OSCE

Office for Democratic Institutions and Human Rights

BULLETIN

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WARSAW

A Note from the Director

Dear Readers,

I would like to start by wishing you all a very happy and successful New Year. I think that 1997 will prove to be an interesting year of change.

Preparation for the Review Meeting and the Meeting itself dominated the work of the office at the end of last year. Paulina Merino was particularly pleased to learn that the reports which she produced provided a useful basis for the discussions which reviewed the human dimension commitments.

Keith M. Morrill did an excellent job as the Rapporteur of Working Group 1 which dealt with the Implementation of OSCE Commitments in the Human Dimension. He also produced a succinct report of a very wide ranging discussion on the implementation of the human dimension commitments. We have reproduced it in this edition because it certainly merits a close study. When giving a synopsis of the work of our office over the past two years at the Conference I spoke about not only what we have achieved but also pointed out the problems which we have encountered and the ways in which participating States could assist us to be more effective. This report has also been included.

The declaration from the Lisbon Summit has produced a very clear mandate for OSCE work in the human dimension field. The Declaration calls for the improved implementation of human dimension commitments and unequivocally states that respect for human rights and fundamental freedoms are essential for security. In addition to emphasising the importance of arms control it also stresses that the implementation of economic and environmental commitments are equally important. This comprehensive approach to security is one which uniquely the OSCE is able to provide and which has the potential to strengthen stability in the OSCE area.

The change from a state controlled press to the freedom of the media is an adjustment which many states in the process of transition find difficult to make. We have therefore included in this edition an article by James Michael on the Freedom of Official Information which explores the current trend of redressing the balance of power between the citizen and the state. Still on the theme of media in the transition there is an interesting article by Dr. Johann Fritz on the role of the main gatherers of information namely news agencies in Central and Easter Europe and the need for them to become more independent.

Another area to which we will continue to pay particular attention this year is the role of NGOs in building a civil society and our concluding article in this edition gives excerpts from an intervention made by a member of the office at a conference on NGOs in the System of European Security. We hope in the coming year to encourage the growth of NGOs in all the OSCE region and to emphasis the contribution which they can make to peace and security

Before closing I would like to mention some staff changes. Jacques Roussellier has left the ODIHR. He started in Warsaw when it was the Office for Free Elections and then changed to being our Human Dimension Adviser. His assistant, Martin Alexandersson has also gone to pursue his human rights work elsewhere. They were known to many of you and will be missed. Erol Akdad is our new Human Dimension Adviser and we are looking forward to him taking up his duties in mid January. Last but by no means least I would like to inform those of you who do not already know that Bess Brown has joined Ambassador Resnick in the Liaison Office in Tashkent as a Human Dimension Officer. We are already working closely with her and are grateful for her assistance in launching our Central Asian initiative. I hope that you will also take advantage of her presence in the region.

In concluding I would like to remind you that our first Warsaw seminar this year is entitled the Administration and Observation of Elections and it will take place from 8 -11 April. I look forward to seeing many of you at it if we do not meet up before then.

Audrey Glover
Director of the ODIHR

LISBON SUMMIT DECLARATION

Note from the Editor: The Lisbon Summit took place from 2-3 December 1996. The meeting concluded with a document entitled "Security Model for the 21st Century," which is politically binding and outlines the direction of the OSCE for at least the next two years. The Summit was preceded by a Review Conference in Vienna, from 4 - 28 November.

1. We, the Heads of State or Government of the participating States of the Organisation for Security and Co-operation in Europe, have met in Lisbon to assess the situation in the OSCE region and to establish a co-operative foundation for our common security. As we approach the new century, it is more important than ever that we build together a peaceful OSCE region where all our nations and individuals feel secure.

2. We today adopt the Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the twenty-first century to strengthen security and stability throughout the OSCE region. We welcome the historic decision of OSCE participating States signatory to the CFE Treaty to begin negotiations in early 1997 with a view towards adapting the Treaty to the changing security environment in Europe. We intend to realise our full potential for consolidating peace and prosperity in the entire OSCE region, as demonstrated by our combined efforts - through the OSCE and other relevant institutions - to forge a sustainable peace in Bosnia and Herzegovina.

3. We reaffirm the OSCE principles as set forth in the Helsinki Final Act and other OSCE commitments. We believe that observance of all these principles and implementation of all commitments need to be improved and constantly reviewed. We recognise that serious risks and challenges, such as those to our security and sovereignty, continue to be of major concern. We are committed to address them.

4. Respect for human rights remains fundamental to our concept of democracy and to the democratisation process enshrined in the Charter of Paris. We are determined to consolidate the democratic gains of the changes that have occurred since 1989 and peacefully manage their further development in the OSCE region. We will co-operate in strengthening democratic institutions.

5. The OSCE has a key role to play in fostering security and stability in all their dimensions. We decide to continue our efforts to further enhance its efficiency as a primary instrument for early warning, conflict prevention, crisis management and post-conflict rehabilitation capabilities. We ask the Chairman-in-Office to report on progress achieved to the 1997 Ministerial Council.

6. The Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the twenty-first century is a comprehensive expression of our endeavour to strengthen security and stability in the OSCE region; as such, it complements the mutually reinforcing efforts of other European and transatlantic institutions and organisations in this field.

7. Arms control constitutes an important element of our common security. The CFE Treaty, in particular, is and will remain key to our security and stability. The Forum for Security Co-operation (FSC), the work of which is also important to our security, has adopted two decisions defining new directions for further work, "A Framework for Arms Control" and "Development of the Agenda of the FSC." As an example of co-operative security, the Open Skies Treaty, covering the territory from Vancouver to Vladivostok, aims at increased transparency among all Parties. Recalling the Budapest Decision of 1994, we once again strongly emphasise the significance of the entry into force and implementation of this Treaty. In addition, ending illegal arms supplies, in particular to zones of conflict, would make a major contribution to not only regional, but also global security.

8. We welcome the fulfilment by Kazakstan, Ukraine and Belarus of their commitment to remove from their territory all nuclear warheads. This is an historic contribution to reducing the nuclear threat and to the creation of a common security space in Europe.

9. The OSCE's comprehensive approach to security requires improvement in the implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms. This will further anchor the common values of a free and democratic society in all participating States, which is an essential foundation for our common security. Among the acute problems within the human dimension, the continuing violations of human rights, such as involuntary migration, and the lack of full democratisation, threats to independent media, electoral fraud, manifestations of aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism, continue to endanger stability in the OSCE region. We are committed to continuing to address these problems.

10. Against the background of recent refugee tragedies in the OSCE region and taking into account the issue of forced migration, we again condemn and pledge to refrain from any policy of 'ethnic cleansing' or mass expulsion. Our States will facilitate the return, in safety and in dignity, of refugees and internally displaced persons, according to international standards. Their reintegration into their places of origin must be pursued without discrimination. We commend the work of the ODIHR Migration Advisor and express support for his continuing activities to follow up on the Programme of Action agreed at the May 1996 Regional Conference to address the problems of refugees, displaced persons, other forms of involuntary displacement and returnees in the relevant States.

11. Freedom of the press and media are among the basic prerequisites for truly democratic and civil societies. In the Helsinki Final Act, we have pledged ourselves to respect this principle. There is a need to strengthen the implementation of OSCE commitments in the field of the media, taking into account, as appropriate, the work of other international organisations. We therefore task the Permanent Council to consider ways to increase the focus on implementation of OSCE commitments in the field of the media, as well as to elaborate a mandate for the appointment of an OSCE representative on freedom of the media to be submitted not later than to the 1997 Ministerial Council.

12. The same comprehensive approach to security requires continued efforts in the implementation of OSCE commitments in the economic dimension and an adequate development of OSCE activities dealing with security-related economic, social and environmental issues. The OSCE should focus on identifying the risks to security arising from economic, social and environmental problems, discussing their causes and potential consequences, and draw the attention of relevant international institutions to the need to take appropriate measures to alleviate the difficulties stemming from those risks. With this aim, the OSCE should further enhance its ties to mutually-reinforcing international economic and financial institutions, including regular consultations at appropriate levels aimed at improving the ability to identify and assess at an early stage the security relevance of economic, social and environmental developments. Interaction with regional, sub-regional and trans-border co-operative initiatives in the economic and environmental field should be enhanced, as they contribute to the promotion of good-neighbourly relations and security. We therefore task the Permanent Council to review the role of the OSCE Secretariat in the economic dimension, and to elaborate a mandate for a co-ordinator within the OSCE Secretariat on OSCE economic and environmental activities, to be submitted not later than the 1997 Ministerial Council.

13. We pay tribute to the achievements of the OSCE Mission to Bosnia and Herzegovina in helping to implement the General Framework Agreement for Peace in Bosnia and Herzegovina. Pragmatic co-operation with international institutions and IFOR, as well as the role of the High Representative, have contributed greatly to this success, thus demonstrating in a tangible way the kinds of co-operative undertakings on which security can be built through the action of mutually reinforcing institutions.

14. We welcome the agreement by the Presidency of Bosnia and Herzegovina on the establishment of the Council of Ministers, which represents an important step in forming fully effective joint institutions. Reaffirming the need for the full implementation of the Peace Agreement, we welcome the guiding principles agreed at the Meeting of the Ministerial Steering Board and the Presidency of Bosnia and Herzegovina in Paris on 14 November 1996, and the OSCE decision to extend its Mission's mandate to Bosnia and Herzegovina for 1997, noting its possible prolongation in the framework of the two-year consolidation period. We pledge ourselves to provide all necessary resources, financial and personnel, for the Mission to fulfil its mandate.

15. The OSCE will continue to play an important role in the promotion and consolidation of peace in Bosnia and Herzegovina based on OSCE principles and commitments. We confirm that we will supervise the preparation and conduct of elections for the municipal governing authorities in 1997, and welcome the agreement of the Parties to Annex 3 of the Peace Agreement in this regard. We will fully support the Mission's work and its contribution to implementation of the election results. We will assist in democracy building through concrete programmes and be active in human rights promotion and monitoring. We will continue assisting in the implementation of sub-regional stabilisation measures among the Parties to the Peace Agreement.

16. Recalling that the prime responsibility for implementing the Peace Agreement lies with the Parties themselves, we call upon them to co-operate in good faith with the OSCE and other

institutions in implementing the civilian aspects of the Peace Agreement. The role of the High Representative will remain of particular importance in this context. We call upon the Parties to co-operate fully with the International Criminal Tribunal for the former Yugoslavia.

17. The Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina and the Sub-Regional Arms Control Agreement will continue to play an important role in promoting and consolidating military stability in and around Bosnia and Herzegovina. Favourable conditions for full implementation of these Agreements should be fostered. Failure to meet the commitments under these Agreements remains, however, a serious concern. We support the November 1996 reaffirmation in Paris by the Ministerial Steering Board and the Presidency of Bosnia and Herzegovina of the necessity for full implementation and strict avoidance of circumvention of both Agreements. We call upon the Parties to fulfil their commitments through co-operation in good faith. With respect to regional arms control, and depending on satisfactory progress on the implementation of Articles II and IV, efforts undertaken to promote the implementation of Article V of Annex 1-B of the Peace Agreement will continue.

18. The implementation of the Peace Agreement for Bosnia and Herzegovina has opened the way for efforts at the regional and sub-regional levels aimed at the achievement of durable peace, stability and good neighbourliness in Southeastern Europe. We welcome the development of various initiatives fostering sub-regional dialogue and co-operation, such as the Stability Process initiated at Royaumont, the South-eastern European Co-operation Initiative, the Central European Initiative and the comprehensive process of stability, security and co-operation reactivated by the Sofia Declaration of the Ministers of Foreign Affairs of the countries of South-eastern Europe. The OSCE could contribute to using fully the potential of the various regional co-operative efforts in a mutually supportive and reinforcing way.

19. We welcome the OSCE's continuing focus on the Federal Republic of Yugoslavia. We express our expectation that the OSCE Mission of Long Duration to Kosovo, Sandjak and Vojvodina will be able to resume its work as soon as possible. In fulfilling its mandate, such a Mission should actively contribute, among other things, to following developments and fostering dialogue with a view to overcoming the existing difficulties. Other forms of OSCE involvement would also be desirable. They should include efforts to accelerate democratisation, promote independent media and ensure free and fair elections. Recalling our previous declarations, we call for the development of a substantial dialogue between the Federal Authorities and the Albanian representatives of Kosovo in order to solve all pending problems there.

20. We reaffirm our utmost support for the sovereignty and territorial integrity of Georgia within its internationally recognised borders. We condemn the 'ethnic cleansing' resulting in mass destruction and forcible expulsion of predominantly Georgian population in Abkhazia. Destructive acts of separatists, including obstruction of the return of refugees and displaced persons and the decision to hold elections in Abkhazia and in the Tskhinvali region/South Ossetia, undermine the positive efforts undertaken to promote political settlement of these conflicts. We are convinced that the international community, in particular the United Nations and the OSCE with participation of the Russian Federation as a facilitator, should continue to contribute actively to the search for a peaceful settlement.

21. We note that some progress has been made towards a political settlement in Moldova. Real political will is needed now to overcome the remaining difficulties in order to achieve a solution based on the sovereignty and territorial integrity of the Republic of Moldova. We call on all sides to increase their efforts to that end. Recalling the Budapest Summit Decision, we reiterate our concern over the lack of progress in bringing into force and implementing the Moldo-Russian Agreement of 21 October 1994 on the withdrawal of Russian troops. We expect an early, orderly and complete withdrawal of the Russian troops. In fulfilment of the mandate of the Mission and other relevant OSCE decisions, we confirm the commitment of the OSCE, including through its Mission, to follow closely the implementation of this process, as well as to assist in achieving a settlement in the eastern part of Moldova, in close co-operation with the Russian and Ukrainian mediators. The Chairman-in-Office will report on progress achieved to the next meeting of the Ministerial Council.

22. We welcome the recent steps towards a peaceful settlement in Chechnya, Russian Federation. We recognise the valuable role played by the OSCE Assistance Group in facilitating dialogue towards political resolution of the crisis. We believe that the Assistance Group should continue to play its role in the future, in particular with a view towards a lasting peaceful settlement, monitoring human rights and supporting humanitarian organisations.

23. We emphasise the importance of the Central Asian States in the OSCE. We are committed to increasing OSCE efforts aimed at developing democratic structures and the rule of law, maintaining stability and preventing conflicts in this area.

24. We are committed to further developing the dialogue with our Mediterranean partners for co-operation, Japan, and the Republic of Korea. In this context, strengthening security and co-operation in the Mediterranean is important for stability in the OSCE region. We welcome the continued interest displayed by the Mediterranean partners for co-operation, Japan, and the Republic of Korea in the OSCE, and the deepening of dialogue and co-operation with them. We invite them to participate in our activities, including meetings as appropriate.

25. The next Ministerial Council will take place in Copenhagen in December 1997.

26. We take note of the invitation by Turkey to host the next OSCE Summit in Istanbul.

27. Poland will exercise the function of Chairman-in-Office in 1998.

THE ODIHR: A USEFUL TOOL

Opening Remarks at the Review Meeting
by Ambassador Audrey F. Glover
4 November 1996

Much has changed in the OSCE region during the past two years, but never before has the Human Dimension been such an important component in the search for the peaceful resolution of conflict. In the past, the differences which divided participating States were based on competing philosophical and economic models. But today, disregard for the human dimension is at the core of most of the difficulties within our countries, and consequently shapes the relationships amongst our countries.

The OSCE is a truly unique institution. From its inception in 1973, the CSCE process recognised the interrelationship between human rights and conflict prevention. Gradually, it created a series of institutions such as the High Commissioner on National Minorities and Long Term Missions, which were tasked with developing appropriate methods to respond to local and regional crises before they reached full-scale conflict. I have had the pleasure of presiding over one of those institutions, the Office for Democratic Institutions and Human Rights, for the past two and one half years.

The ODIHR is a unique organisation - a unique tool at the OSCE's disposal. The aim of the ODIHR is to assist the participating States of the OSCE to build democratic institutions and implement their human dimension commitments. In carrying out its tasks, the ODIHR works closely with the other OSCE institutions, and also co-ordinates its activities with other international organisations. We have developed a pattern of consultations with other international organisations and institutions with the aim of either complementing each other's approaches, or working together to develop mutually reinforcing programmes. The ODIHR also plays an integral part in the daily work of the Permanent Council, the Chairman-in-Office and the Secretary General.

The ODIHR is also the most misunderstood institution in the OSCE framework. This is because in part, participating States place great emphasis on the human dimension and have created an ODIHR mandate which encompasses commitments dating from 1990, and which is contained in nine final documents and meeting reports. It is partly due to the fact that some States appear to fear or are opposed to the implementation of all OSCE human dimension commitments. And still further, some mistakenly believe that the ODIHR unnecessarily duplicates or threatens the mandate of other regional bodies, particularly the Council of Europe. I am using my report this morning to clarify what ODIHR is and what it is not, the way in which we prioritise and implement our work, and my suggestions for the future.

The ODIHR is a comparably small office. It currently has only a nineteen-member international professional staff from eight countries, with an additional eight local staff members providing

administrative support. The average age of our advisers is 35, and the highest professional classification, other than the deputy director or my post, is the equivalent of a second officer. The ODIHR competes for all staff positions internationally. There are no country quotas and anyone may apply for a position. Staff members are hired for two-year terms, with the possibility of a one-year renewal.

In contrast to other international and regional organisations with large international staffs and seemingly limitless budgets, the ODIHR operates on a tight $3.1 million annual budget. Moreover, given that our mandate does not provide us with the means to subcontract experts or pay fees for professional services, each of our Advisers is expected personally to implement all of the activities he or she develops, and rely on the experts who volunteer their services or are provided by States. This limitation has a positive aspect in that it encourages our Advisers to develop new and innovative techniques, to jointly implement programmes with other international organisations, and to carefully develop annual workplans to meet the expectations and requests of all 55 participating States.

