

## HELSINKI WATCH OVERVIEW

### Human Rights Developments

The map of Europe has changed radically since the demise of communism and the disintegration of the USSR and Yugoslavia, adding seventeen additional countries to the region that Helsinki Watch has traditionally monitored. The human rights situation in the former Soviet bloc has also been utterly transformed. The countries that formerly made up the monolithic Soviet empire had their common repressive policies and abusive practices and were seemingly impervious to the protests of Helsinki Watch. Now, however, we are dealing with new and needy independent states that to one extent or another want our blessings and approval as they reaffirm their own uniqueness. Although human rights abuses continue, they are no longer the same from country to country. Nor do they remain unchanging as was previously the case. The post-communist nations are in transition, and the human rights situations in these countries are also subject to sudden change.

Traditional forms of human rights abuses continue: political prisoners, deplorable prison conditions, lack of due process in the courts, denial of religious and cultural freedom, and the repression of free speech, free assembly, and a free press. Actions to intimidate the independent press and to stifle political opposition, often done under pretexts, are becoming increasingly common in the region, especially in parts of the former USSR, as well as in Croatia, Albania and Slovakia.

Conflicts over territory, sometimes portrayed by governments, accurately or inaccurately, as ethnic conflict, are also rampant. They have led to armed internal and international conflict in the former Yugoslavia (in Croatia and Bosnia-Herzegovina) and in the former Soviet Union (the Caucasus, Nagorno Karabakh and Moldova). In the territory that was formerly the Soviet Union, where situations of armed ethnic conflict seemed impossible just a few years ago, government forces and paramilitary groups now have at their disposal sophisticated heavy weaponry, and are using it to seize long-disputed territory or to resolve other bitter feuds. The tragic bloodbath in Bosnia-Herzegovina and Croatia has assumed particular horror because it is being conducted in the name of "ethnic cleansing." It stands as a symbol of the real and potential dangers that confront the former communist world and threaten Europe as a whole.

A major problem that has arisen in a number of the former communist countries concerns efforts to decommunize the bureaucracy and punish past abuses. Helsinki Watch believes that it is important that there be a full disclosure of past abuses and that those who committed crimes be punished. On the other hand, we oppose the punishment of people solely because of past associations. Helsinki Watch is concerned about the ways in which certain governments are handling the secret police files that have come into their possession and about laws that have been passed or are being considered to "lustrate" (i.e., purify) the society by denying employment in a wide-range of positions to former communists and others who belonged to specified organizations in the past. Czechoslovakia, which many of us expected to set high standards in the process of peaceful democratic change, instead unleashed a lustration process against former communists that has given rise to a witch hunt and become an unfortunate model for other countries in the region. Bulgaria has approached lustration piecemeal, by attaching provisions to legislation such as the law on banking and the draft law on scientific institutions. (The banking law was struck down by the Constitutional Court.)

Germany has begun a wide-ranging process of decommunization that affects the entire civil service in what was formerly East Germany. Poland, Russia, Albania and Croatia, among others, are considering various forms of lustration laws or similar measures. The process is particularly worrisome because it is frequently used for ulterior political purposes.

Discrimination against ethnic minorities has become exacerbated in many of the countries that Helsinki Watch monitors, a consequence of nationalism and xenophobia that have come to the fore within the region since the demise of communism. In many countries, in both eastern and western Europe, there have been skinhead attacks on members of minority groups and refugees. Gypsies have been among the prime targets of such attacks, which also extend to foreigners in general. The attacks in eastern Europe are especially worrisome because the police are not schooled in sophisticated methods of crowd control and often share the antipathies of the attackers. In Serbia and Montenegro paramilitary groups—with the apparent blessing of the Serbian government—are terrorizing minorities, thereby extending "ethnic cleansing" policies to the current Yugoslavia. Similarly, repression against Albanians in Kosovo continues and the fear of armed conflict has greatly increased.

Minority rights are a problem throughout the former Soviet Union, but are aggravated—and resolved—in different ways. In remote regions of Russia, certain ethnic minorities have repeatedly been the targets of popular attacks, a pattern with which the Russian government has so far been unwilling or unable to cope. In the Caucasus and Moldova, the demands of minorities have led to violent clashes. The governments of the Baltic states have passed or are considering citizenship laws affecting the rights of minorities; Helsinki Watch is critical of some of the methods they have chosen.

The human rights situation in Turkey, long a source of great concern, deteriorated dramatically in 1992, despite the advent of a new, more liberal coalition government that promised to make major human rights reforms. Just about every human rights abuse in the lexicon is taking place in Turkey: summary execution by security forces, torture during police detention, disappearances, assassinations, violent suppression of demonstrations, censorship, arrests and killings of journalists, and the suppression of a large ethnic minority, the Kurds. The conflict in Northern Ireland remains acute, with human rights abuses committed both by the security forces and paramilitary groups.

### **The Right to Monitor**

In the countries of the former Soviet bloc, where human rights monitoring was severely repressed under the communists, there is virtually no overt repression of human rights monitors at this time. Ironically, however, we now find a dearth of local human rights monitors. Many of the dissidents with whom we formerly worked have joined the new governments. Some have turned out to have views antithetical to our concept of human rights. Almost no one is truly impartial. Because our work depends on the existence of reliable human rights sources within each country, we have begun seeking out, encouraging and training new people who have the potential of becoming human rights monitors within their countries. As human rights abuses proliferate in the post-communist societies, new human rights monitoring groups are beginning to form.

In Turkey, where human rights monitors in the Kurdish southeast have been the victims of killings and disappearances, human rights groups are nevertheless permitted to function, albeit with frequent intimidation. In Northern Ireland, Greece and Germany, where Helsinki Watch has become

increasingly engaged, the right to monitor has not, to our knowledge, been abused.

### **U.S. Policy**

The U.S. government's policy toward the former Soviet Union and the former communist countries in Eastern Europe has, on the whole, been nurturing and benign. The United States has put its efforts into strengthening democratic institutions through exchanges and training programs, as well as programs of economic assistance.

While this is to be encouraged, Helsinki Watch is disturbed by the failure of U.S. government officials to speak out publicly about ongoing human rights abuses in these countries. U.S. human rights policy appears to be based on the assumption that the demise of communism and the turn toward a market economy will inevitably lead to democracy, and on the further assumption that democracy inevitably leads to respect for human rights. Neither, however, is necessarily the case.

The failure of U.S. human rights policy also stems from its mainly reactive stance without a comprehensive, forward-looking plan. While this is understandable to some extent, given the turmoil and chaos in the region, it has led, unfortunately, to inconsistency and waffling on major issues, such as the conflict in Yugoslavia. Throughout the war in Croatia, the U.S. remained virtually silent and it was only after war broke out in Bosnia-Herzegovina in April did the U.S. began to take a more forceful role, urging severe sanctions against Serbia and working hard to enlist other governments in the embargo. After the sanctions were in place, however, the U.S. seemed to disengage from the Bosnian situation. Indeed in August, when international public opinion focused with horror on reports from Serbian-operated detention camps, U.S. determination to avoid military involvement in Bosnia-Herzegovina initially led State Department spokespersons to minimize the enormity of the crimes being committed in the camps. Ultimately, the U.S. government took the lead again, urging the establishment of a war crimes investigative body under U.N. auspices.

The State Department, before recognizing the successor states to the former Soviet Union, set certain conditions for recognition including a respect for human rights, then proceeded to recognize fledgling governments, many of which have only a tenuous hold on human rights principles. It would have been better to recognize the new states and urge that they take measures to ensure respect for the rights of all citizens. By implying in recognizing these states that they are respectful of human rights it became more difficult for the State Department subsequently to criticize the human rights policies of those governments. Despite abuses in a number of the successor states, only Azerbaijan has been subjected to sanctions, i.e., the withholding of aid under the Freedom Support Act because of its role in the Nagorno Karabakh conflict. Even then, the measures taken were less effective than they might have been because they were not even-handed, since no mention was made of Armenia's role in human rights abuses in the Nagorno Karabakh conflict.

In other countries, U.S human rights policy has too often been marked by silence; this is especially true in the case of Turkey. State Department officials acknowledge human rights abuses in Turkey but claim that they use quiet diplomacy in trying to improve the situation. There have been no strong public criticisms of the torture, killings and disappearances in Turkey, and, in the case of killings in southeastern Turkey at the time of the Kurdish New Year, a State Department spokesperson went so far as to praise the Turkish government for its "use of restraint." Turkey remains the third largest

recipient of U.S. aid, but, despite an exacerbation of the consistent pattern of gross abuse in Turkey, the U.S. government has never invoked Section 502B of the Foreign Assistance Act to withhold aid from Turkey or to explain the extenuating circumstances that make such aid necessary.

The U.S. State Department has not publicly criticized the government of the U.K. for abuses in Northern Ireland, nor has it publicly condemned the German government for not being forceful in attempting to prevent right-wing violence in Germany.

Helsinki Watch urges the new Administration to be more forceful in its human rights policies by combining quiet diplomacy with public criticism and developing a consistent strategy for dealing with human rights abuses in the Helsinki signatory countries.

### **The Work of Helsinki Watch**

The monitoring work of Helsinki Watch has been much easier in 1992, due to greater access in the countries that we monitor and to our own strong reputations with their governments. Especially in the former Soviet bloc where many government officials are former colleagues of ours in the human rights struggle, our reports and critiques are taken seriously, both by those who agree with us and by those who disagree. A critical report or letter to a government official from Helsinki Watch often occasions protracted debate in government circles and the press. It is gratifying, and also sobering, to know that we have such direct impact.

The former Soviet Union, as the largest and most complex of the countries in the region we cover, was always the main focus of our attention. With the breakup of the empire, we continue to focus attention on its constituent parts, a task that at times seems overwhelming. In 1992, Helsinki Watch expanded its staff to include a Central Asian specialist and opened a Moscow office. The Moscow office is used to monitor developments in Russia and as a taking off point for missions and research conducted in other parts of former Soviet territory.

Even before the breakup of the former Soviet Union, Helsinki Watch had established a program of missions to the various republics. Initially, we focused on what were known as "hot spots"—areas in which local unrest had escalated into violence, primarily due to nationalist and/or anti-communist protests. We investigated the ways in which Soviet armed forces contributed to the violence, either by inaction or overreaction. Invariably we found that the Soviet government's response was dictated by the perceived political needs of the center.

Since the dissolution of the Soviet Union, the human rights situation has become as variegated as the countries themselves. Yet different patterns of problems have emerged that are specific to different regions. In the Caucasus, Moldova and parts of Central Asia, struggles to maintain political power and/or territorial integrity or for self-determination have escalated to armed conflicts. Helsinki Watch has sent missions and/or issued reports on conflicts in Georgia, Azerbaijan, Tajikistan and Moldova. In our reporting, we seek to ascertain the causes of the hostilities with the hope that governments in other former Soviet republics, by treating their minorities with greater care and understanding, might avoid such conflicts from erupting in the future.

In many of the countries of Central Asia, governments are led by former Communists who continue old, Soviet-inherited practices of political repression—cracking down on the nascent free press, free speech and free assembly—in an effort to fend off threats to their power. Former communists—now

devoted nationalists—are also in positions of power in Belarus and Ukraine where they are engaged in continued, organized efforts at silencing public criticism of their governments (albeit on a milder scale than their Central Asian counterparts). Helsinki Watch has reported on some of these abuses and issued protests about others. Our work has been complicated by the fact that the violations occur under circumstances of rapid change in which the rule of law is non-existent. We frequently find ourselves protesting against abuses by a government which, soon afterwards, is no longer in power, as was the case with the Zviad Gamsakhurdia government in Georgia and, more recently, with the government of Rakhman Nabiev in Tajikistan.

Helsinki Watch has sent multiple missions to and issued reports on 11 of the 15 republics that are now successor states to the Soviet Union, and we continue to follow up in those regions where we have already begun work. Yet the work remains daunting: we have yet to begin work in Ukraine, Belarus, Turkmenistan and Kyrgyzstan, to say nothing of the vast expanse of Russia outside of Moscow and St. Petersburg.

Helsinki Watch now maintains a constant presence in the former Yugoslavia, detailing abuses as they occur. We have documented a range of abuses connected with the armed conflict there: summary killings and torture of civilians, the use of indiscriminate force, the taking of hostages, the mistreatment of prisoners of war, and the forcible displacement of civilians. Our work in Yugoslavia goes back some years, beginning with our reports on Serbian repression in Kosovo. We compiled detailed information about violations by both sides in the war in Croatia and brought this information directly to the presidents of both Serbia and Croatia. In 1992 we issued yet another report on the situation in Kosovo and lengthy documentation on violations of the laws of war in Bosnia-Herzegovina.

In Eastern and Central Europe, the major problems involve the de-communication process and ethnic and racial discrimination. Helsinki Watch has issued a number of critiques of the de-communication process, in Czechoslovakia, Bulgaria and Poland. We are preparing a report on de-communication in Germany and will continue to weigh in on this subject in each of the countries in which such procedures are being contemplated or are already under way.

In 1992 Helsinki Watch issued a report on the treatment of foreigners in Germany that attracted considerable attention in Germany. Helsinki Watch also criticized the deportation of Romanian Gypsies from Germany. We have issued three reports so far on discrimination against Gypsies in Europe (in Bulgaria, Romania and Czechoslovakia) and are planning others. In recent years, Helsinki Watch has issued reports on the treatment of Hungarians in Romania, Macedonians in Bulgaria, Turks in Greece and Greeks and Kurds in Turkey.

Helsinki Watch has entered the debate on discriminatory citizenship and minority laws, especially in Latvia, Estonia and Moldova, where laws have been passed or are being considered that would deny citizenship and/or property rights to some minorities or force non-native speakers to learn the titular language of the republic in order to hold positions in government and industry.

Helsinki Watch stepped up its work on Turkey still further in 1992, issuing many reports and newsletters on abuses and continuing to lobby the U.S. government to withhold or justify providing massive financial aid to Turkey in light of its pattern of gross violations of human rights.

In recent years Helsinki Watch has expanded its critiques to include certain countries in western Europe, most notably Germany, Greece and the United Kingdom. Our work in Germany is described above. In Greece, we continue

to monitor the situation of the Turkish minority in Western Thrace, where there has recently been some noticeable improvement. In Northern Ireland we have monitored the conduct of both security forces and paramilitary groups in the ongoing conflict, most recently with a report examining the treatment of children in Northern Ireland and the system of extralegal justice that has evolved there. We have brought our complaints to the responsible officials in the United Kingdom, and they have received considerable attention there.

