are not - or not yet included in the Convention system. However, nothing in the Convention prevents the States from providing for a better protection on the national level (Article 60).

Secondly, the Convention rights are primarily intended to protect the individual against unjustified State interference. This means that the protection of the Convention is in principle not available against acts of private individuals or private institutions. The Convention has only a limited third-party effect on relations between private parties, e.g. when a dispute between such private parties is decided by State authorities on the basis of principles which are contrary to the Convention (cf the case of **Hoffmann v Austria** concerning a judicial decision on child custody, which was found to be in breach of the Convention as being discriminatory on the ground of religion<sup>1</sup>). In so far as racial discrimination is a social phenomenon which does not emanate from the State or its institutions, it is therefore not or at least not directly covered by the Convention.

Thirdly, Article 14 of the Convention - which specifically proscribes discrimination on any ground such as, inter alia, race, colour, national or social origin, or association with a national minority - is formulated in such a way that it does not amount to the recognition of the principle of equality in all spheres of life: the non-discrimination principle is only stipulated as regards the enjoyment of the rights set forth in the Convention. Thus the provision is accessory in character and can only be applied where another provision of the Convention is applicable. In this context it must be stressed again that certain rights, which might be important for racial or other minorities, are not included in the Convention, and therefore also outside the scope of the non-discrimination principle under Article 14.

Thus one could not at present complain of discrimination with respect to access to citizenship, access to civil service, the right to work, the right to social benefits etc. An extension of Article 14 has been proposed several times in the past, but so far no concrete results of these moves are foreseeable.

Finally, it must also be mentioned that in the practice of the Convention organs, the question of discrimination is not being examined separately if a breach of the Convention right in relation to which discrimination is claimed, has been established. It is not surprising against this background that there is only little case law of the Convention organs on racial discrimination. In particular, there is no case in which racial discrimination contrary to the requirements of Article 14 of the Convention has actually been established.

Nevertheless, at least in the area of immigration law the question of racial discrimination has repeatedly been examined in some detail. In one case which was declared admissible the Commission, aware of the difficulties created by the accessory nature of Article 14, sought an alternative legal basis for tackling the problem of racial discrimination. In the admissibility decision of 10 October 1970 concerning the first **East African Asians'** case, which concerned the non-admission to Britain of citizens of the UK and Colonies holding UK passports who had been expelled from Kenya and Uganda because of their

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<sup>1</sup> Judgment of 23.3.1993, Series A No.255-CT

Asian origin, the Commission stated the following:

*"The Commission is of the opinion that, quite apart from any consideration of Article 14, discrimination based on race could, in certain circumstances, of itself amount to degrading treatment within the meaning of Article 3 of the Convention; ... it is generally recognised that special importance should be attached to discrimination based on race, and that publicly to single out a group of persons for differential treatment on the basis of race might, in certain circumstances, constitute a special form of affront to human dignity;..."*<sup>2</sup>

In later decisions concerning expulsions of aliens from the UK, the Commission rejected complaints of racial discrimination on the ground that the measures complained of were not based on race, and that apart from that:

*"the difference in immigration rights between a Commonwealth citizen and an alien in the United Kingdom has an objective and reasonable basis, i.e. in acknowledging the right of the country to limit the number of foreign persons who are entitled to reside in its territory, a State may reasonably give priority to the citizens of those countries with whom it has the closest links."*<sup>3</sup>

In the case of **Abdulaziz, Cabales and Balkandali** the applicants complained under Article 14 in conjunction with Article 8 of the Convention that they had been discriminated against on the grounds of sex and race in that foreign husbands of lawful female residents in the UK did not have the same rights of entry as wives of male residents. The Commission and Court eventually established a violation of Article 14 on the ground of sexual, not racial discrimination. In this respect the Court noted that the applicable immigration rules contained a specific instruction to immigration officers to carry out their duties without regard to race or colour. It also accepted that the main purpose of the restrictive rules was to curtail "primary immigration" and not objections regarding the origin of the non-nationals wanting to enter the country. It then went on to say:

*"That the mass immigration against which the rules were directed consisted mainly of would-be immigrants from the New Commonwealth and Pakistan, and that as a result they affected at the material time fewer white people than others, is not a sufficient reason to consider them as racist in character; it is an effect which derives not from the content of the 1980 Rules but from the fact that, among those wishing to immigrate, some ethnic groups outnumbered others."*<sup>4</sup>

Finally, in the case of **Beljoudi**, which concerned the expulsion of a second generation immigrant from France and the related interference with his family life, the Commission, but not the Court, considered the question whether there had been discrimination of the applicant based on his ethnic origin. However, it found that the discrimination complained of related to the acquisition of citizenship and thus not a right guaranteed by the Convention, so that Article 14 was not applicable.<sup>5</sup>

There is also a number of cases outside the area of immigration law where racial discrimination was invoked. Thus, e.g., the Commission repeatedly dealt with cases alleging discrimination of gypsies in

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<sup>2</sup> Collection of decisions 36, p.117

<sup>3</sup> No.9088/80, dec.6.3.1982, D.R.28, p.163

<sup>4</sup> Judgment A/94 of 28 May 1985, para 85

<sup>5</sup> Report of 6.9.1990, paras 76 ff



various areas of life. It recognised, as it also did with regard to nomadic Lapps in Norway,<sup>6</sup> that a minority's life style may fall under the protection of private life, family life or home, under Article 8 of the Convention. It also accepted that, although the Convention does not contain a right to obtain identity papers, the refusal to issue such papers to nomadic gypsies might raise issues under Article 3 and 14 of the Convention concerning the respect for their human dignity and concerning their treatment<sup>7</sup>. However, this and a number of other cases involving such issues as the recognition of a marriage according to gypsy sites<sup>8</sup> were all declared inadmissible by the Commission. Insofar as this was not done on formal grounds and the Commission addressed the issue of discrimination, it found the differential treatment complained of, to have an objective and reasonable justification. The relevant decisions do not add anything to the traditional concept of interpretation of Article 14 as established in the **Belgian Linguistic** case<sup>9</sup>, the turning point in each case being the appreciation of the facts by the Commission.

The above summary of the case law might appear disappointing. However one should not draw the rash conclusion that the Convention cannot be an effective instrument to combat practices of racial discrimination. With no doubt, it has certain structural weaknesses in this area, but it clearly outrules any crude forms of racist measures taken by State organs. The East African Asians case has shown a way to challenge these even outside the scope of Article 14. However, the more subtle indirect forms of differential treatment often remain below the threshold of what the Convention organs would regard as unreasonable and therefore discriminatory.

### **RACIST SPEECH AND ITS CRITICISM**

The case law in another area shows that the Convention organs are quite sensitive to the problem of racial discrimination. They have consistently recognised the justification of restrictions on the freedom of expression of persons who advocate racist ideas, and on the other hand upheld the freedom of expression of persons who criticise racism.

Already in the **De Becker** case it was recognised that restrictions on the right to publish, could be imposed as a criminal sanction on a person who in the past had justified racism and nazi crimes by his writings, only the proportionality of the sanction - an absolute prohibition for lifetime to publish anything on any subject - was found to be objectionable. The legislation was accordingly amended in the sense that the prohibition was limited to publications of a political character<sup>10</sup>. In a subsequent case, a conviction for an attempt to circumvent a prohibition of the same type under the new legislation was considered as fully justified by the Commission under Article 10 para 2. The applicant in this case had participated in the preparation of a publication which cast doubt on the reality of the extermination of Jews in Auschwitz<sup>11</sup>.

In a German case where the applicant had been convicted for defamation of his neighbour, a Jewish citizen, because he had put up in his garden a large poster describing Auschwitz as a lie, the

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<sup>6</sup> cf No.9278/81 and 9415/81, dec.3.10.1983, D.R.35, p.30

<sup>7</sup> Nos 7823-7824/77, *Kalderas gypsies v Germany and Netherlands*, dec.6.7.1977, D.R.11, p.221

<sup>8</sup> No.14751/89 v UK, dec.12.12.1990; No.14455/88, *Ruby, John and Tommy Smith v UK*, dec.4.9.1991; No.18401/91 *Ruby Smith v UK*, dec.6.5.1993; No.13628/88, *Van de Vin and others v Netherlands*, dec.8.4.1992; cf also No.12344/86, *Beckers v Netherlands* dec.25.2.1991

<sup>9</sup> Judgment of 23.7.1968, Series A No.6

<sup>10</sup> Court judgment of 27 March 1962, Series A No.4, and Commission's Report, Series B No.2

<sup>11</sup> No.9777/82, dec.14.7.1983, D.R.34, p.158 ff

Commission also found the restriction of the applicant's freedom of expression justified under Article 10 para 2. It added that it was not discriminatory to provide collective protection against defamation only to certain specific groups, including Jews, which have historically suffered from discrimination, and that the killing of thousands of Jews by the nazi regime was a notorious historical fact for which the court was not required to admit evidence<sup>12</sup>.

Similarly, in an Austrian case<sup>13</sup>, the Commission found the conviction of a number of persons for neo-nazi activities justified under Article 10 para 2. Insofar as they complained of discrimination because neo nazi activities were treated differently from those of other political groups, the Commission found an objective and reasonable justification in the historical experience of Austria during the National Socialist era, her treaty obligations and the danger which neo nazi activities constituted for the Austrian society

Complaints by the founder of a neo fascist movement in Italy that by the prohibition of his organisation his rights under Arts 9, 10 and 11 had been violated and that he had been discriminated against were likewise rejected<sup>14</sup>, as were the complaints of a prisoner in Britain that he could not obtain a specific issue of "Gothic Ripples" which advertised publications which encourage anti-Semitism, racial prejudice and the use of weapons<sup>15</sup>.

In some cases the Commission did not content itself with the argument that the restriction was necessary in a democratic society and therefore covered by Article 10 para 2 of the Convention; it also referred to Article 17 which stipulates that the Convention cannot be invoked to justify an activity which aims at the destruction of fundamental rights. This was done in particular in the case of the German neo nazi leader Kühnen<sup>16</sup> and in a Dutch case in which leading members of a right wing political party were prevented from distributing leaflets with a racist content and from participating in local elections. The Commission found that Article 17 did not permit the use of Article 10 to spread ideas which are racially discriminatory, nor of Art 3 of Protocol No 1 to support a candidature,<sup>17</sup> founded on a platform of racial discrimination<sup>18</sup>. These cases must be confronted with that of **Oberschlick versus Austria**<sup>19</sup>, where the Commission and Court found a breach of Article 10 because a journalist had been convicted for defamation of a politician.

The latter had made proposals to discriminate against foreigners in the field of family allowances, increasing those of Austrian women so that they would renounce abortion. The applicant compared this to nazi doctrine, in particular the NS statute of 1920 and brought a criminal information against the politician for having offended against the National Socialism Prohibition Act and incited racial hatred. He was convicted because he had simultaneously published this criminal information which in fact was not acted upon. It is in fact problematical that a journalist should be allowed to accuse somebody publicly of very serious crimes on the basis of what may have been a misconception of the real meaning

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<sup>12</sup> No.9235/81, dec.16.7.1982, D.R.29, p.194 ff

<sup>13</sup> No.12774/87, dec.12.10.1989, D.R.62, p.216 ff

<sup>14</sup> No.6741/74, dec.21.5.1976, D.R.5, p.83 ff

<sup>15</sup> No.13214/87, dec.9.12.1988, D.R.59, p.244 ff

<sup>16</sup> No.12194/86, dec.12.5.1988, D.R.56, p.205; see also application No.19459/92 against Germany, dec.29.3.1993, concerning the dismissal of a soldier from the federal army on the ground that he had made statements of a racist nature and discriminatory against the Jewish people

<sup>17</sup> No.8348+8406/78

<sup>18</sup> Glimmerveen and Hagenbeck v Netherlands, dec.11.10.1979, D.R.18, p.187 ff

<sup>19</sup> Judgment of 23.5.1991, Series A No.204, Commission Report of 14.12.1989

of the applicable provisions of the criminal law. The Convention organs nevertheless considered that the right to criticise absolutely abominable statements of a politician must prevail.

Another problematical case is at present pending before the Court, **Jersild v Denmark**<sup>20</sup>. The applicant, a TV journalist, had prepared a programme on racist views of skinheads who were shown expressing these very crude ideas without there being any critical comment by the authors of the programme. In a way, the facts were made to speak for themselves. The journalist was subsequently convicted for aiding and abetting the crime of inciting to racial hatred, but the Commission considered that having regard to the whole context of the programme, this conviction constituted an unjustified interference with the journalist's freedom of expression. A special feature of this case is a possible conflict of Article 10 with requirements of the UN Convention on the Elimination of All Forms of Racial Discrimination which were invoked by the Danish authorities.

Finally, there have also been a number of cases under Article 11 of the Convention, which protects the freedom of association and assembly. A Dutch applicant complained that this provision had been breached by his dismissal from his post in a semi-official foundation working for immigrants merely because he was a member of a particular political party. The Commission noted, however, that party's hostile attitude to the presence of workers from Surinam and other foreign countries in the Netherlands and considered that, in view of the applicant's professional duties and the specific nature of his work, the employer could reasonably take account of the adverse effects which his political activities might have on the Foundations reputation, particularly in the eyes of the immigrants whose interests it sought to promote<sup>21</sup>.

As far as freedom of assembly is concerned, an Austrian case shows that a message of pan-German nationalism may be taken as a ground for restrictions<sup>22</sup>. However, because of the necessity to protect the public order, even an innocent demonstration fighting against manifestations of racism may legitimately caught by a general ban on demonstrations ordered to prevent racial clashes<sup>23</sup>.

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<sup>20</sup> No.15890/89, Commission Report of 8.7.1993

<sup>21</sup> No.11002/84, Van der Heijden v NL, dec.8.3.1985, D.R.41, p. 264 ff

<sup>22</sup> No.9905/82, dec.15.3.1984, DF.R.36 p.187 ff

<sup>23</sup> No.8440/78, Christians against Racism and Fascism v UK, dec.16.7.1980, D.R.21, p.138 ff

# **JOURNALISTIC FREEDOMS AND HUMAN RIGHTS**

**Excerpts from the report presented by the Austrian Delegation at the  
4th European Ministerial Conference on Mass Media Policy  
Prague (Czech Republic) 7-8 December, 1994**

*The issue of "journalistic freedoms and human rights" is especially topical now against the backdrop of the latest developments in Europe and the emergence of a number of new democracies where a media system is being established and journalism's role and self-identity still needs to be defined. The western countries also have a number of potentially explosive problems on the agenda, such as media concentration, the imminent loss of credibility of many media and the need to expand journalistic rights. Despite the many differences, certain key journalistic rights have emerged which can be used as a gauge for the degree of freedom in the media and among journalists - and thus of freedom of expression and information in general. These rights and fundamental freedoms are the subject of this report.*

## **FUNDAMENTAL CONDITIONS IN DEMOCRATIC SOCIETIES WITH REGARD TO JOURNALISM AND THOSE ENGAGED IN ITS PRACTICE**

### **Principles**

The freedom of expression and information constitutes one of the essential foundation of a democratic system and has been reaffirmed in all human rights documents issued after World War II, without exception. For example, the United Nations Universal Declaration of Human Rights of 1948 established every individual's right to freedom of expression. Article 10 of the European Convention on Human Rights of 1950 guarantees freedom of expression and information, without interference by public authorities and regardless of frontiers.

One of the generally recognised principles in all democratic states is that government interventions in the form of censorship, pre-censorship, the obligatory licensing of print media, import limitations on media products from abroad or administrative postal bans are deemed to be gross violations of the right to freedom of expression and information. Government interference of this kind in the media system casts a doubt on its commitment to democracy as a whole and is therefore prohibited in most European states by laws with constitutional status, i.e. enduring legal norms.

Freedom of expression is applicable not only to information and ideas that are favourable received or regarded as inoffensive or as a matter of indifference but also to those that offend shock or disturb. In other words, it also protects highly personal, even unbalanced and subjective opinions. The fundamental right to freedom of expression and information applies in principle to everyone; it is not a special right granted to a particular person or a particular group. At the same time, the right to freedom of expression and information includes the right to receive information and the right of the public to have appropriate information.