At the same time, however, these institutional limitations are often used to label ODIHR as inefficient or unfocussed, to eliminate specialised units, to limit its programme area to particular regions, to develop a rigid mandate, to support divisions of labour with other international organisations, or, in some cases, to advocate elimination of the office. In short, the ODIHR lacks not only the financial and personnel resources required to carry out its most basic mandate, but it is also without the often more important moral and material backing of all participating States.

In contrast to other organisations, the ODIHR does not have the resources to develop long-term technical assistance for a specific sector, nor does it claim that its programmes reach all those it should. Rather, the ODIHR's objective is to implement the first initiative on a new topic which involves local institutions and assists in the creation of a new idea or new method, and which leads to the development of follow-up activities on the human dimension.

CHANGES OF THE PAST TWO YEARS

During the past year, we have grouped our work according to an activity list I first presented to the Permanent Council last year. The activities are Chairman-in-Office support; Bosnia and Herzegovina; Election and Human Dimension monitoring; Mission Support; Co-ordinated Legal Support; Building Civil Societies; and Roma and Sinti Contact Point and Information Distribution. In each instance, the six ODIHR units - Elections, Co-ordinated Legal Support, Human Rights, NGOs, Information Management and Conference Services - have implemented, independently or in combination with other units and international partners, an array of programmes. These programmes are designed at the request of the Permanent Council, and reflect current issues of the OSCE Missions of long-duration, participating States, national human rights institutions, and those at our initiative.

While this is not the forum to present all programmes implemented in the past year, a few examples are worth noting - to illustrate the nature of ODIHR's work and how it has changed. A booklet on our activities since Budapest 1994 is being distributed separately.

Electoral Activities

Because monitoring elections is more than a one-day activity, the Election Unit prepared the OSCE election framework document. This was designed to meet the extended OSCE mandate from Budapest for long-term election observation, which examines an entire electoral process and reaches conclusions using all OSCE Commitments and national standards. This approach contrasts with our previous electoral activities, which could be regarded as electoral tourism, and which by their very nature were low cost. The unit also developed an election handbook, and has observed thirty-one elections during the past twenty-four months.

Contact Point for Roma and Sinti

The ODIHR was the first regional organisation to develop a Roma and Sinti Contact Point. The Contact Point encourages the development of practical solutions to improve the condition of Roma and Sinti, using the OSCE human dimension as a framework. It created and published the first regional newsletter in Romanese, developed the first network of national state officials as a point of contact for Roma issues, and seeks to raise the consciousness of States to improve the situation of Roma and Sinti at the local level.

Programme of Co-ordinated Legal Support

The development of a new country-to-country training approach by the Co-ordinated Legal Support Unit has occurred, providing practical "hands-on" training by pairing officials from two countries, rather than relying on expensive and duplicative seminars. This approach has already resulted in the training of migration officials from Belarus, as well as Georgian criminal justice and prison officials, who were hosted by the Polish government; further, the method has resulted in bilateral programme agreements. The Unit also implemented several first-time ODIHR Rule of Law activities in the following States: the Russian Federation, Belarus, Tajikistan, Georgia, the Former Yugoslav Republic of Macedonia and Azerbaijan.

Assistance to the OSCE Mission in Sarajevo

Prior to the establishment of the OSCE Mission to Bosnia and Herzegovina, the ODIHR worked closely with the OSCE Mission to Sarajevo to develop the office of the Ombudsmen of Bosnia. The ODIHR was later called upon by the Chairman-in-Office to dispatch two election assessment missions and an electoral code working group to prepare materials required by Ambassador Frowick before he assumed his duties. Subsequently, we were asked to co-ordinate the observation of refugee voting and assist in the training of OSCE election monitors. For this purpose, we developed the multilingual election homepage on the INTERNET, so that documents and information could be inexpensively and efficiently downloaded by host countries.

Database of Human Rights Reports

The Information Unit developed a special computer software to record human rights reports from member States, developed and published the *Central Asian Newsletter*, and has translated and distributed basic OSCE documents into local languages.

Each of these activities, as well as all of the other activities implemented during the past year, have sought to underscore two very basic ODIHR goals. First, the Office has tried to integrate the human dimension into the daily work of the Permanent Council. In working to achieve this goal, the ODIHR has developed of a series of unique formal mechanisms, which include the Early Warning Reports and follow-up actions; confidential letters to the Chairman-in-Office; election observation reports; regular presentations to the Permanent Council; submissions to the Review and Implementation Meetings; and responses to requests for advice by the Chairman-in-Office. In addition, ODIHR acts informally to diffuse potentially dangerous crises, and to encourage the intervention of the Permanent Council, other OSCE bodies and international organisations.

The second ODIHR goal has been to maintain the flexibility and agility required to respond to real situations and develop practical follow-up activities to assist states in preventing conflict, and further, to work with States in a spirit of co-operation in order to help them implement their human dimension commitments.

Rather than point fingers or publicly condemn States through the use of static written reports, the preferred ODIHR approach has been to encourage a creative dialogue between the State concerned and the OSCE, by means of an honest assessment of the implementation of OSCE commitments. Where feasible, the ODIHR offers technical assistance, makes recommendations for further action, and encourages the intervention of other OSCE institutions in assisting a participating State. The OSCE region, however, is also a community of values. Consequently, all countries are equally bound, and when conditions merit such, the ODIHR will also draw attention to violations of OSCE commitments.

SUGGESTIONS FOR THE FUTURE

In the past year, the ODIHR has made strides in the execution of its mandate, and in particular, with the monitoring of the human dimension. The following suggestions for State support, however, would greatly increase the impact of our work.

Human Dimension

The human dimension should be more fully integrated into to the work of the Permanent Council, whereby the Permanent Council looks at the human dimension implications of all issues it considers and involves the ODIHR more closely in its work. The early warning report and response mechanism, which we have developed under the Swiss Chairmanship, should be formally institutionalised.

On a regular basis the ODIHR has prepared reports for the Chairman-in-Office and the Permanent Council based upon submissions from various sources concerning the human rights situation in a particular country or region. As a result, several jointly developed follow-up measures have been

taken and potential crises averted. We would like to continue to develop this mechanism and ask that States regularly submit information and provide support for these activities. Further, we request that the recommendations made in the reports be systematically followed-up by the Permanent Council.

Elections

ODIHR's long-term mandate for election observation should be accompanied by a greater awareness on the part of the participating States with regard to the need for early notification in this process. The ODIHR should receive an invitation three months in advance of election day, allowing for sufficient time to undertake a needs assessment mission, to organise and staff an observation mission, and to deploy, in order to observe the crucial stages of the election cycle two months prior to election day.

Additionally, the work of the election observation mission would be greatly facilitated by the creation of an election experts roster, from which the ODIHR could identify qualified co-ordinators and long-term observers to be called upon to serve as required. It would be helpful if participating States could share their lists of qualified and experienced national experts with ODIHR. This roster is imperative to address both the acute shortage of seconded observers, and the current need to identify core observers for each observation mission on an *ad hoc* basis.

Some disappointment was expressed that the ODIHR was unable to mount an election operation recently without the need for out-sourcing. The reason why we were forced to do so was that despite the great interest expressed by some states in relation to monitoring, not one State offered a co-ordinator, a long-term or a short-term observer. In the end, we contracted an expert, as we are completely in your hands when it comes to observers. So far, we have no magic pot of observers on whom we can call; the only ones we have are those that you provide. In three previous *Note Verbales* issued in September, the Election Unit requested eight long-term observers for each upcoming election, but only received one for each. I can only stress that if elections are to be monitored, we need you to second us the experts or alternatively, provide us with the resources to hire them.

Before leaving the subject of elections, I should like to say that in the post-election phase, ODIHR strongly recommends that a formal mechanism be established to automatically follow-up on election report recommendations - no later than six months following an election.

Economic Assistance

It must be recognised that emerging democracies cannot be expected to discuss the human dimension in a vacuum, when, for instance, judges in many countries earn $5 per month. Developed democracies must play a facilitative role in supporting the economic development that is required for the building of sustainable democratic institutions and traditions. This does not mean that less-developed countries can claim exemption from human dimension commitments; nor does it mean that they can claim that civil and political rights are any less important than

social, economic and cultural rights. What it does mean is that the OSCE should encourage international financial institutions to foster democratic development throughout the OSCE region.

The Identification of Legal Experts and Institutions

We seek to develop a formal roster of legal experts and institutions willing to assist the ODIHR in an array of legal programmes, many of which do not require travel. In a May *Note Verbale,* the Co-ordinated Legal Support Unit requested assistance in identifying legal experts and institutions willing to offer the ODIHR assistance; only two states formally responded. We would ask that States formally provide lists of institutions and experts to assist us in developing a pool of experts from which we can draw.

Seminars

We should continue to have, at minimum, two large human dimension seminars per year. To improve their effectiveness, we should develop a formal mechanism to track the implementation of seminar recommendations. Seminars have clearly not been as effective as they might have been, due to limited follow-up. The creation of the Roma and Sinti Contact Point illustrates the effectiveness of follow-up. If future seminars are to be of real value, the ODIHR, working with the Permanent Council, should be entrusted with monitoring both the implementation of recommendations, as well as States' explanations of what they have done.

OSCE Missions

The ODIHR should be consulted with regard to the mandate of missions, as was established by the Rome and Budapest Concluding Documents. In addition, missions should have clearly identifiable human dimension officers, who, in addition to their local duties, would be responsible both for liaison with the ODIHR and the joint development of projects. If the ODIHR is to be an effective tool for the local missions, it should become a part of the OSCE mechanism and consequently be consulted before other international organisations are approached.

ODIHR Mandate

The ODIHR staff and budget is not in a position to meet the broad mandate as set out in OSCE Concluding Documents; as a result, it often fails to satisfy the expectations of all 55 participating States. For this reason, it is our suggestion that a formal joint committee, composed of ODIHR representatives and concerned States, be created to accurately evaluate the resource-to-mandate ratio, as well as to submit to the Permanent Council appropriate recommendations for consideration.

Non-Governmental Organisations

NGOs should be able to make a greater contribution to the work of the Permanent Council. They are particularly effective at working at the grass roots level, and should not be regarded by States as "anti-government."

CONCLUSIONS

The human dimension is not an optional component of the OSCE framework; it is an integral part. Further, it is not a part of the OSCE mechanism which can be divided and parcelled out to other international organisations. During the past year, many States have formally requested assistance from the ODIHR and have subsequently benefited from the programmes developed. Unfortunately, States are rarely asked to report on these activities.

Today, and in the coming year, the Permanent Council should ask to hear from the recipients of ODIHR projects. The Permanent Council should also meet in a joint, formal committee, with those ODIHR and mission staff members who regularly work in the field on behalf of the OSCE human dimension, in order to enter into a dialogue and to discuss ways to improve co-ordination and implementation. The staff of the ODIHR has repeatedly urged a substantive dialogue based on fact and actual circumstances, and has asked me to reiterate that request this morning.

In conclusion, the ODIHR is a tool - a valuable tool - if it is well-cared for and used effectively. I have shown where the organisation has been used, in my view, to good effect so far, but I have also stated in which areas we can do better. Give us the tasks, the money, and most importantly, the moral support, and we will play our part in building the OSCE's prestige. If you are short on support and long on criticism, the ODIHR will not be able to serve the ideals of the OSCE.

IMPLEMENTATION OF OSCE COMMITMENTS IN THE HUMAN DIMENSION

Report of Working Group One
Review Meeting, Vienna, 4-28 November
Report by Keith Morril

Freedom of Religion

A number of delegations referred to the legal structures through which states regulated religious issues, and pointed out what they regarded as inadequacies, especially when dealing with non-traditional religions. In addition to concerns relating to legislation favouring "traditional" religions, and to the use of registration rules to restrict the freedom of religion, one delegation noted that some States, through anti-proselytism laws, restricted general freedom of speech when applied to religious speech, and called for a discussion on the desirability of laws relating to blasphemy and religious hate speech. A delegation whose country had constitutional rules against proselytism responded that such rules do not restrict an individual's freedom of belief. Another stressed the necessity to respond to "totalitarian" sects and extremist groups. An NGO complained of what it regarded as the interference of State authorities in choosing leaders of officially recognised religious groups.

Many delegations and NGOs welcomed the ODIHR Seminar on Legal Aspects of Religion held in 1996, and expressed a desire for some form of follow-up. One suggestion was that ODIHR produce a comparative overview of legal structures dealing with religion in the OSCE area; another was the establishment of *ad hoc* working groups on the subject.

Freedom of Association and Assembly

A number of delegations expressed regret that restrictions on freedom of association and assembly were increasing in several participating States. These restrictions included refusal to register NGOs, limiting the activities of trade unions, and the violent reaction of authorities to peaceful political demonstrations. One group of States stressed the importance of freedom of association, as it ensured that elections would not result in "elected dictatorships."

International Humanitarian Law

Several speakers stressed the importance of armed forces respecting the terms of international humanitarian law, as well as the Code of Conduct. Situations in particular participating States where such was not the case were noted. The issue of prevention of torture was discussed, with delegations and NGOs identifying specific cases in participating States. Some delegations which were criticised with regard to this issue noted that when torture took place, it was a criminal act, not a state policy, and further, that perpetrators were investigated and prosecuted. One delegation called for ratification of existing conventions relating to prevention of torture.

Many delegations mentioned efforts to develop an agreement on a total ban on the production and use of anti-personnel land mines, and suggested that the Summit give a political impetus to the

realisation of such an agreement. The need for a moratorium on the export of such mines was also stressed by a group of States.

Several delegations, as well as international organisations and NGOs, stressed the importance of States signing and ratifying existing international humanitarian law instruments.

The programme of joint regional seminars between ODIHR and ICRC was supported. A number of delegations noted positively the work on the development of minimum humanitarian standards in the United Nations system, and the impetus given to this work by the OSCE seminar on the subject in 1996. Some suggested that the Summit could continue to support the work on this subject in the United Nations.

The OSCE Parliamentary Assembly made a brief presentation on its draft OSCE "Code of Conduct on Politico-democratic Aspects of Co-operation." Two delegations expressed interest in this draft, and suggested that it might be discussed in the context of the Summit preparations.

Freedom of Expression and of Media

A number of delegations and NGOs criticised the limitations on freedom of expression and media in some participating States. It was alleged that in a number of countries there was heavy-handed censorship and a complete lack of independent media, and that in other countries governments implemented legislation in such a way as to restrict the independence of media. One delegation stressed its particular concern over the use of "criminal libel" laws - related to the defamation of the state or high officials - to restrict the independence of the media. The problem of harassment and attacks on journalists and independent media was also raised, with references made to specific cases.

Many of the delegations that were recipients of such criticism responded, outlining their constitutional and legislative structures guaranteeing media freedom. Countries with specific cases of alleged harassment of journalists stressed that such cases were isolated and were being dealt in accordance with the law. A number of delegations and NGOs noted that the problem was not one of adequate legislation, but of implementation.

A number of delegations referred to the balance that must be struck between freedom of expression and the acceptable restrictions on that right, such as laws relating to defamation, hate speech, or encouragement of violence. Many delegations supported the need for laws relating to hate speech, although most delegations stressed that such restrictions should be very tightly limited. One delegation advised against such restrictions on freedom of expression. In this context, it was noted that the restrictions on freedom of expression permitted in Article 10 of the European Convention on Human Rights must be viewed in the context of the relevant case law, which strictly limits their use.

One delegation proposed that the OSCE establish a specialist on media affairs, further suggesting that the Summit could support the creation of such a position, and that the Council of Ministers could be assigned to decide on a mandate. A number of delegations expressed an interest in

further discussion of this idea, although many stressed the need to avoid duplication. One NGO spoke against the proposal.

Several delegations noted the special importance of a free media for truly democratic elections. In this context, the special role of the OSCE in supporting free media in Bosnia and Herzegovina was stressed.

Cultural and Educational Exchanges

A number of delegations stressed the importance of cultural and educational exchanges, and pointed out that the enjoyment of cultural rights by persons belonging to national minorities was crucial. Co-operation with organisations active in the field of culture and education, such as the Council of Europe, was stressed. Several NGOs criticised government restrictions on the cultural and educational opportunities for persons belonging to national minorities in certain participating States.

Freedom of Movement

A number of delegations regretted the increase in and complexity of requirements for visas to travel to certain countries. Even when visas were issued, they noted that citizens of certain countries - even diplomats - were met with suspicion, rudeness and hostility from border guards as well as from immigration authorities. Though legitimate, the way in which controls were implemented demonstrated discrimination and a lack of tolerance, in the view of some delegations.

One delegation presented the particular measures taken and efforts made by its government toward the integration of long-term residents in the cultural, social, and economic spheres. Another delegation noted that non-citizen residents in other participating States were excluded from political life, and suggested that the solution was the extension of access to citizenship, including acceptance of the concept of dual nationality. In response, a delegate noted that there was no consideration being given in his country to acceptance of dual nationality.

It was noted that freedom of movement was not an absolute right, and that States had the right to protect their frontiers. A number of delegations and NGOs stressed the commitments that have been made to grant asylum to refugees, and noted the connection between the violation of OSCE commitments and forced migration, as exemplified by the crises in former Yugoslavia. NGOs criticised what they regarded as restrictive approaches to refugee determination. A group of States called on the Lisbon Summit to reconfirm the OSCE commitment to refrain from action resulting in forced modification of the composition of their populations, such as expulsion or ethnic cleansing. Countries of origin were also called on to facilitate the return and reintegration of refugees and displaced persons. One delegation reported on the abolition of the communist era legislation relating to official residence permits as an example of the improvement in freedom of movement in that country.