Helsinki Watch continues to report on prison conditions and conditions in police lockups, most recently in Romania, the U.K. and Spain. We have also issued two reports in conjunction with the Women's Rights Project of Human Rights Watch. One documents the Czechoslovak communists' practice of forcing or coercing Gypsy women to be sterilized and its carryover into the present. Another report that describes discriminatory practices toward women in Poland caused considerable discussion in Poland. Helsinki Watch also expressed concern about the Polish Medical Association's ethics code against the practice of abortion, pointing out that it was contradictory to the country's current abortion law.

In these turbulent times, we find that we are constantly setting and re-setting our priorities. New work is always undertaken with the recognition that, once we begin a project in a country, we are committed to continue our monitoring there on a regular basis as long as problems persist.

## **ALBANIA**

### **Human Rights Developments**

Multiparty elections were held in March 1992, the second such elections since reforms began in Albania at the end of 1990. In the first elections, in March 1991, the communist Labor Party won the majority. In the recent elections, in March 1992, the opposition Democratic Party won a majority (67.7 percent) of the seats in the Albanian parliament and Sali Berisha became president of Albania. International observers described the 1992 elections as free and fair. However, ethnically based parties and groups were not permitted to field candidates, a ban that violates principles enunciated by the Conference on Security and Cooperation in Europe and serves to exacerbate tensions between Greek and Albanian communities in southern Albania. The Greek minority organization, Omonia, prevented from running directly, reorganized as the Union for Human Rights and won two seats in the parliament.

During the election campaign preceding the 1992 elections, the media became more open and reported on developments more accurately and objectively. However, not long after the Democratic Party came to power, some journalists and editors who wrote or printed articles that criticized the current government were dismissed, censored or harassed. Examples included the following:

- During the summer of 1992, Arian Melonashi, a television journalist, was dismissed from his job along with his sound and camera crew. Melonashi had prepared an interview with Azem Hajdari, a deputy chair of the Democratic Party and a critic of Berisha's government. Hajdari had been especially critical of a recently promulgated law that gave directors of enterprises the freedom to hire and dismiss workers without providing justification or recourse to appeal. The interview in question was never broadcast and Melonashi and his colleagues were dismissed because of their "absence" from work for several days, even though

they were on assignment in Vienna for the television station. Melonashi and his colleagues took the case to court, which ruled in their favor. Despite the court's ruling, Melonashi's employer claimed that he would again dismiss Melonashi and his sound and camera crew if they returned to work.

- On July 20, Xhemal Lamcellari went on a hunger strike to protest his arrest. Lamcellari was a former lawyer and journalist for the paper *Albapol*, which was founded in 1991 by the Socialist Party as an official organ of the Ministry of Public Order but was banned in 1992 by the Berisha government. Lamcellari had criticized, among others, Pieter Arbnori, the president of the Albanian parliament and a former political prisoner under the dictatorial regime of Enver Hoxha.

- Several Democratic Party members who criticized the party's leadership in 1991 were later expelled from the party. In 1992, these former members founded a new political party, the Democratic Alliance, and established a semi-weekly newspaper entitled *Koha Jone*. The paper's editor-in-chief was arrested by local authorities in the town of Lezha and accused of lying and causing local unrest because in a campaign speech he quoted Blerim Cella, the Minister of State Control, as saying that Albanians "would be better off voting for [Serbian President Slobodan] Milosevic than for the [Albanian] Socialist [Party]," the renamed Labor Party.

The rehabilitation of former political prisoners in Albania remains a pressing problem. Many thousands during the Hoxha era were sentenced to exceptionally long terms of imprisonment followed by internal exile. Extended family members were caught in the web and sent into the harsh conditions of internal exile; many remained there for several generations. All of these prisoners have now been released. The government enacted a law on rehabilitation on September 30, 1991, which applies to about 15 to 20 percent of the former prisoners, those who were sentenced under Articles 53, 55 and 57 of the Penal Code for "agitation and propaganda," trying to cross the border illegally or engaging in anti-government activity. The law provides for the restoration of pensions, including time served in prison as working time. It also provides for the restoration of titles and honors, of homes and jobs, and of the right to seek higher education. The law also provides for compensation or return of confiscated property and for damages to be paid to former prisoners and their families. A draft law is now being prepared to deal with the remaining 80 percent of the former prisoners, those who were sentenced as war criminals, enemies of the people, or spies.

The government has provided some jobs in central and local government for former political prisoners. It also has arranged to waive the entrance examinations to higher educational establishments for 2,500 students from among the former prisoners and exiles. Yet, much remains to be done, and the government is handicapped by lack of funds. The former prisoners, most of whom have returned to major cities, live in squalid conditions in makeshift housing. Most of them have been unable to find jobs, and a large proportion are still in the process of proving that they are, indeed, former political prisoners.

After the Labor Party renamed itself the Socialist Party in mid-1991, hard-line Marxists founded the Communist Party and continued to follow the principles of Albania's former dictator, Enver Hoxha. On July 16, the Albanian parliament voted to ban the Communist Party and its newspaper, *Zeri i se Vertetes* (Voice of Truth). According to the Albanian Justice Ministry, the Law

on Political Parties prohibits the existence of political parties whose aims and activities have "an anti-national, chauvinistic, racist, totalitarian, fascist, Stalinist, Enverist, communist and Marxist-Leninist character." Hysni Milloshi, the chairman of the Communist Party, was arrested on July 22 for illegal weapons possession. A law that took effect in June allowed leaders of political parties, members of parliament and government ministers to keep weapons; Milloshi lost that right after parliament banned his party in July.

There are new political prisoners in Albania now. Nineteen former Labor Party leaders have been arrested and are awaiting trial on various charges, including corruption, abuse of privileges and appropriation and misuse of state property. Among them is Enver Hoxha's 71-year-old widow, Nexhmije Hoxha, who was arrested in December 1990 on charges of corruption and since has been held in prison. Some of the 18 other former Labor Party officials have also been in prison for periods of a year or more, awaiting trial; others are being held under house arrest. On September 12, former President Ramiz Alia was placed under house arrest in his daughter's home where he lives; the house is surrounded by armed guards.

Albania's public prosecutor, Maksim Haxhia, who reportedly went against the wishes of Democratic Party leaders by refusing to initiate criminal proceedings and for moving too slowly in the cases of former communists, was removed from his job. Haxhia also angered the Berisha government by opposing a parliamentary law giving police the right to search houses without a warrant and for challenging police for using excessive force in the crackdown on crime. En route to conferences in Cannes and London, Haxhia's diplomatic passport was confiscated at the Tirana airport and he has not been allowed to leave the country. Under Albanian law, the prosecutor can only be fired on grounds of mental incompetence or for committing a crime. Haxhia is now being investigated on charges of falsifying a document relating to the appointment of a prosecutor to a local government position. Some believe these charges have been trumped up to justify firing him.

Although Helsinki Watch believes that those guilty of past abuses should be brought to justice, we object to the lengthy incarceration of former communists without trial as a violation of due process and the freedom from arbitrary detention. The defendants should be tried by an impartial court, affording all due process rights, within a reasonable period.

Helsinki Watch continues to urge that the cases of all prisoners currently in detention for non-political crimes also be reviewed. Because defense attorneys were banned in most cases prior to 1990, prisoners sentenced before then did not receive due process.

In May 1990, the scope of the death penalty was restricted under amendments to the criminal code. Women may no longer be sentenced to death. According to Amnesty International, the number of offenses punishable by death has been reduced from 34 to 11. These include treason, espionage, terrorism and pre-mediated murder, as well as some economic, non-violent crimes.

The use of the death penalty for common criminals increased in Albania in 1992. The death penalty is apparently being used by the Albanian government as a deterrent to violent crime. According to Amnesty International, eight death sentences were passed during the first six months of 1992. Three of the eight were commuted to life imprisonment. Two executions took place on June 25, when two brothers, Ditbardh and Josif Cuko, were hanged in the main square of Fier (in central Albania) at 1:00 A.M. The execution itself was not public but the bodies of the two men were left on the gallows throughout the day while spectators, including many who had traveled to Fier for the execution, were allowed to gather in the square. The two men had been convicted of bludgeoning



five members of one family to death during a robbery on May 29. In early June, they were shown on television confessing to the murders. On June 11, they were tried and convicted in a courtroom in which angry members of the public reportedly urged the judge to render a verdict of guilty and to sentence them to death. The rapidity with which the two brothers were tried, sentenced and executed, and the reports of the trial itself, suggest that there were inadequacies in the legal process that led to their execution.

#### **The Right to Monitor**

In December 1990, the Forum for Human Rights was established and was later renamed the Albanian Helsinki Committee after the organization joined the International Helsinki Federation in March 1992. In September 1992, the chair of the group, who had reportedly been critical of the Berisha government, was replaced by a new chair more favorably disposed toward the current government. There is also an Association of Former Political Prisoners that generally supports the Berisha government's policies. No direct government interference in the activities of either group has been reported.

#### **U.S. Policy**

The U.S. did not devote much attention to human rights in Albania, focusing instead on its economic needs. Secretary of State James Baker visited Albania prior to the Albanian elections in March. In April, the U.S. government approved an aid package of \$35 million for Albania. In early May, the U.S. took steps to grant Albania Most Favored Nation trade status, which was granted on August 26. During a meeting between Deputy Secretary of State Lawrence Eagleburger and Albanian Prime Minister Aleksandr Meksi in late May 1992, \$10 million in food aid was promised. President Berisha met with President George Bush in June 1992 and was promised another \$10 million in aid in raw materials. In all in 1992, the U.S. approved \$83 million in aid for Albania.

During Secretary Eagleburger's meeting with Prime Minister Meksi in May, Eagleburger reportedly urged Albania not to adopt a militant position toward the status of Albanians in Kosovo, Yugoslavia. After the Albanian government drafted a law on religion in October, the U.S. protested several provisions. The draft law allowed the Albanian government to oversee the functioning of religious communities and to ensure that they do not violate "the constitution, the laws or the national interests" of the state. The law also required that the Albanian president approve the appointment of leaders of religious communities in the country. At the urging of the U.S., the Albanian government agreed not to endorse the law when it is brought before parliament for debate.

#### **The Work of Helsinki Watch**

Helsinki Watch continued to monitor the human rights situation in Albania throughout 1992. In October, two Helsinki Watch representatives traveled to Albania and met with government officials, human rights activists, members of the press and others. Helsinki Watch issued a protest about the removal from office of Attorney General Maksim Hoxhia. An article and a mission report were issued.

## **BULGARIA**

#### **Human Rights Developments**

Bulgaria in 1992 continued to make steady progress toward respect for human rights and the strengthening of democratic institutions. In addition, it

continued to develop ties to international and regional organizations, gaining full membership in the Council of Europe in May. Bulgaria also intensified efforts to bring to trial those accused of serious abuses during the communist era. Nevertheless, problems persisted with regard to the treatment of minorities, especially the Gypsy population, and new concerns arose regarding respect for freedom of association and expression for individuals formerly associated with the Communist Party.

Four comprehensive lustration (i.e., purification) bills have been drafted for consideration by the Bulgarian National Assembly. These bills would prohibit people who occupied certain enumerated positions in the Communist Party or were members or collaborators with the secret police from holding public office, but differ with respect to the list of past practices that qualify a person for exclusion and the scope of excluded positions in the future. Three of the bills would provide for ultimate recourse to the courts. A fourth bill entitled the "Law on Democratization" and introduced to parliament on September 9 provides for a commission elected by parliament to review complaints by individuals whose names have been included on a preliminary list of all persons banned from certain enumerated employment. The commission would publish a final list of all banned persons. No further appeal process is envisaged.

The National Assembly also attached lustration provisions to other bills. For example, the parliament passed a Banking Law in March banning high-ranking former Communists from sitting on banking commissions and receiving pensions. President Zhelev submitted this law to the Constitutional Court, which held on July 29 that the provisions violated Article 6 of the Bulgarian Constitution prohibiting discrimination on the basis of, among other things, opinion or political affiliation.

On July 23, before the Constitutional Court ruled on the Banking Law, parliament began consideration of a draft law which would prohibit former officials in the Communist Party, former staff of the State Security, teaching and research staff of the Academy for Social Sciences and Social Management, and anyone who "taught History of the Communist Party, Marxism-Leninism, Political Economy, Scientific Communism, Scientific Atheism or Party Building" from holding positions in the councils and executive bodies of scientific organizations.

Helsinki Watch supports efforts to ensure that all those holding positions of influence and power in government carry out their duties in a manner that is compatible with the development of democracy and the establishment of the rule of law. At the same time, the means pursued to achieve these ends should themselves reflect respect for individual rights. Unfortunately, the draft lustration laws currently before the Bulgarian parliament proceed from a concept of collective guilt, providing that people are to be punished not for specific acts but for belonging to specific groups. Furthermore, the burden of proof is put on the individual in question who is assumed guilty unless he or she is able to prove his or her innocence. This does not provide fair and adequate means by which to evaluate a person's culpability.

A UDF member of parliament also introduced a bill that would invalidate the convictions issued by the People's Court between 1944-45. The People's Court, under Soviet guidance, tried a range of people, some of whom had committed war crimes and others who were political opponents of the Communists. The European Parliament issued a resolution on April 14 urging the government to withdraw this bill as it would pardon not only those who were innocent of any offenses, but also many who committed atrocious crimes. Helsinki Watch

urges that all those who have committed gross human rights abuses be held accountable for their crimes and that the Bulgarian government reconsider the broad sweep of this legislation.

Most of the former communist leaders who were brought to trial in 1992 were charged only with economic crimes. After 18 months of trial, Todor Zhivkov, former head of the Bulgarian Communist Party, and his former aide, Milko Balev, were convicted on September 4 of embezzlement. Zhivkov was sentenced to seven years' imprisonment. Many other top communist officials, including former Prime Ministers Georgi Atanasov and Andrei Lukanov, have also been charged with misappropriation of state funds.