In the case law of the European Court of Human Rights, the interpretation of freedom of the press, freedom of the media has clearly evolved from a classic individual right to a functional democratic right. The view underlying this change is that the mass media which contribute to public debate, foster public opinion and create a public - all central tasks for democratic societies - also have a responsibility to society.

### **Fundamental economic conditions**

Aside from performing and fulfilling the public duties they have in democratic system, the mass media are also business enterprises. As advertising media, they provide crucial infrastructure for the market economy and, in the case of most newspapers and private broadcasters, rely on the proceeds from advertising business as the basis for their continued operation. Mass media are thus at the same time distributing points for and holders of economic and political power and are subject to the rules of a marketplace where news and entertainment have a certain market value and the media image of persons or products has become a marketable good.

Viewing freedom of the media only in the liberal sense of freedom from state control is insufficient given the fact that it is often not the state but the market itself which is the main mechanism of social regulation. Taking this reality into account, the Declaration on the Freedom of Expression and Information of 1982, appealed to the political community to foster as much as possible a variety of media and a plurality of information sources.

### **Those engaged in the practice of journalism and their role**

The professional activities of the publishers, editors and the journalists working in media enterprises, entitle them in many countries to certain preferential rights and guarantees of protection. These various rights, should not satisfy their own communications interests but serve certain social responsibilities. This special community role of the mass media and journalists is what gives them greater rights in many countries than other citizens, when it comes to obtaining and disseminating governmental information.

Nevertheless, many countries reject the establishment of these kinds of preferential rights and guarantees of protection. Even journalists, publishers and editors are not always positively disposed toward special regulations of this type, partly for ideological reasons and partly due to a difference in traditions and history. Some fear that the establishment of rules for "privileges" could result in similar ones for "obligations" - and thus worsen the media's possibility to perform its work through the state, or even legislative, interference.

It is clear that many different parties share the responsibility for how the media system functions: the state which established the legal foundations for media work; the media owners who operate the media and bear the economic responsibility for it; the employees of the media enterprise whose responsibilities are determined by their areas of competence which in turn are laid down relatively precisely based on the hierarchy of the company; and the individual journalists and their professional commitment. In general the more autonomous journalism is and the more leeway journalists are given in their actions, the better able will journalism be to provide quality coverage of a multitude of topics and opinions in a given public medium.

A state's legal system cannot impose or guarantee complete journalistic responsibility. It is all the less able to, because responsibility implies a degree of freedom and because the objectivity of coverage must not be permitted to be defined by the state, nor its truthfulness, to be replaced by a government

sanctioned version of the truth. However, government regulations - on the media and on other areas - do shape the legal responsibility of the media which in collecting and disseminating information may come into conflict with objects of public and private legal protection; they establish the framework within which journalists responsibility unfolds; and they can provide certain structural guidelines for journalistic responsibility.

## **FUNDAMENTAL LEGAL CONDITIONS FOR THE EXERCISE OF FREE JOURNALISM.**

Having general principles in effect in all states is not enough - even if they have the power of constitutional law. More important is the presence of a number of basic conditions that enable the media to make use of their freedom of information in the first place.

### **Access to information**

Unrestricted access to information is crucial if coverage hopes to be more than a mere reproduction or slight revision of prepared press texts and to be based on facts and not just on rumours and half truths. This applies to information from government officials as well as from other areas of society. Through the various national regulations in this area cover a broad spectrum, they largely follow two basic models.

No general rights of access to information - where basically all information of the government, administrative agencies, the courts or the parliament is confidential and kept under lock and key from private persons as well as from journalists.

Regulated access to information - where all citizens, journalists included, are entitled to obtain information from the authorities except when it is considered confidential for special reasons prescribed by law. Other regulations provide for explicit restrictions if for example the disclosure would endanger the integrity of the currency, national security or the protection of information held by private parties which was given to the government in confidence.

The two models appear to contradict each other fundamentally. In the first, it is the pressure to release confidential information that lead to the journalists obtaining it, in the second, journalists can appeal to their right to information in order to obtain it. The qualitative distinction comes when the rights to information can be asserted in a formal proceeding which ends in a ruling by an independent (court-like) authority.

### **Protection of confidentiality of sources of information used by journalists.**

Confidentiality of sources of information protects the confidentiality of informants, sources of information and materials, including journalists records and photographic material, and is derived from the specific function of the mass media in democratic societies.

Confidentiality of sources is protected under law by the right to refuse to testify in proceedings before a court or administrative official without fear of detriment. The rights to refusal of testimony must be granted to all those engaged in journalism, i.e. the owners/publishers, the editors, all media employees, and all others working for a media enterprise. The reason the group of privileged persons is so large is because those who might be privy to confidential information or documents include not only employees and free-lance journalists but all others involved in the production of printed works or other media

products.

To prevent circumvention of the protection of confidentiality of sources many media laws also prohibit the confiscation of editorial materials as well as searches of editorial offices and journalists' homes and body searches aimed at obtaining information subject to confidentiality as sources.

In many countries those exempted by law from testifying are also entitled to refuse to answer questions concerning the identity of the author, contributor or source of contributions and material. The privilege to decline to answer questions extends to the contents of information given to the journalist for the purpose of his journalistic activity. If a journalist himself has taken part in a criminal offence and is standing trial for it, he is not entitled to plead confidentiality of sources. However, like all those charged with a criminal offence, he can refuse to testify or to answer certain questions.

### **The relationships among those engaged in mass media enterprises**

In media enterprises structured as private companies, the owner - or the management appointed by him - determines the business goals of the enterprise and the fundamental editorial policy of the paper or programme on issues of politics or basic philosophy. The media owner is thus entitled to select journalistic employees who produce a paper or programme in accordance with his own ideas and to work toward realising the journalistic and commercial objectives he has set. In the print media, an obligation to maintain balance or objectivity would - for the time being - be as difficult to reconcile with this freedom as having someone outside the media dictate its policy on contents. The issue of balance and objectivity is different when there is a lack of external plurality either due to a monopoly or limited frequency, e.g. in a small market, or a high degree of media concentration.

There are objective limits to the owner's authority to give instructions in cases involving the journalist's individual professional responsibility, his professional skill and his intellectual performances. Conflict may arise, for example, when media employees are asked to compose articles or commentaries contrary to their personal convictions on fundamental issues or to professional principles of journalism. Since journalists' economic dependence places them in a weaker position in disputes with owners/publisher, many countries make special provisions to protect the interests of journalists. There are also examples of provisions to resolve conflicts of conscience and disputes arising from changes in the editorial line of publication (e.g. as a result of a change in ownership):

**m** Conscience clause/protection of personal convictions - in determining the contents of his pieces, every journalist is bound by the instructions of his superior. Under a conscience clause, every media employee can refuse to collaborate on articles or presentations contrary to the professional principles of journalism or his/her own personal convictions and do so without fear of being dismissed or fired or suffering any other legal disadvantages.

**m** Protection of signed articles - the protection of individual journalistic work also safeguards articles signed with the author's name. According to this safeguard, any article signed with the author's real name or pen name is permitted to be published only in a version approved by the author. If the meaning of an article is altered, approval must be obtained before publishing or the author's name be dropped.

### **The practice of journalistic activities across borders**

Freedom of expression is not limited to national borders. Appropriate provisions must therefore be made to safeguard access to information from abroad, open national borders for foreign journalists, the

freedom of foreign journalists, their unfettered movement within the country and their personal safety.

Part of the responsibility of states is to safeguard the social rights of journalists in crisis regions. To an increasing extent newspapers, radio stations and agencies give these journalists research assignments with large compensations for risk but on a free-lance basis. An "employment arrangement" of this kind has a practical disadvantage for free-lance journalists in their day-to-day work, for they can no longer resort to back-up from a recognised and influential medium in their disputes with the often less than benevolent authorities. Since the right to freedom of expression is inseparably connected with the personnel freedom of journalists, it is essential that - in the interest of the freedom of information - the security of journalists is guaranteed by binding national legislative.

## **LIMITS TO THE FREEDOM OF EXPRESSION AND INFORMATION**

The exercise of freedom of the media and expression carries with it duties and responsibilities. In individual cases, the human right to freedom of expression and information may conflict with other fundamental rights, especially those legally protecting a person's personal rights. However, restrictions in these areas are only permitted if they are prescribed by law and are necessary in a democratic society. The restrictions must also pursue a legitimate aim and be proportionate to the public interests pursued.

Legitimate restrictions on the freedom of expression and information, under Article 10 (2) of the European Convention on Human Rights can be divided into three categories:

**m** restrictions aimed at protecting public interest (national security, territorial integrity, public safety, crime prevention, protection of health or morals);

**m** restrictions aimed at protecting individual rights (protection of the reputation or rights of others, preventing the disclosure of confidential information);

**m** restrictions necessary for maintaining the authority and impartiality of the judiciary.

Beyond these legal restrictions on freedom of information based on the case law of the European Court of Human Rights concerning Article 10 (2) of the European Convention of Human Rights, there are of course other, much more subtle methods of intimidation and censorship. During a general economic crisis when goods are in short supply, the government can intervene to control the media by imposing paper quotas as long as the market is not functioning properly and paper is a scarce resource. Likewise, the government can use its powers and what remains of the old state security apparatus to intimidate journalists in order to suppress critical coverage.

## **VOLUNTARY SELF-REGULATION BY THE MASS MEDIA**

The goal of voluntary self-regulation by the media is to determine and enforce ethical rules for the practice of journalism. At the 1993 Summit of the Council of Europe in Vienna, the Heads of Governments of the member States passed a declaration calling on all those engaged in the media to be aware of their great responsibility to democratic politics, especially with regard to coverage on nascent racism and widespread xenophobia. The Heads of Government also called on journalists to adopt appropriate codes of ethics. These initiatives at the level of the Council of Europe underscore the significance of the media throughout Europe in combating racism,



xenophobia, anti-Semitism, aggressive nationalism and the increase in violence as a means of resolving conflicts in society.

In general, the professional codes of ethics set standards of journalistic responsibility (duty to report the truth), list principles of journalistic fairness and due diligence (e.g. duty to research) and list behaviour considered irreconcilable with the professional ethics of journalism (e.g. acceptance of bribes). However, these codes do not constitute mandatory legal obligations, but rather norms of self-regulation for an autonomous profession. They help the mass media to achieve a certain degree of autonomy vis-à-vis state regulation in issues of journalistic competence and ethics.

In many countries, a press council financed by the media owner/publishers themselves acts as the official body of journalistic self-regulation. The efficiency of these self-regulatory institutions varies greatly in different European countries and can be measured primarily on the basis of three criteria. Firstly, the balance established in the ethical guidelines - the basis for making decisions - between the protection the press requires to carry out its tasks and various other interests. Secondly, the consequences associated with the press councils' enforcement of the guidelines. Thirdly, the extent to which newspapers adhere to the decisions made by the press council.

## OUTLOOK

The following section will confine itself to describing briefly several trends which might indicate the direction the future debate could take:

### **The increasing prevalence of free-lance journalists**

In western Europe and the United States, there is an emerging trend toward media enterprises not hiring journalists as permanent members of their editorial staffs but relying on pieces from free-lance journalists. On the one hand - with a view to diversification mainly in the print media - high quality "special interest" magazines appear on the market and on the other hand this development can be seen as a measure of rationalisation on the part of media owners/publishers, this arrangement has serious disadvantages for the journalists involved. Due to their lack of security under social law and their unpredictable income, free-lance journalists are forced to offer each article for sale to the media enterprise. With the proliferation of virtually cost-free agency and world-wide Public Relations information, free-lance journalists can now be manoeuvred by the media at will and are resorted to only when absolutely necessary. The result is rising competitive pressures which force journalists to deliver increasingly sensationalistic reports, whenever possible from the most dangerous possible regions. The international controversy about the media coverage of the Serbian-Bosnian war is a case in point. In many instances, the free-lance war reporters often dispensed with serious research and presented half-truths and rumours to the international public. The inherent market pressure to furnish fast, sensational stories not only undermined the quality of information but, even worse, it violates fundamental human rights of the parties involved.

### **Changes brought about by technical innovations**

The multi-media world of tomorrow (catchword: the digital revolution) will not only alter the way in which society communicates but will also bring profound changes to the role and self-image of journalists. Media enterprises have long been typified by their highly complex production processes, which can only function properly if precisely calculated time schedules are strictly adhered to.

Journalists are forced to subordinate themselves to the overall production process. The advantages of computerisation, the higher speed and flexibility, and substantially prolonged access to journalistic products in the course of the production process, can only be taken advantage of today by exercising greater self-discipline. It is clear that the journalists of the future will become increasingly far removed from the classic image of the "roving reporter" and will become highly skilled telecommunications workers. For that very reason, the adequate training and education of journalists will be a point of primary public interest. Democratic societies, in their own self interest, should spare no efforts or costs to preserve a sector so vital to their own survival as journalism is.

### **Protection of confidentiality of sources used by journalists**

Although most states have no laws on editorial secrecy, recent developments show a definite trend toward establishing legal norms on this matter. High level courts have increasingly ruled in favour of journalists by overturning convictions of journalists who have refused to reveal their sources of information. Legally safeguarding the confidentiality of sources is the logical next step to consider. The right to refuse to testify in proceedings before the court without fear of detriment will be a top priority issue in the international debates. The rights to refuse to testify that already exist in many states could well serve as models in this regard.

### **Control of access to information**

To perform their watchdog function efficiently, media and journalists' access to information must be as unrestricted as possible. Although in many cases no legal regulations exist on this point, data or information from public authorities are basically regarded as confidential, the opposite approach - already adopted by a number of countries - appears to be the more expedient and democratic one. Whether special regulations should be adopted for journalists or a general duty to provide information should be established in law for all citizens is a question that must still be discussed at greater length. Whatever is decided, one central fact must guide these discussions: the better informed citizens are within democratic systems, and the more effectively society is able to control power within these systems, the stronger these systems will be. The mass media are crucial factors in guaranteeing that both of these situations are maintained.

### **Media concentrations**

In the course of the deregulation, internationalisation and commercialisation of the entire media sector throughout Europe, the transnational gathering and dissemination of information and corporate concentrations are becoming ever more important issues. Although mergers of media enterprises can help to establish the solid economic base necessary for the media to carry out their responsibilities, they can also pose a threat to editorial freedom and thus to the autonomy of journalists. Media concentrations are also a matter of concern in that they constitute a de facto non-admission to the journalistic profession, especially against the backdrop of increased outsourcing of editorial activities to free-lance journalists. As a result, legal measures regarding media concentrations (e.g. anti-trust regulations, measures against cross-ownership, transparency in terms of ownership, etc.) are sure to be central issues in future discussions.

# **THE FOREIGN POLICY OF THE CENTRAL ASIAN STATES, TURKEY AND IRAN**

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*The first and foremost goal of the new national states of Central Asia is the maintenance of their independence and territorial integrity. The task of their foreign policy is to help achieve this goal by using every historical, cultural, strategic and economic leverage which the Central Asian countries possess and can revitalise to suit current needs. The Central Asian states became independent sovereign nations mainly in the last quarter of 1991 after the disintegration of the Soviet Union. They joined the committee of independent sovereign nations for the first time in its history without previous experience in international relations and without fully-fledged institutions capable of conducting such relations. Since 1991, the foreign policy of the Central Asian countries has been unusually active.*

The foreign policy of the Central Asian states appeared to be conditioned from the very start by two unique constants, usually not encountered by other established sovereign states. The first constant is the economic, strategic and other forms of dependency of all the Central Asian states on the Russian Federation forged during one hundred years of rule from the centre, that is Moscow. This dependency cannot be terminated overnight and will continue in the near future. Because of this dependency, as well as the entrenched habits and a degree of commonality of interest among some of the ruling elites on both sides, Russia appears to pose the immediate threat to the sovereign existence of the Central Asian states. Consequently, of all the states of the ex-USSR the Central Asian states have remained close to and conduct multi-sided relations with Russia, while trying at the same time to distance themselves from Moscow's influences.