A number of delegations commended the involvement of the OSCE, through the ODIHR, in the recent Regional Conference with regard to the address of the problems of refugees and displaced persons, as well as problems of other returnees and forms of involuntary displacement in the

countries of the Commonwealth of Independent States and relevant neighbouring States. Some delegations expressed the view that this was an example of the appropriate role of the OSCE on this issue: lending political impetus to the work of specialized organisations. One delegation expressed concern that there had been little follow-up to the Conference, noting the importance of the OSCE's role in supporting the "Programme of Action" produced by the Conference; toward this aim, the delegation further offered to financially support the creation of a migration expert position in the Secretariat in Vienna. This proposal was welcomed by another delegation. One delegation also called for a co-ordinated international effort involving the OSCE to deal with the problems of Bosnian refugees, commencing with an international conference on the issue.

Tolerance

Many delegations stressed the importance of tolerance, not only with regard to human rights, but also as it related to conflict prevention. Intolerance existed in all countries. A group of States noted that the problems of intolerance were not only those specified in the work programme, but also arose from discrimination on other grounds, such as gender or sexual orientation. Delegations, as well as a significant number of NGOs, referred to specific situations in participating States which they viewed as breaches of the OSCE commitments to tolerance and non-discrimination; other delegations presented their own problems and the programmes established to address these.

Although it was stressed that the key element in promoting tolerance was education and a change in people's attitudes over the long-term, many speakers also noted the need for appropriate legal structures to combat discrimination. Co-operation between the OSCE and intergovernmental organisations, such as the Council of Europe, as well as with NGOs, was stressed by some delegations.

Racism and Xenophobia

One delegation stressed its concern over growing racist and xenophobic tendencies in the OSCE area, and the resulting incidents of violence. Another expressed the view that to attempt to control racist or hate speech was ineffective and inappropriate, and that the focus of efforts, rather, should be on the investigation and prosecution of ethnic or racist violence.

Migrant Workers

A number of delegations stressed the need to grant equal opportunity to migrant workers residing legally in a country. The importance of combating illegal immigration was also stressed. Some delegations emphasised the disadvantaged position of migrant workers in their countries of residence, and the fact that they were subject to racist attacks. One delegation suggested that the OSCE elaborate upon its commitments regarding migrant workers, and further suggested that the group be recognised as a new form of minority.

Roma and Sinti

The work of the ODIHR Contact Point for Roma and Sinti was praised by many delegations and NGOs, with support being expressed for its further development. A group of States proposed regular internship programmes for Roma in the ODIHR, as well as the expansion of legal assistance efforts at the Contact Point. The unique situation of Roma - a minority dispersed

throughout the OSCE area and without a national state - was noted. The delegations and NGOs gave numerous examples of intolerance toward Roma across the entire OSCE region. In response, delegations outlined the policies and structures in place to respond to such problems. Both delegations and NGOs stressed the need for co-operation on this issue between the ODIHR and the Council of Europe. One NGO suggested that work on a European Charter on Roma would be desirable.

National Minorities

The discussion on national minorities was one of the liveliest in the working group. Delegations and NGOs provided numerous examples, in their opinion, of infringements on the rights of persons belonging to national minorities. In this regard, it was clear that the key question in the definition of "national minority" remains a vexed issue: some delegations responded to criticism by noting that the groups in question were not national minorities. Several delegations expressed the opinion that the existence of national minorities was an issue of fact rather than law, and called on States to grant legal recognition to their existence. Others noted that in the OSCE, the existence of ethnic differences did not necessarily give rise to national minority status. Even where national minorities exist, the name given to the minority, as well as the administrative structures provided by the state, were the subject of criticism by NGOs. One delegation proposed an OSCE comparative study on the treatment of national minorities in the Balkan region. The problem of human rights abuse in unrecognised territorial entities and by non-State entities and groups, was also raised.

The work of the High Commissioner on National Minorities (HCNM) was praised, with one delegation stressing the need for the continued political support of the participating States - for the efforts of the HCNM and the OSCE missions. One delegation suggested that the HCNM might be invited by States to offer assistance in their conflicts. The basic treaties between Hungary and Slovakia, and between Hungary and Romania, were welcomed by a number of delegations. It was noted that they provided a structure for the address of bilateral concerns, including those relating to national minorities.

The issues of the self-determination of peoples and separatism were raised. Two delegations expressed the view that in the OSCE area, the right to self-determination must be fulfilled only within the context of the territorial integrity of States. One called on the OSCE to condemn attempts to create new States, and for the participating States not to tolerate the activities of separatist movements. Another delegation took the view that separatism could be a legitimate expression of a people's right to self-determination, and that if not permitted to express itself democratically, such a group might be forced to turn to violence.

Independence of the Judiciary

Many delegations stressed the importance of an independent judiciary and the right to a fair trial. Delegations and NGOs identified particular countries and cases in participating States where, in their view, concerns about breaches of OSCE commitments existed. A number of delegations responded to the criticism with specific information, supporting the view that the right to a fair trial existed in their countries. The ODIHR's efforts in the provision of legal training was acknowledged. One delegation spoke of the threat of terrorism to security, democracy and human

rights in the OSCE area, and called for greater co-operation among the OSCE States on this issue.

Citizenship

One delegation noted the special challenges faced by newly-independent States, or by those whose independence has been newly re-established, in determining the requirements for citizenship. Several specific situations involving problems related to citizenship were raised by delegations and NGOs. The issue of citizenship was linked by certain delegations to the issue of the treatment and integration of non-citizens. The establishment by one state of a 15-year residency requirement prior to an individual's eligibility for citizenship was pointed out as excessive by a number of other delegations. Constitutional provisions stressing the ethnic nature of citizenship were also criticised. Accession to the United Nations Convention on the Reduction of Statelessness was encouraged by a group of States.

Elections

On the issue of elections, delegations noted the excellent work of the ODIHR in election monitoring. Several delegations supported a proposal calling on States to respond formally and in detail to ODIHR election reports, within a specified period of time. A number of delegations stressed that ODIHR election monitoring must be conducted in the manner decided by the Office, without the interference of the State whose elections are being observed. The central role of election monitoring in ODIHR's mandate was stressed by several delegations. Some called for increased co-operation and co-ordination between the various organisations involved in such efforts, both to achieve a common approach and to avoid duplication. A number of NGOs criticised new political parties' lack of access to the ballot in several participating States with long traditions of democracy; these barriers were characterised as contrary to the OSCE Copenhagen commitments, and action by OSCE participating States and institutions was called for. One delegation, the recipient of criticism with regard to this issue, noted that such problems could be remedied through existing appeal and regulatory structures and did not represent a breach of the Copenhagen commitments.

Stressing the importance of civic education, both formal and informal, in building civil society, one delegation delineated the efforts of an exchange programme involving civic educators from various participating States. The possibility of co-operation between the OSCE and such an exchange programme was highlighted.

Capital Punishment

Many delegations called for the abolition of capital punishment, and criticised those States in which capital punishment was still in use. The deterrent effect of capital punishment was questioned. A group of States called on countries that had recently joined the Council of Europe to live up to commitments to declare a moratorium on capital punishment. Several delegations responded by noting that in their countries, movement toward the abolition of capital punishment had taken place. A number of delegations complained that there was no real exchange of information on the abolition of capital punishment, as is required by Paragraph 17 of the Copenhagen Document, and encouraged such an exchange. A seminar on the subject of capital punishment was suggested, as was a role for ODIHR as a clearing house for information on death

sentences and executions. One delegation stressed that the use of capital punishment was supported by the majority of its population, and further noted that, as was the case in its country, this punishment was permitted under international law, provided that due process was respected.

Non-governmental Organisations

The important role of NGOs in the OSCE was stressed by all delegations, and note was made of the organizations' work in increasing public awareness and affecting public policy. Many delegations also stressed the direct contribution that NGOs could make to the work of the OSCE, especially with regard to the Human Dimension, through the provision of information and expertise. One delegation called for a responsible and objective attitude on the part of NGOs, and encouraged work by NGOs in combating racism and intolerance.

Establishment of more concrete and extensive co-operation between the OSCE Bosnia Mission and international and local NGOs in the preparation of the Bosnian municipal elections was suggested by one delegation. The same delegation further urged that a roster of NGOs capable of supporting democratic development projects in general, be developed. Other delegations and NGOs suggested that NGOs could play a role in both conflict prevention and in OSCE Missions. One delegation, however, clearly stated its belief that joint OSCE-NGO activities were inadvisable, as such would compromise the independent nature of NGOs, causing discrimination among them.

The proposals made in the Secretary General's study on the enhancement of NGO participation in the OSCE were supported by a number of delegations. In the view of some, the vital role played by NGOs was evidence of the importance of the fulfillment of OSCE commitments which allow for the free development of NGO activities. In this regard, one delegation stressed the need to protect human rights defenders, and encouraged OSCE States to take an active part in work on a United Nations declaration on this topic.

Work of the ODIHR

In discussion on the ODIHR, there was agreement that the work of the Office was very valuable, with recognition given to the fact that ODIHR must attend to a broad mandate with limited resources. A number of delegations called for the strengthening of ODIHR with increased resources, as well as for an attempt to set priorities among its tasks or develop a work programme. The importance of ODIHR's Rule of Law programme was highlighted by a number of delegations, as was ODIHR's election work and its support of the Contact Point on Roma and Sinti. One delegation described ODIHR as the OSCE's "action office" for Human Dimension issues, while another characterised it as an advisory body to the Permanent Council. One delegation objected to the idea of a more autonomous ODIHR, and expressed the undesirability of attempts to change its mandate or status, as such would lead to its politicisation.

Programme for Co-ordinated Support

On the subject of the Programme for Co-ordinated Support, one delegation expressed the view that more resources should be attributed to OSCE work in Central Asia, including the strengthening of the OSCE Liaison Office in Tashkent. A number of proposals were made for Human Dimension seminars. A significant number of delegations supported or co-sponsored the

proposal for a seminar on the topic of "The Role of Women in Conflict Prevention and Crisis Management." Proposals were also made for seminars on "Election Administration and Observation" and "Ethnic Minorities," to be co-ordinated with the HCNM. The latter idea was supported by several delegations.

FREEDOM OF OFFICIAL INFORMATION

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There has been a significant trend in the past twenty years towards the adoption of what are often called "freedom of information" laws. Defined more precisely, these are statutes establishing a legally enforceable right for members of the public to inspect and copy government records. All of the laws share three characteristics: the right is general, and does not require any particular interest or "need to know;" the exceptions to the act are defined as narrowly as possible; and perhaps most important, the decision as to whether a particular record is exempt from compulsory disclosure is made by someone who is independent of the executive, often a judge. At last count there were at least twelve such countries,[1] with several others seriously considering legislative proposals. Most of those countries have also adopted data protection or privacy laws that also provide enforceable rights of access for citizens to government records about themselves. It can be argued that this is simply a trend, and that the presence or absence of such legislation is of no more significance than a decision for traffic to keep to the left or the right.

The purpose of this paper, in addition to providing information about various national laws, is to suggest that there are reasons for this trend, primarily those of redressing the balance of power between the citizen and the state, and of promoting efficiency.

Freedom of Information, Freedom of the Press and Open Government

It is sometimes thought that "freedom of information" laws are primarily for the benefit of the press. The oldest such law (anticipating the rest of the world by two centuries in 1766) is called the Swedish Freedom of the Press Act, though its right of access provisions are not limited to the press at all. Although newspapers and broadcasters have rarely opposed such laws, few of the laws have been enacted primarily because of press campaigns. A right of access to government records is related to freedom of the press, but it is rather different, both in its legal provisions and in its theoretical basis. Freedom of the press is traditionally defined as the absence of legal restrictions on the right to receive and impart information and ideas (to use the language of both Article 19 of the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights and of Article 10 of the European Convention on Human Rights). A right of access to government information, on the other hand, is an enforceable legal right. The distinction may seem obvious, but some of its consequences are not, particularly the difference between information which is exempt from compulsory disclosure under an access to information law, and information which is protected against unauthorised disclosure by criminal penalties.

The distinction between exempt and protected information is perhaps best demonstrated by the image of three classes of government information under a system with a "freedom of information" act: most information is available as of right, turning government files into a public library; some

[1] In chronological order of legislation: Sweden (1766), Finland (1951), United States of America (1966), Denmark (1970), Norway (1970), Austria (1973), France (1978), the Netherlands (1978), New Zealand (1982), Canada (1982), Australia (1982), and Greece (1986).

information is protected by criminal penalties against its unauthorised disclosure, in a sort of legal strongbox; and some information remains in an intermediate category, not available as of right but not protected by criminal penalties. Most laws provide for such an intermediate category in practice, if not by formal legislation. The reasons for such an intermediate category are a mixture of legal analysis and pragmatism. The analysis is that there may well be reasons (such as personal privacy or economic advantage) to justify exemption from compulsory disclosure, but that such reasons are not necessarily sufficient to justify criminal penalties. The pragmatic reason is that information is not entirely a matter of records and documents. It is entirely possible that information about confidential government discussions will not be recorded in a form that lends itself to a system of enforceable access to government records; however, that does not necessarily mean that criminal penalties should apply to unauthorised disclosures of such information. Also, governments can legitimately claim some degree of discretionary control over information, although laws providing access to government records are contrary to the assumption of many governments that control over information by them must be absolute.

The theoretical basis for such laws is also different from the traditional bases for freedom of expression, a formulation which is best compared with freedom of information. The European tradition of freedom of expression is closely linked with religious diversity and toleration, and is largely seen as restraint from state punishment for those who express dissenting opinions. With the decline of religious authority, freedom of expression became, in writings such as Milton's Areopagitica, the freedom from punishment for expressing dissenting political opinions. The emphasis is on the human right to express thought, with any effect on the quality of government largely a secondary consequence.

"Open government" is a term that is often used as an alternative to "freedom of information." It is slightly preferable, as it places the emphasis on information about government rather than on information in general, but it includes laws other than those establishing rights of access to records. In particular, it includes, and perhaps emphasises, laws requiring government bodies to meet in public, such as the U.S. Federal Advisory Committee Act (1972) and the Government in the Sunshine Act (1976). The closest equivalent in the United Kingdom is a requirement that local authority meetings be open to the public, as stipulated by the Public Bodies (Admission to Meetings) Act (1960). If, as is sometimes said, secrecy is a reflex of power, and open government is only supported by outsiders, the British Act is supporting evidence. It was introduced by a newly-elected Member of Parliament, and was not supported by the Conservative government of the day. Her name was Margaret Thatcher, and she is now firmly opposed to any open government measures for central government.

"Freedom of Information" and Administrative Law

Most "freedom of information" statutes evolved from administrative law. There was first established a basic rule that government is subject to law, and that citizens have rights to take legal actions against the state for breaches of the law. A consequence of such a right is that citizens have legally enforceable rights of access to records in the possession of government that are relevant to their claims. Once such a right of access is established, the next major step is to remove the requirement that the records be relevant to a legal claim, making the right of access a right of citizenship (or often simply a right of humanity).

Therefore, open government laws have usually developed as a step beyond a right of access to relevant records necessary for citizens to pursue separate legal claims against the state. Such laws establish rights of access as a right of citizenship, attempting to redress the balance of "information power" between the individual and the state. Francis Bacon wrote that information (or, more accurately, knowledge) is power. Although it is not the only kind of power, it at least is very important in itself, as well as being an important component of other types of power. It is probably true that all governments have a reflex tendency both to maintain absolute control over information about government and to obtain as much information as possible about those who are governed. Both open government and data protection laws can be seen as mechanisms to restrain both aspects of that reflex, by establishing legal rights of public access to government information and by limiting the accumulation of information about individuals by the government.

Open government laws are not simply for the satisfaction of citizens' curiosity. They usually derive from rights of access to records relevant to a legal interest, and there is a continuing connection between the interest which a citizen has in how the country is governed and a right of access to records about government. Such a right of access may be important in disclosing inefficiency and even corruption. Open government laws may thus be seen as devices to promote efficiency, although the resulting disclosures may superficially give exactly the opposite impression.

Legislating Administrative Transparency

How have the countries that have adopted open government laws gone about it? There is not sufficient space in this paper to describe the laws of the twelve countries that have legislated, or even to consider in any detail why some are more open than others (Austria, Finland, Greece, and to some extent, New Zealand, give considerable power to ministers in deciding disputed cases). Instead, examples will be used to illustrate differences and similarities in legislation. This paper concentrates on the legal aspects; however, the political process of legislation deserves some comment as well. It has already been suggested that such laws were not primarily the product of press campaigns; it is also true that they have not been created in response to popular mass movements. In most countries, the laws have been produced by varying coalitions of academics, lawyers, journalists and parliamentarians. Rarely have they been introduced with enthusiasm by the executive of any country.

In legal terms, many of the countries began with a legal framework which not only assumed that disclosure of government information was largely, if not entirely, to be at the discretion of government, but which also made any unauthorised disclosure of such information a serious criminal offence. If all government information is, figuratively speaking, in the strongbox of protection through the threat of criminal penalties, it would seem that an attempt to change the law so that most of such information would be publicly available would, at minimum, include a redefinition of the classes of information to be protected by criminal penalties. Few countries have done this, however. Australia, Canada and New Zealand all began with near exact equivalents to Section 2 of the British Official Secrets Act (1911), which makes it a crime to disclose any central government information. (This is now being changed, but not necessarily for the better.) The American federal statute making it an offence to disclose "trade secrets" was not amended at all

when the Freedom of Information Act was adopted in 1966 (although it probably was affected by the 1974 amendments).