However, recent reports indicate that the prosecution of those responsible for the most serious human rights violations committed during the communist era may soon get under way. A parliamentary committee was established in February to collect evidence on human rights abuses such as the assimilation campaign against Bulgaria's ethnic and religious minorities committed by the former Bulgarian Communist Party and to submit a report to the Chief Prosecutor's Office. Furthermore, on June 25, Zhivkov was indicted for having set up two labor camps in which approximately 150 people died. In addition, Zhivkov, as well as former Foreign Minister Petar Mladenov, were indicted for their involvement in the forced assimilation campaign against Bulgarian Turks and Gypsies in the late 1980s.

The Gypsy population in Bulgaria lives in abject poverty and faces deep-seated prejudice. In 1992, Gypsies were the victims of abuse and mistreatment by local police officers. On June 28, several Gypsy men in the town of Pazardjik were chased out of an orchard allotted to the local police. When a crowd began to throw stones at the police, they opened fire, injuring two Gypsies in the process. The next morning at 4 A.M., police officers surrounded the area, armed with machine guns and search dogs. The police had been authorized by the Chief Secretary and the Regional Director of the Ministry of the Interior to conduct a "passport check and search of arms." Krassimir Kanev, adviser to President Zhelev on minority issues, reported:

The doors and windows of every house were broken down....In every home the furniture was turned upside down; wardrobes, sofas...were purposefully broken.... This was accompanied by all-round manhandling and beating of the inhabitants, as well as derogatory and discriminatory comments about the Roma people. Clubs and sticks were used against men, women, children, old people. Young women and girls became victims of sexual harassment.

As Helsinki Watch has reported before, the Bulgarian Constitution bans the registration of political parties organized along ethnic, racial or religious lines in violation of the right to peaceful association. During the October 1991 elections, both the Democratic Roma Union and the "Ilinden" organization (the organization of Macedonians named after the Ilinden uprising of August 12, 1903) were not allowed to participate as political parties. In a challenge to the constitutionality of the largely ethnic Turkish Movement for Rights and Freedoms (MRF), which is currently the third largest party in the parliament, the Constitutional Court's six to five vote on April 21 maintains the status quo, because seven votes are needed for an official decision by the Court. While the Constitutional Court's decision did not preclude the participation of MRF in future elections, the Bulgarian Helsinki Committee reported that:

The absence of a decision reaffirming the political rights of the MRF under the Constitution leaves the problem of minority rights unresolved. It also leaves open the possibility of further challenge to the association rights of the Bulgarian Turks and questions their ability to participate in the political process on a free and open basis.

In 1992, the print media operated without government interference. Smaller newspapers faced difficult economic obstacles, including a severe shortage of newsprint and difficulties in distribution. These shortages, however, did not appear to be part of a deliberate policy. Bulgarian television is still controlled by the state, and applications for licenses for competitive radio stations are processed very slowly.

#### **The Right to Monitor**

Both domestic and international human rights organizations were active in monitoring and reporting on the human rights situation in Bulgaria during 1992. Helsinki Watch is unaware of any human rights monitor who was threatened or prevented from carrying out his or her activities during this period.

#### **U.S. Policy**

Relations between the United States and Bulgaria continued to improve throughout 1992, with both countries concentrating on strengthening economic ties. Recognizing the great progress that Bulgaria has made over the last two years with regard to human rights, Deputy Secretary of State Lawrence S. Eagleburger on March 4 stated that the United States "believes Bulgaria's progress is sufficient now to merit inclusion with [Poland, Czechoslovakia and Hungary] in our assistance programs and initiatives."

State Department officials indicated that human rights in Bulgaria were discussed on several occasions, including meetings between President Bush and Prime Minister Filip Dimitrov on March 3 and between President Bush and Foreign Minister Stoyan Ganev on September 21.

Although the Bush administration's human rights policy towards Bulgaria was largely appropriate given the improved situation in the country, the U.S. government failed to address publicly such human rights concerns as police brutality toward Gypsies and due process violations in the decommunization process.

#### **The Work Of Helsinki Watch**

Helsinki Watch focused much of its efforts during 1992 on the issue of decommunization in Bulgaria. In May, a representative of Helsinki Watch met with President Zhelev, as well as with members of parliament, to discuss several proposed decommunization provisions that were being considered. On July 18, Helsinki Watch sent a letter to President Zhelev expressing concern about the concept of collective guilt embodied in the two comprehensive lustration bills, as well as similar riders to other legislation. Helsinki Watch urged the President to challenge the validity of these laws in Bulgaria's Constitutional Court.

On August 28, Helsinki Watch sent a letter to President Zhelev protesting the "Law for Additional Requirements for Scientific Organizations and the Higher Certifying Commission" which is still under consideration by the Bulgarian parliament. The letter stated:

Helsinki Watch is troubled by the broad language of the new law that imposes a penalty (denial of employment) for past activities that, in many cases, were neither criminal nor violative of fundamental human rights or the rule of law....Furthermore, this law violates the fundamental rights of the individual to freedom of association and expression....

In October, Helsinki Watch sent a follow-up mission to Bulgaria to investigate developments in the decommunization process. A representative of Helsinki Watch met with government officials, as well as individuals who have lost their employment because of their past political affiliations and activities. A newsletter on the mission's findings will be issued in early 1993.

In November, a Helsinki Watch staff person traveled to Bulgaria to investigate reported human rights concerns of minority groups. Helsinki Watch met with representatives of the Gypsy minority and also had meetings with representatives from the government who are responsible for minority issues. A newsletter on the mission's findings will be issued in early 1993.

## **CZECHOSLOVAKIA**

### **Human Rights Developments**

The Federal Republic of Czechoslovakia will cease to be on January 1, 1993. The move toward permanent division of the Czech lands from Slovakia became more certain after the parliamentary elections on June 5-6, 1992, which resulted in Vladimir Meciar becoming Prime Minister of Slovakia and Vaclav Klaus becoming Prime Minister of the Czech republic. On July 17, the Slovak National Council issued a declaration of sovereignty. Within a few minutes of that declaration, President Havel announced that he was resigning, effective July 20. On September 24, after five rounds of voting, the federal parliament acknowledged its inability to elect a federal president. On September 3, the Slovakian constitution went into effect. As Czechoslovakia disintegrated, concerns increased about strident nationalism and the discriminatory treatment of ethnic minorities. In the Czech republic, measures against former communists continued.

In October 1991, the federal parliament approved a "lustration" law that excludes from a wide range of appointive positions—in government, state-owned companies, the academy and the media—those who are said to have collaborated with Czechoslovakia's repressive secret police agency, the StB, or who held positions in the Communist Party or other specified Communist-connected institutions since 1948. The law allows citizens to contest its findings before an independent commission. As of September 11, the Ministry of Internal Affairs had examined 146,000 applicants for government positions, 10,244 of whom were identified as having been secret police collaborators.

In a decision issued on March 5, the Governing Body of the International Labor Organization (ILO) wrote that "the persons covered by the [lustration law] are implicated essentially on the ground of their political opinion and not on account of any activities prejudicial to the security of the State within the meaning of Article 4 of the Convention [No. 111 on Discrimination in the Workplace]." The ILO estimates that the law would affect more than one million people, and called on the government to "scrap or change" it.

In the view of Helsinki Watch, the Czechoslovakian government and the

Constitutional Court should repeal the lustration law. The law does not adequately guarantee a review of each case on an individual basis in a proceeding in which the accused is told the charges against him and is given sufficient opportunity to prepare a defense. Adequate consideration is not given to the possibility that false information might have been planted in police files, or that an individual might be able to cite extenuating circumstances in his or her defense. Furthermore, Helsinki Watch is concerned that with respect to past violations of human rights, persons are not charged with having violated a particular law or standard, but instead are being persecuted merely for having belonged to a now-discredited group.

In April, 99 members of parliament voted to ask the new Constitutional Court to review the law to determine its compliance with the Federal Charter of Basic Rights and Freedoms. By the end of November, the Court had not ruled on the case. Slovak Prime Minister Vladimir Meciar stated that his government would abolish the lustration law after January 1993.

On April 29, a list of journalists accused of collaborating with the former secret police was submitted to the parliament by the Federal Security and Information Service (FBIS). Although the parliament voted to keep the list secret, it was leaked to the press within an hour. The names of some 380 journalists were made public, causing many of them to lose their jobs without ever having an opportunity to challenge the list's validity. By May, lists purporting to represent the entire roster of names in the StB files were unofficially circulating.

The treatment of Gypsies in Czechoslovakia has improved in some ways since 1989. Gypsies are now recognized as a national minority in both federal and republic documents outlining principles of government policy. Gypsies can publish and use the Romany language, form political parties, and establish cultural organizations. Discrimination is forbidden by the Charter of Fundamental Rights and Freedoms of the Czech and Slovak Republics. Nevertheless, Gypsies face growing discrimination in housing, employment, and access to public and private services, and are increasingly the victims of physical and verbal attacks. Helsinki Watch received reports of police indifference and slow reaction to acts of violence against Gypsies. Some Gypsies also reported that their complaints are not accepted or pursued by the police.

Helsinki Watch also received reports that the police are often brutal in their dealings with Gypsies. For example, witnesses in the town of Lomnicka, Slovakia, reported that on May 5 fifty police entered the town and attacked men, women and children without justification. The police pointed pistols at several Gypsies' heads and shouted racial epithets such as "All Gypsies to be shot!" and "There you have it, you dirty Gypsy! All of you will die!"

Under the Communist regime, many Gypsy women were sterilized without their consent. As late as August 1990, Gypsy women were receiving monetary incentives to undergo sterilization. Complaints submitted by Gypsy women sterilized without their consent have been dismissed by local and republic prosecutors with only cursory investigations, and those responsible for carrying out these practices have not been prosecuted. Nor have government officials publicly condemned these past abuses.

As the likelihood of Czechoslovakia's break-up increased during 1992, the 600,000 ethnic Hungarians living in Slovakia expressed concerns about how they would be treated in an independent and increasingly nationalist Slovakia. During debates on the Slovak Constitution, Hungarian deputies walked out in protest over the preamble that read "We, the Slovak nation" and over an amendment stipulating that the Slovak language will be the "state" language of

the republic.

Although in general the press operates freely in Czechoslovakia, the Slovak government appeared to be trying to restrict press freedoms on several occasions. In early August, the Slovak government barred several newspapers from government press conferences. Two of the papers, *Slovensky vychod* and *Smer*, are being sued by Prime Minister Meciar for libel. According to *The Prague Post*, the Slovak government also "canceled a deal to privatize the near monopoly press Danubiaprint" and "revoked a broadcasting license granted to a company during the previous administration." The government appears to be using technicalities to suppress press freedom. The newspaper *Smena* tried to privatize but was prevented by the government on technical grounds; it is now in serious financial difficulties. An alternative university in Trnava has been harassed by the government, which froze its bank account on the grounds that its rector, who was appointed by President Havel, does not have the correct academic qualifications.

### **The Right to Monitor**

Helsinki Watch is not aware of any instance in which human rights or other independent monitors have been hindered in their work by the government of Czechoslovakia.

### **U.S. Policy**

The Bush administration made no significant public comment on human rights developments in Czechoslovakia during 1992. Although the human rights record of the Czechoslovakian government was generally good, the administration failed to exploit opportunities to address human rights issues connected with the break-up of Czechoslovakia, as well as the extensive abuses associated with the lustration process.

The Bush administration did indicate its concern about growing nationalism in Slovakia, and indicated that it had raised its concerns with the leaders of that republic. At a hearing before the House Foreign Affairs Subcommittee on Europe and the Middle East on September 29, Assistant Secretary of State for European and Canadian Affairs Thomas Niles called the developments in Slovakia "disquieting" and stated:

We are watching the situation there very closely and we have made quite clear to the government of Slovakia, to those who will by all appearance lead Slovakia into independence, Mr. Meciar and others, that certainly the quality of Slovakia's relationship with the United States will depend upon the observance of CSCE principles, respect for the rights of minorities, democratic principles....

### **The Work of Helsinki Watch**

During 1992, Helsinki Watch focused primarily on two of the most important human rights concerns in Czechoslovakia: the decommunization process and the treatment of Gypsies.

Helsinki Watch engaged in a dialogue with the Czechoslovakian government regarding lustration legislation throughout late 1991 and 1992. In October 1991, after the federal parliament passed the lustration law, Helsinki Watch sent a letter to President Havel, criticizing the law as premised on the notion of collective guilt and urging that "each case should be treated on an individual basis in a proceeding in which the accused has ample opportunity to hear the charges and to defend himself."

In March, representatives from Helsinki Watch met with President Havel in

Prague and raised their concerns about the lustration law. Previously, in December 1991, Helsinki Watch had sent a representative to Czechoslovakia to investigate the implementation of the lustration law. A newsletter issued in late April concluded that "Helsinki Watch has observed evidence of a 'witch hunt' that already exceeds the literal terms of the law." Helsinki Watch called on the government of Czechoslovakia and its Constitutional Court to repeal the lustration law. Helsinki Watch also recommended that the Czechoslovakian government:

- (1) set up an independent, non-governmental commission to investigate and report on abuses of the previous regime;
- (2) prosecute those responsible for actual crimes, on the basis of specific charges and with full due process protections;
- (3) assure that no prosecutions or other adverse actions against individuals—for example, in employment and education—take place solely on the basis of political associations or party membership.

An article written by Helsinki Watch regarding the lustration law entitled "Witch Hunt in Prague" appeared in *The New York Review of Books* in May 1992.

Helsinki Watch devoted much of its efforts in 1992 to a comprehensive investigation of the treatment of Gypsies in Czechoslovakia. A Helsinki Watch representative was in the country from October 1991 to March 1992 to conduct interviews with the Gypsy population, experts on minority issues, and local and federal government officials. A report was issued in August.

On September 10, Helsinki Watch sent a letter to Josef Tuchnya, Slovakian Minister of the Interior, expressing concern about credible reports of police brutality and the use of racial slurs against the Gypsy community in the town of Lomnicka. Helsinki Watch called on the government to initiate a thorough investigation into these events.

## **ESTONIA, LATVIA AND LITHUANIA**

### **Human Rights Developments**

The Soviet legacy continues to create human rights problems for the governments of the Baltic states. These problems are difficult to solve because they pit the needs of numerically small nations that suffered a tragic fate under the Soviet regime against the rights of individuals associated with that regime. In 1992 the citizenship status and rights of minorities—primarily Russians—who moved to Estonia, Latvia and Lithuania during the Soviet occupation became an increasingly divisive issue. Lithuania and Latvia, for example, have taken measures to exclude individuals from elected office based on their political behavior during the Soviet period.