The second unique constant affecting the foreign policy of the Central Asian states is their isolation from all the major waterways of the world. They and Azerbaijan are basically landlocked countries depending on their immediate neighbours - Russia, China, Iran and, to a lesser degree, Afghanistan and Pakistan - for outlets to the sea. Turkey does not have common borders with any of the Turkic states - except for a ten-mile border with Nahchivan - but can provide, if some sort of agreement with Armenia and/or Iran can be worked out, access for the Central Asian countries both to the Mediterranean and the Black Sea, which are closer to the European markets than the Indian Ocean.

The territorial isolation of Central Asia and its dependency on others for communication with the rest of the world was the prime reason for the economic, cultural and spiritual stagnation of Central Asia after the sixteenth century and its ultimate annexation by Russia and China. Thus, the foreign policy of Central Asian countries has a prime objective to put an end to this isolation and establish the closest possible interest-rooted relations with the most advanced countries in the world. The integration of Kazakhstan into the leading economic-political sector of the world required, that the country become a member of the associations which represent Western Europe and the United States (such as NATO, the North Atlantic Co-operation Council, the World Bank, etc.,) as soon as possible, without infringing upon Kazakhstan's ties to the Commonwealth of Independent States and bilateral relations with

Russia<sup>24</sup>. Nazarbaev described Islam as a source of spiritual power and a cultural bond which facilitated Kazakhstan's communications and helped establish good relations with the Muslim countries all of which could be helpful in establishing economic relations and raising the country's living standards.

The orientation towards the West appears to be guided by instrumental moves such as the preservation of national independence and sovereign statehood, economic welfare, and other worldly goals. However, upon a closer look, the preservation of national independence, the building of a national culture and identity rooted in the history and experience of the emerging nation appear to be the primary goals of statehood which take precedence over all other considerations including religion.

The Central Asian relations with Turkey and Iran will be considered in the following pages from the perspective of the basic foreign policy goals of Central Asia mentioned in the previous pages.

### **TURKEY, IRAN AND CENTRAL ASIA IN HISTORICAL PERSPECTIVE**

Politically and culturally Persia was the dominant influence in the area until about the fifteenth century when the Turkic element assumed growing power and established its overwhelming linguistic, cultural, and political preponderance. The Turkic element gained additional weight and sharpened its political consciousness in the nineteenth century as the caliphate in Istanbul became the symbol of Muslim unity and resistance to foreign occupation. Although the growing sense of a single Islamic identity lessened the Sunni-Shiite differences it was not able to obliterate it. Meanwhile the Ottoman state (which had initiated a series of reforms since 1839 including the adoption of a constitution and parliament in 1876) became in the eyes of reform-minded Muslims the symbol of modernity and progress. Russia's Muslim intellectuals accepted Istanbul as a model of reform. Youth from every corner of Russia flocked to Istanbul to study and to become acquainted with the ideas of the West which circulated far more freely in Istanbul than Russia, and to witness the successful efforts at change and modernisation. But the political-ideological evolution of Persia and the Ottoman state followed a different course. Persia remained relatively stagnant throughout this period and thus allowed the Turks to create an image of being a progressive group open to innovation and change.

The interaction between the Turks of Russia and the Ottoman Empire came to a sudden end in 1917-20, and the two groups remained almost totally isolated from each other. Glasnost-perestroika and the disintegration of the USSR revived the ties between Central Asia, Turkey, and Iran, and laid the foundation for the recreation of the old Turco-Persian bloc which had governed the destinies of the Muslim world for at least the last one thousand years. The revival of Central Asia in 1990-1 found Turkey not as a vast empire (as was the case in 1917) but a mid-sized, secular, Turkish national state, while Iran struggled to maintain the remainder of the old Persian empire with Ayatollah Khomeini's Islamist ideology.

Both Turkey and Iran viewed the disintegration of the USSR with the utmost relief as "the end of a two hundred year-old nightmare." However, the internal regime and the international position of Turkey and Iran were markedly different from each other in 1991. Turkey was a member of NATO and a variety of other European international organisations, as well as a close and loyal friend of the United States, while Iran was not only isolated from the West but also had humiliated and angered the US by taking America's Tehran embassy personnel hostage in 1979-80. Thus in 1991, Turkey had a definitive ideological advantage over Iran, an advantage that was buttressed further by religious (Sunni),

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<sup>24</sup> Nursultan Nazarbaev speech appearing in *Kazakhstanskaya Pravda* (May 15, 1992).

linguistic, historical and cultural ties with the overwhelming majority (some 90 percent) of the peoples of Central Asia. On the other hand, Iran had the advantage of a long land border both with Turkmenistan and Azerbaijan, while Turkey's land connection, as mentioned, was very limited or non-existent. In addition, Iran had, or could use when necessary, the hard currency derived from oil sales, while Turkey, with a \$70 billion foreign debt and perennial trade deficit, had little money to spare. Still, Turkey's economy had been expanding at a rate of 3-9 percent since the mid-eighties and the country looked miraculously prosperous, despite a chronic 60-70 percent annual inflation rate, while Iran's already low living standard had gone down further since 1980.

Turkey's position appeared to have been bolstered, in addition to its relatively successful market economy, by a parliamentary democracy, which despite several challenges, survived and consolidated itself. But above everything else the Central Asian Turks viewed Turkey as representing the successful model of a modern ethnic national state, or as the result of the "will of a human collectivity to become a nation and forge its own national culture and language out of the fragments of a defunct empire" as a Central Asian leader told this writer. Indeed, Turkey appealed to Central Asians as a model primarily because of the Turks' ability to become a successful nation-state, in fact the first Muslim nation-state to do so by breaking loose from an amorphous empire. Turkey appealed to culturally nationalist and territorially well-delimited Central Asia, because it accepted modernisation or, to put it differently, the adoption of the contemporary -Western civilisation, as its basic mode of life and all that it entailed. The Russians, and then the Soviets, had promised "civilisation" to the Central Asian people all along but never delivered it although in the process they managed to give them a Russian ersatz which merely helped increase the Central Asians' appetite for the amenities of this civilisation, while destroying much of their old indigenous civilisation and culture. It should also be noted that Turkey's political and cultural identification with the West had isolated it from its Muslim Arab neighbours but not from Pakistan and other East Asian countries, whose perception of Islamic society was markedly different from that of the Arab core lands<sup>25</sup>.

The Turkish government, different from the majority of the population, was not initially interested in, or preoccupied with, the fate of the Azeris and the Central Asians even during the days of glasnost lest it be accused of panturkism and expansionism. The Turkish attitude towards Central Asia changed rapidly in 1991 because the very disintegration of the USSR which thrust the new Central Asian states minimised Turkey's strategic importance in the West's eyes at least for a short time and forced Ankara to seek new outlets to enhance its strategic position in hope of salvaging the country from being a major casualty at the end of the Cold War. The Gulf War and her new role as a model of economic development, democracy, and statehood for Azerbaijan and the Central Asian states gave Turkey a new strategic and regional stature and role.

## **CENTRAL ASIAN RELATIONS WITH TURKEY**

Turkey played and continues to play a major role in practically every aspect of the Central Asian and Azerbaijani states. First, because it has unique ethnic, linguistic, and religious affinities with the Turkic states of the ex-USSR, and is - or was - their primary conduit to relations with the outside world. Indeed, Turkey is the only country which enjoys multi-layered ties with the Central Asian states and possesses excellent connections with Europe and the United States, which the Central Asians (as indicated by Nazarbaev's speech) viewed as the potential guarantor of their sovereign statehood and the key to their economic development. Turkey was one of the first countries to recognise the new Turkic

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<sup>25</sup> For Turkey's position in the Middle East see Philip Robins, *Turkey and the Middle East* (New York 1991), and Graham E. Fuller, *Central Asia. The New Geopolitics* (Santa Monica, CA: Rand 1992).

states (Turkey strived to treat Tajikistan as the equal of the others) and provide them with a variety of diplomatic facilities, and did not hesitate to share its know-how on international affairs necessary in the conduct of foreign relations. The West also viewed Turkey not only as a friend and ally, but also as a stabilising factor in a region undergoing drastic change, and as a possible bulwark against Iran's fundamentalist propaganda in Central Asia and Azerbaijan. Russia in turn, gripped by her internal woes and a slave to her own negative image of Islam, went along with the West initially regarding Turkey as an agent of stability and a barrier to fundamentalism - up to a point. Backed by such overwhelming diplomatic support, Turkey did her best not only to help introduce the Central Asian states to the West, but also to secure membership for them in the UN, the IMF and European organisations (first the Conference on Security and Co-operation in Europe). The generous help accorded by Turkey to the newly independent Turkic states was obviously not disinterested. Turkey showed a rather keen and sudden interest in the culture, religion and ethnic culture of the Central Asians, because it seemed to face a rather bitter awakening from its infatuation with the West. The Turkish application for membership in the EC (now the European Union) submitted in 1987 was pending; it was politely turned down in 1993, although the door has not been firmly shut yet.

The sudden rise of five independent Muslim-Turkic states in Central Asia and the Caucasus, ended Turkey's isolation and raised the hope that it could become the leader of a Turkic bloc of nations that could play a regional as well as international role for the benefit of all parties involved. President Bush's public statement in February 1992 that the United States, now the world's sole superpower, supported Turkey's endeavours in Central Asia consolidated further the image of Turkey in the area as a friend of the West and intermediary, but it also persuaded many Turkish cynics that Europe could not afford to alienate Turkey as long as Turkish-American relations were sound (Turkey entered NATO in 1952 through the massive pressure of the US<sup>26</sup>).

Once Europe and the United States - and Russia for a while - agreed to accept Turkey as the model of statehood, economic development and democracy for Central Asia, Turkish activity in the area intensified. For a short while in 1992 and early 1993 Turkey enjoyed praise and even adulation. President Askar Akaev of Kyrgyzstan called Turkey "the morning star that shows the Turkic republics the way," and even Akbar Turajonzoda urged the Tadjiks to regard Turkey - not Iran - as their exemplar. Nationalists in Turkey, Azerbaijan and Central Asia flushed by such prominence declared pompously the 21st century would be the "Turks' century." The Turkish endeavours were successful primarily because it acted first in consensus with the great powers, and in accordance with the long-range expectations of the indigenous population with the exception of Tadjikistan where Turkey was overshadowed by a massive Iranian presence at least until the end of 1992.

I have mentioned at the beginning of this paper that national statehood and sovereignty, based on ethno-linguistic identity and the nature of their aspirations, placed the Central Asians in the orbit of Western civilisation much like Turkey. This is an issue of transcendental importance that cannot be discussed at length here. Suffice it to say that the acceptance of Western civilisation does not involve the Turks' renouncement of Islam or the abandonment of their native culture and identity. It involves above everything else an individualised, humanistic, democratic view of society and state and the individual's relations with and place in them. Civilisation is a matter of philosophical perspective rather than the fruit of religious dogma despite their overlapping influence in the material culture of that civilisation.

### **Common alphabet**

This fundamental change of civilizational philosophy was symbolised in Turkey by the adoption of the

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<sup>26</sup> Ian O. Lesser, "Bridge or Barrier: Turkey and the West after the Cold War," in *Turkey's New Geopolitics*, p. 99.

Latin alphabet in 1928, both for practical and symbolic reasons. Azerbaijan and Central Asia also adopted their own Latin alphabet in 1928-30, but the Soviet government replaced them in 1940 with a Cyrillic alphabet which is ill-suited to Turkish phonetics. The Soviets feared that a common alphabet might lead to the development of a pan-turkic literature. The discussion about the adoption of a common alphabet was revived simultaneously in Turkey and Central Asia as early as 1989 by academics, intellectuals and journalists, and was espoused by the respective governments<sup>27</sup>. A series of international conferences were held in Turkey, Kazakhstan, Azerbaijan and Uzbekistan<sup>28</sup>. One of the first results of these conferences was the establishment of an international committee which worked for several months in Ankara and produced the first multi-Turkic dictionary. This is a simple but practical dictionary of about 10,000 words in Turkish, Uzbek, Kazakh, Turkmen, Kyrgyz, Azeri, Tatar, Bashkir, Russian, etc. More sophisticated bilingual dictionaries of up to 50,000 words are being prepared.

The key issue discussed in the conferences was not the adoption of the Latin alphabet (despite a vigorous initial defence of Arabic<sup>29</sup>), but whether the sounds specific to each language (the Central Asians insisted on calling them "languages" rather than dialects of Turkish) should be retained. The accepted final version of the 34-letter Latin alphabet is the one used in Turkey, with additional letters available to each specific language. Azerbaijan accepted the Latin alphabet in 1992, Turkmenistan in April 1993 (to be fully operative in 1996), Uzbekistan in September 1993, etc., with a joint conclusive agreement that came later in 1993. Actually the alphabet question was discussed in several of the meetings of heads of state and was first agreed upon by them. The Central Asian, Azeri and Turkish heads of state met, according to one account, at least seven times in 1991-1993, either in Central Asia (the late president of Turkey, Turgut Özal, went there first in March 1991) or in Turkey, not to speak of numerous other visits by premiers, ministers and high-ranking parliamentary and academic delegations from both sides. The spirit prevailing at these meetings is well expressed in the preamble of the agreements signed by the Prime Minister of Turkey Suleyman Demirel with the President of the Turkic Republic during his ten-day visit to Central Asia in late April and early May 1992. The preamble states: "The two sides, in accordance with the spirit of brotherly relations rooted in history, have met in an atmosphere of warm friendship, and discussed all the regional and international topics which affect their own bilateral relations, and exchanged views about the political and economic situation of their respective countries<sup>30</sup>."

### **Economic relations**

The above mentioned agreements and earlier ones covered an extensive spectrum of economic and commercial relations to be undertaken under the direction of a Work Council, such as the establishment of small and medium enterprises, establishment of railroad and radio telephone communications and the import of raw materials. Turkey also agreed to provide 2,000 scholarships (600 in mid and 1,400 in higher education) for each republic and broadcast the Avrasia TV programs to Central Asia. The bilateral talks culminated in a summit meeting (Azerbaijan was not included) held in Ashkabad on May 10, 1992, attended by Kazakhstan, Kyrgyzstan, Turkmenistan, Uzbekistan, Iran, Turkey and Pakistan. The parties agreed to build a Trans-Asian main railroad and complete the building of the Tejen-Saragt-Meshhed railroad by 1995, and to develop the Druzhba station at the Kazakh-Chinese border. (The

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<sup>27</sup> *The Economist* (April 25, 1992): 34.

<sup>28</sup> From the notes of the author, who attended several of these conferences. Some information is available in *Türk Dili* (Turkish Language), especially nos. 486 and 489 (1993).

<sup>29</sup> Several Islamic groups asked, unsuccessfully, that the Latin and Cyrillic scripts be rejected in favor of the Arab alphabet. *Foreign Broadcast Information Service* (January 17, 1992).

<sup>30</sup> Official communications, issued by the Turkish Foreign Ministry and Central Asian and Azeri republics in their respective languages. Copy acquired from a limited edition distribution.

station has been functioning but Kazakhstan has cut down drastically the traffic from China in mid-1993 due to public pressure against the influx of large numbers of Chinese. The Chinese market in Almaty has been closed, and the Chinese without proper permission have been asked to leave the country.) The Ashkabad meeting also approved the building of a gas pipeline from Turkmenistan to Iran and Turkey and to Eastern Europe, and of an international highway from Istanbul to Tehran, Islamabad, Ashkabad, Tashkent, Bishkek and Almaty<sup>31</sup>.