As a result of this approach, most countries with open government laws also have potentially conflicting criminal statutes prohibiting unauthorised disclosures of government information. The potential conflicts are avoided by the doctrine of implied repeal, and by a reluctance to prosecute under the older criminal laws. The doctrine of implied repeal, at least in Australia, Canada, New Zealand, and the United Kingdom, states that when two statutes conflict, the most recent prevails. This has not actually been applied, however, in Australia, Canada, or in New Zealand to resolve conflicts between sweeping criminal laws and open government statutes, as the use of the criminal laws has been limited to cases of espionage.

Many of the laws, such as the U.S. Act, begin with a requirement that government agencies publish certain kinds of information routinely, without any request being made. The most important information which must be published in this manner is what may be called unenacted laws, that is, rules of practice that amount to law. In France, the 1978 law on access to administrative documents was accompanied by a law requiring administrative officials to give reasons for their decisions. In Canada, the Access to Information Act was passed with a companion Privacy Act, and the provisions were designed to complement each other, rather than conflict (which cannot be said of the U.S. Freedom of Information and Privacy Acts).

The principle common to all open government laws is that of making the right of access available to everyone, without any "need to know" requirement. Some laws limit the right to citizens of the country, but such a limitation rarely has any effect: citizens who obtain information under such a law cannot be stopped from communicating such information to non-citizens (or at least no country seems to have attempted such a restriction). With the exception of the Netherlands, all countries have based their laws on the right to inspect and copy documents or records, the definition of records including automated databases (usually with a requirement to retrieve information from such sources in intelligible form). (The Dutch law places a duty on officials to communicate requested information, but does not provide for a specific right to inspect and copy records.)

It is within the definition of "document" or "record" that some open government laws introduce the first effective exemption from compulsory disclosure. The Swedish definition of document excludes preliminary "working papers," unless they are retained after a decision based on them is taken. The Australian Act, prior to amendment, excluded the documents of several quasi-governmental bodies. American companies are reported to have told federal regulatory agencies that co-operation over inspection of corporate records is preferred to their removal, because corporate records in the possession of government leaves them subject to public access. In any law establishing a public right of access to government records, there is a persistent problem of defining when a record is "government" and when it is not; the problem can be complicated when former state enterprises are transferred to the private sector.

This is perhaps an appropriate place to consider why the majority of these statutes, supposedly concerned with "information," are so fundamentally focused on "records" or "documents." The

reason is a combination of theory and pragmatism. In theoretical terms, laws about information and communication are a series of answers to the questions of who should know what, when, where, why, and how. The "should know" includes the distinct rules of "must know," "must not know," and "may know," each of which can apply separately to those who would impart and to those who would receive information. Laws allowing for access to records answer only some of these questions, first, by stipulating that a government should impart recorded information in government possession (subject to exceptions) to anyone who asks for it, within a reasonable amount of time, and further, that such a rule requiring a government to impart information is legally enforceable.

The focus on records is also pragmatic. If such laws were to instead concentrate on rights to information, a likely consequence would be judicial compulsion of testimony from witnesses. Only the Dutch law would seem to allow for such compulsion, and it seems never to have been so interpreted. Such compulsion of testimony is possible, of course. Most legal systems have some provision for punishing those who refuse to give evidence, but they are also usually limited to evidence which is required for a particular purpose in a particular proceeding. In other words, the right of a citizen to know about government is not usually considered to be so great as to require the invasion of personal autonomy that compulsory testimony involves. The interests of justice that might justify such compulsion, and the competing interests (such as professional confidentiality) that might justify an exemption from such compulsion, are beyond the scope of this paper.

Laws allowing for access to government records do little or nothing to define what information is prohibited from disclosure by a government; neither do they generally affect discretionary decisions about information which a government may disclose, but is not required to. The Canadian Act is an important exception to this in two ways: first, its exemptions from disclosure are divided into mandatory exemptions (must not be disclosed) and discretionary ones (may be disclosed or not); and second, its procedures (as well as those in Australia) for notifying third parties who would be affected by disclosure are an attempt to avoid the complexities of what are called "reverse Freedom of Information Act" cases in the U.S.A.

Third Party Interests in Disclosure

The "reverse FOIA" cases emerged from the distinction between records exempt from compulsory disclosure and those protected from any unauthorised disclosure by the criminal law, and from the fact that many "government" records actually originate from, or contain information about, companies and individuals. Although a government may be entitled to refuse compulsory disclosure of such records based on exemptions for reasons of commercial confidentiality or personal privacy, the government will be free to make discretionary disclosure unless forbidden to do so by law. The American law did not anticipate that companies or individuals that are the source or subject of such records might object to such discretionary disclosure. The most important of the U.S. "reverse FOIA" cases was an attempt by the Chrysler Corporation to stop disclosure by the Department of Defense of the ethnic monitoring of its employees, which the Corporation was compelled to provide as a government contractor. When the Defense Department indicated its willingness to disclose the records (without arguing that the records might be exempt) in response to requests from civil rights groups, Chrysler asked for an injunction

against such disclosure, on the grounds that the information was a protected "trade secret" under federal criminal statute.[2]

Although the attempt to stop disclosure failed in the Supreme Court, the case illustrates the absence of any procedure in the U.S. law for resolution of such conflicts. The Canadian Act includes such a procedure, essentially requiring notice to the company in the case of a request for disclosure of its records, followed by an opportunity for legal argument from all three interested parties: the party making the request, the government, and the company concerned (if the record concerns an individual, the Privacy Commissioner can represent the individual's interest). Such a procedure is inevitably cumbersome, but is preferable to the disorder of U.S. "reverse FOIA" cases, caused by a failure to anticipate the conflict of interests.

Complexity would seem to be a nearly inevitable consequence of laws establishing a right of public access to government records, but such three-party disputes are far more common in some countries than in others. The very first court case under the Canadian Act involved such a dispute (a trucking company, Maislin, objected to disclosure of documents about government subsidies it had received, and lost), but they seem rarely to have arisen in the Scandinavian countries or in France.

Exemptions and Arbiters

Every law allowing for access to government records contains exemptions to the general rule of disclosure on request, and nearly every such law has an independent arbiter to decide whether particular records are exempt from a request for disclosure. If a statute allows the government to decide whether or not a requested government record is exempt from disclosure, it is difficult to describe it as providing for the right of access to government records. All of the statutes include a role for the courts, though most also provide for preliminary (or simultaneous, in the case of Sweden) reference to a commissioner (Canada), ombudsman (Sweden), or commission (France). The name of the office is less important than is its independence from the government, and the binding nature of its decisions. The requirement that a government be subject to the law as it is interpreted by someone outside government, has been particularly resisted in many countries when applied to the issue of government information.

A circular argument, about secrecy in general, which is used in particular to resist an independent arbiter in access to government records proposals, is as follows: only those who know the secret can appreciate the reasons why it must remain secret, and the purpose of the secrecy will be defeated if those reasons must be disclosed to anyone in order to justify secrecy. The argument can be used to justify near absolute government secrecy; it does not acknowledge, however, that secrecy itself may have undesirable effects. On a more practical level, it does not recognise the effectiveness, to the judge, commissioner or even to counsel, of various devices of limited disclosure for purposes of argument to determine whether the document should be exempt from compulsory disclosure. In determining such an exemption, a distinction is sometimes made between documents in a class which is exempt from disclosure, and documents whose contents

[2] Chrysler Corporation v. Brown, 99 S. Ct. 1705 (1979)

justify exemption from disclosure. (The difference between a "class" and a "contents" claim is more common in British law in attempts to resist compulsory disclosure of documents on "discovery" for purposes of a civil lawsuit. It was only in 1968[3] that such decisions ceased to be matters of government discretion and consequently became subject to judicial authority.)

Exemptions vary in quantity from country to country, but often this is a consequence of different approaches to legislative drafting, rather than of fundamentally different laws. The Swedish Act has seven general reasons for exemption, however, these are expanded by the Secrecy Act into more than one hundred detailed exemptions. The United States Act has nine general exceptions, and the details of definition have been largely left to the interpretive case law of the federal courts, with some reference to the administrative regulations regarding the classification of documents.

Classification of government documents in most countries is ostensibly to protect particular interests by limiting access to those who have an appropriate security clearance and a "need to know." Such classification is also often very important in applying criminal penalties for the unauthorised disclosure of information. However, it is not unknown for classification systems to expand, not only to the extent of becoming less efficient for their intended purposes, but sometimes also to the point of defeating those purposes. A reason for this is that some classification systems are designed to include penalties for under-classification or unauthorised disclosures of classified information, but no penalties whatsoever for over-classification. One obvious consequence can be an inflation in classification by which "Confidential" means very little, and only "Secret" documents are actually treated with discretion. There are various devices to restrain such expansion of classification, such as limiting the authority to make certain classifications and requiring automatic downgrading of classification at regular intervals. The 1982 U.S. Executive Order on Classification increased the degree of classification.[4]

Although countries differ in their approach to exemption from compulsory disclosure, there is a core of exemptions common to most access laws: national defence, diplomacy, confidential internal discussions, personal privacy, commercial confidentiality, and law enforcement. Many of these begin with a classification being assigned to a document, usually by the originator of the document, who may be (especially in the case of diplomacy, personal privacy, and commercial confidentiality) outside of government. All laws provide for a measure of independent scrutiny of classification in the determination of whether documents are exempt from disclosure, but such scrutiny is often made to defer to classification in the interests of defence or diplomacy, either by statutory provision or in practice.

The U.S. Freedom of Information Act is a useful illustration. It was not clear in the original 1966 Act whether classification in the interests of defence or foreign relations could be overruled in the federal courts; in the 1973 case of Environmental Protection Agency v. Mink,[5] the Supreme Court ruled that the government classification was final, "however cynical, myopic, or even corrupt" (in the words of Justice Stewart). The 1974 amendments reversed that interpretation by providing that documents be "properly classified," with the propriety of the classification to be determined

[3] Conway v. Rimmer, (1968) A.C. 910
[4] E.O. 12356, 47 Federal Register 14874
[5] 410 U.S. 73

by the courts. Since that time, there seems not to have been a case in which the U.S. courts which has clearly overruled the government on defence or diplomatic classification; instead, the government has usually responded to such claims by making partial or complete disclosures.

Documents exempt for reasons of diplomacy include both documents originating in the government retaining their custody, as well as those documents from other countries. There are several arguments justifying the secrecy of such information, not only to make documents containing such information exempt from compulsory disclosure, but also to protect against unauthorised disclosure through the threat of criminal penalties. One argument is related to the process of international negotiation, suggesting that successful negotiation requires that the limits to which a negotiator may go in the negotiation process be concealed from others until a deal is struck. Conversely, negotiators must be able to set forth secret negotiating proposals that are different from (usually conceding more than) the public positions. (It is not unusual for governments to claim that defence and diplomatic interests require that information be exempt from disclosure to that country's citizens, or even protected by criminal law, even though it is well-known to other countries.) Further, an argument for diplomatic secrecy, based on reciprocity, states that if the secrecy of diplomatic information is not maintained, other countries will respond by failing to maintain an equivalent level of secrecy, by refusing to communicate in confidence, or by refusing to negotiate at all.

Despite the ubiquity of a diplomatic exemption in open government laws, standards of secrecy do vary between countries with such laws. One consequence, especially in the English-speaking countries, is that researchers from one country may use the open government laws of another to obtain information that they cannot get in their own country. The United Kingdom, which has no general open government law and which has often had British government information disclosed under the U.S. Freedom of Information Act, has circulated instructions that documents provided by British civil servants to their American counterparts must be stamped "in confidence," in the hope that they will be exempt from disclosure there as well. It is true that the U.S. courts have yet to exercise their power to overrule exemption based on classification in the interests of diplomacy, however, the pattern has been for the U.S. government to concede disclosure in such cases, rather than to risk a damaging judicial precedent. A variation on the diplomatic exemption appears in the open government laws of some federal countries (Canada and Australia, but not the United States), exempting from disclosure documents related to negotiations between the regional and national governments.

All open government laws make at least some provision for exempting internal discussions from disclosure, although some (such as Sweden) achieve this by largely eliminating "working papers" from the definition of document. The reasons for this exemption are very similar to some of those for diplomatic secrecy, although the former are almost entirely stated in terms of the relationship between governments and their domestic supporters and opponents. Good government, it is said, requires discussion of all possible courses of action, including some varying from declared policy and some that would be very unpopular if their consideration were publicly known. Government, it is also said, must have control over at least the timing of announcements, if not over their eventual disclosure, if it is to be at all effective.

Provisions for exempting such information are in part a recognition of political reality and in part simply pragmatic about information. The political reality is that such an exemption is often the price required by an executive (including both elected ministers and career civil servants) for agreeing to open government legislation; pragmatically, it must be recognised that there are likely to be discussions before any decision, and that requiring compulsory disclosure of the records of such discussions may lead to their being less than fully recorded, not recorded at all, or destroyed. The Swedish law recognises this by eliminating "working papers" from the definition of a document, unless they included after the decision is taken. The U.S. law distinguishes between exempt "pre-decisional" policy advice papers and others; it also distinguishes between the exempt portions of such records and non-exempt factual sections.

Exemptions in the interests of personal privacy are common to all open government laws, and particularly require discussion due to their relationship to privacy laws in general and to data protection laws in particular. Privacy is notoriously difficult to define as a legal concept, but this has not stopped many countries from developing legal rules to protect various aspects of it. The aspect particularly relevant to open government is what may be called "information autonomy," the right of individuals to control the dissemination of at least some information about themselves. (It thus differs from protection against dissemination of false information, from physical invasion of seclusion, from appropriation of likeness, and even from protection against surveillance, although it is very similar to the latter.)

As it is applied in open government laws, "privacy" serves as an exemption to the rule of general access to records containing information relating to personal privacy. The exemption is from general disclosure on request, and does not justify a refusal to disclose at the request of the person concerned. (This may seem obvious, but in the early days of the American Act, officials often refused, on grounds of privacy, to disclose records to the person concerned.) No law provides for a procedure requiring that the person concerned be notified in order to be able to object or consent to disclosure to others; only the Canadian Privacy Act provides a procedure by which the Privacy Commissioner is notified to represent the interests of such persons. Open government laws may thus be seen as privacy protection laws to the limited degree that they establish what is known as the right of "subject access" in data protection law; however, they do not usually include other privacy protection measures, such as the right to have records corrected, to have irrelevant information deleted, to receive compensation for damage caused by inaccuracy, or to have limits established on the collection of personal information or its use by government. These are usually (but not always) provided for by privacy or data protection statutes, which in turn may either be limited to the government (as in the U.S.A. and Canada) or to automatically processed information (as in most, but not all, European data protection acts). The result of such an overlap in laws is not always tidy: although there is subject access to more records (such as those of the FBI and CIA) under the U.S. Freedom of Information Act than under the U.S. Privacy Act, the Privacy Act provides rights of correction that the other Act does not.

There are difficulties associated with a privacy exemption that may not be immediately obvious. For example, there is a question of whether personal privacy ends with death. For the purposes of most open government laws, the answer seems to be yes, which is of particular importance to historical researchers who use such laws. Another question involves the issue of what personal

information is protected against disclosure in the interests of personal privacy; usually, information that is not generally known or available from other sources falls into this category. Yet another difficulty is that many records contain information on or from more than one person, and disclosure to one individual may violate the privacy of another. One solution is to require the partial disclosure of records, eliminating information relating to other people. (The writer's experience may be instructive: the result of a request for access to background investigation reports, after identification, was a bundle of photocopied reports from which the names of informants had been deleted.)

It is clear in all open government laws (although not in all data protection laws) that privacy is a value of natural persons, and not of governments or companies. Ministers, civil servants, employers, and employees all have rights of personal privacy, but these are usually recognised as being fundamentally different in theory, as well as distinguishable in practice, from rights of commercial confidentiality. All open government laws have some exemption from disclosure on the grounds of commercial confidentiality, and litigation over the meaning of that exemption has been the most vigorously fought in the United States and Canada. The meaning of the exemption is almost always stated in terms of potential harm to a company's competitive position, and sometimes in terms of its effect upon discouraging voluntary disclosure of commercial information to government. Perhaps the most important lesson from various countries is procedural: when access to government records involves the interests of several parties, either commercial or personal, there should be some procedure through which those interests can be represented.

Regarding commercial information, there are differences in the use of open government laws in various countries that do not, however, seem to reflect differences in the statutes. Disputes over disclosures of commercial information have been a major source of cases in the U.S.A. and Canada, and seem likely to be litigated in Australia and New Zealand. But apart from some complaints about access to commercial information by consumer and environmental groups in France, and one hypothetical discussion in Swedish literature, the issue seems rarely to have arisen in other countries with open government laws.

Just as all countries with open government laws contain exemptions from disclosure in the interests of defence against external enemies (or those considered to be potential enemies), they also all have exemptions from disclosure in the interest of law enforcement. These are usually phrased in terms of the actual or potential damage that a disclosure would have on the prevention or detection of crime. In 1986, the U.S. Act was amended to increase the exemptions for records if their disclosure could reasonably be expected to interfere with law enforcement.

Is Open Government Better?

Discussion of the experiences of those countries that have adopted open government legislation has perhaps been defensive in its concentration on the reasons for exempting records from disclosure. A common British attitude (although less so than was the case ten years ago) is that those who propose open government must demonstrate how such would be an improvement upon the existing situation. It is possible to describe cases of corruption or inefficiency and to argue that they might have been stopped had they been disclosed; it is more difficult to demonstrate that countries with such legislation are less corrupt or more efficient (the very openness may suggest

just the opposite). The arguments in favour of open government are, like those for democratic elections, a mixture of idealism and efficiency. The idealism is based in the idea that the people who are governed should have a right to know about government; the efficiency aspect involves the suspicion that those who govern may do it better if they are subject to public scrutiny.