The Baltic countries are aware of the problems concerning minority rights in their state. The Latvian government has consistently recommended that the United Nations Human Rights Commission establish a permanent office in Latvia to monitor minority rights. In August, the Latvian government met with a joint delegation from the Russian Foreign Ministry and the Moscow Helsinki Group, which resulted in a six-page report on the situation of Russians in that state.



In Estonia, non-citizens have the right, guaranteed by the Estonian constitution, to vote in local elections. In October, Estonia invited a fact-finding mission from the Conference on Security and Cooperation in Europe (CSCE) to examine that country's citizenship and minority rights legislation.

Yet the main problem—who shall have the right to become a citizen automatically—remains. Although international human rights law does not directly address the issue of citizenship in countries emerging from foreign rule, international standards can and should be used to guide citizenship regulations. The fairness of such regulations may be evaluated by two sets of criteria. The first is whether they refrain from treating as immigrants individuals who lived on the state's territory before the declaration or reestablishment of independence (excepting those who lived in the Baltic states only as part of their military duty); this approach is embodied in the so-called zero-option citizenship laws. The second, if the law treats such individuals as immigrants, is whether the language and residence qualifications are reasonable.

In addition, citizenship regulations should not deny eligibility to individuals who, while they were living in the republic during the Soviet period, were convicted of a serious crime, who received treatment for alcoholism or drug addiction, or belonged to the Communist Party or the Soviet security apparatus. Denying citizenship to previously convicted criminals effectively adds an additional, *ex post facto* penalty to the convicted person's punishment, which violates Article 15 of the International Covenant on Civil and Political Rights (ICCPR); excluding persons who have received treatment for alcoholism or drug addiction violates Article 7 of the same Covenant, which prohibits "inhumane or degrading treatment or punishment," since it serves as a deterrent to needed medical treatment. Denying citizenship to the third category of individuals violates the freedom of association guaranteed in the Covenant's Article 22. Citizenship should be denied only to those former KGB or other security agents who are individually proven culpable in a court of law for specific crimes that were outlawed at the time of the acts in question.

Lithuania's zero-option citizenship law, which categorically excluded certain kinds of criminals, alcoholics and drug addicts, was in force through the end of 1991. A new citizenship law which then came into effect is aimed mainly at regulating citizenship for individuals who moved to Lithuania after independence.

On February 26, 1992, the Estonian Supreme Council issued a decree re-establishing the Estonian Citizenship Law of 1938. Under the law, which rejects the zero option, all individuals who were not Estonian citizens (or their direct descendants) as of June 16, 1940 (the date when Soviet troops took control of Estonia), or who did not appeal for citizenship to, and gain approval from, the Congress of Estonia in 1990 and 1991, must apply for citizenship. Requirements include two years of permanent residence (beginning March 30, 1990), a one-year waiting period, and knowledge of 1,000 words in the Estonian language. The law prohibits dual citizenship and categorically denies citizenship to, among others, military personnel currently serving in foreign armies, and former Soviet intelligence and security officers.

The new Estonian government is to be credited for seeking ways to liberalize the citizenship law. On October 19, it issued a program that suggested allowing dual citizenship, giving children born and educated in Estonia the opportunity to apply for citizenship one year before coming of age, and increasing access to Estonian language training. However, the same program, according to *The Baltic Independent*, also advocated "the voluntary re-migration

of non-Estonians to their historic homelands."

The first post-Soviet parliamentary elections in Estonia, held on September 20, 1992, brought on a dispute concerning the voting rights of some 5,000 individuals who had applied for, but had not yet received, Estonian citizenship. In a public referendum 53 percent voted against granting them the right to vote in these elections. A popular referendum, however, is not an appropriate forum for resolving issues of individual rights, which should be handled in courts of law or legislative bodies.

Latvia has not yet adopted a law on citizenship. In October 1991, the Latvian Supreme Council issued guidelines for citizenship legislation that, among other things, propose excessively lengthy residence requirements for individuals who were not Latvian citizens in 1940 (or their direct descendants) and would deny citizenship to these individuals if they have been convicted of criminal acts or are under criminal investigation while their citizenship applications are being considered; have been convicted of "spreading chauvinism, fascism, communism, or other totalitarian as well as social class dictatorial ideas, or inflaming national disorder and hatred"; have served as Communist Party or Komsomol (Communist Youth Party) personnel; are registered in institutions that treat alcoholism and drug addiction; or are living without legal financial resources.

It is widely believed that the Latvian draft law will not be adopted with all of these restrictions. In a letter to Helsinki Watch, the chair of the committee on Human Rights and Nationality Issues of the Latvian parliament stated that the committee would reconsider the categorical exclusion of previously convicted individuals, alcoholics, and drug addicts.

The treatment of Russians in Estonia and Latvia has become an extremely controversial issue in relations between these countries and the Russian government, which has been a vociferous champion of the rights of Russians in countries that were formerly part of the Soviet Union. The Russian government has twice invoked the need to protect the rights of local Russians as a requirement for the withdrawal of Russian troops from these countries. It reached an agreement on troop withdrawal with Lithuania, which has a less significant Russian minority than the other Baltic states and, as noted, has adopted a zero-option citizenship law.

In Lithuania, the rights of the Polish minority, which constitutes about 8 percent of that country's population, are cause for some concern. In 1992, the Lithuanian government began considering reorganizing administrative districts near Vilnius that have significant numbers of ethnic Poles. Poles fear that this action will have the effect of diminishing their political representation.

A Lithuanian law adopted on December 17, 1991 authorizes the annulment of parliamentary status for any deputy who can be shown to have collaborated with the Soviet KGB and other secret security agencies. A person can be deemed a collaborator if, among other things, he or she is listed on a KGB roster or if there is "evidence of recruitment as a resident, agent, confidential person, or informer." Several aspects of this provision are troublesome: it takes at face value the truthfulness of Soviet KGB records, which are unreliable at best; it does not take into account the circumstances under which a person may have been recruited as an informer, such as possible coercion; and it does not define a standard of proof.

If accusations are made against deputies to the Supreme Council of Lithuania, or against deputies to city and district councils, the legislative body in question must form a commission to investigate the charges. The accused deputy has the right to appeal the commission's conclusions to a court of law,

and local electors have the opportunity to reinstate a deputy by majority vote. This procedure was invoked in 1992 against four deputies, including former Prime Minister Kazimera Prunskiene. Premier Prunskiene has so far denied the charges and has not sought re-election as a deputy; Virgilus Cepaitis was stripped of his parliamentary status; Jokubas Minkevicius resigned his seat; and Vladimir Berezov's case has not yet been decided. Despite the antipathy to the communist past that lies behind this legislation, Lithuanian voters, on October 26, in their first elections since independence, brought to power the Democratic Labor Party, which is composed of former communists.

On July 9, the Latvian Supreme Council voted to remove the parliamentary mandates of 15 deputies who had campaigned actively against Latvia's independence from May 1990 through August 1991. The vote was based not on decommunization legislation, but on the recommendation of a parliamentary commission formed especially to examine the case. The way this decision was made raises questions about both its fairness and the free speech and association rights of these individuals.

In the spring of 1992, the Latvian procuracy conducted an investigation into possible criminal activities of the deputies in question, but did not find sufficient evidence of criminal activity. The special parliamentary commission used only the information given to it by the procuracy, gathered no additional information, and held no special hearings on the matter. Although the accused deputies had an opportunity to speak for themselves in parliament, they apparently were never called to appear before the commission. Since there is as yet no Constitutional Court in Latvia (indeed, there is as yet no constitution in Latvia) that could rule on the parliament's actions, there was no avenue for appeal.

Over the course of 1992 legislation barring government posts to individuals on the basis of their political behavior prior to August 1991 was debated but not adopted. The Latvian election law, adopted October 20, 1992 requires candidates for public office to sign a document avowing that they were never agents of the Soviet security apparatus.

Estonia has neither considered nor adopted decommunization legislation.

A wide range of publications in the Baltic languages and in Russian, and representing diverse political views, are available in the Baltic states. However, a few incidents suggest lingering restrictions on freedom of the press. In July, *Izvestia* reported that the Lithuanian prosecutor general had demanded that the Justice Ministry halt the publication of *Jura ir Krantas*, an ultra-nationalist newspaper. The Lithuanian procuracy issued two warnings to the newspaper after the latter had published articles stating that people who moved to Lithuania during the Soviet period are colonists who should not be granted citizenship. In July, the paper lost its registration rights, and has ceased to publish. Criminal charges have been brought against its publisher, who is not, according to the procuracy, being held in detention while he awaits trial.

### **The Right to Monitor**

Throughout 1992, government and nongovernmental organizations traveled to the Baltic states to investigate human rights conditions, in many cases at the invitation of Baltic authorities. No known restrictions were imposed on them.

### **U.S. Policy**

The U.S. government in 1992 encouraged economic and social development in Estonia, Latvia and Lithuania and expressed concern over the stalemated issue of withdrawal of Russian troops from the region.

The administration has issued no public statements on citizenship and the Russian minority issue. Both the State Department and the Congressional CSCE Commission generally maintain that citizenship laws are internal matters for individual states to decide, that citizenship is a matter of political privilege and not a human right (positions shared by their Baltic counterparts), and that the Estonian citizenship law meets most European norms. The State Department does not consider excessive the 16-year residence requirement proposed by the Latvian government, since other European governments, such as Switzerland, have lengthy residence requirements.

No one denies that governments have the right to adopt citizenship laws, yet special consideration should be given to Russians and others who moved to the Baltic states at a time when the Soviet republics were all one country. Therefore, comparing Baltic citizenship laws that apply to established residents with European or American laws on new immigrants is misleading because it equates two groups that are dissimilar. The first category of people had no way of foreseeing a change in their political status, whereas the latter consciously make this change.

The CSCE Commission of the U.S. Congress is to be credited for hosting a meeting in the summer in Washington that brought together Russian and Baltic officials to discuss the rights of Russians in the Baltic states and the issue of citizenship. The meeting generated no concrete results, but provided an opportunity for a mediated dialogue.

#### **The Work of Helsinki Watch**

Helsinki Watch in 1992 continued to pursue the issue of overly restrictive citizenship requirements in the Baltic states. As part of its ongoing correspondence with the Latvian government, Helsinki Watch wrote to the parliamentary Committee on Human Rights and Nationality Issues explaining why it believed citizenship in Latvia was a human rights concern, and renewed its request that the Latvian parliament reconsider its October 1991 resolution on citizenship.

In 1992, the board of Human Rights Watch, of which Helsinki Watch is a division, discussed and adopted a policy position identifying principles to be embodied in new citizenship laws. The policy position was included in an April Helsinki Watch newsletter, "New Citizenship Laws of the Republics of the Former USSR," which also provided an overview of citizenship laws not only in the Baltic states but also in other new states that were once part of the Soviet Union.

A letter addressed to Estonian interim president Arnold Ruutel on July 30 objected to the referendum held in June that determined the voting rights of people who had applied for, but not yet received, Estonian citizenship. The letter expressed Helsinki Watch's belief that a popular referendum was an inappropriate way to resolve questions that should be decided in a court of law, and asked the Estonian government to approach the problem in the same spirit of fairness embodied in Estonia's minority rights legislation.

In September, Helsinki Watch joined the Lawyers Committee for Human Rights in a roundtable discussion on citizenship and minority issues with Estonian Foreign Minister Jan Mannitsky.

### **GERMANY**

#### **Human Rights Developments**

The fall of the Berlin Wall on November 9, 1989 began an astonishingly rapid

process of unification for the Federal Republic of Germany (BRD) and the German Democratic Republic (DDR). Initially, many celebrated the remarkable changes that were under way. It was only a short time, however, before East and West Germans began to realize how fundamentally different their experiences had been during the post-World War II period, and to sense that many difficult issues, from right-wing violence to economic collapse, would confront the newly united Germany.

As the euphoria died down, Germans found themselves confronted once again with the devastation caused by dictatorship. For the second time in this century, they were forced to ask fundamental questions about their past and were confronted with the difficult question of how to assess individual responsibility and guilt for the practices of a repressive regime.

Although the burden of dealing with the communist past falls primarily on East Germans, the role played by West Germany ensures that this process will be essentially different than in other post-communist countries, where there are concerns about political instability and about the lack of resources needed to rebuild the economy and state infrastructure.

At least in part because it possesses the necessary resources and political will, Germany has moved more rapidly to address the abuses committed during its communist past than have its neighbors in Eastern Europe. Germany quickly opened the secret police, or "Stasi," files, passing comprehensive legislation to regulate access to the files, to protect Stasi victims and to give them access to their own files. Germany also expeditiously moved to begin documenting and prosecuting past abuses.

Germany is in the process of reviewing the "political integrity" of its civil servants and "cleansing" the civil service of all those who are judged to have been politically compromised. Temporary regulations enacted pursuant to the Unification Treaty provide that former East German civil servants can be fired or not rehired in the united German civil service if they worked for the former secret police, violated basic human rights or legal norms, or are deemed to be unsuited for employment. Each state has responsibility for devising procedures for implementing this review process.

Although the procedures have varied from state to state, all civil servants, including police, judges, prosecutors, teachers, and train and postal workers, have been required to complete questionnaires regarding their professional and political backgrounds. Many employees have been asked a series of questions regarding their party membership (past and present), the political and employment history of their family members, their contribution to the fall of the DDR, their religious affiliation, and their views on the fall of the communist system. Local commissions evaluate the questionnaires and, in most cases, hold interviews with employees whose dismissal has been recommended.

The review process raises a number of due process concerns. The questionnaires, as well as questions asked during the hearings, exceed what is appropriate inquiry by a government employer and violate the individual's protected right to hold political opinions without government interference and to associate freely with others. Furthermore, while employees called before the review commission are notified that they face dismissal, they often are not told the reason why. The review commissions frequently appear to assume the employee's guilt and to place the burden of proof on the employee to prove otherwise.

Many employees have been dismissed without ever having been accused of any specific misconduct. Instead, most have been found unsuitable for continued employment in the civil service simply because they held political party or government positions under the previous system. No serious effort has been made

to provide evidence that an individual carried out his or her duties in a manner that was repressive, unethical or criminal in nature. Instead, the assumption has been made that any employee who held his position over an extended period of time must have satisfied Party dictates and these dictates were inherently abusive.