The agreements were in large measure carried out. Turkey established the TIKA (Turkish Co-operation and Development Agency), as part of her foreign ministry, and delegated it to organize, finance and supervise the multi-sided relations with Azerbaijan and Central Asia. Umut Arik, the former ambassador of Turkey in Japan, was appointed as its head in preference over the other candidate, Namik Kemal Zeybek, the former Minister of Culture (a member of the nationalist Action Party who became the Prime Minister's advisor for Central Asian affairs). Some 8,000 Central Asian students were enrolled in various Turkish universities in 1993 and, although there have been numerous problems of adjustment and poor organisation that resulted in the return home of almost one sixth of the students, the project has been successful. The Turkish telephone company, a subsidiary of Canada's NETAS, was able to expand and improve the quality of communications with digital services - the first in the ex-USSR - with the Turkic republics of the ex-USSR. The Turkish PTT, installed 2,500 radio lines and now instant phone communication from Turkey is as easy as in the US. Likewise, Turkey established regular air service to the Central Asian and Azeri capitals, as did the official airlines of the Central Asian states. The railroad and the highways have not been completed yet, but Turkish trucks use the existing highways. The truck transportation and the extraordinarily active car travel between Georgia, Azerbaijan and Turkey, as well as the incipient tourism, may appear as trivial details, but their impact is extraordinary in creating person-to-person - probably three million people per year - communications between Turkey and the ex-USSR.

Turkish TV or TRT broadcasts to the Turkic states known as Eurasia were initially the same as those beamed to Turkish workers in Europe, and had a limited impact because of language and time differences (a Central Asian had to wait until 11pm local time to view the broadcast). However, these shortcomings were corrected and the Turkish TV broadcasts, because of their superior technology, seem to have become influential; music especially seems to have become the chief linkage between the Turkic peoples. Meanwhile, the agreements to establish a joint Kazakh-Turkish Khoja Ahmet Yesevi University in the town of Turkistan (formerly Yesi) has been carried out. Similarly, the tombs of Aslanbaba (the mentor of Yesevi), Sultan Sanjar (the founder of an early Turkic state in the 12th century) and of Yesevi himself are being repaired and efforts to preserve the Orhan inscriptions in Mongolia are underway.<sup>32</sup> Moreover, at the initiative of the Turkish Writers Union, an international conference was held in Ankara in the fall of 1992, where it was decided to establish a Turkish Union of Writers and Literature to include even the writers from small Turkic groups, such as the Gagauzes and Yakuts (both non-Muslims). The program of work of the Union included practically everything a union of this kind can do, from making known each other's literature to publishing encyclopaedias and the literary classics that all have in common, although the program proposed seems to be based more on enthusiasm than reality.<sup>33</sup> Similarly, at a conference entitled "The Role of the Press in the International Process of the Turkish Republics," sponsored by the TIKA and held on October 22, 1993 in Istanbul, it was decided to establish an Eurasia Press Union and publish a newspaper "Eurasia" in the language of

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<sup>31</sup> Ibid. See also the joint statement and press release which dealt with the unrest in Tadjikistan, Afghanistan and Nagorno-Karabakh.

<sup>32</sup> *Newspot* (November 4, 1993).

<sup>33</sup> From notes taken by the author during the conference.



each respective country. It should be noted that Azerbaijan, but not Tadjikistan, participated in all these meetings which have long-range political and cultural implications. Meanwhile, the Union of Turkic World News Agencies, established on 27 November, 1992, held its first meeting in Ankara on April 8-9, 1993 and decided to establish its headquarters in Ankara, defining its structure and mode of work as centred on the model of the AA (Anatolian Agency), the Turkish News Agency. The idea of a political union or the specific leadership role of Turkey was never made subject to discussion or even intimated, since all sides seemed to agree that such a union could not be achieved and under present circumstances is not desirable.<sup>34</sup> Turkey's discreet effort to promote democracy in Central Asia has been unsuccessful for the old nomenclature still in power sees political freedom and the opposition parties as an immediate threat to their position.<sup>35</sup>

The economic relations between the Central Asian states, Turkey and other states, obviously are of key importance and require a detailed study. In fact, these economic relations had priority over any other considerations. Consequently, the Central Asian states have tried to establish economic relations with all states regardless of ethnic, religious or linguistic similarities and differences as the case may be. For instance, these states, while seeking to establish good relations and benefit from the financial power of the Arab states have recognised and established extensive economic relations with Israel.

The Turkish Eximbank reported that it had a total of \$1 billion for goods and project credits to the Central Asian republics in 1992-93, while the Turkish Red Crescent donated \$143 million in food and medical aid. These amounts are a drop in the bucket compared to the total need, and resulted in Turkey being accused of undue delay in fulfilling its economic pledges. The total number of economic projects approved for financing, according to one report, amounted in mid-1992 to 220 mostly small and mid-sized enterprises. However, some of the largest Turkish corporations, e.g. Koç, have also invested in the Turkish republics, in addition to a variety of other family enterprises that have acted on their own. In fact it is rather difficult to provide accurate figures about the scope and variety of the relations existing between the Central Asian states and Azerbaijan with Turkey (most states do not require entry visas). Next to the activities undertaken by the government (most of which are public and known) there are dozens of private groups which are engaged in relations with Central Asia, not to mention quasi-governmental organisations, universities and other semi-official bodies which have established relations independent of the official government with Central Asia and Azerbaijan. It should be noted that the rapid expansion of the private economic sector and of democracy in Turkey, has allowed a large number of private foundations (and there is a proliferation of such foundations which are powerful enough to finance universities) and citizens to engage in relations with the Turkic states. One of the best examples is the English-speaking Bilkent University established by Dr. Ihsan Dogramaci. The university, which is private and has 8,000 students, is financed from the income derived from the 17 corporations owned by the Dogramaci family, the partial owners of the Kirkuk oil fields in Iraq. This university, located in Ankara, has established a Centre of Central Asian Studies and has invited several students and teachers from the area. The other example is the smaller Türk Kültürünü Ara\_tirma Vakfi (Foundation for the Research of Turkish Culture) headed by Prof. Turan Yazgan which has offered scholarships to Central Asian students, established a high school in Azerbaijan, brought economists for

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<sup>34</sup> At an international conference held in Antalya, Turkey in early 1992, a nationalist-minded participant from Turkey declared that the new Turkic states should regard Turkey as an "older brother" and follow it. Several other participants, including the Azeris, angrily stated that they had suffered enough because of a "big brother" (Russia) and would oppose any effort at domination in the name of another brotherhood.

<sup>35</sup> The Turkish government printed a journal in the language of each of the Central Asian states to be distributed during Premier Demirel's 1992 visit to the area. It included a short article on democracy. Apparently the article was not welcomed by the Central Asian leaders. For further information see also Philip Robins, "Between Sentiment and Self Interest: Turkey's Policy Towards Azerbaijan and the Central Asian States," *The Middle East Journal* 47/4 (Autumn 1993): 601.

training in market economies, and offered financial support and asylum to the leaders of the opposition parties Birlik and Erk of Uzbekistan, Abdulrahim Pulat and Muhammed Salih. The examples can be multiplied further. Finally there are a number of religious groups - some reportedly supported by Saudi Arabia or Iran - which are engaged in a variety of activities not only in Central Asia but also in other Turkic areas in the Russian Federation such as Kazan and the Caucasus. Some are publishing newspapers - such as "Zaman" (Time) - which is published in Turkish in several areas of the ex-USSR, along with a variety of religious publications. "Türkiye," a moderate nationalist newspaper, is published in Istanbul by a conglomerate corporation.

The relations of Turkey with Central Asia and Azerbaijan received a major blow in 1992 which forced it to reassess its true position in Azerbaijan and Central Asia. There is no question that Azerbaijan has key strategic importance for Turkey.<sup>36</sup> It is a close neighbour, speaks a language very close to the Turkish of Turkey (in 1992 President Elchibey decided to change the name of his country's language from "Azeri" to "Turkish") and had close ideological and historical relations with Turkey in the past. Consequently Turkey had a sort of "special" relationship with Azerbaijan that some observers, including the Russians, believed might lead to a close military alliance. Actually Elchibey proposed such a defensive pact, but Turkey refused it along with the idea of establishing a sort of union. Azerbaijan believed that Turkey, with its military power and Western friends, could help solve the Nagorno-Karabakh conflict with the Armenians in its favour. Turkey let this Azeri expectation take root and encouraged Azerbaijan to cut off its relations with the CIS. After Ebulfaz Elchibey, the leader of the nationalist Turkish Popular Front, was elected president in 1992, he pulled Azerbaijan out of the CIS and accepted Turkey as his ideal model, although he toned down his criticism of the old regime and established good relations with Iran. However, both Russia and Iran feared that the Popular Front would disseminate its nationalism into the Caucasus and among the Turkish-speaking people of south Azerbaijan, estimated to be about one-fifth of Iran's population. The political importance of Iranian Azerbaijan is bound to increase, as the ethnic-linguistic consciousness of the Azeris living there intensifies, and their secular identity takes precedence over their religious attachment to the Iranian State. Russia and Iran fear the rise of a "greater Azerbaijan" for obvious reasons and have opposed it in every possible way.

Apparently both Iran and Russia have provided military support to Armenia, whose troops now occupy not only the Nagorno-Karabakh region, but also Azerbaijan territory which the Armenians never claimed in the past. Tehran has sent substantial amounts of weapons on planes that flew over the Armenian land corridor bordering Iran.<sup>37</sup> Turkey did raise its voice and threaten military intervention in the Azeri-Armenian conflict, only to be faced with Marshal Shaposhnikov's stern reminder that Armenia was a member of the Collective Defence System of the CIS, and a Turkish attack on Armenia would be considered an attack on the CIS as a whole. Faced with such a warning, Turkey remained passive and silent while the Armenians proceeded to occupy additional Azerbaijani territory.<sup>15</sup> The following cease-fire agreements between Armenia and Azerbaijan were arranged by <sup>38</sup>Russia and Iran,

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<sup>36</sup> Shireen T. Hunter, "Azerbaijan: Search for Identity and New Partners," in Ray Bremmer and Ian Taras (eds.), *Nations and Politics in the Soviet Successor States* (Cambridge 1992), pp. 220ff.

<sup>37</sup> Iran has denied providing any aid to the Armenians. However, eyewitnesses and much circumstantial evidence point out that Iran has indeed aided the Armenians militarily. It is quite clear that an Azerbaijani victory over the Armenians would have greatly increased Ebulfaz Elchibey's popularity and encouraged him to seek union with south Azerbaijan, as he has often stated. So Iran tried to prevent an Azeri victory over the Armenians.

<sup>38</sup> The nationalist press in Turkey reacted strongly to events in Azerbaijan. The nationalist *Yeni Düşünce* (New Thinking) of September 3, 1993, claimed on its front page that the "lack of policy pushed Azerbaijan into the laps of Russia," and put the blame on the Foreign Ministry by shouting "shame on you, mon chers." The last term is used by the nationalists to deride Foreign Ministry personnel for their Western habits, and alleged lack of patriotic fervor.

while Turkey was left out. The fall of President Elchibey and his replacement by the former communist master of Azerbaijan Haidar Aliiev in 1993, together with the country's inclusion into the CIS and its collective defence agreements - while Russian troops remained in Azerbaijan - worked to the strategic detriment of Turkey, and undermined its psychological standing in Azerbaijan. Turkey failed to help Azerbaijan at a crucial moment on a vital matter and thus divulged its own serious strategic-military deficiency. The Central Asian states all drew their own lesson from the fall of the democratic regime of Azerbaijan and began to appraise more realistically both their own strategic-economic potential, and their relations with Turkey. Needless to say, the Russian military, diplomats and the press closely followed Turkey's activities in the Caucasus and Central Asia, and apparently came to the conclusion - as indicated by a series of articles in the Russian press - that Turkey was bent on expanding into the Caucasus and even Central Asia, however absurd that may sound.<sup>39</sup>

In sum, the relations of Central Asia with Turkey are determined by interest and unique historical and ethno-national factors, as well as by Turkey's economic, political and cultural modernism and close relations with the West. The Central Asian states accept the fact that ideologically and strategically Turkey is their gate to the future through its connection with the West. The Central Asian orientation to the West, especially towards America, derives as much from the need for development as from its being an antidote to everything Russian and Soviet. In these circumstances it is probably accurate to state that Azerbaijan and the Central Asian Turkic states need Turkey more than the latter needs them. For instance, after a period of aloofness and coolness, Haidar Aliiev of Azerbaijan accompanied by a retinue of 160 people, paid a state visit to Turkey in early February 1994 and apparently mended the political fences by promising to do his best to get Russian troops out of Azerbaijan, and secure Turkey a share in the transportation of Caspian oil. Uzbekistan's president had initially opted for the Asian and Chilean economic models, but in matters of culture and national ideology he has remained close to Turkey. Recently Kerimov's economic policy seems to have oriented itself towards liberalism and market model, as seen in a number of decrees issued in January 1994. Turkey's relations with Central Asia have entered a more mature and realistic phase thanks to the events in Azerbaijan. These events, despite their psychological damage, may prove in the long run to be rather beneficial in warning all parties that the independence and sovereignty of Azerbaijan and of the Central Asian states is far from being secure. On the other hand, the basic historical, cultural, economic and political factors, which brought together Turkey and the Turkic states of the ex-USSR, are in their place and have considerably strengthened their hold on all the peoples concerned.

## CENTRAL ASIA AND IRAN

Iran's strategic and economic advantage in Central Asia derives from its long land frontier (ca. 1,000 miles) with Turkmenistan and its capacity to earn hard currency. But Iran's claim that Central Asia is part of its historical and cultural zone, runs contrary to the current trend of development. Today, the basic identity of the Central Asian states stems from ethnicity and language - which is also the basis of

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<sup>39</sup> A Russian writer claimed that "Turkey, the natural centre of attraction for Turkic peoples, has proved to be in the best position for the battle of giants for the Asian legacy of the Union.. . It skillful uses the ethnic and religious community of numerous Turkic peoples for creating a vast zone of influence in the general form of a commonwealth." Victor B. Kuveldin, "Post-Soviet zone Moslems at the Crossroads," *Security Dialogue* 24/1 (1993): 46. See also the perceptive answer of Peri Pamir, *ibid.*, pp. 49-54. Vladimir Zhirinovskiy's ultranationalist views were, partially at least, fueled by Turkey's policy in the Caucasus. A graduate of the Oriental Institute, Zhirinovskiy learned Turkish and practiced it in Turkey, where he stayed for two years as a KGB agent posing as a member of a Soviet technical/economic team. He was expelled because of his contacts with Turkish Marxists and communist propaganda he distributed, among other things, Marx's picture claiming in an interview with the Turkish TV that the picture belonged to Maxim Gorky, not Marx. Zhirinovskiy claimed, wrongly, that Russians in the Central Asian republics were discriminated against and raped and humiliated. *Christian Science Monitor* (November 29, 1993).

their statehood - and not from religion, which has become an ingredient of national culture. The idea of an Iranian cultural zone is rooted in an essentially religious concept of identity and nationhood, which in turn is fed by a political and theocratic Shiism. Moreover, Iran has been placed in a difficult dilemma by seeking to win the Tadjiks by appealing to their language-based Farsi identity, whereas in Azerbaijan it upholds the virtue of Islam (in its Shiite form), while condemning all political attachments based on language. The claim by some Persian nationalists that all the Turkic-speaking Central Asians and Azerbaijanis are Turkified Persians is too absurd and jingoistic to deserve attention. Actually Iran's historical ties to Tadjikistan are very tenuous. Tadjikistan was for centuries a part of the Emirate of Bukhara, which in turn was part of an Uzbek commonwealth, despite the presence of large Tadjik groups in the city itself. Moreover, the style of life and the level of identification with the land and its civilisation brings the Tadjiks closer to the Uzbeks than to the Iranians. This is why most of the Tadjiks in Tadjikistan can be defined as Uzbeks who speak a Persian language rather than as Iranians.