The arguments for secrecy in government, on the other hand, are suspiciously answerable, as they refer back to themselves. Documents from other countries, information from confidential informers, or confidential advice must be exempt from disclosure; if disclosure occurs, other countries, informers or advisers will not consent to providing such information. The evidence for such an effect would be from such other countries, informers or advisers, but to disclose that evidence would defeat the purpose of the argument. There are many variations on the essential argument that the reasons for secrecy must remain secret. Its equivalent in data protection is the argument that only those who do wrong (or "who have something to hide") object to surveillance by the state.

Such arguments ignore the fact that even justified and effective secrecy always has its costs. Military history is filled with episodes in which field commanders with the same allegiances fought at cross-purposes due to secrecy which was used to frustrate the enemy. The secrecy of any organisation can serve or hamper its effectiveness, but the most striking misleading argument in favour of secrecy is that of its efficiency. The problem is that a secret organisation often appears to be much more efficient than it is.

This paper has concentrated on "freedom of information" or "open government" laws. These statutes are relatively formal, record-based, procedures for the formal inspection and copying of records. As previously explained, the reasons that may be used to justify exempting a record from such compulsory disclosure do not, however, necessarily justify protecting the information from unauthorised disclosure by the use of criminal penalties. One criticism of access to government records laws is that they are easily subverted by governments that can potentially destroy records or maintain super-secret information systems. In response to this criticism one can say that such laws are designed as only part of a legal system in order to encourage openness, and further, that the limitation of criminal penalties for disclosures of information is to those classes of information that actually require such protection. A crucial question to be answered is what provision should be made under such criminal laws for those who break them for the purposes of revealing crime or corruption. In some countries, the answer might be that the doctrine of "necessity" provides a defence in the case that one law is broken in order to prevent or disclose a greater crime. In the U.S., the Civil Service Reform Act (1978) is often known as the "Whistleblowers' Act" because it provides protection for civil servants who disclose wrongdoing in government. The British Official Secrets Bill, currently before Parliament, reduces the scope of government information protected by criminal penalties, but also makes it clear that disclosure of protected information can never be justified. (Consequently, any unauthorised disclosure about any telephone interception or break-in by the security service is a crime, if the interception or break-in was authorised by a minister.)

The term "open government" has generally been preferred in this paper to that of "freedom of information," as the subject has been laws which establish a public right of access to government

records. As such legislation has been adopted, several languages have provided for expressions of the basic principle. Swedish was first by far, with *offen tlighets princip* (with similar expressions in other Nordic languages) usually being translated as "the publicity principle." Although the United States is committed to the words "Freedom of Information" (or just FOIA) by the U.S. Act, Americans also use "the people's right to know" and "open government." The 1978 French law, which surprised nearly everyone outside of France, as well as a few inside the country, has contributed *transparency administrative*, usually translated into English as "open government" or "administrative openness." Currently, from the Soviet Union, we have the word *glasnost* for the principle "that every citizen has the inalienable right to obtain exhaustive and authentic information on any question of public life that is not a state or military secret."[6]

[6] Gorbachev, Mikhail, *Perestroika*, p. 304, Fontana edition, 1988.

CENTRAL AND EAST EUROPEAN NEWS AGENCIES IN TRANSITION

by Johann Fritz
International Press Institute Director

Central and Eastern Europe is a region in transition. Some countries have been more successful than others in the reformation of their political, economic, and social systems. Yet nearly all of them have made sufficient progress in the development of democratic, multi-party systems to have been accepted as members of the Council of Europe. Membership in this intergovernmental body requires member states to adhere to several principles, including the respect for the basic civil, political and human rights as laid down in various international charters and conventions. Freedom of expression, and in particular, of the media, is one such basic right and cornerstone of any democracy. As an integral part of society, the media must also undergo a transition from state domination or control to a freer, more autonomous and editorially-independent channel for the expression of ideas, opinions and criticism.

While much has been done on the transition situation and perspectives about the print and broadcast side of media, up to the present there has been little discussion regarding the place, role and future of the main gatherers and providers of information, the news agencies in the countries of Central and Eastern Europe.

The transition to a democratic system and market economy consequently leads to privatisation. News agencies must be accurate, reliable, credible and independent. Independence, obviously the ultimate goal for any news agency, can best be achieved through privatisation. From international experience, it is clear that those agencies operated as cooperatives of the media or as shareholders' societies, enjoy maximum independence.

However, several aspects must be taken into account if the media itself is to become the owners of the agency: is the media market strong enough for privatisation of the agency? Are print and electronic media ready and willing to accept ownership of their national agency? Is the democratic and free market system far enough along in its development to accept such a transaction?

Whatever the situation may be, the fact remains that the news agencies in Central and Eastern Europe must become more independent. Whether as private enterprises or mixed-ownership "public companies," it is crucial that the impact of political influence be drastically reduced. If this does not happen, the agency will lose credibility and eventually customers, as new, determined and more efficient private competitors enter the market and provide better and more acceptable products.

With this in mind, the International Press Institute (IPI) decided to conduct an in-depth analysis of this subject. The project culminated in a roundtable conference on "News Agencies in Transition," held in Warsaw, Poland, on August 29-31.

It included the research and preparation of a significant three-part, country-by-country study on:

* The media environment;
* The place of the national news agency; and
* The technical/financial viability of the agency in each of the countries in the region.

The preliminary results of this study were used as a background document for the Conference.

The conference itself brought together over 70 participants, including the chief executives of most of the region's news agencies, and also attracted the attention of top executives from agencies in Western Europe, North America, Africa, Asia and Australia. Each of the East and Central European agencies' executives reported on their own situation, and discussion followed.

There were also several keynote speeches on issues such as "the role of news agencies in the information age," "the many challenges of privatisation," "strategies for diversification", "codes of conduct." The conference was organised in conjunction with the Polish Press Agency, PAP.

Given the political implications, the timing of the seminar (as evidenced by events concerning news agencies in Czech Republic; Hungary's news agency law and debate over the leadership of MTI; Lithuania's privatisation of ELTA; and Poland's debate and recent dismissal of PAP's president) and the high level of participation, excellent results were achieved.

The findings of the study revealed a wide spectrum of development in the transition to privatised or, at least editorially independent public institutions. It also presented an insight into the media environment currently prevailing in the respective countries.

Albania's media is still plagued by economic difficulties and government obstacles, and there are no plans to privatise the state-owned agency ATA.

Bulgaria's media also faces severe economic, as well as some political obstacles, and its national agency, BTA, despite its high level of technical development, is not yet in the process of privatisation.

Croatia's media (and much of its leadership) often used the "war situation" as an excuse to permit self- or government-imposed censorship; its national agency, HINA, is still in government hands.

The Czech Republic has made the transition quite well, and consequently has an independent and pluralistic media. Its national agency, CTK, is one of the most developed and has full editorial independence, although its legal status is somewhat "unclear" (a "public" company, owned by "itself").

Estonia's government has been considering the privatisation of its agency, ETA, although no firm steps have been taken.

Hungary boasts a much more pluralistic and liberal media landscape, as reflected in the development and independence of its national agency, MTI. A new law due to be passed by parliament should fully guarantee the agency's independence.

Latvia's agency, LETA, has been put up for privatisation; a mixed-ownership structure is preferred.

Lithuania's agency provided the "surprise" of the conference; it announced that the parliament had just approved the privatisation of ELTA two days prior to the opening of the IPI conference.

In contrast, Moldova's agency, MOLDPRESS, is not even a separate entity, but rather a "state sub-division."

Poland, the host country, provided a much more favourable media landscape; its highly-developed and very modern agency, PAP, is the subject of an on-going debate about privatisation.

Romania's media suffers from a poor economic situation, and its relatively large agency, ROMPRESS, is not yet targeted for any change in ownership.

Russia is still the dominant country in the region, with its agency, ITAR-TASS, being one of the largest in the world. Despite major changes and a more independent editorial line, there are no plans for privatisation.

Slovakia's agency, TASR, is very much in line with government policies, which is not likely to change in the future.

On the other hand, Slovenia's agency, STA, is jointly owned by private and public interests, and is therefore already editorially-independent.

The Ukraine's agency, UKRINFORM, is still a major tool for the government, and is even supposed to "support the patriotic forces, the president, the parliament and the new found independence."

Finally, Yugoslavia's agency, TANJUG, is having difficulty adjusting to its much smaller and less significant role, and given the political situation, is neither independent nor close to being privatised.

The study, together with a ten-point "Warsaw Declaration on News Agencies" adopted at the conference, should provide both the basic guidelines as well as encouragement necessary for news agencies in the region to strive for editorial independence, or ideally, for privatisation. In addition, and perhaps more importantly, the declaration should also serve as a reminder to authorities in the region that they provide the basic framework for these goals to be achieved, since a free media is not only in everyone's interest, but is also a basic human right.

NGOS IN THE SYSTEM OF EUROPEAN SECURITY

Shaun R. Barcavage

Excerpts from a presentation made at the conference entitled, "After the End of the Cold War: The New Challenges to European Security," organised by Young Europeans for Security in St. Petersburg on 5-8 December 1996

Ladies and Gentlemen:

Firstly, I would like to give a brief background on the establishment of both the OSCE and the ODIHR. It is fundamental to understand the importance of these institutions in order to demonstrate the relative role of NGOs in the security building process.

It was twenty-one years ago that the signing of the Helsinki Accords, formally known as the Final Act of the Conference on Security and Co-operation in Europe, put into motion two processes: the evolution of an intergovernmental consultative body of states known as the CSCE, and the formation and development of independent groups of citizens concerned with the monitoring of the principles of Helsinki. By the time of Helsinki 1992, the interaction between groups these informal groups, the NGOs, with the CSCE had taken on a formal nature.

NGOs had been included in discussions on human dimensions issues already at the Moscow Conference of 1991. Since the signing of the Helsinki 1992 Concluding Document, the relationship between the CSCE institutions and NGOs has grown to the extent that the current OSCE offices in Warsaw and in Vienna have at least one individual responsible for NGO liaison. The same holds for OSCE Missions in Bosnia, Moldova, Ukraine, Estonia, Latvia, Croatia, Tajikistan, former Yugoslav Republic of Macedonia, Georgia and so on. The OSCE department within each participating State's Ministry of Foreign Affairs also has the obligation to name one officer responsible for liaison with local and national NGOs. Thus, at every level of the OSCE structure, NGOs concerned with the Human Dimension issues may find an appropriate point of contact.

The Office for Democratic Institutions and Human Rights, as the main OSCE institution responsible for maintaining a special focus on human dimension issues, has included relevant NGOs in its work since the initiation of operations in 1991. At that time, it is was called the Office for Free Elections, as the first mandate called for observation and monitoring of elections in participating States. In accordance with the Paris Charter and the Copenhagen Concluding Document, participating States are obliged to invite local, national, and international NGOs as observers and monitors of their elections. The Office for Free Elections consistently took steps to ensure that these commitments were upheld. The mandate for the Office has grown since Helsinki 1992, to encompass the entire range of human dimension principles, and accordingly, its activities with NGOs have increased proportionately. Not only does today's ODIHR see to the

implementation of States commitments vis-a-vis NGO participation in election observation, but the ODIHR also engages NGOs as contributors to all of its Human Dimension Seminars, Round Tables, Implementation Meetings, and the bi-annual Review Conferences.

As you can see, the OSCE is strongly committed to working with and fostering the activities of NGOs. NGOs play a fundamental role in building and developing pluralistic, democratic societies. Among their numerous responsibilities, NGOs have four primary roles in the political process:

1. NGOs serve to provide a forum for citizens of any country to collectively advocate an issue or a set of issues.
2. NGOs serve as a monitor of the actions, policies and functions of the government and private sector. Here, the Third Sector provides an alternative perspective in order to present more than one side of an issue.
3. NGOs assist governments in setting the political agendas dealt with by governments. Governments are not always ready to take on "politically sensitive" issues that may bring harm to the party in power.
4. NGOs serve to gather and distribute information as widely as possible among the rest of the population in order to educate the public on issues.

The significance of NGOs in strengthening the principles of civil society is evident in the West; however, even more critical is the role of NGOs in building pluralistic, civil societies in Eastern Europe and all former communist countries. In the final years of transition in post-communist countries, we have witnessed an extraordinary increase in the number of non-governmental organisations. These are groups of individuals, citizens, who are readily contributing their imaginations, resourcefulness and energy in ways that can begin to shape their own social and political environments. This is what is know as emergent civil societies. The NGOs, of which civil societies are comprised, provide a voice and outlet for citizen initiatives; it is through this interplay between civil societies and governmental sectors that a natural system of checks and balances takes shape.

The difficulties faced by NGOs in these emerging civil societies are seemingly endless, ranging from lack of funds to unfavourable laws on foundations. In some regions communication is a major problem for NGOs. Making a simple phone call or sending a fax can consume an entire day, making the task of information gathering and spreading a major task. The lack of efficient communication systems also inhibits NGOs' abilities to network among themselves in a given country, region, or internationally. The ODIHR has been active in assisting NGOs in this area, through the compilation of an NGO Database and Information Clearing House. An NGO may simply contact the ODIHR in order to obtain information or contacts with hundreds of NGOs throughout the OSCE region. The ODIHR has also been engaged in a series of training workshops for NGOs. These training workshops have brought together representatives from NGOs working on human dimension issues for the purpose of providing skills in such areas as: effective fact-finding and reporting, fund-raising, proposal writing, and organisational skills. Bringing these representatives together has also enabled NGOs to build networks in countries where none previously existed. The ODIHR hopes to continue these valuable training workshops in the coming year.

It is at this point that I would like to recognise the efforts of YES-Russia in overcoming the numerous obstacles it has faced in bringing this local branch of YES in St. Petersburg to fruition. It is a great pleasure for me to stand here and speak to all of you, and to participate in your first international conference and your first major event as a recognised NGO in Russia. I sincerely commend your efforts and look forward to further co-operation with your organisation.

In closing, ensuring the full participation of the entire spectrum of NGOs in a given civil society in open political or social fora is certainly not an easy task, but a crucial one - for the welfare and benefit of civil, governmental and international sectors, and in the end, for all citizens.

ODIHR MANDATE - ELECTIONS

Note from the Editor: We believe that the mandate of the ODIHR with respect to elections is generally known to our readers. However, it may not be as widely known how the ODIHR approaches this task. In early 1995, the ODIHR Election Adviser designed both the OSCE Election Observation Handbook, and a Framework Document, which became our guide for implementation of the election monitoring mandate. We hope that election observation by the ODIHR, in the implementation of its long-term mandate, is an effective tool in supporting these fundamental human rights as outlined in the OSCE commitments. Presented below are the most important elements of the ODIHR election monitoring process.

The ODIHR office serves as the co-ordinating and support office for election observation missions throughout the OSCE region. Since 1991, it has been charged with monitoring the OSCE commitments, with respect to the election process, established at the Copenhagen Meeting in 1990. In December 1994, during the Budapest Summit, the ODIHR was given an extended mandate to conduct long-term observation of the election process, covering the pre-election, election day, and the post-election phases.

The ODIHR does not subscribe to the view that the mere presence of observers adds legitimacy to an election process. It is the observers' methodology and the resulting conclusions that will form the basis of opinion on the election.

The Observation Missions

The ODIHR election observation missions begin with a "needs assessment mission." Such missions assess the needs and scope of the observation, and also serve to establish an early dialogue with electoral authorities. A request is subsequently sent to all the OSCE participating States to provide the ODIHR with a sufficient number of long-term and short-term observers. International organisations and non-governmental organisations with election observation experience may also be accredited.

ODIHR On-site Co-ordinator

The ODIHR designates an On-site Co-ordinator to coordinate the activities of long-term and short-term observers. The Co-ordinator establishes a temporary office in the capital city a few months prior to the scheduled elections. He or she then establishes regular contacts with the relevant election authorities, ministries, political parties, non-governmental organisations (including any domestic monitors and human rights groups), national minorities (if relevant), trade unions and the media. The Co-ordinator supports the activity of international observers by providing a comprehensive briefing, a consensual deployment plan (developed in cooperation with other international observers and local embassies to avoid duplication of efforts), a post-election de-briefing, as well as checklist forms, to report on the opening of the polls, polling day events and the vote count.

Long-term Observers

Election observation is not a one-day event. Observers take into account the various stages of the election cycle, from the registration of voters and the commencement of the campaign to the final voting and ballot counting procedures. The role of the long-term observers, generally dispatched throughout the country, is important in acquiring first-hand knowledge of the following: the effectiveness and impartiality of the pre-election administration; the implementation of the election law and regulations; the nature of the campaign; and the political environment prior to voting day.

Short-term Observers

Short-term observers normally arrive shortly before election day, and are deployed to provide a broad presence throughout the country. The basic aim of observing the elections at the polling station level on election day is to verify that voting and counting is implemented in an orderly manner and in accordance with the electoral procedures. The method of analysis is both quantitative and qualitative, and observers are asked to fill in standard forms for statistical analysis, as well as to serve as *aide-memoires* to collect all relevant information.

Post-election Statement and Final Report

A post-election statement is issued by the ODIHR On-site Co-ordinator within 24-36 hours following an election, subsequent to the debriefing of observers. The statement reflects the collective findings of the pre-election period as well as those of the election day itself. All post-election statements are sent to the ODIHR Office in Warsaw for approval and submitted to the Chairman-in-Office, prior to being released.