Germany has a long history of requiring political loyalty from its civil servants. In West Germany, especially during the 1970s and 1980s, several hundred thousand civil servants or applicants for the civil service were reviewed for political loyalty. Individuals were fired or not hired because of their membership in political parties or organizations that were considered dangerous to the free and democratic order. This was true even though the employee was accused of nothing more than legal political activity.

Gradually, more liberal states did away with this practice. However, there are still an estimated five cases that have not been resolved, and individuals who lost years of income in the civil service have not received compensation. The Federal Constitutional Court upheld this practice in 1975.

After several years of investigation, the International Labor Organization issued a report criticizing West Germany for its loyalty requirements for the civil service. A press release from the ILO dated February 23, 1987 stated:

Suitability for employment should be the crucial issue....The principle of proportionality should be observed....[T]he question of whether an applicant for the civil service or a civil servant is suitable for admission to employment or continued employment should be judged in every individual case with reference to the functions of the employment in question and the consequences of the actual behavior of the person affect.

The German government appears committed to investigate, document and prosecute past abuses under the former communist regime. Special prosecutorial units have been established to investigate DDR government abuses. For example, a working group within the Berlin Ministry of Justice, with 58 prosecutors, is working on over 900 registered cases of abuses. This special prosecutorial unit was responsible for the widely publicized trial of two border guards, Ingo Heinrich and Andreas Kuhnpast, who were convicted on January 20, 1992 of manslaughter in the shooting death of Chris Gueffroy as he attempted to cross the Berlin wall in 1989. The presiding judge rejected the defense that the defendants were only following orders. While acknowledging that the defendants were "at the end of a long chain of responsibility," the judge stated that they had violated "a basic human right" by shooting at an unarmed civilian trying to leave his country.

The former communist leader Erich Honecker, who is charged with manslaughter and corruption in connection with the border guard shootings, returned to Germany in July from his refuge in the Chilean Embassy in Moscow and is expected to be brought to trial in the near future. Many other top government and party officials are under investigation or have already been indicted for past abuses.

The German government has also moved to rehabilitate victims of past abuses. The Unification Treaty states that parties to the treaty intend "that a legal basis be created as soon as possible so that all people who were victims of politically motivated criminal prosecutions or other illegal or unconstitutional court decisions can be rehabilitated." The German parliament also passed a law requiring speedy review of past criminal convictions, and

rehabilitation and compensation of those wrongfully convicted and imprisoned.

A commission was appointed by the federal parliament in March to conduct a comprehensive investigation of the 40-year communist dictatorship in the DDR. The commission will not have prosecutorial authority, but will take testimony from victims and review documents related to communist rule. Its report, due in 1994, is expected to be a thorough examination of communist rule, including, among other things, the tools used to solicit informers, monitor dissidents and indoctrinate the public. West German policies that may have influenced the speed of democratization in East Germany will also be examined.

Since unification, Germany has been confronted by a dramatic increase in right-wing violence especially against foreigners. The recent wave of violence has shocked the world and damaged Germany's international reputation. Rioting skinheads throwing Molotov cocktails at refugee shelters, onlookers applauding and cheering, slogans such as "foreigners out" and "Germany for Germans," physical injury, fear and humiliation have become daily experiences for foreigners in unified Germany.

From January to mid-November 1992, there were over 1,800 crimes motivated by anti-foreigner sentiment in Germany. Sixteen deaths resulting from right-wing violence were reported in this same period, as compared to three deaths at the hands of right-wing extremists in 1991.

Although violence against foreigners occurs in both East and West Germany, in proportion to the population, there are many more attacks on foreigners in the East, and the probability of becoming the victim of racially motivated violence is far greater there. Similarly, the response of the police and local officials appears to be qualitatively different in the eastern states, with significant evidence of police unwillingness or inability to respond promptly and effectively to calls for assistance and protection by foreigners.

The official response during violence in Rostock in August 1992 is perhaps the most vivid example of the failure of the police to provide protection for foreigners. Following two days of violence by right-wing skinheads in front of an asylum shelter, 200 asylum seekers, mainly Romanian Gypsies, had to be evacuated on August 24. However, approximately 150 Vietnamese guest workers who lived in a building next to the shelter were not moved.

That evening the police protecting the building withdrew to a nearby hill, giving skinheads gathered nearby the opportunity to throw molotov cocktails and storm the building. Over the next two hours, the Vietnamese, as well some German journalists were trapped in the burning building while the police watched from a distance. The police moved in only after the foreigners had escaped to safety.

Helsinki Watch documented numerous cases in which the police stood by and watched while foreigners were attacked. In other cases, the police have failed to investigate attacks on foreigners, thereby making prosecution very difficult.

Those right-wing skinheads who have been brought to trial and convicted of serious crimes such as assault causing bodily injury have received very short prison terms or suspended sentences with probation. The courts have appeared remarkably understanding of right-wing skinheads and the economic and social reasons that may motivate them, while disregarding the racist sentiments behind many of the crimes.

Over the past two years, as the violence against foreigners has grown, the federal government's primary response has been to call for an amendment to the German constitution guaranteeing the right to political asylum. Federal and

state governments have coupled their condemnations of such violence with calls for restricting the number of asylum seekers in Germany.

In September, less than a month after Romanian Gypsies were attacked by neo-Nazis in Rostock, the German government announced that it had concluded a treaty with Romania that would provide for the deportation of Romanian citizens whose asylum applications had been denied. This step was viewed by many German experts and the press as directed against the large number of Gypsies among Romanian asylum seekers. The treaty was portrayed by the German government as, among other things, a new effort to combat right-wing violence in Germany.

In October, the government proposed to deport asylum seekers without a court hearing when the country of origin is deemed a "safe country." The United Nations High Commissioner on Refugees protested against this proposal as potentially violative of Germany's international obligations not to return refugees to face persecution.

In November, after a Turkish woman and two Turkish girls were killed when neo-Nazis firebombed their hostel in the West German town of Mölln, the German government responded by banning the National Front, a small neo-Nazi group believed to have organized attacks on foreigners. According to *The New York Times*, the Republican Party, a far-right party that won seats in the local parliaments of several states in the spring of 1992, was prevented from holding a convention because it would have threatened state security and public order.

#### **The Right to Monitor**

Helsinki Watch received no information regarding human rights observers that were prevented from conducting their investigations and reporting on their findings.

#### **U.S. Policy**

The U.S. government has had little public comment on the rise in right-wing violence in united Germany. When the most recent wave of violent attacks against foreigners began, the U.S. government remained publicly silent. However, the State Department has indicated that it expressed its concern privately to the German government. On September 9, in response to a question regarding the resurgence of "fascism" in Germany, a spokesperson for the State Department stated:

We have noted the rise of right-wing groups [in Germany] in recent years and the increasing incidence of right-wing violence, and have raised our apprehensions about this phenomenon repeatedly in meetings with German officials.

However, the spokesperson continued:

It is clear from these discussions that the German government is also deeply concerned and is taking such measures as it can to deal with the problem.... Leaders of all mainstream parties have strongly condemned right-wing violence against foreigners, and police have been working to prevent such incidents.... We applaud these efforts, and will continue to encourage German authorities to combat this problem with determination.

The State Department's claim that the police were working to prevent right-wing violence came only two weeks after the violence in Rostock, where the police had withdrawn from the scene of the attack by right-wing skinheads, leaving 150 Vietnamese trapped in a burning building.



### **The Work of Helsinki Watch**

Helsinki Watch's work in Germany centered on two principle issues: the decommunization process and the violent attacks against foreigners. In April, Helsinki Watch sent a mission to Germany to investigate the decommunization process in the former DDR, focusing especially on the process of reviewing the political and professional integrity of civil servants. A report issued in December 1992 concluded, among other things, that:

[T]he national government, as well as the state governments, has authorized a review process that goes well beyond what can be considered proper inquiry. Although the government has acknowledged the need for procedural protections, in practice many individuals have been denied these procedural safeguards....

Helsinki Watch recognizes that a carefully documented investigation that guarantees candidates all procedural safeguards necessarily results in long delays. Many Germans, especially those who were active in the democratization effort in the DDR, have pointed out that these delays slow down the democracy-building process in East German institutions and they are understandably impatient for this process to be completed. However, one of the distinguishing trademarks that separates a democracy from a totalitarian state is the procedural safeguards that protect the individual from arbitrary state action. Conducting evaluations in an abusive manner does little to further democracy and the rule of law in East Germany.

Helsinki Watch closely monitored the treatment of foreigners in Germany during 1992. In May and June, Helsinki Watch sent a fact-finding mission to Germany to investigate the increase in violent attacks against foreigners. A Helsinki Watch representative visited numerous asylum shelters, and conducted interviews with many foreigners who had been victims of right-wing violence. Helsinki Watch also spoke to representatives of refugee organizations and those fighting racism in Germany, as well as with police and government officials.

On August 27, after the above-described shocking events in Rostock, Helsinki Watch sent a letter to Federal Minister of Interior Rudolf Seiters calling on the federal and state governments to

investigate thoroughly the conduct of the police whose duty it was to protect the asylum home in Rostock. The results of this investigation should be made public and, if the charges are substantiated, proper steps should be taken up to and including criminal prosecution.

Helsinki Watch condemned the German government's announcement that it had entered into a treaty with Romania that would facilitate the deportation of Romanian asylum seekers whose applications had been rejected, and particularly criticized the government's portrayal of the treaty as a measure to combat violence against foreigners in Germany. Helsinki Watch sent a letter on September 24 to Chancellor Helmut Kohl stating:

Helsinki Watch strongly protests the German government's attempt to deal with the severe problems of xenophobia and racist violence

confronting Germany by seeking scapegoats among the victims. Gypsies in Germany have a long history of persecution, and they continue to face persecution and hatred. As such, they are an easy, and defenseless target.

On October 25, Helsinki Watch issued a report entitled *Foreigners Out: Xenophobia and Anti-Foreigner Violence in Germany*. The report documents cases of right-wing violence against foreigners and the failure of the police and local officials to intervene to protect foreigners or to investigate cases of violence against foreigners. It also criticizes local authorities for failing to investigate the weak police response in these cases and to take disciplinary measures when there is evidence of misconduct. In addition, the report criticizes the federal government's response to the violence against foreigners, charging that the government ignored early warnings that asylum seekers should not be transferred to East Germany until local authorities could be properly trained and equipped to protect them.

Helsinki Watch concluded that the German government has failed to give "clear and unwavering support for the protection of foreigners," sending ambiguous signals to local police and authorities, as well as to the population as a whole. The report states:

Although the federal and state governments have condemned violence against foreigners, this condemnation occurs in the context of calls for restricting the number of asylum seekers in Germany. By linking these two issues, the government fails to acknowledge the severity of the crimes being committed against foreigners by German citizens. Instead it subtly shifts the focus and the blame to the foreigners themselves.

## **ROMANIA**

### **Human Rights Developments**

In 1992, Romania experienced none of the violence or political instability that had plagued the country during the first two years following the revolution. Both local and national elections were held in what observers viewed as a generally free and fair manner. The print media flourished, with a wide range of political views expressed. Human rights and election monitoring organizations, as well as a wide variety of professional and public interest associations, contributed to a strengthening of civil society. Nevertheless, Romania continued to confront human rights abuses, especially by local government officials and police, and to be hampered in the transition to democracy by weak judicial and governmental institutions. In addition, ethnic minorities continued to suffer discrimination.

On February 9, local elections were held in Romania for the first time since the 1989 revolution. Only minor irregularities were reported on election day, in contrast to the national elections in May 1990, when voters were subjected to intimidation, harassment and sometimes physical violence. Democratic opposition candidates won 251 mayoral and city council races, running especially strong in Bucharest and other major cities. However, right-wing nationalist candidates who have since taken numerous steps violating citizens rights to assembly and free expression were elected in Cluj, Baia Mare and Buzau.

Although the balloting took place in a peaceful and orderly manner, the

Hungarian candidate for mayor in Tîrgu Mureş was barred from running by a local court decision that was clearly illegal and motivated by anti-Hungarian sentiment. The candidacy of Istvan Kiraly, who was running for mayor for the Democratic Union of Hungarians from Romania (UDMR), was contested by seven ethnic Romanians who alleged that he had been involved in the March 1990 violence in Tîrgu Mureş. The court justified its decision, in part, on its findings that a) Kiraly "began the electoral campaign by attacking rival political formations, by exhibiting an attitude of partiality toward his ethnic Hungarian colleagues, inciting an anti-Romanian attitude, and thereby proving that he is not a reliable citizen with regard to all segments of the population;" b) Kiraly spoke at a session of the Executive Board of the Municipal Council of the National Union of Tîrgu Mureş on April 6, 1990, urging the exclusive use of the Hungarian language in the area, including the use of Hungarian for town names, street signs and store names; and c) Kiraly prepared a map of Mureş county with all names in Hungarian and permanently posted the map at the UDMR headquarters in Tîrgu Mureş, and he entered only the Hungarian names of all cities in Mureş into a computer. Such findings, even if factually grounded, cannot justify disqualifying Kiraly, because all reflect no more than the legitimate exercise of his right to freedom of expression.

The general success of the local elections was due, in large part, to the tireless efforts of over 7,000 domestic election observers. After these elections, the parliament passed a law that placed severe restrictions on the activities of domestic observers. For example, local election boards were given discretion to dismiss domestic observers, and only one observer was allowed at each polling place.

The national and presidential elections, held on September 27, were conducted without incident, according to international and national observers. However, Romania's electoral commission called for a recount on September 30, after reporting that over 3.6 million votes had been declared void. The Democratic Convention, the main opposition alliance, voiced concern that the counting procedure was inaccurate.

On October 4, the president of the Constitutional Court released the final results of the election: President Ion Iliescu won 47.34 percent of the vote, followed by Emil Constantinescu of the Democratic Convention with 31.24 percent. Because no candidate obtained a majority, a runoff for the presidency was held on October 11. Iliescu defeated Constantinescu with 61.4 percent of the vote.

Helsinki Watch received reports that there were at least four attacks on Gypsies in Romania during 1992. In one instance, on July 3, approximately 50 masked and uniformed persons who identified themselves as soldiers entered Rahova Square, beat Gypsies and destroyed Gypsy businesses near the square. The group then proceeded to a restaurant on the corner of Calea Rahova and Strada Margeanului where they damaged the restaurant and beat Gypsies sitting on the sidewalk. Although formal complaints were filed with the police and the Office of the Prosecutor General, no individuals have yet been charged in the case.