The Rafsanjani government has been caught by two crosswinds. It is realistic enough to understand that its international position has been weakened considerably because of its isolation from the West, especially the US, and by accusations of its lending of support to terrorist and militant fundamentalist groups. Yet Rafsanjani, who is a moderate, cannot change his militant Islamic stand, for he would be accused of abandoning Ayatollah Khomeini's political legacy and would undermine his own legitimacy, and would be soon ousted by his radical opponents. Iran has been avidly courting the Azerbaijani mullaas of all ranks. Rafsanjani himself has met with the Sheyhulislam of Azerbaijan - a Tadjik by ethnic origin - and has promised him every conceivable assistance. However, the Sheyhulislam, who has a commanding influence among the masses, has refused to adopt a pro-Iranian line and consequently he has been subject to a massive campaign of disinformation. Iran finds itself in an ideological impasse in Central Asia that will hamper its diplomatic efforts for years to come, unless the regime in Iran is changed overnight. Iran acts as a Persian national state by disseminating the cult of a Persian language and civilisation, and the national consciousness and pride which stems from it, in the garb of Islamic universalism and denial of ethnicity. Iran's instrumental use of Islam, is well known in Central Asia. However, since mid-1992, Iran's policy in Azerbaijan and somewhat less in Central Asia, has found support from an unusual source, namely Russia. For over ten years Russia believed that fundamentalist Islam was a major threat to her own interests and that Iran was one of its main supporters. Russia and her leaders, including Gorbachev and later Foreign Minister Andrei Kozyrev, persuaded the West that Muslim fundamentalism was a common threat both to Russia and the West, and that it should be stopped. Thus, Russia won a free hand to interfere in the civil war in Tadjikistan. True, Islam was politicised by the war in Afghanistan and acquired new ideological features afterward, but certainly Islam had little to do with events in Tadjikistan. Although practically every student of Central Asia agrees now that the Tadjik civil war was caused essentially by the clash of local and regional political loyalties and interests, and the desire of the old nomenclature to stay in power, the West and Russia continue to describe it as stemming from religious ambitions. There is no question that Iran contributed initially to giving the Tadjik civil war this fundamentalist image by becoming involved acutely in Tadjik internal affairs with the purpose of bringing to power a pro-Iranian party. Iran has moderated much of its interference in Tadjik affairs but so far has not been able to repair the damage to the Tadjiks and its own image.<sup>40</sup> The military involvement of Uzbekistan in the conflict in Tadjikistan under the excuse of preventing the spread of fundamentalism - actually to provide a justification for President Karimov's totalitarian policies - has strengthened Russia's hand there.

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<sup>40</sup> A student of Tadjikistan stated "in conclusion, the civil war in Tadjikistan is not a battle between 'fundamentalism' and 'secularism' but rather between former communist rulers and diverse opposition elements." Olivier Roy, *The Civil War in Tadjikistan: Causes and Implications* (Washington, D.C.: US Institute of Peace 1993), p. vii. Roy seems to discount Iran's influence in Tadjikistan.

The events in Tadjikistan caused great concern in Iran until the election of Elchibey to the presidency of Azerbaijan, as his nationalist policies shifted the Iranian concern westward. Russia and Iran viewed Elchibey's drift to full independence and close relations with Turkey as a threat to their own basic strategic interest. Russia feared that the loss of Azerbaijan would expose her southern autonomous and predominantly Muslim republics to Islamic influences, while Iran feared that its own Azeri Turks might seek autonomy.<sup>41</sup> The Iranian fear was well founded after Azeri youth in Tehran demonstrated against Iran's military aid to Armenia, and Azeri commoners questioned the Islamic credentials of their own mullas who armed Christians to kill Muslims. The defacto Iranian-Russian alliance over Azerbaijan and against Turkey, led to the downfall of Elchibey and the neutralisation of Turkey in the Nagorno-Karabakh dispute, as seen in the Turkish absence in various cease-fire negotiations between Armenia and Azerbaijan. However, after Russia installed itself militarily in Georgia (it has three major bases there) and Azerbaijan, Iran has become alarmed once again about Russia's ultimate intentions. Obviously Iran has failed to produce a long-range policy in Central Asia and so far has limited itself to reacting to world developments. During the latter part of 1992 and throughout 1993, Iranian Foreign Minister Ali Akbar Velayeti, President Hashemi Rafsanjani and other ministers and specialists, have travelled to the Muslim states of the ex-USSR and have sought to develop economic relations in the fields of trade, transportation and the construction of dams, as well as culture and science. Iran held a variety of exhibitions emphasising the "Persian background" of Central Asian culture and art, while subtly furthering its Islamist policy. It also sent a great number of preachers and religious agents most notably to Azerbaijan, and has financed the printing of books, reviews and journals; reportedly ten percent of Iran's oil revenue is earmarked for expenditures of all kinds in Central Asia and Azerbaijan. As mentioned previously, there are several small groups of radical Islamists in Turkey, who reject ethnic nationalism and the secularist policies of their government and are ready to collaborate with Muslim internationalists, such as Iran. The main economic target of Iran in Central Asia so far is Turkmenistan. Iran has opened the border with Turkmenistan to free trade since October 1991 and subsequently the towns of Kizilatare, Karakala, Gaudan, Bajgiran and Husankuli have been made entrance points.<sup>42</sup> Iran, with long-range expertise in oil and gas exploration, plans to help Turkmenistan develop and market its own textiles and agricultural produce, and to export technical know-how in animal husbandry and food production. Although Turkmenistan has a relatively less-developed industrial sector than the rest of Central Asia, it still sold to Iran polyethylene pipes, mineral ore, asbestos, motor bikes, cotton and electricity. However, Iran's attempts to have all of Turkmenistan's main economic resources, that is natural gas, run through its own territory, has run into competition from Turkey and Russia. At the same time, many Western journalists and politicians saw in Iran's courting of Turkmenistan (whose population is less than one-tenth of Iran's) as an attempt to bring the country under their own sphere of influence. President Saparmurat Niyazov rejected these views, as well as the danger of fundamentalism, while broadening and deepening his country's relations with Turkey and supporting the development of Turkmen nationalism, in which commonly shared Turkic languages, customs and traditions seemed to outbalance the Persian influences.

Iran's relations with Uzbekistan are far less developed than with Turkmenistan for strategic and ideological reasons. Uzbekistan sees herself as the major power of Central Asia whose territorial, strategic and ideological interests are likely to clash with those of Iran, notably in Tadjikistan, a quarter of whose population is ethnically Uzbek. Iran opened its embassy in Tashkent only in November 1993, the same month Karimov visited Tehran - well after his relations with Turkey had matured - and signed a half dozen agreements on trade, communications, banking, transportation and technology. The

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<sup>41</sup> President Elchibey stoked the Iranian fears by declaring publicly that Iran was an archaic political structure due to disintegrate within a few years. He openly advocated a "Greater Azerbaijan" which would include northern Iran.

<sup>42</sup> Vladimir Kushelov, "Iran Intends to Cooperate with Turkmenistan," *Current Digest of the Soviet Press* 43/41 (1991): 25.

relations expanded further after President Rafsanjani of Iran, accompanied by a high-level delegation, visited Uzbekistan, Kyrgyzstan, Kazakhstan and Turkmenistan in October 1993, and then went to Azerbaijan - but not to Tadjikistan. Rafsanjani made a special point of visiting the tombs of the giants of Islam, such as Bahauddin Nak\_bandi and Imam al-Bukhari, in and around Bukhara; he then visited the newly opened Iranology Department of Bishkek University and met the leaders of the Kyrgyz ulema.<sup>43</sup> However, the Iranian President acted as though his main interest, was to promote trade, co-operation, transportation and cultural exchanges, while promising not to interfere in the internal affairs of the Central Asian states, although everywhere he made a special point of stressing his interest in the Islamic legacy of Central Asia.

## CONCLUSIONS

The analysis presented in the preceding pages has indicated, that all the Turkic states of the ex-USSR attempted to win recognition from the largest possible number of states and establish a wide net of diplomatic representations abroad. All this happened in the looming shadow of their long historical dependency on Russia and fear that Russia may seek to restore her hegemony over them (as it still may do). The gaining of independence, sovereignty and national statehood has also capped a process of ethno-political identification which had been in the making for a long time. The new Turkic states are ethnolinguistic political entities, that is nation-states situated on a well defined territory, regardless of the fact that ethnically the nations may be overlapping. For the time being it seems that particularised ethno-linguistic preferences and identities, initially created and promoted by the Soviet state, have been espoused by the emerging national states. The particularised and individualistic characteristics seemed to have achieved the upper hand over common ties, such as Islam and the old historical memory of unity of the past including the historical Turkestan. In the process, Islam has been partly desacralized and turned into a major source of national identity, thus increasing its visibility and cultural penetration while curtailing its fundamentalist internationalist appeal. Obviously all this may represent only a phase - potentially a long-lasting one - in the process of nation formation.

President Nazarbaev, with his keen grasp of political realities, has recently admirably described the peculiarities of the first years of independent nationhood in the area:

*...the most important thing during those years was the desire to secure oneself against a return to the empire....The situation has not changed qualitatively...the republics have finally begun to feel like really independent states. Such new acquisitions as their own currencies, borders, custom posts and armies, although in and of themselves haven't improved the peoples' lives...have rid the peoples, perhaps their leaders, of many fears and complexes.<sup>44</sup>*

Nazarbaev claimed that the next step was to integrate the former republics of the ex-USSR into the CIS in the voluntary manner, in which the European states have integrated themselves into various economic regional unions without losing their independence and national identity. Since the CIS has proven itself incapable of achieving such integration, the Central Asian states have chosen two paths, the first being an integration among themselves - as indicated by the Kazakh-Uzbek (joined by Kyrgyzstan) declaration of a customs union, and the second being the establishment of closer relations with the Organisation of Economic Co-operation (established in 1979 by Turkey, Iran and Pakistan, and joined by all the Muslim Central Asian states plus Azerbaijan). But as always with an eye to soothe Russia, Nazarbaev still wants to retain the CIS. The integration of the Central Asian states into larger

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<sup>43</sup> *US-Iran Review* (December 1993): 3, 13.

<sup>44</sup> Nazarbaev stated his views to *Izvestia* and debated them in a meeting with some of the top Russian scholars, whom he invited to Almaty. *The Current Digest* 45/23 (1993): 18.

economic units which would allow them access to the sea and world markets, can only consolidate their independence.

# PREVENTION OF CONFLICT IN KAZAKHSTAN

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*The first Centre for Conflict Management is being established in Almaty. It will be a non-governmental, non-profit organisation dealing with research and practical activities in the Conflict Management and Resolution field. While the world community spends a lot of money on conflict resolving and peacekeeping, we believe in PREVENTING conflicts, saving millions of dollars and, what's more important, saving human lives. Kazakhstan is an "ideal candidate" for such a program. This country is in a very difficult socio-economic and ethnopolitical situation now, but it has all the opportunities to overcome the crisis and prevent conflicts.*

Kazakhstan is the second largest (after Russia) of the former Soviet Union Republics and it has unique geopolitical location between Russia and China. Kazakhstan has abundant natural resources, including oil, gas, coal, precious metals, etc., but its industry has raw materials orientation. Backward infrastructure and lack of foreign investments hinder rapid economic growth. There are also many environmental problems of global (the Aral sea), regional and local levels; Kazakhstan is one of the four republics that have inherited nuclear weapons of the former USSR and therefore have drawn the attention of the politicians who are concerned with nuclear non-proliferation.

## ETHNIC COMPOSITION

Kazakhstan, with its population of 16,9 mlns (1994), has an unique multiethnic composition; there are more than 100 ethnic groups living here: Kazakhs (44.3%), Russians (35.8%), Ukrainians (5.1%), Germans (3.6%), the remaining 11.2% consists of Uzbeks, Tatars, Uighurs, Byelorussians, Koreans and others (1994).

Kazakhs, being the descendants of nomadic people, live all over the country, but mainly in the South and the South-west. Due to high birth rate there is excess of labour force, high level of unemployment and poverty in this region. Russians live mainly in the North and Northeast regions, where the basic industrial enterprises are located. However, due to the deep economic decline, Russian-speaking population (engaged mainly in the industrial sphere) is in a very difficult material situation too.

## SOCIAL AND ETHNIC STRATIFICATION

Although Kazakhstan proclaimed the transition to the free market economy, the current economic reforms are ambivalent and inconsistent, which leads only to rapid social stratification. The average salary of the workers and employees in different sectors of economy was, at the beginning of 1994, \$25 per month, with nearly world level of prices for food and some other goods. The reported increase of salaries for the beginning of 1995 was depreciated by galloping inflation.

About 70-80% of the population has very low income and 15-20% - average (according to local standards). This egalitarianism "stabilises" society but in a rather negative way, aggravating people's



sufferings and feeling of frustration. Such deep polarisation obviously may cause social tensions and conflicts.

One can also notice a specific process of ethnic stratification. Among those working in nonmaterial sectors of economy, that is in state management and state-controlled enterprises, science, education, bank system and state insurance (mainly in higher positions), are 50% of Kazakhs. A lot of indigenous people are engaged in agriculture, the majority - in stock-breeding. Therefore, ethnic stratification divides Kazakhs into political and economic elite at the top, and rural agrarian population at the bottom. On the other hand, Russians work both in material and non-material production, but not at the very high positions, and the distances between different Russian social groups are not so great.

While talking about the ethnic stratification, one cannot forget the fact that there are three tribes in Kazakhstan - the Senior (South), Middle (West) and Junior (North) Zhuzes. The social structure is organised along these relative ties. The Senior Zhuz, which for several decades was the most powerful tribe, now suffers much and its population is very poor.

There is a certain tension within ethnic groups, and also between the tribes, each striving for power and higher economic positions. The main split, however, is not within the ethnic groups but among them. In spite of all inner tensions, the Kazakh people identify themselves as the nation, the owners of their sovereign republic. The process of alienation of different ethnic groups is one of the main political problems. The members of each group perceive other groups members in a rather adversarial way. The Kazakhs perceive Russians as conquerors, who repressed their national language, culture and religion. Kazakhs also blame Russians for great environmental damage due to the nuclear testings in Semipalatinsk Region. The Russians, on the other hand, believe in their positive contribution to the economy and culture of Kazakhstan and feel discriminated against in education, job, professional carrier, etc. Since many Russians have lived here for many decades or even more than a century, they perceive Kazakhstan as their motherland and feel great uncertainty about the present changing situation.

## **EMIGRATION**

In recent years Kazakhstan experienced a large scale emigration. Russians leave Kazakhstan for Russia, Germans - for Germany, Jews, Greeks, Poles and others - for their native countries. For the three previous years (1991-93) the emigration was 957 thud, immigration - over 507 thud, which gives us the balance of 450 thousands of people.

The educational background and occupational experience of those who are leaving Kazakhstan is much higher than of those who are arriving into the Republic. The exodus of Russian-speaking population will impede the sustainable economic development in future, as it will be very difficult to recruit the required number of qualified professionals and skilled industrial workers from the indigenous population.

The economic deterioration in Kazakhstan can not be considered the main reason for out-migration, since the economic and political situation in Russia is also unstable and unpredictable. One of the major reasons for emigration is the infringement of civil rights of the minorities. Public policies limit participation in politics and access to political offices: Only few members of the ethnic groups are in elective office, civil services and higher ranking internal positions. Limited numbers of different ethnic groups' members are in commercial, managerial and high professional positions. Access to education, especially high education is limited (in 1990 only 0.8% of young Germans studied at Universities,

although 6% of the population is German). Ministry of High Education officially declared in 1994 that it would act in favour of Kazakh students in sending them to study abroad. If the socio-economic and political situation is remaining the same or deteriorating, substantial out-migration will continue.

## **POLITICS AND CIVIL SOCIETY**

Post-totalitarian or authoritarian stage of political development is accompanied by the concentration of power in the executive branch, or even in President's office. In December 1993 President N. Nazarbayev dissolved the previous Supreme Soviet (Parliament), though it was rather obedient and usually followed the President's directions. The new Parliamentary elections were appointed for March 1994. The CSCE delegation observing the election campaign concluded that the election did not meet international requirements and could not be considered free and fair. Among the reasons cited were: brevity of the campaign, arbitrary disqualification of candidates during registration process, the "state list" that allowed the government to appoint about 20% of the parliament, rampant multiple voting, etc.<sup>45</sup>

In the previous Supreme Soviet, however, about 80% of the deputies were Kazakhs, whereas they constituted about 40% of the population; other ethnic were constantly under-represented. The recently elected parliament has 60% of Kazakh and 28% of the Russian deputies (respectively 44.3% and 35.8% of the population).