In addition, the ODIHR On-site Co-ordinator submits a brief but comprehensive analytical report, including recommendations for improvements in the election process. Upon the approval of the ODIHR/Warsaw, this Final Report is presented to the Chairman-in-Office and then distributed to relevant organisations and national authorities concerned with the election, as well as to the press. The aim of the report is to reach a conclusion as to whether the election has fulfilled the election-related commitments both of the Copenhagen Document of 1990 and the legal framework of the country concerned.

CODE OF CONDUCT

- Observers will carry the prescribed identification issued by the host government or election commission, and will identify themselves to any interested authority upon request.
- Observers will maintain strict impartiality in the conduct of their duties, and shall at no time express any bias or preference in relation to national authorities, parties, candidates, or with reference to any issues in contention in the election process.
- Observers will not display or wear any partisan symbols, colours, or banners.
- Observers will undertake their duties in an unobtrusive manner, and will not interfere with the election process, polling day procedures, or the vote count.
- Observers may wish to bring irregularities to the attention of the local election officials, but they must never give instructions or countermand decisions of the elections officials.
- Observers will base all conclusions on well-documented, factual, and verifiable evidence.

- Observers will refrain from making any personal or premature comments about their observations to the media or any other interested persons, and will limit any remarks to general information about the nature of their activity as observers.
- Observers will participate in post-election debriefings, by fax or telephone if necessary.
- Observers must comply with all national laws and regulations.

ELECTIONS

ARMENIAN PRESIDENTIAL ELECTION
22 September 1996
Rapporteur: Simon Osborn

The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) received a formal request from Armenia's Central Electoral Commission (CEC) to observe the presidential elections scheduled for 22 September 1996. Consequently, ODIHR appointed Simon Osborn (United Kingdom) as On-site Co-ordinator and Vrej Atabekian (Armenia) as an Election Assistant. According to their terms of reference as outlined in the OSCE/ODIHR election observation framework document, ODIHR representatives monitored the pre-election period, and facilitated the accreditation, deployment and briefing of 89 short-term observers.

The 89 OSCE/ODIHR observers (a further five observers were deployed by their own organisations) were deployed across the eleven regions of Armenia. The observers, usually in teams of two, made 456 visits to polling stations on election day, covering 28.5% of the 1,596 Precinct Electoral Commissions (PEC). Thirty-seven observer teams monitored the counting of votes immediately after the close of polls in the PECs. These teams subsequently accompanied the ballot papers and other official materials to the Community Electoral Commissions (CoEC). There are 930 CoECs in Armenia.

Conclusion
Sadly, observers noted that on a number of occasions their presence was not welcomed by precinct and community electoral commission officials. In one case a commission refused to allow international observers to attend the process. Thankfully, these instances were not repeated throughout the country and many electoral commissions went out of their way to assist the international observers in their work.

The discrepancies between the number of voters who signed and received ballot papers and the number of voter coupons in the official results, along with other breaches of the law, can contribute to a lack of confidence in the integrity of the overall election process. The results of the first round of balloting could even be questioned until a thorough review and assessment of the irregularities and discrepancies is conducted.

Despite some encouraging signs of improvement in the electoral law and administration, they are clearly overshadowed by the number and frequency of the breaches in the election law. In order for confidence in the electoral process to be restored, the OSCE/ODIHR urges the authorities to make the necessary amendments to the law, and further encourages the strengthening of existing provisions in line with the following recommendations.

Recommendations

- The issue of unauthorised persons in polling stations needs to be addressed. Those persons authorised to be present need to be verified, and the intervention of representatives of the Ministry of the Interior in the election process in polling stations also needs to be addressed.
- The pressure placed on members of the military to vote for a particular candidate must cease, and the responsibilities of the military in relation to the electoral process need to be more clearly defined. In particular, aspects of the election law dealing with the creation of military voter lists, access to those lists, and campaigning by members of the military, need to be reviewed, amended and strengthened.
- The law has been revealed to be wholly inadequate on the critical questions of the vote count, its verification and aggregation of the results. This section must be reviewed and clarified so that election commissions have a very clear legal guide to follow.
- The partisan nature of electoral commissions, a particular problem at the higher levels of the election administration, needs to be addressed.
- The breakdown in the vote tallying process, observed at the CoECs, also needs to be addressed.
- The function, structure and number of CoECs, requires review.
- Standardised training needs to be organised to some extent.
- Attention must be paid to the function and composition of the Regional Electoral Commissions, which have considerable administrative authority. In particular, the CEC should consider adopting regulations that set forth the legal responsibilities of the chairman and secretary of the REC.
- The political parties, state TV, and the CEC should reach a formal written agreement on the process of applying for advertising time on paid television.
- The Voter List must be updated and checked for accuracy, and a more realistic timetable needs to be adopted when drawing up the list. The application of consistent criteria for the invalidation of ballots must be established.
- Clearly, that those authorities who do not administer the law correctly should be sanctioned.

BULGARIAN PRESIDENTIAL ELECTION
27 October and 3 November 1996
Rapporteur: Ulrich Büchsenschütz

The OSCE/ODIHR Election Observation Mission was satisfied that the results of the election accurately reflect the wishes of the Bulgarian electorate. The final result was accepted by the defeated candidate. The mission states its belief that both the conduct of the electoral process and its transparency, have further assisted the development and entrenchment of democratic processes in Bulgaria.

The OSCE Office for Democratic Institutions and Human Rights received an invitation, dated 20 September 1996, from the Bulgarian Ministry of Foreign Affairs inviting it to observe the Presidential Election.

Observers

Despite the fact that ODIHR had requested eight long-term observers (LTOs) for this election, only one LTO, Ulrich B¸chsensch¸tz, of Germany, was present. Arriving on 14 October, he established a regional presence in Plovdiv. In addition, nine countries provided nineteen short-term observers, two of whom were parliamentarians. Additionally, six short-term observers (STOs) were recruited in-country, either through British and Dutch NGOs, or as direct workers. Although a total of 26 observers was not enough to provide even reasonable coverage in a country with 12,500 polling stations, the ODIHR Mission utilised them as effectively as possible. For the second round of elections, there was again an acute shortage of observers; fifteen STOs were eventually deployed.

The Electoral Law

The law governing the presidential electoral process in Bulgaria is not consolidated into a single document, rather it is contained in five different volumes. There is clearly a need for a consolidated version of the electoral law, ideally as a single act, containing sections dealing with the various applications to the three levels of elections. This need was mentioned in the Final Statement on the Second Round of Voting; the reference was followed up by a letter to the Chair of the CEC on this and other issues relating to the law.

The Electoral Register

The electoral register is compiled from the Bulgarian State's unified citizen number system. Consequently, state information is used, with no separate compilation of an electoral register. There is adequate provision for inspection, and if necessary, for correction of the information; however, the Mission expressed some concern at the potential danger of this lack of separation between the state's functions and the citizen's democratic rights.

The Campaign Period

The only aspects of the Bulgarian Presidential Election of 1996 deemed worthy of criticism in the Final Statement were those associated with the campaign period. These comments stem from the fact that the electoral law, as currently drafted, creates two classes of candidates: those with formal links to existing parties in parliament, and those without such links. Not only was the latter class excluded from membership by the right of election commissions, but it was also treated very detrimentally with respect to participation in the formal television and radio debates. The quoted reason for the distinction in the law was the fear that the existence of so many "minor" candidates would render equal treatment impractical. The Mission expressed the view that, similar to usual practice, this potential problem should be dealt with by establishing rules on the registration of candidates, including qualifications for candidacy - a reasonable number of voters' signatures, for example, with perhaps the requirement that a proportion come from a variety of regions - which discourage those without a modicum of support.

The Media

In September 1996, the Bulgarian Helsinki Committee reported that a number of journalists in the state media had been under pressure, and that some dismissals and suspensions had occurred. Unfortunately, the Mission did not have adequate resources to make a comprehensive assessment of the media coverage. The treatment of the election campaign that was observed, appeared to be

carried out reasonably fairly, or in accordance with the law. BAFECR has prepared a detailed media monitoring report, which is currently being translated into English.

Primary Election and Nominations

Reference should be made to the nationwide, open primary election held on 1 June 1996 to nominate a candidate from the united "opposition." The history of this remarkable and unusual event is contained in the International Republican Institute's IRI Report on Bulgarian Primary Election, June 1, 1996, a copy of which has been lodged with ODIHR.

Polling Day

Observers were unanimous in their view that the organisation of polling day was exemplary. Six elections had been held prior to this presidential poll, and many members of the Sectional Commissions (polling stations) had been in office for all preceding ballots. In nearly every case, the commissions approached and carried out their appointed tasks professionally. There were the inevitable isolated incidents reported, which were subsequently investigated by Observers wherever possible. However, none of the Observers believed that polling day should be regarded as anything other than having provided the means for all electors to express their choice without pressure. The system of voting - placing the ballot paper of one's choice in an official envelope, similar to that used in France and elsewhere - ensured that each elector cast his or her vote in secret, as the ballot papers were placed inside the booths.

The Vote Count

Counting took place in each polling station, and in every case, Observers reported that it was carried out efficiently and effectively. The processes established for the national computer tabulation were excellent, with Commissioners working in pairs - one Government nominee and one Opposition nominee - in receipt of the protocols from the Regional Commissions. Thorough checks and balances against falsification, as well as for identification of errors in inputting had been established, and the entire operation was quite impressive. The Co-ordinator was happy to report that he had confidence in the results published by the CEC.

Recommendations

- Presidential candidates nominated by registered political organisations with representation in Parliament enjoy more favourable treatment than do their counterparts without formal parliamentary links. This situation needs to be addressed.
- There is clearly a need for a consolidated version of the electoral law, ideally in the form of a single Act, with sections dealing with the various applications to the three levels of elections.
- The ODIHR conditions for meaningful election observation require guaranteed access to all levels of the election administration, including the regional and central levels. While this issue was resolved satisfactorily in this election, in Bulgaria this access for observers needs to be institutionalised.

LOCAL ELECTIONS
FORMER YUGOSLAV REPUBLIC OF MACEDONIA
17 November 1996
Rapporteur: Prof. Bernard Owen

The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) received a formal request to observe the Local Elections of 17 November in the Former Yugoslav Republic of Macedonia. Due to the significant number of national elections that the ODIHR was committed to observing during the same period, as well as the acute shortage of observers being seconded by participating States, the ODIHR was unable to launch its standard observation effort. However, Professor Bernard Owen, of France, was appointed as the ODIHR On-Site Co-ordinator to work closely with the OSCE Spillover Monitor Mission to Skopje. The Mission recruited observers locally, from the mission, embassies and international NGOs in the area. The ODIHR would like to thank the mission for recruiting the observers locally and for facilitating their deployment.

Forty-five teams of observers were deployed to cover the entire country and all of the new municipalities. The number of municipalities visited by each team varied according to geography: Tetovo, the new central municipality, received one team, while other teams visited from three to five municipalities each.

Background

The municipal elections were the first to take place in the country since independence, closely following a major reorganisation of local government and the passing of a new local electoral law. The number of municipalities has been increased from 34 to 124, and includes the City of Skopje, which is to have its own mayor and council with jurisdiction over the city as a whole. The statistical picture was thus: 1,498,653 registered voters were given the opportunity to elect 1,906 councillors and 124 mayors countrywide, from amongst 13,500 candidates. The councils were to be elected on a proportional basis, based on party lists, while the mayors were to be chosen under a majority system. A second round, the mayoral race, was set for 1 December in cases where no candidate achieved an overall majority in the first round.

The Campaign

As ODIHR was unable to launch its standard long-term observation of the pre-election period, including the campaign, the comments of the ODIHR Co-ordinator are limited to aspects of the pre-election period. Concerns expressed by some parties during the campaign regarding the deficiencies in the voter register were noted. The Co-ordinator further reported his concern regarding the publishing of an opinion poll by a local journal on the eve of the election. This was not in accordance with the law, which requires that election survey polls not be published during the two-week period prior to election day.

Election Day

The overall positive assessment of election day is clearly reflected by the observers who found that in 89% of polling stations visited, the voting process was conducted properly. An important factor in safeguarding the integrity of the vote was that of both government and opposition party representatives' presence in over 95% of polling stations, either as members of the multi-party polling station commissions, or as party-designated observers.

Some voters, particularly in urban areas, were not properly informed as to which polling station was their designated station. Some parties complained that polling stations were difficult for

voters to find. In fact, of the 12,000 polling stations, only 40 were new. Nonetheless, 19% of observers did find that polling stations were difficult to locate.

The Voter Register

The most contentious point raised during this election process was that of the integrity of the voter register and the public's lack of confidence in it. There was much discussion among the parties as to the number of voters missing, and whether the deceased had been removed from the register. Further, rumors were spread, alleging, for example, that voters who had signed the petition for early parliamentary elections had been taken off the lists. The ODIHR Co-ordinator examined the issue thoroughly, listening to the complaints of the parties and consulting the authorities. No proof was presented to substantiate allegations of fraud.

The information provided by the ODIHR questionnaire revealed that the number of citizens who were unable to vote, as a percentage of the total number of voters, was 8.6%. Given the fact that some of this information was based on seemingly exaggerated claims by party observers, the actual figure was probably considerably lower.

Recommendations

The accuracy of the voter register needs to be improved before future elections are held. Registration facilities should be readily accessible to the electorate, and the registration procedures clearly stated. The voter register is a public document, which should be posted well in advance of the election to permit complaints about incorrect inclusion or exclusion.

The election law could be improved by including simple and clear instructions for the manner in which the vote count is to be conducted, rather than simply stating what is to be done.

Additional voting booths could be provided in polling stations to facilitate a smoother process and reduce overcrowding in polling stations. The decision to provide each voter with a voter card is strongly supported; the voting card should clearly indicate in which polling station a voter is registered and where it is located.

In relation to future parliamentary elections, an independent commission should be established to review the electoral boundaries in a transparent manner. The legislation states that the present administrative boundaries should be maintained, with a similarly-sized electorate in each constituency. The permissible difference in the size of the electorate from constituency to constituency should be further clarified, however.

PARLIAMENTARY ELECTIONS
Republic Of Lithuania
20 October and 10 November 1996
Rapporteur: Prof. Frank Aarebrot

The Office for Democratic Institutions and Human Rights (ODIHR) received an official invitation from the Central Electoral Commission (CEC) of the Republic of Lithuania to observe the

elections of 20 November for Representatives to the Parliament (Seimas) of the Republic of Lithuania, as well as a referendum. Professor Frank Aarebrot was appointed by the ODIHR as On-site Co-ordinator, after being seconded by the Government of Norway. He observed the election campaign and the balloting from 9-20 October. Mr Simon Osborn, of the UK, returned as On-Site Co-Ordinator for the second round of balloting from 8-11 November.

Conclusions

The ODIHR Observation Mission issued a statement on the first round of balloting held on 22 October, based on observation in 90% of the single member constituencies of Lithuania. It concluded that despite the generally efficient administration and the democratic spirit under which the elections were conducted, election day observations resulted in the expression of serious concern regarding the legal guarantee to vote by secret ballot in the privacy of a polling booth.

Many voters were observed voting outside polling booths, and in some polling stations inadequate booths were provided. Such is not in line with Commitment 7.4 of the Copenhagen Document, which states "that votes are cast by secret ballot or by equivalent free voting procedures."

It is encouraging that each of the political parties interviewed by the ODIHR observer team expressed both confidence in fair campaigning and appreciation of free access to media. The parties possessed, of course, different opportunities depending on their size and wealth, but such is normal in all countries and therefore should not be interpreted negatively in the Lithuanian context. Moreover, on election day, the local observers of the political parties in the polling stations, as a general rule, expressed satisfaction with the proceedings. In fact, District Election Committee members and OSCE observers were more critical than were the party observers.

Second Round of the Election

The ODIHR appointed Mr. Simon Osborn as On-site Co-ordinator for the second round of voting on Sunday, 10 November. He was assisted by Ms. Elizabeth Ryder, who acted as Deployment Officer. A total of 20 international observers representing eight OSCE participating States monitored the second round. Included were observers from: Denmark, Finland, Germany, Norway, Spain, Sweden, the UK and the USA. The observers, in teams of two, visited 37 of the 65 electoral areas (56%) where repeat voting was taking place. In the 37 electoral areas visited, voting was monitored in 72 polling stations.

In the view of the second round observation mission, the election was conducted efficiently, calmly and according, for the most part, to international and OSCE standards. However, the secrecy of the ballot was still not observed universally in the second round, despite attempts by the CEC to rectify this breach of law.

The ODIHR welcomed the CEC efforts to enforce the secrecy of the ballot by printing on the voter certificates issued for the second round instructions to vote in secret. Furthermore, observers noted that in rural areas, more polling booths had been erected for the second round. However, in urban areas observers recorded that there was still only the statutory minimum number of booths, and consequently noted a high proportion of voters casting ballots collectively and, in some cases, openly.

In a few polling stations observers reported that the District Electoral Commission had placed a sign on the polling booths instructing voters to cast their ballots individually and in secret. Such examples of the efforts made to inform voters of their duties under the law, even if limited, seemed to be successful, as observers did not, in these instances, see open or collective voting.