Tensions between ethnic Romanians and ethnic Hungarians remained high throughout 1992, and increasing nationalism and xenophobia present a serious obstacle to respect for human rights. The right-wing mayor of Cluj, Gheorghe Funar, banned the use of Hungarian and bilingual signs and fined ethnic Hungarians for posting Hungarian signs in their businesses. In addition, on April 28, Funar issued an executive order requiring that anyone wishing to hold a meeting notify the town hall at least three days in advance, and provide the names of the organizers and participants, the goal of the meeting, and its

location and duration. During 1992, Funar prevented several organizations perceived as supportive of the Hungarian minority's demands for greater rights from holding meetings in Cluj. For example, on April 24, the mayor cancelled a "Conference on Local Administration" organized by members of a Dutch foundation and the UDMR. Similarly, a board meeting of the Soros Foundation was allowed to take place only with the presence of "observers" from the mayor's office.

On February 12, the Romanian parliament passed the Law on the Organization and Operation of the Romanian Intelligence Service which provides that the archives of the former Securitate are to remain sealed for forty years. However, since then selective portions of the files have been leaked to the public, as they had been prior to the passage of the law. The files were used especially against government opponents, including the opposition press. In mid-April, according to Radio Free Europe, documents from the files on two journalists who were known for their criticism of the government and the secret police were sent to the press and foreign embassies in Bucharest.

Throughout 1992, Romanian human rights organizations, as well as the Association of Former Political Prisoners, called for a "trial of communism." However, there was no indication that substantial progress had been made in the investigation and prosecution of individuals responsible for serious abuses during the communist era. On April 20, the Romanian Supreme Court did reinstate prison terms ranging from eight to sixteen years for 21 former Communist Party officials accused of mass killings during the revolution in December 1989. The 21 had been acquitted by a lower court.

Detainees in police stations and lock-ups report a consistent pattern of abuse and physical mistreatment, as well as the absolute failure by the police to inform detainees of their due process rights as now required by Romanian law. Helsinki Watch has received numerous reports of physical abuse by police during the initial interrogation period. For example, Helsinki Watch interviewed detainees who reported that they had been beaten with rubber and wooden clubs, severely beaten while tied to a stick suspended between two tables, and jumped on after being rolled up in a carpet. Physical restraints such as leg irons and handcuffs continue to be used as means of punishment.

Although the Code of Penal Procedure guarantees a defendant access to a lawyer before any statement is taken and requires that the defendant be informed of that right, current and former prisoners report a systematic disregard of these guarantees. Most detainees do not see a lawyer before they are interrogated by the police and their statements are taken without counsel present, even when they request that a lawyer be present. Most detainees report that they were not informed of the right to see a lawyer even after several months of confinement.

Prison conditions in Romania reflect decades of neglect, as well as the disastrous economic situation in the country. Overcrowding makes it difficult to separate different categories of prisoners, or to provide each prisoner with his or her own bed. As in the police stations and lock-ups, methods of restraint such as handcuffs and leg irons continue to be used for very long periods solely as a form of punishment. Isolation cells are frequently used for punishment of relatively minor breaches of internal prison rules. There is also frequent use of such degrading treatment as shaving inmates' heads and requiring inmates to stand with their faces to the wall in the presence of visitors.

Helsinki Watch continued to receive reports of efforts by the government to restrict and intimidate journalists. For example, on April 9, the credentials of Gilda Lazar to report on activities of the President's Office were withdrawn. The President's Office criticized Lazar for her "permanently

hostile and defiant attitude." In addition, journalists were occasionally threatened with criminal prosecution for libel for their critical comments about government figures.

### **The Right to Monitor**

Helsinki Watch is unaware of any instance in which human rights groups or other independent human rights monitors have been hindered in their work by the Romanian government.

### **U.S. Policy**

By 1992, the Bush administration had become convinced that Romania was making progress toward respect for human rights, and increased its efforts to reward Romania for its progress. Several high-level meetings were held between the U.S. and Romanian governments during the year. State Department reports indicated that human rights concerns were raised during these meetings, especially in the context of restoring Most Favored Nation (MFN) trade status to Romania.

In June, the Bush administration submitted a bilateral trade agreement to Congress that would restore MFN status to Romania. However, Congress postponed consideration of the trade agreement to await the results of the national elections in September.

On September 29, after the first round of the national elections, Assistant Secretary of State for European and Canadian Affairs Thomas Niles testified before the House Foreign Affairs Subcommittee on Europe and the Middle East:

Enormous progress has been made in Romania, admittedly starting from a relatively low level beginning in December 1989 with the death of the dictator Ceausescu.

I would not today claim, nor would I think representatives of Romania claim, that a perfect situation has been achieved or that all levels of the country, for example, the administration, behaves in a way consistent with the guarantees of religious freedom and the absence of ethnic persecution that are in the constitution....

We have had problems with the activities of the mayor of Cluj, Funar, who was a presidential candidate....But I would argue, Congressman, that the trends in Romania are in the right direction, and that Romania has conducted elections which are judged by foreign observers, including those of the U.S., as being free and fair. And on that basis, it would be appropriate for the United States to continue the process of developing our relationship with this new Romania, and to give MFN treatment.

On September 30, Congress voted against ratification of the Romanian-American Trade Accord granting MFN trade status to Romania, in part because of continued concerns about the treatment of ethnic minorities in Romania and the lack of respect for Romania's own constitutional principles at the local level.

### **The Work of Helsinki Watch**

At the end of 1991, Helsinki Watch conducted an investigation of conditions in Romania's prisons. A report entitled *Prison Conditions in Romania*, issued in June, concluded that although the Ministry of Justice and the Directorate of

Prisons appeared to be committed to modernizing and humanizing the prisons, many aspects of the law, including the prohibition of the use of physical restraints as a form of punishment, and the ban on humiliating treatment such as shaving detainees' heads and forcing them to face the wall in the presence of prison personnel or visitors, are simply not implemented. Helsinki Watch recommended that, among other things, the Ministry of Justice and the Directorate of Prisons issue new directives to all prison directors making clear exactly what rules and regulations are currently in effect. Such directives should specify that the failure to implement current rules and regulations will result in disciplinary action and possible termination of employment. Specifically, all prison directors should be informed that no restrictions on food are allowed, physical restraints prohibited, and humiliating practices such as shaving heads and forcing prisoners to stand with their faces to the wall are not allowed. Helsinki Watch also recommended that confidential communications with a lawyer be guaranteed and that there be no restriction on a prisoner's right to discuss judicial issues, mistreatment or prison conditions.

On February 5, Helsinki Watch sent a letter to President Iliescu expressing concern that the ethnic Hungarian candidate for mayor in the town of Tîrgu Mureş had been disqualified by the local court. Helsinki Watch criticized the court's decision:

Instead of strictly applying the law to this case, the Tîrgu Mureş court appears to have engaged in a review of Mr. Kiraly's opinions and, because of his allegedly pro-Hungarian views, appears to have determined that it did not find him a worthy candidate for public office. ...This is not a proper role for the judiciary. It should be left to the electorate to determine whether Mr. Kiraly is worthy of being mayor. That is the essence of the democratic process. Unfortunately, that process has been thwarted in this case.

Helsinki Watch sent a mission to Romania in July to investigate the treatment of detainees in police lock-ups. A newsletter was issued in November criticizing, among other things, the cramped and dirty cells in many facilities, the lack of ventilation, the detainees' infrequent opportunity to exercise, and the continued use of physical restraints as a means of punishment. During the mission, Helsinki Watch also received reports of frequent police beatings during interrogation, as well as the almost complete isolation of detainees from their families and legal representatives during the early stages of the investigation.

In July, Helsinki Watch representatives also conducted a follow-up investigation into conditions in Romanian orphanages. A newsletter with the mission's findings was released in December.

Throughout 1992, Helsinki Watch monitored the treatment of minorities in Romania. A Helsinki Watch representative was in Romania in November to investigate the treatment of Hungarians. A report will be issued in early 1993.

On September 24, Helsinki Watch sent a letter to President Iliescu expressing concern about reports that Romania and Germany had entered into a treaty providing for the deportation of Romanians whose political asylum applications in Germany had been rejected, although Helsinki Watch has documented significant discrimination and mistreatment of Gypsies in Romania. This treaty was viewed by refugee associations and the press as targeting Romanian Gypsies who make up 60 to 70 percent of the Romanian asylum population

in Germany, and was seen as a discriminatory measure to deport the minority group that is most hated and least protected of all those seeking asylum in Germany. Helsinki Watch stated:

Many of the Gypsies who are seeking political asylum in Germany fled Romania to escape violent mob attacks, deep-rooted prejudice and discrimination. Should these individuals be returned to Romania, Helsinki Watch urges you, as the President of Romania, to take every measure necessary to guarantee their safety....

Helsinki Watch will continue to monitor the treatment of Gypsies in Romania and will make a special effort to monitor the treatment and living conditions of those being returned from Germany.

During November, Helsinki Watch also conducted a follow-up investigation of the treatment of Gypsies, focusing especially on efforts to investigate and prosecute those involved in attacks on Gypsy villages since 1990. A newsletter on the mission's findings will be issued in early 1993.

## **THE FORMER SOVIET UNION**

### **Human Rights Developments**

The dramatic collapse of the Soviet Union at the end of 1991 has left human rights in a turbulent state. The Soviet system of rule had for many years been notorious for systematic violations of human rights. Although this system has been discredited and discarded, it has not yet been thoroughly dismantled: Soviet-era governments remain in place in many of the new states, as do certain features of the legal and criminal justice systems. The very uncertainty of this transitional phase is a cause for concern that the fledgling states will lack the will or capacity to protect human rights.

Ten of the former Soviet republics have united in the Commonwealth of Independent States (CIS). The three Baltic nations and Georgia and Azerbaijan have rejected that option.

All of the former Soviet republics have been admitted to the Conference on Security and Cooperation in Europe (CSCE), binding their governments to respect the human rights standards expected of member states. Some progress toward fulfilling this obligation has been made: constitutions are being written that promote basic rights and freedoms, freedom of religion is guaranteed in all of the states, some states have begun to reform their criminal justice systems and have granted broad amnesties to people serving criminal sentences, and nearly every state has allowed access for human rights fact-finding missions.

In many states of the former Soviet Union, government leaders have added their voices to the general call for a commitment to institutionalizing democratic principles and basic human freedoms. This process is lengthy and ongoing, and in 1992 progress was still measured in small steps. Meaningful progress has already been seen in the efforts of some new states to acknowledge past abuses and to review extant legislation to bring it into conformity with international standards.

The human rights situation has become as varied as the states themselves. Yet certain patterns of problems have emerged that are specific to the transition from Soviet rule. In the Caucasus, Moldova, and parts of Central Asia, struggles to maintain power in the face of political opposition, or to

preserve territorial integrity in the face of separatist forces, have escalated into armed conflicts that have deprived thousands of basic freedoms.

The ousters of Georgian president Zviad Gamsakhurdia and Tajik president Rakhmon Nabiev in 1992, both of whose administrations were responsible for reprehensible human rights violations, has brought on the implosion of both of these states, and the resulting political and social chaos has put basic civil and political rights in jeopardy. In three Central Asian countries (Kazakhstan, Turkmenistan and Uzbekistan), governments are led by former Communists who continue old, Soviet-inherited practices of political repression—cracking down on the nascent free press and restricting the right to free speech and assembly—in an effort to fend off threats to their rule. Former communists, most of whom now bear the label of "democrat" or "nationalist," are also in positions of power in Belarus, Russia and Ukraine, where they attempt to silence public criticism leveled against their governments.

Each state has also inherited certain human rights problems from the Soviet system. Throughout the former USSR, residence permits continue to limit individuals' choices of where they wish to live. Individuals everywhere must still request government permission in order to travel abroad. Laws designed to protect "the honor and dignity" of the president are still on the books and, in some places, still enforced. Speculation is no longer considered a crime, yet individuals in Russia convicted of this and other economic crimes continue to languish in prisons, overlooked by recent amnesties that have released persons jailed for violent crimes.

As a result of the break-up of the Soviet Union and the creation of new states, millions of individuals have now become ethnic minorities in foreign states. In some areas the lack of legal or political structures to guarantee minority rights—or the lack of will to enforce them—poses real and potential problems concerning, for example, language rights and language training, discrimination in employment and education, and protection from ethnically motivated violence. Moreover, the Soviet legacy of deportation and repression of certain nationalities remains a source of ethnic strife as demonstrated in the recent Ossetian-Ingush conflict.

### **Armed Conflict**

The principle of self-determination and the notion of homeland have become powerful beacons for ethnic and national groups in the former USSR, and have been invoked in nearly all of the armed conflicts there. During 1992 groups in Nagorno Karabakh, South Ossetia, Abkhazia, and in eastern Moldova fought wars seeking independence from Azerbaijan, Georgia and Moldova. The existing states, for their part, invoked the principle of inviolability of borders in their armed engagements with separatist forces.

In all of these armed conflicts, parties frequently violated rules of war intended to protect noncombatants that are set out in common Article 3 of the 1949 Geneva Conventions and its Second Additional Protocol of 1977—both of which apply to internal armed conflicts—as well as other international instruments. Civilians have become helpless victims of indiscriminate shelling, summary executions, sniper activity, and hostage-taking. Roadblocks have made neighboring towns, villages, and even neighborhoods inaccessible. Blockades of transport, energy and other supplies have left thousands of people in a state of desperation.

### **Azerbaijan: Nagorno Karabakh**

Armed conflict in and around Nagorno Karabakh, an Armenian-majority enclave



located within the territory of Azerbaijan, has been the bloodiest of the armed conflicts. It began in 1988 and escalated dramatically in 1992, causing hundreds of civilian deaths and creating 256,000 refugees, according to the United Nations High Commissioner for Refugees (UNHRC). In 1992 the conflict grew far more lethal as both sides—the Azerbaijani National Army and free-lance militias fighting along with it, and ethnic Armenians and mercenaries fighting in the Popular Liberation Army of Artsakh—began using missile systems, armed personnel carriers, heavy artillery and comparable conventional weapons (all readily available through a very active and lucrative private arms market) and brought the armed conflict to a new, vicious intensity. The lack of any restraining force after the collapse of the Soviet Union accelerated the conflict. The conflict became a pivotal factor in the internal politics of both Armenia and Azerbaijan, intensifying nationalist rhetoric and hardening Azerbaijan's resolve to end the conflict through combat. Indeed, President Abulfaz Elchibey made a promise during his election campaign in June to solve the Karabakh problem within three months or resign.