In December 1994 Republican Parliament refused to discuss the problem of private land ownership and the status of Russian as a state second language. According to recently published sociological survey, the majority (68%) of the population of Kazakhstan approves private property for land.

The deputies also refused to discuss the problem of changing the most ambiguous and controversial definition in the Constitution (adopted in 1993) - about Kazakhstan as the Republic of self-determined Kazakh nation. It's obvious, that ethnocentrism idea and politics for multiethnic republic are pernicious.

It is evident that the parliamentaries don't express the people's needs and interests. One of the deputies, Alexander Peregrin, suggested that the Parliament should adopt the "Law for Referendum" to let the people themselves decide these vitally important questions.

There are a number of reasons why the process of democratisation is so difficult in Kazakhstan; the main one is the absence of civil society and the heritage of the Soviet totalitarianism. According to the Report on democratisation in the former Soviet Union, prepared by CSCE in 1993, totalitarianism "was foisted upon centuries-old, backward and feudal societies and adapted itself in the Soviet Central Asian republics with a particular 'feudal-authoritarianism' that has lasted to this day. It was a system in which traditional religious and cultural practices were brutally repressed; the only 'traditional custom' that was left to grow was clan-oriented nepotism that flourished to an unprecedented degree, resulting in extensive Mafia-like corruption at all levels of government and society."<sup>46</sup>

There is no civil society (in the meaning used in western countries) as a net of different parties, political and social organisations and associations that articulate and express interests and needs of diverse social groups. People scarcely identify themselves with certain social classes or groups and even less

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<sup>45</sup> ODIHR report on Parliamentary Election in Kazakhstan, March 1994.

<sup>46</sup> *Human Rights and Democratization in the Newly Independent States of the Former Soviet Union*, Report by CSCE, Washington D.C., 1993.

with a party or any other political or social organisations. There are three registered parties and a lot of different cultural, environmental and other organisations, but actually they have no social support and resemble discussion clubs for intellectuals concerned with the specific problems. Their impact on top decision-making is very limited.

There are several organisations especially active nowadays: Cossack movement, Republican Slavic movement "Lad," and Kazakh national organisation "Zheltoksan." The official authorities' tactics of repressing Cossack movement and some nationalistic Kazakh groups may lead to the violent conflicts in future.

## **PREVENTION OF CONFLICTS**

The stable society goal is rather difficult to achieve as each problem has its ethnic dimension. Claims to resources and power, rights for land and jobs, social and cultural needs are the issues in dispute now. It's necessary now to understand the grievances and needs of each ethnic group, change adversarial perception and find mutually advantageous solutions. Kazakhs' concerns about the polluted land, oppressed religion, customs and traditions in the past are as important as current concerns of different ethnic groups about the status of the Russian language, discrimination in employment and education.

It's rather difficult to understand the situation in Kazakhstan, either present or past. The peculiarity of the totalitarian state was that both Kazakhs and Russians equally suffered from repression. There have always been two political elites: Central Communist Party and local Kazakh political elite, that are responsible for the politics of the past. However, there are no deep historical roots for hostility and hatred, and the opportunities of prevention of conflicts in Kazakhstan are great.

The prevention of conflicts requires now "humanitarian aid"- informational, intellectual, moral, etc. Kazakhstan should be the object of world community's special attention. The work and decisions of legislative and executive branches of power should be examined by legal specialists to the extent allowed by international laws and acts Kazakhstan has signed. The support of mass-media should go along with the help for non-governmental organisations.

Joint research program for studying of ethnopolitical processes should be initiated. Human Rights Education for the whole population is extremely important, because only people themselves can change the situation. The people should at least be acquainted with Universal Declaration of Human Rights and know their basic rights. The Track-Two Diplomacy is of great importance for changing adverse perception of different ethnic groups. Workshops for school teachers, University professors, mass - media journalists, whose work has the multiple effect, can improve communication among the people, stimulate discussion and problem-solving process for the most urgent problem.

We believe it is possible to prevent the conflicts, in joint efforts of the world community. The Centre for Conflict Management in Almaty will try to implement all of the above mentioned projects on Human Rights education, Track-Two diplomacy and others \_

The Centre is seeking financial support from different Funds and individuals. Those who are willing to support these important projects may contact

**Elena Sadovskaya, Co-ordinator of the Centre**  
**Telephone 3272-47-94-49;**  
**Fax 7-327-581-14-18**

# ODIHR MANDATE - ROMA ISSUES

*Note from the editor: The ODIHR Office would like to call to the attention of the OSCE participating States and all interested organisations and individuals, the services the ODIHR can provide in their efforts to establish and strengthen democratic institutions and human rights. Therefore, in the next several editions of the Bulletin, we will present the ODIHR mandate to our readers.*

In September 1993, in view of the seriousness of the situation of the Roma (Gypsies) in the CSCE region, the High Commissioner on National Minorities, at the request of the Committee of Senior Officials, presented a report on the social, economic and humanitarian problems relating to Roma population. One of the recommendation of the High Commissioner was that the point of contact for Roma issues be established within the ODIHR. This recommendation also gained full support of the various Non-Governmental Organisations, which was expressed during the CSCE Seminar on Roma in CSCE region (Warsaw, 20-23 September 1994).

As a result, during the CSCE Budapest Summit (5-6 December, 1994), a provision dedicated to this topic has been adopted (Chapter VIII):

*(23) The participating States decide to appoint within the ODIHR a contact point for Roma and Sinti (Gypsies) Issues. The ODIHR will be tasked to:*

- \* act as a clearing house for information on Roma and Sinti (Gypsies) issues, including information on the implementation of commitments pertaining to Roma and Sinti (Gypsies);*
- \* facilitate contacts on Roma and Sinti (Gypsies) issues between participating States, international organisations and NGOs;*
- \* maintain and develop contacts on these issues between CSCE institutions and other international organisations;*

*To fulfil these tasks the ODIHR will make full use of existing resources. In this context they welcome the announcement made by some Roma and Sinti (Gypsies) organisations of their intention to make voluntary contributions.*

*(Towards a Genuine Partnership in a New Era, Budapest Document 1994)*

To fulfil this mandate, the ODIHR plans to collect and provide upon request the information on national legislation on Roma and information on the implementation of commitments pertaining to Roma and Sinti (Gypsies). Within its clearing house function, the ODIHR would like to collect: bibliography of basic publications on history, culture, education and current features of life of Roma in different regions; publications, reports and other Roma related materials of international organisations, first of all the Council of Europe, also UNHCR, OECD, UN ECE, UNESCO; newsletters, magazines; and documents and materials on major international meetings on Roma.

The ODIHR also plans to maintain a mailing list consisting of addresses of governmental institutions dealing with Roma issues, research institutes, relevant units of international organisations and non-governmental organisations of Roma and also other concerned, which will serve as a network for exchange of communications on current initiatives related to Roma. In addition, the ODIHR plans to complete an inventory of the current activities of other international organisations dedicated to Roma \_

**ODIHR invites all interested organisations and individuals, to contribute to the Roma and Sinti**

**(Gypsies) Clearing House collection of information. The contact point' person within ODIHR is Mr. Jacek Paliszewski.**

# ELECTIONS

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## THE SLOVAK REPUBLIC

### THE PARLIAMENTARY ELECTIONS

30 September, 1 October 1994

*Observers Co-ordinator: Jacques E. Roussellier*

Observers had unimpeded access to polling stations at all stages of the election with one or two exceptions. In most instances, they received the necessary information from election officials. As far as the election procedure is concerned, observers did not notice any significant mistakes or deliberate violations of the election law or international standards.

*The law provided for a smooth and well-organised management of the election process.*

The ballot secrecy and security were guaranteed, although not always strictly enforced. In some rural areas, voters did not always show their ID card before voting, and some observers noted Roma people being "helped" on selecting ballot paper.

Some difficulties were, however, reported. Although the voting lists were displayed in public places long enough before the elections, some voters did not find their names on the lists. As it took time for the Central Election Commission to order local commissions to add names, one leading politician went on TV, complaining there was a deliberate attempt to prevent him from voting. The result was a blatant violation of the campaign rule which forbids candidates and state media from favouring a candidate. The fact that the elections lasted two days increased the chances of such manipulation.

It is therefore recommended that:

- \* elections always use the previous voters' register, that this register be publicised widely, and changes be proceeded speedily and accurately;
- \* each voter receive an invitation to vote at a specific polling station weeks before the election date, so as to allow time for change;
- \* the election be held in one day.

## THE REPUBLIC OF KYRGYZSTAN

### REFERENDUM AND LOCAL ELECTION

22 October 1994

*Observers Co-ordinator: Jacques E. Roussellier*

The elections were organised according to rules and practices inherited from the past Soviet rule. The secrecy of the vote was well respected, although rarely enforced as the engrained habit of proxy voting

(many signatures on the voters' register look suspiciously similar) or voting together in the same pooling booth has been widely observed.

Although the elections could not be seen as meeting all standards of a democratic poll, they show marked improvement in ensuring secrecy and freedom of choice for voters. However, freedom of media and greater voter civic education are highly desirable.

**Referendum:** Voters were asked two questions at the referendum. One concerned the right to amend the constitution via a referendum, the other proposed a 35-seat senate (5 seats per each province) and a 70-seat proportionally-elected parliament to replace the current one-chamber parliament. The questions of the referendum were written in Russian and Kyrgyz. It is not absolutely clear that the average voters fully understood the political and constitutional implications of both questions.

**Local elections:** The main problem was the lack of multiple candidature in rural areas and the inability of opposition parties to compete on an equal footing with government parties enjoying logistical, administrative and media support the state provided. Some opposition papers were banned the day after the election. Because the poll was organised on a Saturday when many people in rural areas work, turn-out may have been much lower than results indicate due to widespread proxy voting.

In the absence of a citizenship law, all CCCP passport holders with residence in Kyrgyzstan before 1992 could take part in the vote. Election commissions at all levels shown great diversity of ethnic background with many Russians as members.

In view of the upcoming parliamentary elections, the ODIHR stands ready to organize a training seminar for election officials as well as a seminar for local authorities. ODIHR will also assist in co-ordinating and supporting international observers at the parliamentary elections.

## **THE REPUBLIC OF ALBANIA**

### **REFERENDUM ON THE DRAFT CONSTITUTION**

**6 November 1994**

*Observers Co-ordinator: Mary Catherine Andrews*

The referendum on the draft constitution, conducted on 6 November 1994, was an important step forward for Albanian democracy. The Albanian voters were given the opportunity to cast a free ballot, and in spite of the projected defeat of the draft, the Government illustrated its willingness to accept the results. The desire of Albanians to vote and the transparency of election authorities' work is a further indication of the importance of this vote to consolidation of democracy in the country.

The voters, while well acquainted with voting procedures, had little knowledge of the actual substance of the draft constitution, because the campaign for its ratification was highly politicised. While an inordinate amount of media time was allocated to the campaign for ratification, there was little attention given to the actual substance of the draft.

*ODIHR commends the Central Election Commission for their work in voter education, and believes this contributed significantly to the elections.*

According to the election law, voter registration lists are compiled for each election. As a consequence

of the short period of time between calling the referendum and the actual vote, there was little time to compile these lists, and resulting inaccuracies made it impossible for some potential voters to cast ballots on election day. Greater attention to these details would ensure the entire electorate is included in future votes.

The procedures for identifying voters were not always carefully followed by the polling station commissions. Uneven application of voter identification was noted by domestic and foreign observers throughout the country. In the future, these procedures should be more carefully implemented and standard voter identification documents should be required.

Isolated incidents of violence were reported during the voting, including the killing of a political party observer from the Democratic Party. In contrast to previous country-wide multiparty elections, police were dispatched to polling stations and were observed inside a number of polling stations. The presence of police officers did not seem to hinder any acts of violence or harassment during the voting.

Following the referendum, the anecdotal evidence of manipulation in the ballot counting process was presented. Since the election law does not have provisions for annulling results in a referendum, the areas with significant irregularities were subtracted from the total registered voters and the total results. This practice could significantly alter election outcomes in some situations.

With the defeat of this draft, we underscore the important opportunity for the Albanian authorities to consult political leaders, the electorate, and international experts on a new draft. ODIHR offers services to the Albanian authorities as they prepare another draft constitution.

## **THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA**

### **PRESIDENTIAL AND PARLIAMENTARY ELECTIONS**

**October 13, 30, November 13, 1994**

*Observers Co-ordinators:*

*Jacques Roussellier and Mary Catherine Andrews*

International Observers from fifteen participating States of the CSCE (now OSCE) and international organisations monitored the election process for three rounds of the parliamentary elections and the presidential elections in the Former Yugoslav Republic of Macedonia on 16, 30 October and 13 November, 1994.

Election officials at the polling stations and on the district level effectively administered the voting within the guidelines provided by the central Election Commission. Following the first round, authorities attempted to regulate the distribution of invitations, clarify voter identification procedure, and alleviate confusion over polling station locations. These improvements resulted in less confusion for voters in the subsequent election rounds, and indicated a greater dedication to the election process by the election authorities.

*The elections appeared to have been conducted in a manner befitting an emerging democratic system, and the results seem to be representative of prevailing opinions in the electorate*

In the opinion of observers, the boycott of the elections by opposition parties following the first round, and the actions of some opposition activists denied significant percentage of the population the



opportunity to support candidates off their choice in the second round.

On the basis of OSCE election standards and election practices in established democracies, the observers noted three areas which require improvement:

- \* outdated and imprecise laws on elections, constituencies, and voter registration lists should be rewritten or substantially revised;
- \* voter education and training for election administrators should be an integral part of the election process; and
- \* election administration, vote regulation, and adjudication of complaints should be transparent.

## **HUNGARY**

### **LOCAL GOVERNMENTS AND LOCAL MINORITY SELF-GOVERNMENTS**

**December 11, 1994**

*Observers Co-ordinators:*  
*Jacques Roussellier and Martin Alexandersson*

On December 11, 1994 elections of local governments and of local minority self-governments were held in Hungary. For the first time since the adoption of a recent law on the rights of national and ethnic minorities, residents had the opportunity to vote for local minority self-governments on a voluntary basis. Although they could not be candidates, foreign residents were allowed to vote. It was also the first time that counties assemblies and mayors were directly elected. The voter turn-out (43%) compares favourably to turn-out observed in other local elections in Europe. More than 70% of candidates ran on an independent ticket.

*The CSCE election observers concluded that local elections in Hungary were conducted in a free and democratic manner*

Although certain technical difficulties will be noted here below, the ODIHR deems the elections to have been free and fair, well organised and complying with international standards. Election officials showed high professional skills. They were very well trained, co-operative and friendly towards the international observers.

While representatives in settlements with a population of 10 000 or less are elected according to a proportional system, candidates in settlements of more than 10 000 are elected according to a mixed election system. This rather complex voting procedure involving the election of several local powers appears at times to have confused voters on the day of elections, although official authorities made great efforts to explain the procedures, including in all the minority languages. Procedures for the elections to minorities representative councils were as complex as the local election process and there was inevitably a certain degree of confusion.

The main electoral problems were of a purely technical nature:

- \* In several polling stations, voters filled out their ballots outside the voting booths. Furthermore, in small villages where residents often know each other, voters did not always present identification cards. Such practices may spread to larger regions if election officials do not apply a stricter control of the secrecy of the vote and of voter lists.

- \* In order to ensure a more efficient counting procedure, ballot papers could be smaller and differentiated by colour rather than size.
- \* Minority self-government election procedures were the result of negotiation between government and minorities. These procedures could be streamlined and take into account not only the legitimate desire to design a democratic system possible, but also the requirement for an uncomplicated voting system conducive to greater trust between minorities and state structure.
- \* There should be a clearer distinction between foreign experts present during the elections, or as part as an official delegation to a specific town or city, and foreign observers whose task was to monitor the elections throughout the country.