Recommendations

Despite the generally efficient administration and conduct of the elections, there are instances where both the OSCE commitments and Lithuania's own laws were not fully respected. This gives reason for concern, and the following recommendations have been made:

- The enforcement of the right to a secret ballot, which is specified in the Election Law (Article 65, Section 1.), needs to be seriously addressed prior to any future elections.
- The education of voters is necessary to inform them of their rights and responsibilities, including the right to a secret ballot, under the law.
- The procurement of standardized and sufficient polling station equipment and is needed, as is an increase in the minimum number of polling booths required per head of population, currently set at two for every 2,000 voters. A procedure for a thorough inventory of polling station equipment should be incorporated into the official timetable of the Central Election Commission.
- Funds for organising the polling stations should be controlled by the apparatus of the election organisation in the areas and/or districts, and not by the local councils, which contributed to varying levels of organisational proficiency.
- Space in any public building suitable for polling stations should be commandeered by election area committees, thus providing better localities for polling stations.
- Limitations on the maximum number of ballots to be voted upon in one election should be established; preferably, the limit would be set at two different ballots.
- Establishment of a deadline prior to the election after which no additional ballots may be added, irrespective of parliamentary majority. Further, it is highly recommended that not more than one referendum question be contained on one ballot paper.
- Permission should be given for additional administrative staff to assist in the counting process under the supervision of members of the election commission.
- Improvement of the conditions for postal voting is necessary.
- The District Electoral Committees should store postal votes so that they can be safely kept under seal and unopened until after the votes cast in the polling station on election day have been counted.
- Instructions should be given to all prison wardens to inform all prisoners, no later than 30 days prior to the elections, about the possibility to register to vote on a special list established for the prison population.
- Air time allotted to candidates running in single-member constituencies should be transferred to regional broadcasts, rather than national broadcasts.
- A consensus among representatives of State TV and Radio, the political parties and the CEC, should be established on the role of State TV and Radio during elections. Time allocated to parties should be offered within a professional context defined by the journalistic staff of the

State Radio and Television. The parties should not be able to dictate the form of the election programs to the personnel of the Lithuanian State Radio and Television.

- The possibilities for the new Program Council of Lithuanian State Radio and Television to monitor standards, balance and impartiality of State TV and Radio's coverage of elections, should be reviewed. This could be achieved within an agreed framework of a code of conduct, similar to those adopted by public service media outlets elsewhere.
- Election law should be amended, making mandatory the posting in polling stations of information on voting procedures - in minority languages - in each of the single member constituencies where the percentage of voters using a specific minority language exceeds an established level.
- Voters who want assistance in the polling booth should be required to ask for the chairman's permission in order to insure accompaniment by someone he/she trusts.
- The production of a guide to "best practice of standardised procedures" for election commission members, should be sponsored.
- Standardised training should be introduced for all new members of District Election Committee, along with the availability of short courses for the Area Election Committees.

PRESIDENTIAL ELECTIONS
REPUBLIC OF MOLDOVA
First Round, 17 November 1996
Rapporteur: Kare Vollan

The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) dispatched observers from 21 OSCE participating States to Moldova beginning on 17 October 1996, fielding a total of 81 observers on election day. The two-member observer teams were deployed throughout the country: seven teams in the North, five teams in the South, ten teams in the Central regions including Chisinau, and twelve in Transdniestria or along the Dniestr River, in addition to three teams covering more than one district each. The teams have visited a representative selection of polling stations both in cities and in rural areas.

ODIHR has had close and positive co-operation with the Central Election Commission (CEC), and with officials at all levels who provided all information requested. The Protocol Office for the observers, set up jointly between the CEC and the Ministry of Foreign Affairs, has also provided valuable assistance.

Conclusions
With the exception of the Transdniestrian voters, the ODIHR observation delegation feels confident that the citizens of Moldova have been able to express their will in the elections, and that the results reflect the opinion of the voters on election day. In general, the Election Law, as well as other laws and regulations, provide a good framework for a fair process, and the electoral system is in accordance with OSCE commitments.

Election Day

Despite sparse funding by the election administrative structure, the positive attitude of Election Commission members made election day proceedings successful. On polling day, the voting was generally well-organised, and was conducted in a calm and peaceful manner. Even though observers reported isolated instances of irregularities, there was no indication of any serious or systematic violations - except on the territory controlled by Transdniestrian leadership.

Some irregularities were reported during the vote, i.e., family voting, difficulties in complying with the strict rules for filling out the ballot, a certain confusion in some polling stations due to overcrowding and to the general layout, and the sometimes intrusive presence of police, mayors and other officials. These issues should be addressed in future elections, and if possible, taken into account during the preparation for the second round.

ODIHR welcomes the transparency manifested in the continuous reporting of unofficial results of the vote count to the public throughout the night.

Transdniestria

There are possibly as many as 450,000 voters on the left side of the river Dniestr, and providing these people a realistic opportunity to exercise their right to vote, in line with universal human rights, has been a major concern of ODIHR, as well as of the CEC. The responsibility for the situation, which does not provide these voters with the same practical opportunity as other Moldovans, rests solely on the authorities of Transdniestria. In order to remedy this situation to some extent, the CEC designated 13 polling stations on the Moldovan-controlled territory for Transdniestrian voters. However, this required these people to travel some distance from their home and risk harassment from the Transdniestrian authorities. Early, unofficial figures showed that less than 10,000 Transdniestrian voters found their way to a polling station.

Given the situation, the process would have benefited from clear and early decisions by the CEC in order to allow sufficient time for these decisions to be publicised. Further, early decisions would insure that no doubt could be raised on the modality of voting for eligible voters from Transdniestria.

The turnout of voters from Transdniestria was higher than in 1994, but still only 2-3% of the estimated voters exercised their right to vote. Transport had been organised by the Central Election Commission on the Moldovan- controlled territory, and the ordinary transport crossing the river was supposed to function as normal. However, some incidents were reported: in Molovata Noua, buses were prevented from crossing into Transdniestrian territory; and in Dubossar/Coznitsa, the so-called Transdniestrian "border guards" checked each vehicle waiting to cross.

The polling station in the village of Vasilievca was closed after militia officers from Transdniestria arrived at the station demanding that the voting be stopped. At that time, 76 of 102 registered voters had already cast their ballots.

PRESIDENTIAL ELECTION IN ROMANIA

SECOND ROUND
17 November 1996
Rapporteur: Peter Hatch

A presence was maintained for the Second Ballot on 17 November, with two representatives from ODIHR co-ordinating and supporting the activities of 50 international observers. The observation mission was mainly comprised of representatives from embassies and international non-governmental organisations. A total of 15 member states were represented, and close co-operation with other monitoring groups and national observer organisations was maintained.

A deployment plan was designed to ensure wide and representative coverage of the various regions of Romania. Observers were present in 24 of the 42 constituency areas, and visited some 400 polling stations. The polling, counting and tabulation processes were observed; only minor and isolated irregularities were reported by members of the observer team.

Although there were some difficulties in administration, the simpler ballot in the Second Round led to an improvement in organisation. Whilst the problems encountered during the first round remain of concern and must be addressed in time for the next elections, the electoral administration is to be congratulated on the overall efficiency of the process, particularly in view of the short time available for preparation following the finalisation of all activities associated with the ballot of 3 November.

Incomplete and inaccurate permanent lists were once again a major area of concern, as was a reduced presence of national observers at polling stations, and their total absence at constituency bureaus. However, the presence of political party representatives at the respective bureaus, together with the general presence of national and international observers, served to further enhance public confidence in the electoral process.

The election was held in an atmosphere of calm, peace and normality. Electors were free to express their views, and it is pleasing to note the high number of electors (13 million out of 17 million - 75.90%) who exercised their right to vote. The OSCE/ODIHR International Observer Mission concludes that the final results fully reflects the views of the voters.

NEWS FROM THE ODIHR

GEORGIAN CRIMINAL JUSTICE TRAINING PROGRAMME
Gdansk, Poland
8-16 September 1996
Rapporteur: Robert M. Buergenthal

One of the principal recommendations of the ODIHR expert mission report on the Georgian Criminal Justice System was the development of targeted technical assistance programmes. The Assessment Report recommended that assistance be provided to expose Georgian officials to the norms and practices of countries facing similar legal transitions and to provide training in specialized law enforcement techniques.

As a follow-up to the Assessment Report, and the third in a series of practical training programmes, the ODIHR Programme for Coordinated Legal Support, the ABA/Central and East European Law Initiative (ABA/CEELI) and the Polish General Prosecutor jointly developed an eight-day intensive training programme for Georgian Prosecutors and Ministry of Justice officials.

The Georgian Deputy General Prosecutor headed the fifteen-member delegation which included representatives of the Supreme Court, the Forensic Research Centre, and the Ministry of Justice Customs and Taxation, Drug Enforcement, International Affairs and Judiciary Divisions. The Polish delegation included the Minister of Justice, the National Prosecutor, representatives from the Ministry of Justice, the Director of the Krakow Institute of Forensic Research, the Supreme Court, and the Gdansk Court of Appeal.

The objective of the "country to country" activity was to expose Georgian officials to the structure and tasks of the Polish Prosecutor's Office by focusing on a series of practical issues identified in the Assessment Report. These included prosecutor participation in civil and criminal proceedings, cooperation between detection departments, forensic and research techniques, methods of fighting organized crime, maritime law and institutional development. Following a three-day series of presentations in Gdansk, the Georgian officials were hosted by their Polish counterparts in several Polish institutions, including the Gdansk police crime lab, the Prosecutor's Office of Appeal, the Torun Voivodship and Torun Regional Court, the organized crime department of the Bydgoszcz Prosecutor's Office, the Gdansk Naval Station and the University of Kopernik.

In addition to the expertise gained as a direct result of the training, the programme contributed to the development of formal professional cooperation between Poland and Georgia. Cooperation Agreements were signed between the two delegations in a number of areas, including legal assistance, cooperation among forensic institutions and expert exchanges in the crime prevention field.

SEMINAR ON INTERNATIONAL HUMANITARIAN LAW
Chisinau, Moldova
9-10 September 1996
Rapporteur: Ireneusz Stepinski

The seminar was organised by the OSCE/ODIHR and the International Committee of the Red Cross, with support provided by the Moldovan Foreign Ministry. The seminar examined the experience of the practical implementation of international humanitarian law. The following topics were discussed during the seminar: international humanitarian rights and Human Rights; the Convention on Classic Weapons, as part of the International Humanitarian Law; and the creation of national inter-departmental committees on the implementation of international Human Rights. The participants discussed the establishment of an inter-ministerial commission, to be charged with studying and implementing measures designed to introduce international humanitarian law into the local legislation; the commission would also be charged with establishing priority areas of work. Some participants indicated the necessity for translation of the texts of international conventions ratified by the Republic of Moldova into the state language.

SEMINAR ON NATIONAL HUMAN RIGHTS INSTITUTIONS
Tashkent
11-13 September 1996
Rapporteur: Jacek Paliszewski

The seminar on National Human Rights Institutions was another event dedicated to human dimension issues within the Programme of Co-ordinated Support for recently admitted participating States and the OSCE work in Central Asia. The seminar agenda was based on extensive consultations and was recommended by several participating States in the region.

Different forms of human rights institutions, i.e., the office of ombudsman, national human rights commissions and parliamentary commissioner, were evaluated; the significant role of each in the promotion and practical implementation of universal human rights standards and legislation was commonly acknowledged. The importance of human rights education was also underlined, as was the role of media and non-governmental organisations as building blocks for civil society and the functioning of democratic institutions.

Participants formulated several proposals and recommendations for the future work of human rights institutions in Central Asia. All governments from that region were invited to thoroughly examine the experience of existing human rights institutions in the OSCE area and decide on their application in the national legislation. It was acknowledged that media and non-governmental organisations should be an important partners in such a process.

The ODIHR and the relevant UN bodies were encouraged to play an active role in assisting the practical functioning of national human rights institutions. The UN Decade for Human Rights Education is another example of a framework for co-operation.

The seminar was attended by an exceptionally large number of participants, 269 in total. Delegations from 21 participating States, EBRD, ICRC, UNHCR, UNDP, World Bank and 23 non-governmental organisations were present. Fifty-seven journalists were also authorized to attend the meeting. In addition, presentations by a representative group of seminar guests, representing various relevant institutions and organisations of Uzbekistan, followed the discussions.

Prior to, as well as during the seminar, the ODIHR NGO Liaison Advisor held meetings with local and international NGOs in Tashkent, in preparation for their participation in the Seminar. Advice was given as to the purpose of the seminar, and the format for NGO participation. Contact information on regional and international NGOs was shared with local Uzbek groups which were not yet affiliated, or which were simply unaware of the information. Finally, literature on the OSCE and on human rights instruments was provided to NGOs in a Russian language edition, and several copies of the videotape, "Universal Declaration of Human Rights," were distributed.

THE MEDIA AND THE ROMA IN CONTEMPORARY EUROPE: FACTS AND FICTIONS
19-20 September, Prague
Rapporteur: Paulina Merino

The seminar was organised by the OSCE ODIHR and the Project on Ethnic Relations, in co-operation with the Open Media Research Institute. Representatives of mainstream and of Roma media - from the Czech Republic, Hungary, Germany, Romania and Slovakia - were invited to participate. The goal of the seminar was to discuss the role of the media in shaping public opinion about the Romani minority, especially in Central and Eastern Europe. In addition, the meeting was to evaluate the specialised Romani media and explore means to improve its quality and impact.

There were many interesting issues raised during the discussion, one of which involved the question of whether the mainstream media should mention the nationality of the person about whom they write - when that person is a Roma. In other words, this question was formatted as: "Is the nationality of people mentioned in a given article an important piece of information that the readers should receive?"

The issue of the professionalism of the Romani media was also raised, and included questions regarding the education of journalists, the size of readership, and chances for self-sustenance of such media. The argument that minority media rarely are able to function in the market economy without subsidies was balanced by the assertion that such media protects the national identity, by sustaining the language and culture.

THIRD ANNUAL WARSAW JUDICIAL SYMPOSIUM
Warsaw, Poland
24-27 September 1996
Rapporteur: Robert M. Buergenthal

Continuing the practice of developing an annual forum to examine contemporary legal issues in the OSCE region, representatives of fifteen countries were hosted by the Programme for Coordinated Legal Support for the Third Annual Warsaw Judicial Symposium. The Symposium, which hosted sixty-one participants from Supreme and Constitutional Courts, Prosecutors Offices, Ministries of Justice, Bar Associations and local courts, was designed to permit a transfer of experiences between OSCE participating States, as well as to identify future technical assistance projects.

Twenty guest lecturers from ten countries developed a series of practical lectures around four central themes: international law, organized crime, legal drafting techniques and modernisation. Presentation topics included: the changing role of the prosecutor in newly independent states, the jury trial, the impact of organized crime, judicial and legislative tools to combat organized crime, the drafting of criminal codes, sentencing and alternatives to incarceration, practical ways to achieve judicial independence, the modern judicial library, computerization techniques, court administration and INTERNET.

The activity was greatly enriched by the participation of legal practitioners from several international organizations and legal institutions, including the United Nations Human Rights Committee, the Council of Europe, the ABA/Central and East European Law Initiative, the Canadian Commission for Federal Judicial Affairs, the Centre for Comparative Criminology and Criminal Justice of Wales University, the Hungarian Human Rights Centre, the University of Brussels East European Research Centre, the Russian Federation Supreme Court, the Superior Court of New Hampshire, the United States Department of Justice and the U.S. law firm of Schwalb, Donnenfeld, Bray and Silbert. Each practitioner developed a technical presentation outlining the techniques used to improve the administration of justice and the Rule of Law in OSCE participating States. Moreover, participants were provided with a range of documents and materials developed by the lecturers for home study and application.

Several parallel activities were prepared for participants, including INTERNET research stations and an audiovisual center where human rights videos from several international organizations could be viewed. Additionally, a special three-hour mock trial was presented by the Inner Temple Advocacy Group of the United Kingdom. The group presented an introduction to jury trials in the United Kingdom, and also presented a full and authentic criminal trial in which twelve participants were asked to serve on a jury and reach a verdict. The trial was videotaped and will be edited and subtitled for use during future training programmes.

ROUND TABLE ON THE ROLE OF THE MEDIA IN THE TRANSITION TO DEMOCRACY

Tashkent, Uzbekistan
4-5 October 1996
Rapporteur: Paulina Merino

On 4 and 5 October 1996, a round table on the Role of the Media in the Transition to Democracy took place in Tashkent, Uzbekistan. The seminar was organised together with the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), and the Institute for Strategic and Regional Studies under the Office of the President and the National Commission of UNESCO. Assistance in organising the round table was also provided by the Ministry of Foreign Affairs of Uzbekistan and the OSCE Liaison Office for Central Asia.

Fifty participants, representatives from Uzbekistan media, as well as government officials responsible for creating and shaping national policy for media, were present at the round table. Experts from Austria, UK, Bulgaria and Germany moderated the discussion. The problems discussed during the meeting were: accessibility of information as an important democratic principle; rights and responsibilities of journalists; state policy and media law; censorship and mass media; and public opinion in the transition to democracy.

The participants agreed that every effort must be made to ensure that policy decisions are used to guarantee that journalists are allowed to exercise their rights and fulfil their responsibilities.

LEGAL EXPERT MISSION TO BELARUS

Minsk, Belarus
14-18 October 1996
Rapporteur: Robert M. Buergenthal

Following the ODIHR Early Warning Report to the Chairman-in-Office and a meeting between the Secretary General and President Lukashenka, the Programme for Coordinated Legal Support was asked to establish a legal expert mission to Belarus. The mandate of the delegation consisted of assisting the Belarusian Government in the current legislative process and in constitutional matters in the country, including questions associated with the announcement of a referendum. The mission was led by Professor Michael Singer, Executive Director of the George Washington University International Rule of Law Centre.

The Delegation of the Republic of Belarus to the OSCE provided logistical support and assisted the team in establishing numerous meetings with key governmental and non-governmental officials. The assessment of the legal and constitutional situation in Belarus included a review of procedural and substantive issues concerning the proposed referendum, and resulted in a report which was distributed to all delegations. At press time, several follow-up activities were being considered.