Whichever side held the strategic advantage in Nagorno Karabakh at any given moment was the one that most egregiously violated the rules of war. While Azerbaijani forces held outposts in Shusha and Khojaly, they pounded the capital of Nagorno Karabakh, Stepanakert, and other Armenian towns and villages with shells and grenades. The indiscriminate shelling and sniper shooting killed or maimed hundreds of civilians, destroyed homes, hospitals and other objects that are not legitimate military targets, and generally terrorized the civilian population. During the winter of 1992, Armenian forces went on the offensive, forcing almost the entire Azerbaijani population of the enclave to flee, and committing unconscionable acts of violence against civilians as they fled. The most notorious of these attacks occurred on February 25 in the village of Khojaly. A large column of residents, accompanied by a few dozen retreating fighters, fled the city as it fell to Armenian forces. As they approached the border with Azerbaijan, they came across an Armenian military post and were cruelly fired upon. At least 161 civilians are known to have been murdered in this incident, although Azerbaijani officials estimate that about 800 perished. Armenian forces killed unarmed civilians and soldiers who were *hors de combat*, and looted and sometimes burned homes. In its counter offensive, launched in the summer, Azerbaijani forces indiscriminately bombarded Armenian towns and villages from SU-25 aircraft and ground-launched missiles. The Armenian government does not categorize civilian casualties according to the circumstances of their death or injury. Based on interviews conducted in November with more than 50 civilians who were witnesses to or casualties of indiscriminate air bombings, Helsinki Watch estimates that at least 56 civilians were killed as a result of these attacks in August and September alone.

Both sides in the conflict seized and exchanged civilian hostages, and also held corpses hostage, so frequently that the practice became an institution involving private individuals and military and government officials. Both sides held hostages, including women, in prisons or detention centers and distributed hostages as "insurance" among private families whose members were being held by the other side.

Attempts to negotiate an end to the conflict have been unsuccessful. The CSCE made a valiant effort in the Rome talks during the summer, which were hampered by questions concerning the political status of the self-styled Nagorno Karabakh republic. The talks did not prevent the further escalation of the war.

### **Georgia: South Ossetia**

The fight for control over South Ossetia began in the winter of 1990-1991 and has left more than 700 people dead and 1,500 wounded, many of them civilians. In the early winter of 1992 the armed conflict ebbed. However, when Russian Interior Ministry troops, deployed in the region since January 1991, withdrew in late April 1992, the conflict intensified as Georgian forces shelled the main city of Tskhinvali, and South Ossetian separatist forces renewed their shelling and strafing of Georgian villages inside the separatist region. The flow of refugees once again rose, and by May 1,500 new refugees were reported to have arrived in Vladikavkaz, the capital of North Ossetia.

As in Nagorno Karabakh, hostage-taking was a common practice in South Ossetia. Both sides to the conflict openly admitted that they took hostages in order to secure the release of their own hostages or to raise money for arms. In addition, hostages were beaten, threatened and sometimes killed.

On May 20, a band of Georgian irregulars ambushed a bus and two vans carrying Ossetian refugees, shooting to death 36 and wounding 16. Among the casualties were women, senior citizens, and children between the ages of three and 12. The Georgian State Committee promised to investigate the incident, but reportedly clashed with South Ossetian officials, who did not want Georgian interference. No serious attempt was made to find the guilty parties, who are presumed to be based in Georgian villages within South Ossetia.

In early July, an agreement was reached between government officials from Russia, North Ossetia, Georgia and representatives of the self-styled government of South Ossetia. As part of this pact, about 1,500 joint peacekeeping forces, consisting of Russian, Georgian and Ossetian soldiers, were deployed in South Ossetia in mid-July and thus far have been successful in defusing the armed conflict in that region. The Georgian State Council formed a commission to rebuild villages ruined by the conflict and provide for the return of refugees.

During intense moments in the violence, Ossetian refugees in North Ossetia numbered as many as 140,000, according to the UNHRC. As the conflict wound down, Ossetian refugees began returning to their homes in South Ossetia. However, most Georgians who fled South Ossetia during the conflict have not returned, nor have Ossetians who left their homes in other parts of Georgia. The latter fled as a result of systematic anti-Ossetian reprisals that began in January 1991, when Ossetians were threatened, robbed, beaten and forced to flee. Most of these acts of violence were carried out by rag-tag paramilitary groups, who enjoyed immunity from local police.

### **Georgia: Abkhazia**

Abkhazia is one of two autonomous republics in Georgia. Its population of about 525,000 (according to the 1989 census) is 17.8 percent Abkhazian, 45.7 percent Georgian and 7.1 percent Russian. Georgian National Guard units were sent to Abkhazia supposedly to secure the release of Georgian state officials kidnapped by supporters of former president Zviad Gamsakhurdia. These units clashed with troops of the Abkhaz Ministry of Interior. Negotiations between the Abkhaz government and the Georgian State Council resulted in a cease-fire and the withdrawal of the Georgian National Guard on August 17. The next day, however, the National Guard re-entered Sukhumi, the capital of Abkhazia, and a second secessionist war began in Georgia.

The war in Abkhazia is the culmination of 12 years of intermittent tension between Sukhumi and Tbilisi, the capital of Georgia, which began in 1978 when the Abkhaz Autonomous Socialist Republic sought unsuccessfully to

secede from Georgia and join the Russian republic. Tensions renewed in 1988 and erupted into ethnic violence in 1989 over the status of Abkhaz State University, and in 1990 when the Abkhaz Supreme Soviet declared independence from Georgia. On July 23, 1992, the same body suspended the 1978 Abkhaz constitution and reinstated the constitution of 1925, according to which Abkhazia had the status of a union republic.

Northern Abkhazia is now controlled by Abkhaz forces, supported by volunteers of the Federation of Mountain Peoples. The Georgian National Guard, along with Mkhedrioni and other paramilitary groups, control Sukhumi. Hundreds of people have lost their lives in this conflict, many of them civilians who were victims of summary executions and sniper fire. Both sides to the conflict take hostages, burn houses belonging to members of the "enemy" ethnic group, and engage in marauding.

Georgian refugees from Gagra told Helsinki Watch that when Abkhaz forces seized the town in early October they basically forbade Georgian men from leaving. One female refugee told of Georgian men being forced to sign documents stating that they were prepared to fight against Georgia. Her neighbor, a 39-year-old Georgian man, was beaten and shot in the head, apparently after refusing to sign such a document. Other Georgian refugees from Gagra told Helsinki Watch that Abkhaz forces shot elderly people attempting to flee the town, and that sniper shooting in the town and surrounding villages killed civilians and made people hostages in their own homes.

Although Helsinki Watch has not yet interviewed a significant number of Abkhaz refugees from the conflict zone, it learned from reliable sources that villages near Tvarcheli (populated by Abkhazians and Armenians in Georgian-controlled Abkhazia) have been burned, and that in the village of Kindgi, Georgian troops summarily executed two Abkhazian brothers, the younger of whom was nine years old. Abkhaz representatives also reported to Helsinki Watch that in October Georgian forces intentionally burned the Abkhaz Institute of Language and Literature in Sukhumi, where Abkhaz historical archives are kept. The Abkhaz representatives noted that the Georgian-controlled militia refused to let volunteers put the fire out.

### **Moldova**

Human rights abuses and violations of humanitarian law were rampant in 1992 in Moldova, the western-most republic of the former Soviet Union, bordering Romania. They ranged from indiscriminate attacks on civilians and civilian structures, to the indiscriminate use of land mines, to acts of discrimination, including dismissals from work on the basis of ethnic origin and political conviction.

The post-World War II period saw a heavy influx of Russians and Ukrainians into Bessarabia and other parts of what is today the Republic of Moldova as part of a policy to dilute the native Romanian population living there. Though newcomers in a historical sense, many of the 562,000 Russians registered as residing in Moldova in the latest census (1989) have lived for large parts if not all of their lives on Moldovan soil. Having enjoyed the advantages of longstanding policies that promoted the primacy of Russian culture in the region, as indeed it was promoted throughout the Soviet Union, many Russians now fear a reduced status within Moldova as a minority community (they represent some 13 percent of the overall population). The struggle for cultural primacy in Moldova, involving not only Moldovans and Russians but also vocal minority groups such as the Gagauz, Jews and Bulgarians, is at the heart of ethnic tensions currently plaguing the republic.

Mounting tensions over cultural dominance, raised by the birth of a

Moldovan-oriented republic in lands where the principal culture previously had been Russian, erupted in March 1992, claiming hundreds of casualties, many civilian. At issue was political and territorial control of the eastern areas of Moldova along the Dniester River, which resulted in a bloody conflict. At its peak, some 100,000 refugees and displaced persons are believed to have fled of the area of combat. The conflict pits supporters of the Moldovan government against backers of the secessionist insurgency that has laid claim to land along the river, supplemented by elements from Russian and other outside military formations. Attacks continued sporadically throughout the spring in the eastern areas, reaching a peak in June during a four-day rampage in the right-bank city of Bendery which was characterized by indiscriminate shooting at civilian structures. A cease-fire agreement was declared in July and, despite some technical violations, has succeeded in suspending the violence since early August. However, the republican leadership still faces the challenge of forging a political settlement with the leaders of the two separatist groups, the "Dniester Moldovan Republic" (DMR, formerly the "Dniester Soviet Socialist Republic," proclaimed in September 1990) and the ethnic Gagauz community, an Orthodox Christian Turkic minority (3.5 percent of the republic's population in 1989), which is seeking an autonomous status for areas in the south of the republic. The Moldovan government has refused to recognize the independence of either breakaway unit, although it is discussing granting a variety of forms of local autonomy.

The secessionist movements of the Gagauz and of the DMR began to take shape in the late 1980s when Moldovan authorities began to institutionalize the dominance of Moldovan culture, for example by adopting a series of legislative acts including declaring Moldovan (almost identical to Romanian) the state language and the Romanian tricolor the state flag. The laws were passed with such a rapid hand that some residents not integrated into Moldovan culture began to feel isolated and anxious, more particularly since the law on the implementation of the state language on the territory of Moldova threatened to remove those unable to prove a minimum fluency in Moldovan from their places of work by 1994, five years from the date of its enactment.

In the months leading up to the outbreak of sustained armed conflict in Moldova, secessionists rallied around the DMR which, as home to a proportionally high percentage of ethnic Russians and Ukrainians (23 percent and 28 percent, respectively) symbolized to some a bastion of Slavic culture in Moldovan lands. Elements of the Russian 14th Army, stationed in Moldova and most highly concentrated on the left bank of the Dniester, bolstered the war effort by exhibiting sympathy with the separatists.

In the increasingly tense atmosphere, civilians on both sides of the political debate began to arm themselves. The ad hoc military formations, including ordinary street police armed with pistols and rifles, gradually were joined by informal forces sympathetic to their causes. The affinities of the Russian 14th Army for the heavily Slavic DMR cause brought on a rapid escalation of the sporadic clashes that had characterized the conflict prior to 1992, as did the arrival of mercenaries for the DMR side, including Cossacks and volunteers from Russia and Ukraine. The Moldovan military force was enhanced by added weaponry obtained through barter from Romania.

Negotiations currently are under way between Moldovan and DMR representatives, as they are between Moldova and the Gagauz leadership, but national and ethnic tensions persist.

#### **Russia: North Ossetia**

Ingush and Ossetian informal paramilitary groups clashed on October 31 in a

battle for control over the Prigorodny district of North Ossetia, a region of the Russian Federation that borders Georgia to the south. Although a cease-fire was declared on November 1, fighting continued. About 3,000 Interior Ministry troops and two battalions of paratroopers from the Russian Army were deployed to enforce a state of emergency, which the Russian Federation government declared on November 2 in both North Ossetia and Ingushetia. The number of Russian Federation military personnel in the region totals about 10,000. The number of battle deaths is between 150 and 250, according to ITAR-TASS and Russian television.

The Ingush claim a historic right to land in the Prigorodny district. In 1944, Stalin deported the Ingush population from Chechen-Ingushetia and granted to North Ossetia the Prigorodny district, which had made up a large part of original Ingush territory. Ossetians believe that the Ingush used the 1991 USSR law rehabilitating the deported peoples to justify the capture of territory that Ossetians believe is theirs. The district is a suburb of Vladikavkaz, the capital of North Ossetia.

Many of the villages in the district had a mixed Ingush-Ossetian population. Ingush claim that houses belonging to Ingush in 17 villages of the district were systematically destroyed and pillaged by Ossetian National Guardsmen and "auxiliary" fighters, and that the Russian Army facilitated this action by blocking off the villages and allowing the Ossetians to enter. Ossetian residents claim that Ingush fighters shot at their homes and forced them to leave. Both sides seized hostages, and by November 9, Ossetians held 450 Ingush, and Ingush held 120 Ossetians.

Nearly all of the approximately 40,000 Ingush who live in the district and in Vladikavkaz have been displaced by the conflict, many of them reportedly forcibly. Nazan, the capital of Ingushetia, is said to be overflowing with refugees. Both sides claim they are victims of ethnic cleansing.

Press access to regions under the state of emergency is limited. According to an order issued on November 14 by Sergei Shakhrai, the head of the temporary state of emergency administration in Vladikavkaz, all journalists in the region must obtain accreditation from the temporary administration or leave, and can send their work to be published only after the head of the temporary administration has had the opportunity to do a "preliminary review" of it. The state of emergency is to be in effect for one month.

### **Tajikistan**

Unlike the conflicts described above, armed clashes in Tajikistan stem not from separatist ethnic and national groups but from opposition to the communist-led regime that remained intact until May. The opening shots of the civil war now raging in Tajikistan were fired in late April and early May when massive rallies of supporters and opponents of then-president Rakhmon Nabiev gripped the capital, Dushanbe, for nearly two weeks.