# NEWS FROM THE ODIHR

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## **EXPERT TEAM**

**REPUBLIC OF TAJIKISTAN**

**November 1-7, 1994**

*Rapporteur: Dr. Frederick Quinn*

Representatives of the CSCE Mission to Tajikistan and the Office of Democratic Institutions and Human Rights held extensive discussions with representatives of the Government of Tajikistan about the country's recently enacted Law on Presidential Elections, its proposed draft Law on Parliamentary Elections, Constitution, and contemplated democratic reforms. This was an expert delegation and not official election observers. Discussion took place in a frank and open atmosphere about possible forms of future co-operation, such as ODIHR's willingness to have international experts evaluate the draft Law on Parliamentary Elections and sponsor a Conference on the Electoral Code and Constitutional-Judicial Reform.

While Tajikistan is making progress in its transition to democracy, work remains to be done. The international standards of which we spoke are those on free and fair elections, multiparty democracies, free expression and free associations, contained in the basic CSCE documents.

The Tajik constitution also acknowledges the place of such international accords. Article 10 states "International documents recognised by Tajikistan are a constituent part of the republic's legal system. If the republic's laws do not conform with recognised international legal documents, the norms of the international documents shall apply."

We cited several specific problems with the Law on Elections of the President used for the November 6 Presidential Election -Constitutional Referendum. Each of the points made, was the subject of considerable discussion; differing viewpoints bear elaboration.

### **THE LACK OF POLITICAL PARTIES AND A TRULY CONTESTED ELECTION**

Government representatives said the elections were free and fair, that there were provisions for labour unions and youth organisations to put forward candidates, and that outlawed political parties were invited to reform and register anew with the Ministry of Justice.

Our response was that such a system, familiar in Soviet politics, is not the same as multiparty contested democratic elections. There are no provisions for independent candidates to run and the Electoral Code requires a party candidate to amass five percent of the registered voters' signatures. That is 130,000 signatures for starters, a formidable barrier.

Additionally, the Electoral Code requires candidates to be permanently resident in the country for the last 10 years, effectively eliminating much of the opposition.

## **THE LACK OF FREE MEDIA AND THE FREE EXPRESSION OF POLITICAL IDEA**

Article 27 of the Electoral Code states "The program of a candidate must not contradict the constitution." There is no reason to have such a provision in an electoral code; if the constitutionality of campaign speech becomes a legal issue, those who oppose such free expression can have recourse to the courts.

Article 37 is more sweeping in its potential to halt political discussion for the vague charge of "discredit(ing) the honour and dignity of the candidate for the post of President" or "insult(ing) the members of the electoral commission."

Such provisions are almost impossible to define as legal concepts, but what they do is wave a red flag on the horizon, saying to political opponents "watch out, if you discredit another candidate, you will pay for it." This ignores the realities of open political campaigning where candidates, as a matter of record, dispute the competence of other candidates and insult their programs, sometimes being inaccurate in the process. Western courts increasingly hold that public figures are justifiably more exposed to critical media scrutiny than private individuals.

Tajiks might consider a series of televised presidential or parliamentary debates for another election. Such debates could be held in different regions, with candidates questioning each other and responding to questions from journalists and the audience.

## **THE LACK OF AN INDEPENDENT ELECTORAL BODY TO SUPERVISE THE ELECTIONS**

The Central Elections Committee works hard, under the leadership of an energetic chairman experienced in local politics. It is a formidable task for a nine person staff to organise elections permitting potentially 2,800,000 voters to cast ballots at 2,700 polling places in 64 electoral districts. And by traditional Soviet standards, there is a certain balance to the system.

The problem is that there are no neutral and opposition voices on the electoral commission. The chairman is hand-picked by the Chairman of the Supreme Soviet, and confirmed by the Supreme Soviet; members are elected by the Supreme Soviet. Despite their best intentions, this is a bit like sending the goat to guard the cabbage patch.

The tendency in most western democracies is to create an independent electoral commission, with its own professional staff of legal, logistical and statistical experts. Tajiks, eager to consider other models of electoral reform, might look at how the Canadian government, for instance, created an independent electoral commission.

We conveyed our willingness to work with the Government of Tajikistan through the resident OSCE Mission on electoral, constitutional, and other reform projects, designed to promote the growth of a democratic infrastructure.

## **NEXT STEPS**

\* To send the draft parliamentary electoral code to ODIHR, which in turn will solicit a variety of expert opinions and relay them promptly to the Mission and law drafters.

\* To invite three representatives from Tajikistan to the two ODIHR-sponsored conferences, "Free Media and Free Association" in Bishkek, Kyrgyzstan, December 7-9, and "International Human Rights Accords, their Applicability to Domestic Law" and "Roles of Courts" in Almaty, Kazakhstan, December 12-14. Prompt action on all sides is required if parliamentary elections will be held in early February 1995.

\* To hold a January 1995 conference in Dushanbe on a subject, such as constitutional or electoral law reform.

\* To invite the Government of Tajikistan to send three representatives to the conference on constitutional courts being organised by ODIHR and the European Commission for Democracy Through Law in Croatia in June 1995.

## **SEMINAR ON FREE MEDIA AND FREE ASSOCIATION**

**Biskek, Kyrgyzstan**

**December 7-8, 1994**

*Rapporteur Dr. Frederick Quinn*

While governmental leaders gathered at the Budapest CSCE summit conference, CSCE's Office of Democratic Institutions and Human Rights held the first of two Central Asian regional rule of law seminars. "Free Media and Free Association" was the subject of an intensive two day conference in the Ministry of Justice in Biskek, Kyrgyzstan, December 7-8. More than 80 jurists and journalists debated press freedom and free association issues. Interest in the subject was high, marked by a spirited substantive discussion of the country's draft media and public association laws.

The gathering's timing was propitious; Kyrgyzstan recently closed two publications, one by court order, the other extrajudicially, and dissolved parliament; the meeting brought together editors of the banned publications and Ministry of Justice Officials, journalists and judges for a frank and open discussion of issues.

### **HOW DO YOU HAVE BOTH FREE AND RESPONSIBLE MEDIA?**

"The Relationship Between Democratic Principals and the State's Legal Requirements About Mass Media, Including International Standards on Human Rights" was the main morning topic. Several editors representing various independent and government newspapers spoke, as did representatives of non-governmental human rights organisations, the Union of Journalists, defence attorneys, two judges of the Supreme Court, and a representative of the presidency.

During the morning session Ludmila Zholmuhamedova, former editor of "Svobodnye Gory" (Free Mountains), a paper closed by the government, spoke, as did another journalist, Svetlana Krasilnikov of "Delo N...," whose weekly political supplement "Politika" was shut down by the government without court action earlier this year.

Some representative comments:

\* there is a constant tension between media and the government; the government believes the press is

irresponsible, media believe the government is incompetent or favors powerful interests;

- \* without an independent judiciary, the public will have no confidence that justice is being done;
- \* the problem in many young democracies is balance....both sides-government and media-lack experience. It is still not understood that every criticism of the government is not an anti-state activity.
- \* a major question is the ownership of media: a person, group of people, or a company? Sometimes an owner starts a publication, then leaves without financially supporting it, meaning the staff may not be paid.
- \* There are two publishing houses here; they owned by the government, but why should the government believe it controls them; public money pays for the whole thing... A local proverb says "They head can be separated from the body, but speech cannot be stopped."

### **DRAFT MEDIA LAW**

The afternoon discussion focused on the Draft Media Law. Representative comments include:

- \* regulating print media and broadcast media are separate activities and should require separate codes; print media traditionally enjoy wider liberties; many countries have a radio/TV licensing system to prevent monopolies, also to limit alcohol and tobacco advertising and programs affecting children;
- \* it is important to harmonise the media law provisions with those of the civil and criminal codes;
- \* there is now a governmental monopoly on news media and we are trying to liquidate this monopoly, not only here, but all throughout the CIS. The government supports some papers paid for from the government budget, that should no longer be the case.

### **PRESENCE FROM TAJIKISTAN**

Conference participants applauded the presentations of a newspaper editor and television commentator from Tajikistan, who made the 16 hour trip by small plane and car across snow-covered mountains to attend the conference. They vividly described working conditions for journalists in Tajikistan, where more than 24 editors and writers have reportedly been killed in the last year. Their presence was arranged by the CSCE Mission to Tajikistan.

## **CONFERENCE ON CITIZENS AND COURTS**

**Almaty, Kazakhstan**

**December 12-13, 1994**

*Rapporteur Dr. Frederick Quinn,*

More than 50 senior jurists from Kazakhstan gathered for two days to discuss individual human rights and the role of the courts in a Constitutional Court-CSCE\ODIHR conference on Citizens and Courts December 12-13 in the Constitutional Court chambers, Almaty, Kazakhstan.

**Day One** was devoted to Individual Rights in the Constitutions of Spain, Poland, and the United States, including freedom of speech, religion, assembly, due process and equal protection, privacy, and the enforceability of social and economic rights, plus CSCE human rights norms.

**Day Two** dealt with: Sorting out Powers and Competencies of Courts, the Polish, Spanish, and American experiences. How do citizens have access to various courts? How do courts divide their responsibilities?

Kazakhstan is in the throes of judicial reform-modernisation and much of the lively discussion followed a "How would you solve this problem?" format. Clarification of separation of powers issues among the three branches of government is unclear, as are jurisdictional boundaries between the Constitutional, Supreme, and high courts of arbitration. Kazakhstan is also engaged in an active public debate between proponents of reform and judicial modernisation and traditionalists. Several high ranking judges spent Monday at a hastily called parliamentary committee meeting where power issues affecting courts and judicial-parliamentary relations were debated.

## **INDEPENDENCE OF THE JUDICIARY ...A NEW IDEA**

The idea of an independent judiciary is new to Kazakhstan and other countries of the former Soviet Union. The new courts have been alive less than three years; jurisdictional boundaries are sometimes unclear. Not far from the conference site the former Soviet Union's leaders met to dissolve that body on December 15, 1991. "Who would have thought a seminar on 'Citizens and Courts' would have been possible even two years ago?" a television commentator asked. Conditions are harsh in Kazakhstan, local residents say, although long-term prospects are bright. The judiciary has not been paid in two months; natural gas supplies to Almaty had been cut off for several days.

### **RECOMMENDATIONS**

- \* **Citizenship Law:** can OSCE bring some Kazak jurists and legislators to Warsaw to discuss their draft citizenship law? There are a number of minority populations in the country and several issues, including Russia's planned granting of dual citizenship to ethnic Russians.
- \* **Publications** - a OSCE "Scouts Handbook" on Human Rights: can OSCE issue, in Russian and other languages, a "Boy or Girl Scouts' Handbook" on the core content of basic CSCE/OSCE documents and what they mean to individual citizens. A "Mao's Little Red Book" of OSCE sayings and commentary so they can be worked into the vocabulary of citizens, media, NGOs, and jurists of newly emerging states?
- \* **Longer Term Training Programs:** seminars like these have their value, but there is need for longer term training if the judiciary is to change, and also for publications, simple how to do it, step by step books.

# HIGH COMMISSIONER ON NATIONAL MINORITIES

The final months of 1994 were intensely busy for the OSCE High Commissioner on National Minorities, Mr Max van der Stoep. He paid follow-up visits to several countries and made his first visit to Moldova.

## ALBANIA

On 17-23 October 1994, the High Commissioner went on a special fact-finding mission to Albania, accompanied by two experts of high international standing, Sir John Thomson of the United Kingdom and Professor Asbjørn Eide of Norway. Their aim was to study interethnic relations in Albania and, in particular, the situation of the Greek minority. On his return, the High Commissioner presented a report and recommendations to the Government of Albania (CSCE Communication No. 35, 14 November 1994).

In their report, the High Commissioner and the experts analysed the legal status of the Greek minority. They underlined the importance of dialogue between the authorities and the minority, and stressed the important role that the office for national minorities could play. The mission paid particular attention to the education of children from the minority in their mother tongue. They came to the conclusion that, as a result of decisions taken by the Albanian Government in August and September 1994, requirements regarding the educational rights of persons belonging to national minorities, as laid down in the 1990 Copenhagen Document of the CSCE and other international standards, have in principle been met in Albania.

Only one aspect of possible conflict between Albania's present education system and the Copenhagen Document was observed. This arises from Paragraph 32 of that document, which states that "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." This has practical importance for the children of mixed marriages. In the mission's opinion, the Albanian education system would conform more closely with the principles of the Copenhagen Document if parents of children of mixed marriages could freely decide, at the time of their child's entrance to school, that the child should attend a Greek-language school (in the villages) or optional Greek classes (in the towns) even if the child had been registered as Albanian at birth.

In addition, the mission was of the opinion that there was room for further improvement in the education system. Accordingly, their report contained a number of suggestions concerning school bus transport, the possibility of optional classes in Greek or in a foreign language (English or French), and the minimum number of pupils required to start such classes. In addition, they stressed the importance they attached to the repeated assurances of the Albanian Government that legislation making it possible to establish private schools would be introduced in Albania in the near future.

The mission enquired into the access enjoyed by members of the Greek minority to posts in the public service, including the armed forces and the police. More generally, the High Commissioner and the experts commented on the issue of discrimination, stressing that, even where no discrimination is taking place, social stability is enhanced if mechanisms exist whereby allegations of discrimination, if they arise, can be addressed. They recommended to the Albanian Government that a national institution and a complaints procedure should be established to receive and investigate allegations of



discrimination on ethnic grounds. They also recommended that Albania should consider adhering to those international legal provisions that provide for complaints by individuals to international bodies.

The mission also studied problems connected with the rebuilding of religious communities in Albania. They recommended that the Albanian Government should do its utmost to facilitate these efforts and to intensify the consultation process mentioned in Article 16, Paragraph 5 of the 1986 Vienna Document of the CSCE. They expressed the hope that the process of restitution of, or compensation for, church property confiscated during the Communist period would be speeded up as much as possible.

Finally, the High Commissioner and the experts recommended the organisation of a programme of special training for Albanian police officers in the field of human rights in general and, more specifically, regarding national legislation and international human rights conventions and commitments.

## **ESTONIA**

On 12 January 1995, the Permanent Council of the OSCE made public a letter from the High Commissioner to the Minister of Foreign Affairs of the Republic of Estonia and the reply thereto (OSCE Communication No. 1, 1995). In his letter, the High Commissioner referred to the new draft Law on Citizenship, which was adopted in the first reading by the Estonian Parliament (Riigikogu) on 10 November 1994. The High Commissioner drew attention to his earlier recommendations to the Government of Estonia on the citizenship question (CSCE Communication No. 124/1993, which is also a public document) and stressed how important it was that the text of the new law should make it clear that the criterion of five years' residence for naturalisation comprises the whole period of residence, irrespective of the type of residence registration (permanent registration or temporary or permanent residence permit). The High Commissioner also expressed the hope that the provisions regarding language requirements for naturalisation would be in conformity with the assurance, given to him by the Estonian Government in July 1993, that such requirements would not exceed the ability to conduct a simple conversation in Estonian and that the requirements would be even lower for persons aged over sixty and for invalids.

## **FYROM**

From 8-11 November 1994, the High Commissioner paid a follow-up visit to the Former Yugoslav Republic of Macedonia. His visit, which followed presidential and parliamentary elections in that country, focused on current problems in interethnic relations, particularly between ethnic Albanians and Macedonians. The High Commissioner had extensive talks with the President, the Speaker of Parliament, Government ministers and leaders of Albanian political parties. He examined the possibilities of implementing concrete measures aimed at ensuring harmonious interethnic dialogue, including participation by representatives of the Albanian community in the Government of the FYROM. In a letter to the Minister of Foreign Affairs, the High Commissioner formulated a number of recommendations in this regard.

## **HUNGARY**

On 18 November 1994, the High Commissioner presented to the CSO his recommendations concerning the situation of the Slovak minority in Hungary. These recommendations had earlier been presented in a letter dated 18 July 1994 to the Minister of Foreign Affairs of the Republic of Hungary, to which the Minister replied on 8 November 1994 (CSCE Communication No. 36, 14 November 1994).

In his recommendations, the High Commissioner stressed the importance of establishing a Minority Ombudsman, of making possible the representation of minorities in the Hungarian Parliament, and of implementing the relevant provisions of the Act on the Rights of National and Ethnic Minorities dealing with self-government by minorities.