WORKSHOP ON "THE ROLE OF THE JUDICIARY IN A STATE GOVERNED BY THE RULE OF LAW"

Azerbaijan, 11-13 November 1996
Rapporteur: Robert M. Buergenthal

The workshop was organised by the OSCE\ODIHR in conjunction with the Ministry for Foreign Affairs of the Republic of Azerbaijan. More than 100 participants attended the event, representing the Executive Administration of the President, Milli Mejlis (Parliament), the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Internal Affairs, the Supreme Court, the Prosecutor's Office, the Bar Association and the State University of Baku.

The workshop was opened by Mr. Hasan Hasanov, Minister for Foreign Affairs of the Azerbaijan Republic, and Ambassador Audrey F. Glover, OSCE ODIHR Director. The topics discussed included the following: OSCE Rule of Law Commitments, Separation of Powers, International Principles of Judicial Protection of Human Rights, Parameters of an Independent Judiciary, the Concept of Due Process, the Court as a Possible Source and Interpreter of Law, the Functions of the Prosecutor's Office, the Criminal and Criminal Procedure Codes as the Basis of Due Process.

On behalf of the OSCE\ODIHR, presentations were made by Mr. Robert Buergenthal, ODIHR Rule of Law Adviser; Dr Frederic Quinn, representative of the Federal Judicial Center in the USA; Professor Michel Lesage, University of Paris; Professor Elizabeth F. DeFeis, Seton Hall University, the USA; and Mr. Stanislav Razumov, Judge of the Supreme Court of the Russian Federation.

NGO Pages

POLAND-WIDE NGO CONGRESS
Poland, 20-22 September
Rapporteur: Elizabeth Winship

The ODIHR supported the participation of four NGO representatives from Bosnia-Herzegovina (including from Republika Srpska) and two NGO representatives from Bishkek, Kyrgyzstan in a Poland-Wide Congress of NGOs, held in Warsaw, 20-22 September. The ODIHR coordinated three additional programmes for its guests: meetings with the Polish Helsinki Foundation, the International Centre for Not-for-Profit Law, and the Stefan Batory Foundation. Guests of the ODIHR all agreed that their participation in the Congress greatly facilitated the establishment of bilateral relations with analogous NGOs in Poland, and further, that they gathered much useful material and benefited from attending the wide range of lectures and presentations conducted at the Congress.

NGOS FOR MULTI-ETHNIC SOCIETY: SUMMER SCHOOL 1996
Slovenia, 20-25 September
Rapporteur: Elizabeth Winship

The ODIHR provided its support for the Agency for Developmental Initiatives of Ljubljana for its Summer School, held in Piran, Slovenia, 20-25 September. More than 30 representatives of NGOs from the former Yugoslavia, Caucasus and Central Europe gathered to exchange information and experience, and to learn new skills from their instructors. The NGO Liaison Advisor of the ODIHR attended two days of the total five that the program was held, and delivered a lecture on the role of NGOs in the OSCE process and the relationship of NGOs to the work of the ODIHR. All NGOs were invited to submit Written Presentations to the OSCE Review Conference, 1996.

The ODIHR NGO Liaison, Elizabeth Winship,
has moved to her new post
- that of the Director of the
Armenia Open Society Institute in Yerevan.

We wish you all the best, Elizabeth!

CAPACITY BUILDING AND COMMUNICATION FOR NGO LEADERSHIP
Chisinau, Moldova

20-24 October 1996
Rapporteur: Shaun Barcavage

The event was organised by the OSCE ODIHR and the OSCE Mission in Moldova, and was the fifth in a series of intensive training programmes to develop NGOs in the countries of the CIS. Over the course of five days, highly interactive and dynamic training was provided in the following areas: fund-raising, communications, press releases and conferences, proposal writing, conflict resolution, developing relationships with government officials, effective fact-finding, and reporting. By the time the training had concluded, the participants, a total of 28 representatives of various NGOs from the Republic of Moldova and Trans-Dniester, had not only gained valuable knowledge, but had also effectively acquired the ability to cross cultural, ethnic, and linguistic barriers.

THE 1996 OSCE REVIEW MEETING, VIENNA
NGO Recommendations
Rapporteur: Vrej Atabekian

Preceding the OSCE Lisbon Summit, the 1996 OSCE Review Meeting was held in Vienna on 4-22 November. In keeping with the increased openness of the OSCE, representatives of non-governmental organisations with relevant experience in the areas under discussion were invited to take part in the meetings. The NGOs had the opportunity to present their assessments of OSCE activities, to raise issues of particular concern, and to make recommendations both to the Organisation and to State delegations regarding the further development of the OSCE principles, mechanisms and standards.

More than 90 NGOs, represented by over 150 individuals, participated in the meeting. They were invited to attend all plenary sessions, all sessions of Working Groups 1b (implementation of OSCE commitments in the economic dimension), 1c (implementation of OSCE commitments in the human dimension), as well as those sessions of the Working Group 2b that were devoted to implementation of OSCE commitments in Bosnia-Herzegovina. NGOs actively participated and contributed to the discussions of each of the working groups. Those NGOs which, for various reasons, were unable to send representatives to the Meeting, submitted their presentations in written form to the OSCE Secretariat, which subsequently, in consultation with the ODIHR, distributed these to each of the delegations.

In their statements, several participating States stressed the special role of NGOs in implementation of the OSCE commitments.

In the majority of the NGO presentations, an emphasis was placed on the necessity of more effective modes of operation. It was suggested that the OSCE create mechanisms for efficient reaction to NGO reports on human dimension issues. Further, some NGOs stressed the need for more information on the manner in which their contributions are received, interpreted, sorted, selected and communicated between the OSCE bodies. It was suggested that the NGOs be invited for broad consultations, prior to the undertaking of any major activity in the human dimension,

security, and economic areas. Additional briefings held on a regular basis, as well as an information exchange between the OSCE/ODIHR and NGOs, could also be helpful.

The Vienna Review Meeting provided yet another opportunity for the increased involvement of NGOs in the implementation of OSCE commitments. Paragraph III, 5 of the Report of the Chairman-in-Office to the Lisbon Summit concluded that "the participating States stressed the long-standing and essential role that NGOs play, not least their significant contribution to the strengthening of democracy and human rights in the OSCE region."

Besides their participation in Working Groups, the NGO representatives met with a number of delegates to address specific issues of concern. Moreover, in the process of networking, prospects for co-operation between various NGOs in implementation of human dimension issues were discussed.

INFORMATION AND SUPPORT CENTRE FOR CIVIL SOCIETY IN BOSNIA-HERZEGOVINA

Rapporteur: Vrej Atabekian

In early June, the NGO Unit initiated its programme of support for the Information and Support Centre for Civil Society in Bosnia and Herzegovina. The ODIHR, together with the Helsinki Committee of Bosnia-Herzegovina, prepared the scope of the project; financing was provided by the British Government. The Centre is to provide support to the local NGOs in the form of legal expertise, consultation, information, and linkages necessary for the growth and development of the non-governmental sector in Bosnia and Herzegovina. Included among the provisions of the project is one which provides for the creation of a library and of Internet connections, both to be accessible to the public.

The successful completion of this project will enhance Bosnian society in rebuilding and developing social structures, and facilitate the promotion of the fundamental principles of human rights in Bosnia-Herzegovina.

HIGH COMMISSIONER ON NATIONAL MINORITIES

Max van der Stoel

Since the end of August 1996, the OSCE High Commissioner on National Minorities, Mr Max van der Stoel, has paid visits to Kazakstan, Kyrgyzstan, Croatia, Latvia, Estonia, the former Yugoslav Republic of Macedonia, Hungary, and Slovakia, he has also chaired a seminar on minority education issues, held in Vienna.

Kazakstan

From 2-6 September, the High Commissioner visited Kazakstan, travelling to Almaty and Ust-Kamenogorsk in the east of the country, Petropavlovsk in the north, and to Uralsk in the west. The aim of the High Commissioner's visit was to become familiar with the current status of inter-ethnic relations in the different regions of the country.

In Almaty, Mr van der Stoel held meetings with Deputy Prime Minister N. Shajkenov, Foreign Minister K. Tokaev, and Mr G. Kim, Chairman of the State Committee on Nationalities Affairs. The High Commissioner also met with the Acting Head of the Presidential Administration, Mr Tazhin. Among the subjects discussed was the proposal by the High Commissioner to organise a round table, under HCNM auspices, on the subject of inter-ethnic relations in Kazakstan.

In Ust-Kamenogorsk, Petropavlovsk and Uralsk, the High Commissioner met with the respective regional authorities. He also had talks with members of the various ethnic groups, including representatives of the Russian, the German, the Ukrainian, and the Chechen communities.

Kyrgyzstan

The High Commissioner paid a visit to Bishkek from 7-8 September, where he met with the Deputy Prime Minister, M. Djangaratcheva; the Chairman of the Assembly of People's of Kyrgyzstan, S. Begaliev; and representatives of research bodies and NGOs. The discussions focused primarily on inter-ethnic relations in Kyrgyzstan, particularly those in the southern part of the Republic.

The different meetings provided the High Commissioner with an opportunity to inform himself about the progress of a number of projects that he has helped to initiate, including support for the Assembly of Peoples of Kyrgyzstan and its research centre. The High Commissioner was also briefed by experts of the Peace Research Institute in Bishkek, which is conducting a monitoring project in the southern region of the country. The High Commissioner pledged his continued support for the project and suggested that special emphasis should be placed on educational and religious issues. Possibilities for the High Commissioner's assistance in aspects of minority education were also discussed.

Croatia

From 24-28 September, the High Commissioner visited Croatia. On 26-27 September, he chaired a round-table on "Practical Long-term Solutions for Stability in Eastern Slavonia, Baranja, and Western Sirmium in the Post-UNTAES Period," organised under the auspices of the High Commissioner, and held in Bizovac, near Osijek, in Croatia.

The round table brought together more than 40 participants representing the Government of the Republic of Croatia, the Parliament, Croatian local authorities, Serbian authorities from the region of Eastern Slavonia, Baranja and Western Sirmium, and the Serbian minority in Croatia.

Among others participating in this event were Ms Vesna Skare Ozbolt, Deputy Chief of Staff at the Office of the President of the Republic of Croatia; Mr Ivica Vrkie, Head of the Governmental Office for Transitional Administration; Mr Ivan Simonovic, Deputy Minister of Foreign Affairs of the Republic of Croatia; Mr Vojislav Stanimirovic, President of the Serbian Executive Council of the Region of Eastern Slavonia, Baranja and Western Sirmium; and Mr Milorad Pupovac, MP and Chairman of the Serb Democratic Forum in Croatia.

Representatives of the United Nations Transitional Authority for Eastern Slavonia (UNTAES), the OSCE Mission to Croatia, the European Community Monitoring Missions (ECMM), the United Nations High Commissioner for Refugees (UNHCR), and the Council of Europe were present as well.

The discussion, preceded by presentations by international experts, focused on four main topics: prospects of building and strengthening sustainable democratic institutions in the region of Eastern Slavonia, Baranja, and Western Sirmium; promotion and protection of human rights in the post-UNTAES period; cultural and linguistic rights of persons belonging to national minorities, with a special regard to the Serb minority in Croatia; and migration aspects of the post-UNTAES period.

The round table, held a few days after the Croatian Parliament's adoption of a long-awaited Law on the General Amnesty, provided a convenient forum for an exchange of views on different aspects of the post-UNTAES organisation of the region. In addition, the meeting provided an opportunity for discussion of resolution of the most pressing problems related to securing stability and the progress of inter-ethnic relations following the re-integration of the region with Croatia.

Further, the round table provided a valuable opportunity for formal and informal contacts between representatives of the Croatian Government and Serbian representatives from the region, an opportunity that was taken advantage of by several of the participants. The discussion was held in a generally pleasant and constructive atmosphere, marked by a mutual understanding of the need to search for solutions acceptable to all parties.

On 11-13 October, the High Commissioner presided over another round table held in Trakoscan, Croatia. Participants included representatives of the Government of Croatia, and representatives from the Region currently under UNTAES administration. The Deputy Transitional Administrator

and other UNTAES officials attended as observers. The meeting, also attended by the Head of the OSCE Mission to Croatia, was convened at the request of both Delegations at the earlier round table held in Bizovac.

Similar to the earlier round-table, the meeting in October also concentrated on a number of important issues related to the post-UNTAES period. At the close of the meeting, a Chairman's Statement was released, consisting of several points agreed upon by both delegations.

Latvia

On 7-9 October the High Commissioner visited Riga, where he met with President Guntis Ulmanis, Prime Minister Andris Skele, and Foreign Minister Valdis Birkavs. The HCNM also held talks with the Minister of Internal Affairs, Dainis Turlais; the Minister of Education, Maris Grinblats; and the Head of the Naturalisation Board, Mrs Eizenija Aldermane. In the Saeima (Parliament), separate meetings were held with Mr Indulis Berzins, Chairman of the Foreign Affairs Committee; Mr Antons Seiksts, Chairman of the Human Rights Committee; and with Mr Andrejs Pozarnovs, Chairman of the Committee on the Implementation of the Law on Citizenship.

The main aim of the HCNM's visit was to familiarise himself with the current situation in the country's naturalisation procedures for acquiring citizenship, and to learn more about the national language programme designed to increase the knowledge of Latvian in the country. Among the other subjects discussed were developments connected with the newly created Consultative Council on Nationalities established by President Ulmanis, and as well as the work of the National Human Rights Office.

Estonia

HCNM paid a visit to Tallinn from 9-11 October 1996, and held meetings with President Lennart Meri, Prime Minister Tiit Vahi, and Minister of Education Jaak Aaviksoo. He also met with the President of the Riigikogu (Parliament), Toomas Savi, and several officials from the Ministry of Interior, the Citizenship and Migration Board, and the Language Board.

The main objective of the visit was for HCNM to further study recent developments in the naturalisation process, including the situation concerning the production and distribution of "alien" passports for non-citizens. Discussion also focused on efforts presently being undertaken to increase the effectiveness of the Presidential Round table on inter-ethnic relations, and on developments in the field of language training to enhance the teaching of the Estonian language to non-Estonians.

The former Yugoslav Republic of Macedonia

On 16-18 October 1996, the High Commissioner paid another visit to the former Yugoslav Republic of Macedonia. He held talks with the Minister of Foreign Affairs, Ljubomir Frckovski, and the Minister of Education and Physical Culture, Sofia Todorova. Mr van der Stoel also met

with leaders of three Albanian political parties: the PDP, a member of the governing coalition; the NDP; and the PDPA.

On 18 October, the HCNM delivered the opening presentation at a workshop in Skopje on preventive diplomacy in situations involving minorities. The workshop, entitled "An Agenda for Preventive Diplomacy - Theory and Practice," was organised by the Norwegian Institute of International Affairs.

Hungary

On 5 November 1996, the High Commissioner visited Budapest, where he held meetings with the State Secretary in the Office of the Prime Minister, Mr Csaba Tabajdi; the State Secretary in the Ministry of Foreign Affairs, Mr Ferenc Somogyi; and with several representatives of the Slovak minority community. The aim of the visit was to further discuss the situation of the Slovak minority in Hungary.

Issues focussed upon included the rights of minorities; provisions for their participation in the national parliament; education; and minority language teaching.

Slovakia

On 11-12 November, the High Commissioner paid a visit to Bratislava, where he met with President Michael Kovac; Prime Minister Vladimir Meciar; Deputy PM Katarina Tothova; Foreign Minister Pavol Hamzik; Chairman of the Slovak Parliament Ivan Gasparovic; and Chairman of the Parliament's Foreign Affairs Committee, Mr Dusan Slobodnik. The High Commissioner additionally met with various members of parliamentary opposition parties, as well as with representatives of Hungarian political parties in Slovakia.

The main topic of discussions was the situation of the Hungarian minority in Slovakia and the current policies of the Slovak Government in this regard. The variety of issues raised during the meetings included the rights of minorities; education and provisions for minority languages; implementation of the State Language Law; developments in the field of minority culture, including its funding; and issues connected with administrative and district-level reform in the country.

Seminar on Minority Education

On 22-23 November 1996, the High Commissioner chaired a Seminar on Minority Education organised by the Foundation on Inter-Ethnic Relations. Held in Vienna, the seminar included the participation of the Ministers of Education of Albania, Kyrgyzstan, Lithuania, and the FY Republic of Macedonia, together with governmental representatives from Canada, Croatia, Estonia, Kazakstan, Latvia, Romania, the Russian Federation, Slovakia, and Ukraine. Representatives of various national minorities also participated in the meeting.

Focusing upon The Hague Recommendations regarding the Education Rights of National Minorities (which have been developed by a group of independent experts), the seminar addressed the following specific subjects: minority education at primary and secondary levels; minority education in vocational schools; minority education at the tertiary level; public and private institutions; and curriculum development. In closing the seminar, the High Commissioner noted that " the participants welcomed The Hague Recommendations and expressed their appreciation to the independent experts for their work in developing such a useful synthesis of the international instruments in an effort to make them more practical and instrumental for policy-making in each State."

HOW TO OBTAIN FURTHER INFORMATION

Recommendations of the High Commissioner that have been made public are available free of charge, as are other documents of the OSCE, from the Prague Office of the OSCE, Rytirska 31, 110 00 Prague, Czech Republic. When possible, please quote the relevant CSCE/OSCE Communication number.

Documents may also be accessed over the Internet by sending an e-mail message to: listserv@ccl.kuleuven.ac.be and adding the following text: sub osce Firstname Lastname. Data concerning the activities of the High Commissioner are also available on gopher: URL://gopher nato.int:70/1

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

ODIHR is on the Internet!!! Please see http://www.osceprag.cz/inst/odihr/odihr.htm