## **MOLDOVA**

On 7-10 December 1994, the High Commissioner visited Moldova. In Chisinau, he met with the President, the Speaker of Parliament, leading members of the Government and Parliament, and representatives of national minorities. He formed a positive impression of the overall state of interethnic relations in Moldova.

From Chisinau, the High Commissioner travelled to the south-west of the country, to the region inhabited by the Gagauz, an ethnically Turkish people of Christian persuasion of whom some 154,000 live in Moldova.

At the time of the High Commissioner's visit, a Law on Gagauz Autonomy was awaiting its second reading in the Moldovan Parliament. This law, which was adopted by Parliament on 23 December, grants the Gagauz extensive cultural and economic autonomy in the region where they are concentrated. The High Commissioner expressed particular interest in the implications of the law since, although the Gagauz make up a majority of the local population, they are only a plurality or even a minority in many of the villages on the periphery of the region, and substantial numbers of Moldovans, Bulgarians and Ukrainians also live in the region. During his visit to the regional capital, Comrat, the High Commissioner met with Gagauz leaders and with leaders of regional political parties.

The High Commissioner also travelled to Tiraspol, on the left bank of the River Dniester in northern Moldova. Trans-Dniestria has a large Russian-speaking population: taken together, ethnic Russians and Ukrainians outnumber Moldovans in the region. In 1990 and 1991, alarmed by the desire expressed by some Moldovan leaders at that time to unite Moldova with Romania, the leaders of Trans-Dniestria declared their intention of seceding from Moldova. Their unilateral declaration of independence was rejected by the authorities in Chisinau, however.

The High Commissioner met with local authorities and leaders of national minorities in Tiraspol and the neighboring city of Bendery. He also visited Moldovan-language schools in the region, where he spoke with teachers and with parents anxious for their children to study the Moldovan language in the Latin script, rather than the Cyrillic alphabet mandated by the Trans-Dniestrian authorities. The High Commissioner appealed to the Trans-Dniestrian authorities to show flexibility in this controversial issue and to ensure that it is resolved to the satisfaction of the persons concerned and in full accordance with international norms.

## **SLOVAKIA**

On 18 November 1994, the High Commissioner presented to the CSO his recommendations concerning the situation of the Hungarian minority in Slovakia. These recommendations had earlier been presented in a letter dated 20 June 1994 to the Minister of Foreign Affairs of the Slovak Republic, to which the Minister replied on 28 October 1994 (CSCE Communication No. 36, 14 November 1994).

In his recommendations, the High Commissioner stressed the importance of creating and developing

instruments of dialogue between the Slovak majority and the Hungarian minority as an essential feature of a living democracy. The High Commissioner recommended that issues touching on national minorities should be openly discussed in a specialised organ with adequate minority representation and real competencies. The High Commissioner also expressed his belief that many concerns could be alleviated if local self-governing authorities throughout Slovakia were given the right - and the necessary resources - to regulate and effectively manage public affairs, particularly in the fields of education and culture.

The High Commissioner expressed reservations about the proposed establishment of alternative schools, i.e., the introduction in Hungarian schools of Slovak as the language of instruction for certain subjects. He recommended that the important educational objective of improving the command of the Slovak language of pupils belonging to national minorities should be achieved through a general improvement of Slovak-language instruction in Hungarian schools, without decreasing the amount of teaching in the Hungarian language. As a connected issue, the High Commissioner stressed the need for a sufficient number of Hungarian-language teachers to be trained at the Pedagogical Institute in Nitra.

## **UKRAINE**

The High Commissioner has made two recent visits to Ukraine, the first on 3-5 November and the second on 19-22 December. In Kyiv, he met the President of Ukraine, the Speaker of Parliament, presidential advisers and leading members of the Government. From Kyiv he travelled to Crimea, where he met local government and parliamentary leaders

and representatives of the Crimean Tatar community. His main aim, as on earlier visits to Ukraine, was to seek ways of facilitating dialogue between Kyiv and Simferopol over the issue of Crimean autonomy. The High Commissioner also expressed interest in the situation of the Crimean Tatars. The team of three international experts appointed by the OSCE to facilitate dialogue between Kyiv and Simferopol also visited Kyiv and Simferopol in October and December.

## **CSCE REVIEW CONFERENCE AND SUMMIT**

The High Commissioner attended the CSCE Summit in Budapest in December 1994 and participated in a meeting of the Working Group on Structures and Institutions of the Review Conference. In the Budapest Document, the Summit decided to enhance the resources of the High Commissioner and expressed its support for the continuation of his present activities.

## **HOW TO OBTAIN FURTHER INFORMATION ON THE HCNM'S ACTIVITIES**

A bibliography of speeches and publications relating to the High Commissioner's work has recently been compiled by the Foundation on Inter-Ethnic Relations. Copies can be obtained, free of charge, by writing to The Foundation on Inter-Ethnic Relations, Prinsessegracht 22, 2514 AP The Hague, The Netherlands.

Those of the High Commissioner's recommendations that have been made public are available (like other documents of the OSCE) free of charge from the Prague Office of the OSCE, Rytirská 31, 110 00 Prague 1, Czech Republic. Please quote the relevant CSCE Communication number.

HCNM documents may also be accessed over the Internet by sending an E-mail message to: [listserv@cc1.kuleuven.ac.be](mailto:listserv@cc1.kuleuven.ac.be) and adding the following text: sub osce Firstname Lastname

Data concerning the HCNM's activities are also available on gopher:  
UAL://gopher.nato.int:70/1.

# NGO PAGES

*With this winter issue, the ODIHR is pleased to introduce a new section to the Bulletin. These pages will be devoted to news of the ODIHR's contacts and activities with non-governmental organisations.*

## The ODIHR NGO Liaison Advisor

At the Rome Council of Ministers meeting in December 1993, a decision was made to enlarge the number of the ODIHR's staff. One of the newly created positions was that of a full-time NGO Liaison Advisor. This represents a formalisation of the activities which the ODIHR has been pursuing from its very inception. Over the past 3 1/2 years the ODIHR has maintained contact with and has incorporated the work of NGOs into nearly all of its programs. Since September 1994 the ODIHR has had its NGO Liaison Advisor in place, serving as a point of contact in the Warsaw office for NGOs concerned with human dimension commitments. This advisor also serves as a conduit for information to NGO liaison officers in the three other OSCE offices in Europe, the OSCE Missions of Long Duration, the Foreign Affairs Offices of member states and the OSCE delegation offices in Vienna.

Information flows in both directions between the ODIHR and NGOs. The NGO Liaison Advisor takes every opportunity to inform NGOs about OSCE standards and commitments. The Advisor also notifies NGOs about the ODIHR's Human Dimension Seminars, Implementation Meeting, and other relevant activities. Other OSCE institutions turn to the ODIHR for NGO referral lists when organising their events. When attending seminars and conferences throughout the region, the NGO Liaison Advisor widens the ODIHR's base of contacts through outreach to newly established NGOs, especially those in the recently admitted states. Very often the ODIHR is able to assist these NGOs in identifying and establishing contact with analogous organisations in Central and Western Europe, and in America. From NGOs the ODIHR receives reports and analyses concerning particular states, regions, or specific issues within the Human Dimension. Such materials are registered and filed in the ODIHR library where they are available for possible further use.

## ACTIVITIES, SEPTEMBER - DECEMBER, 1994

Upon the invitation from a Belgian NGO umbrella organisation, "ONG-CSCE," the NGO Liaison Advisor spoke in Brussels on 15 September to an audience of approximately 50 NGO representatives at a meeting entitled "**La CSCE dans le nouveau paysage Européen de sécurité.**" The subject under discussion was NGO participation in the CSCE and prospects for further co-operation in the future, following results from the Budapest Review Conference. Other panelists included representatives from the World Policy Institute, Helsinki Citizens Assembly (Madrid), Finnish Parliament, Université Libre de Bruxelles, and the NATO Alerts Network.

From 20 - 23 September the ODIHR held its last Human Dimension Seminar of 1994, the **Seminar on Roma in the CSCE Region**, in co-sponsorship with the Council of Europe. This event witnessed the highest level of NGO participation of all seminars held to date by the ODIHR. A total of 71 organisations filled the conference rooms, the corridors and cafes nearly to capacity. Members of the Roma NGO community used the seminar as a vehicle for launching an initiative to create a clearinghouse for information on Roma issues. During the Budapest Summit, the ODIHR Office has been given a task to appoint a contact person for Roma and Sinti (Gypsies) issues.

Just as the Human Dimension Seminar on Roma was drawing to a close, the NGO Liaison Advisor travelled to Stadt Schlaining, Austria, to participate in a seminar organised jointly by the Balkans Peace Project (based in Cambridge, Mass., USA) and the OSCE Secretariat entitled **"Exploring the Potential for Collaboration by the CSCE and NGOs on Preventive Diplomacy."** In attendance were the CSCE Chair in Office, Ambassador Mario Sica, CSCE Secretary General Ambassador Wilhelm Höynck, representatives from the ODIHR, the office of the High Commissioner on National Minorities, the Conflict Prevention Centre, together with CSCE national delegates and several NGOs concerned with conflict prevention and resolution. Given the fact that these NGOs would not have access to Working Group on "Conflict Prevention and Crisis Management" at the Budapest Review Conference, the Stadt Schlaining seminar presented a significant opportunity for this group of NGOs to engage in dialogue with CSCE delegations just prior to the Review Conference.

At the end of September, more than 20 Polish NGOs concerned with national minorities met in Gdansk to participate in the **Second Annual Festival of National Minorities** organised by Union of Ukraine Independent Youth, the Foundation for the Development of Culture ("Kontakt") in co-operation with the Byelorussian Cultural Association ("Chatka") and the Union of Peoples of German Origin. On 1 October, representatives of Byelorussian, Tatar, Kashubian, Ukrainian, German and Lithuanian minority groups and governments held a roundtable discussion. The ODIHR's NGO Liaison Advisor presented information on the ODIHR's and CSCE seminars and meetings as well as the CSCE standards and commitments vis-a-vis national minorities, racism, xenophobia and tolerance. Information regarding the impending Budapest Review Conference was also distributed to interested participants. Throughout the Festival, ideas were exchanged on how to combat xenophobia and change stereotyped opinions through a long-term information campaign in the media, schools and minority publications.

On 7-8 October, the NGO Liaison Advisor travelled up to Bratislava and then to Trecianske Teplice, where the European Institute for the Media (EIM) held its conference, **"East-West Media Co-operation: the European Agenda."** Representatives of media organisations from West and East met in this spa town to exchange information and opinions on the state of co-operation in the media field. Media specialists from UNESCO and Council of Europe joined the ODIHR's Advisor in presenting their organization's mandates for the development of free media in the new democracies. Non-governmental organisations specializing in media issues described their programs of activities and goals and objectives for the near future. Much of the discussion focussed on the continuing need to share information and avoid too much repetition or overlapping. An idea came forward for the establishment of a clearinghouse of information on media projects to be housed at the EIM.

On November 11-13, the NGO Liaison Advisor was able to accept an invitation to a conference in Ljubljana, **"Independent Human Rights Organisations: Programs, Co-operation, Realization,"** organised by Civic Link - Human Rights Centre and the International Helsinki Federation for Human Rights and sponsored by the Council of Europe and the PHARE Democracy Programme. The Slovenian Ombudsman, representatives from Council of Europe, the Registry of the European Court of Human Rights, UNHCR, Amnesty International, Bulgarian Helsinki Committee and Interights were among the panelists who provided a wide array of information on the means for building co-operation and mutual support in projects and programs and in establishing contacts and connections with international organisations. The audience was comprised of established and newly emerging human rights organisations from Central and East European countries and the Caucasus. At the end of the conference, participants joined Director Tanya Petovar for a celebration in honour of the inauguration of Civic Link's human rights documentation centre in the heart of Ljubljana.

On 3-4 December, the ODIHR's NGO Liaison Advisor attended a seminar co-organised by Warsaw's

Information and Documentation Unit of the Council of Europe and the Polish Association of University Women, "**Participation of Women in Public Life**," held at Warsaw University. Madame Josephine Farrington, MP, House of Lords and Head, Congress of Local and Regional Authorities of Europe delivered the key-note speech which focussed on the need for a new perception of women as indispensable contributors to a world that is in transition, and that is in need of the talents of all its inhabitants if it is to succeed economically or otherwise. Furthermore, Lord Farrington pointed out the need for women in public life to network with NGOs, as these organisations are critical to creating an environment for work and change in society. A series of panelists followed, including executives and journalists from Polish television, and parliamentarians (women) from the Sejm and Senate, including the Head of the Parliamentary Women's Group, Barbara Labuda. Their reports pointed to successes in Poland, with comparisons to both Western and Eastern European countries where the representation of women in politics and the media lags behind the example of Poland. Other presentations included reports on statistics, a review of the function of the Ombudsman's office, given by Polish Ombudsman Tadeusz Zielinski himself, and various perspectives from Nordic, West European and American women.

### **THE CSCE REVIEW CONFERENCE, BUDAPEST**

Of the four Working Groups at the CSCE Review Conference, representatives of NGOs were permitted to attend Working Group III, Clusters 1-7, which met from 14 October - 10 November. A decision was taken by consensus among the member states that Clusters 8, 9, and 10 of WGIII, devoted to a discussion of the ODIHR and not to Human Dimension review, would be closed to NGO participants. Representatives took their seats in a special section cordoned off in the main hall of WGIII from which they had access to a table with microphone. Interventions were accepted from NGOs during discussions on Clusters 1-7 once the speakers list of delegations and international organisations was exhausted. Well over 300 individuals registered as representatives of NGOs. Among them, 91 organisations submitted written presentations to the Conference. On the basis of these documents, NGO representatives were invited to make their interventions in WGIII. This practice represented a departure from the Helsinki 1992 Conference where NGOs were not permitted participation in any of the Working Groups. Although many NGO representatives called for increased access to the Review Conference, most agreed that a significant step forward had already been made in Budapest. NGO representatives pursued further contact with delegates through parallel activities; several meetings were called by NGOs to address specific issues. NGO representatives also conducted much networking among themselves and devoted much discussion to ways in which they might coordinate their efforts toward working with the CSCE. As a direct result of these discussions, two joint NGO proposals for further means of co-operation were put forward to CSCE delegations.

The concluding document of the Budapest Review Conference, "*Towards a Genuine Partnership in a New Era*," includes several paragraphs in Chapter VII, The Human Dimension, that make reference to NGOs. Paragraph 17 reads:

*The participating States and CSCE institutions will provide opportunities for increased involvement of NGOs in CSCE activities as foreseen in Chapter IV of the Helsinki document 1992. They will search for ways in which the CSCE can best make use of the work and information provided by NGOs. The Secretary General is requested to make a study on how participation of NGOs can be further enhanced.*

The ODIHR NGO Liaison Advisor welcomes requests from NGOs for copies of the Budapest document.



# BOOK REVIEW

## A NEW FRAMEWORK FOR MORAL EDUCATION

Edited by: Iraj Ayman

Published by: the Institute of International Education and Development  
LANDEGG ACADEMY, Switzerland

[...] It is not enough to develop theoretical models and prescribe ideals and slogans to regulate individual and collective life. It is essential to make such value systems operational and adhered to. In order to achieve such "applied morality," a comprehensive, continuous and universally applicable approach is required, and educational process aimed at the development of moral behaviour needs to be in place.[...]

It has been a common belief that the development of moral behaviour can be achieved somewhere during the process of formal education. Nowadays however, while the schools have very little to offer, it is mostly the tv programmes, newspaper articles and all easy-reading materials which play increasingly growing and unquestionable role in the development of moral principles.

The need for a new approach toward a moral education is particularly important in societies that are in the process of rapid shift from an established socio-political system to a new system, not yet fully defined and articulated. Therefore, a National Forum was called in Albania, in November 1991, in order to search for a solution for a new pattern of moral education for younger generations.

A book "A New Framework for Moral Education" is based on independent notes and materials presented at the *National Forum*, and contributes to the public debate on what needs to be done with moral education in a society that is in the process of rapid shift from an established socio-political system to a new system not yet fully defined and articulated.