On May 1, President Nabiev decreed the formation of a national guard to maintain order in the troubled republic. Violating both internal law and United Nations guidelines on police force, Nabiev implemented the decree by distributing approximately 1,800 automatic weapons to men who were participating in the government-organized pro-Nabiev demonstrations. When the rallies ended, the guardsmen returned to their home region of Kuliab (located in the south of the republic) with their weapons and reportedly drove out supporters of the opposition who had not already been intimidated and forced to leave the region. Since that time, Kuliab has refused to submit to the central government, and warfare between pro- and anti-Nabiev forces has battered Kurgan-Tiube (50 miles south of Dushanbe).

Loyalties on both sides of the armed conflict stem from a tangle of political, regional, and clan ties. Civilians have become victims of sniper shooting, indiscriminate shelling and blockades. The United States Committee for Refugees estimates that as many as 100,000 Tajiks are now internally displaced as a result of the conflict, and Russian sources report that about half of these individuals are from Kurgan-Tiube alone.

Many Nabiev supporters fleeing Kurgan-Tiube settled in Kuliab, where they believed they would be safe. The blockading of Kuliab by anti-Nabiev forces reportedly prevented the delivery of food, and subjected hundreds of thousands of people to hunger. By November, pro-Nabiev forces had surrounded the outskirts of Dushanbe, blocking the delivery of food, fuel, and other supplies.

The conflict in Kurgan-Tiube has aroused animosity against Uzbeks, who account for about one fifth of Tajikistan's population and who are frequently perceived as being loyal to Nabiev. In late August, hundreds of Uzbeks fled the region, some claiming that they were expelled by motley bands of anti-Nabiev fighters. Political and religious factions in Afghanistan have armed both sides in the Tajik conflict with relative ease because of the poorly guarded Tajik-Afghan border. Both sides have also attacked stores of Russian army weapons and Russian army troops, police stations, and prisons with impunity.

#### **Ethnically Biased Attacks**

During the Soviet period, national rivalries and antipathies were largely subsumed into collective antipathy for the political establishment. The communist authorities also conducted a highly effective propaganda campaign calling for the "friendship of the peoples" which mitigated open expression of ethnic tensions. With the collapse of the Soviet Union, however, the bonds that kept ethnic hostilities in check, at least officially, were loosened, releasing much of the potent hostilities now fueling both the intensive, sustained military engagements described above and sporadic, largely spontaneous expressions of ethnic bias, such as street beatings and other forms of harassment.

#### **Attacks on Russians**

In many cases, Russians, as the representatives of the culture that dominated the Soviet Union for 70 years, have been the targets of these hostilities in areas outside their namesake territory.

#### **In Moldova**

Long-standing ethnic friction between Moldovans and Russians was exacerbated in 1992 by the outbreak of an armed internal conflict over control of a narrow territory in eastern Moldova, the self-proclaimed "Dniester Moldovan Republic." Although politics and territorial ambition are at least as much the cause of the armed conflict as are ethnic frictions, in most cases ethnic Moldovans are assumed to support the Moldovan government's anti-secessionist stance and Russians to support the insurgency. These stereotypes in many cases are erroneous. Nonetheless, in the charged atmosphere following the intense armed clashes in March, when hundreds were killed and wounded on both sides, there have been incidents of non-combat-related attacks against Russians, some mere harassment and some considerably more violent. The advocacy group Unity (*Unitatia-Edinstvo*), based in the Moldovan capital of Chişinău, has gathered information on such attacks and reports that since 1989 between 30 and 40 harassing attacks have been perpetrated in Moldova for what it defines as reasons of ethnic bias. No statistics are available for 1992 alone, nor has

Unity determined what percent of these alleged attacks were perpetrated against those believed to be Russians. Unity further charges that none of these attacks, all of which it claims have been registered with law enforcement authorities, has led to prosecutions.

One recent attack on an ethnic Russian in Chişinău may be illustrative of current tensions. On June 23, following four days of heavy fighting in the right-bank city of Bendery, Vitalii Balin, a 61-year-old economist, was attacked at his place of work by three men, resulting in a two-week hospitalization, lengthy convalescence, and partial loss of hearing in his right ear. According to the victim's wife, one of the men, who was known to Balin, had lost his brother in the war and was under the incorrect impression that Balin had been collecting money to help in the war effort. The men beat Balin and threatened to kill his family if he reported the incident. Local officials rejected the claim that was filed as a basis for initiating a criminal case against the attackers, and the Balins have decided not to pursue a civil case, according to the victim's wife, for fear of retribution.

#### **In Uzbekistan**

There have been numerous attacks against Russians and other people of apparent European extraction in Uzbekistan. These individuals are conspicuous physically, distinct in physiognomy and dress (while many indigenous residents of Uzbekistan wear Western styles, it generally is not true that individuals of European descent wear Central Asian styles).

For example, in June, Elena L., a 23-three-year-old Russian woman who was born and raised in Uzbekistan, was attacked as she walked down a street in the capital city of Tashkent, itself a largely Slavicized city. She reported to Helsinki Watch that a group of young, apparently Uzbek men shouted "shameless Russian!," ripping her shirt, running after her and causing her to flee in terror. There have been numerous such attacks as a result, some speculate, of a raised consciousness of traditional Central Asian customs that are incompatible with the Western habits widely adopted under the Soviet system and maintained today by almost all Russians.

#### **Attacks on Jews**

The Union of Councils of Soviet Jews reported a rise in violence motivated by anti-Semitism in 1992. On July 8, for example, a Jewish cultural club in Penza, Russia, was desecrated. Sacred music was burned, and musical instruments and ceremonial candles were destroyed. Local police reportedly did not investigate the incident.

There have also been numerous reports of vigilante attacks on Jews in Uzbekistan. The Bay Area Council for Soviet Jews reported on April 2, 1992, that 15-year-old Tabob Kharanbaev, an Uzbek, was arrested for theft while visiting in Dushanbe, Tajikistan; in custody he was beaten, robbed, threatened with rape and death, and abused with anti-Semitic taunts. The Union of Councils of Soviet Jews reported that on February 20 three men broke into the home of a Jewish family in Chilanzar, near the Uzbekistan capital of Tashkent, beat several of them, and coerced them into relinquishing 50,000 rubles with threats of violence and anti-Semitic slurs, such as "Why haven't you left for Israel yet?" Much of the continued harassment of Jews in 1992 appears to be due to long-standing resentment toward their privileged opportunities for emigration and purported enrichment abroad.

#### **Attacks in Kazakhstan**

On October 19, the Regional Council of People's Deputies of Ust'-Kamenogorsk issued an order expelling Chechens, a Muslim minority originating in the Caucasus mountains, from the region of in the wake of the October 18 mob attack on Chechens in the village of Ovechii Kliuch. The onslaught was incited by rumors that Chechens had been responsible for the deaths of four ethnic Kazakhs in town, according to Commonwealth and Russian media reports and Western sources. Public outcry condemned the decision, and a delegation from Alma-Ata made up of government officials and members of social organizations immediately went to Ust-Kamenagorsk. Although as a result of this visit local officials repealed the order within two days of its adoption, it echoes the very policies of forcible deportation of nations that originally brought many Chechen settlers to Kazakhstan in the 1930s and 1940s, and vividly reflects both the animosities that increasingly are surfacing in the form of inter- ethnic violence, and the local government's willingness, in some cases, to take legal action on the basis of these animosities.

#### **Attacks in Russia**

In 1989, Cossack regiments began to form once again in the Krasnodar region in southern Russia, and by 1992 they claimed to have divisions in almost all of the more than 300 districts in the region. In late December 1991, and again in April 1992, the leader of these regiments sent an ultimatum to the Krasnodar regional government to deport non-Slavs such as Armenians, Kurds and Meskhetian Turks, who in recent years had fled to the area from other parts of the former USSR racked by ethnic violence. The Krasnodar regional government agreed to grant Meskhetian Turks only temporary permanent residence status until they have resettled in Georgia or Turkey.

Cossack bands reportedly have pressured individual families of Armenians to leave their homes. According to a representative from the Human Rights Center of Memorial (a Moscow-based group), in late April a group of Cossacks reportedly arrived at an Armenian family's home in Krasnodar, asked them whether they had a residence permit, and told them they had to leave. Several days later a band of 20 demonstrated in the family's yard.

In other parts of Russia, scattered attacks against Azerbaijanis in late July raised fears that such attacks are growing more systematic. The violence often involved vandalizing market goods sold by Caucasians. According to Russian sources, in the Siberian town of Norilsk a gang of youths vandalized market stalls belonging to Caucasians in order to settle scores of a previous, drunken brawl. In response, local authorities conducted residence permit checks in hotels and dormitories. Several days later in Saiangorsk, a city in southern Siberia, an anti-Azerbaijani attack swept a workers' dormitory and spread to hotel rooms and apartment buildings housing Azerbaijanis, causing some damage. Public transportation drivers in Briansk (in western Russia) threatened in late July to strike if Caucasians were not expelled within two days. Staking similar demands, a group of local merchants blocked the main road in Volgoda.

In St. Petersburg, efforts to fight organized crime (in which many Azerbaijanis and Chechens are reportedly involved) overstepped their boundaries during the summer and became a general anti-Caucasian crackdown. Russian newspapers reported attacks on Azerbaijanis in the markets of St. Petersburg organized by the Special Purpose Militia Units (OMON) to avenge the deaths of policemen apparently killed by Azerbaijanis.

In Moscow on February 24, the OMON raided a hotel where many Chechens had taken up residence, allegedly to verify residence permits and arrest racketeers. The OMON reportedly beat up a number of Chechens whom they had detained, some of whom required hospitalization. In response to pressure from



the Human Rights Committee of the Russian parliament, which had investigated the incident, the Moscow city administration issued an order to stop the expulsions. The Law and Order Committee of the Russian parliament began an investigation of the beatings that took place during the raid, but no result has come to light.

#### **Attacks in Tajikistan**

The chaos and civil war in Tajikistan has instilled deep fears among Russian, Uzbek, Jewish, Afghan and other minorities living there. Afghan families who sought refuge in Tajikistan from the civil war at home claim that increasingly they have become victims of beatings and robberies. A recent report of the U.S. Committee for Refugees suggested that it is not clear whether pure ethnic animosity motivated these attacks. Regardless, the local police have not responded adequately to the victims' appeals for help when attacks do occur.

#### **Attacks in Ukraine**

An anti-Gypsy pogrom took place on May 13 in the Odessa district center of Tartarbutary. According to *Izvestia*, rumors had circulated that Gypsies were responsible for the brutal murder of a family in nearby Ivanchenko. A mob of 2,500 descended on a group of 21 houses inhabited ostensibly by "relatives" of the Gypsy suspects and demolished 16 houses, leaving scores homeless. To date no one has been charged in connection with the attack.

The political tug-of-war over possession of Crimea has aroused anti-Crimean Tatar sentiment in Ukraine. According to local sources, on October 1 unidentified individuals attacked a settlement of Crimean Tatars on a state farm in Krasnyi Rai, destroying several homes.

#### **Excessive Use of Force**

In 1992, law enforcement officers continued to display a lack of knowledge of—or willingness to use—nonlethal crowd-control methods. In Tajikistan, security troops subordinate to the Committee for National Defense (KNB, or formerly the KGB) deployed near the former KNB building used excessive and lethal force against a column of anti-Nabiev protesters at a demonstration on May 10. A group of about 1,000 marched to the former KNB building to demand that President Nabiev fulfill his promise to address them. When the crowd began dismantling a barbed-wire barricade in front of the building, KNB security troops, perched on the roof of the building and in windows of high floors, opened fire using automatic weapons. Eleven people died as a result of their wounds, and scores were wounded. One law enforcement official was wounded. According to eyewitnesses interviewed by Helsinki Watch and Memorial, most of the people in the crowd were unarmed, although some people in the middle of it had hunting rifles. However, these people did not fire their guns at the security troops, most of whom could not be seen from the street. OMON troops (who were deployed at one end of the street and were visible to the demonstrators), fired one round of machine-gun warning shots before the KNB opened fire. No tear gas or other nonlethal form of crowd control was used, nor was an attempt made to address the crowd to appeal for calm. The incident provoked a brief clash a few minutes later between anti-Nabiev forces (who arrived on the scene in an armed personnel carrier) and the security troops.

In Uzbekistan, a student demonstration on January 16-17 protesting the simultaneous rise in food prices and delayed issuance of stipends from Tashkent State University was forcefully dispersed by Interior Ministry troops, leaving two students dead from gunshot wounds and scores injured. No criminal charges

have been brought against the troops.

In Russia, riot police in February violently beat unarmed communist protestors as the protestors tried to force their way on to the main square in Moscow. According to *The Washington Post*, several troops severely kicked and beat with truncheons a 16-year-old boy in military garb, who had climbed to the top of a barricade and waved a red flag with Lenin's portrait on it.

In August, *The Los Angeles Times* reported that riot police severely beat African demonstrators who were protesting the killing of a Zimbabwe student by a Moscow police officer. The police apparently "chased the fleeing students and surrounded several of them, then began kicking them in the groin and beating them with fists and rubber truncheons." Police claim the demonstration was blocking traffic.

### **Freedom of Speech and of the Press**

Fragile governments concerned about future political and ethnic stability frequently silenced critics in 1992 by closing or dismantling media sources, confiscating or banning newspapers, and detaining, arresting, harassing and even physically attacking perceived opponents of the status quo.

#### **Azerbaijan**

The Azerbaijani government has set restrictions on press coverage of the war in Nagorno Karabakh. On July 10, as the Azerbaijani counter-offensive was getting under way, the Azerbaijani government announced that press access to Nagorno Karabakh and environs would be limited to those journalists "working for the analytical information center of the Azerbaijani Defense Ministry, Azerbaijani television, ...Ostankino [CIS television], and 'Vesti' [CIS television]." The measure was aimed at preventing "subjective interpretations of events and the divulging of military secrets."

Apart from its reporting on Nagorno Karabakh, the press in Azerbaijan is not subject to government restrictions. However, the suspicious deaths during the summer of a Baky journalist and his wife is cause for concern that informal paramilitary groups will exert pressure on the press. In one incident in late August, Salim Mamedov, editor of the newspaper *January 20*, and his wife Firangiz reportedly were killed by unknown gunmen, one of whom was in military uniform. According to the Baky newspaper *Vyshka*, the bodies were found in Mamedov's home with multiple knife and gunshot wounds. Few believe that the murder was an ordinary common crime. The Azerbaijani parliament, in response to pressure from local journalists, promised a full investigation.

In another incident, Minister of Interior I. Hamidov on October 1 severely beat members of the staff of *Mirror* in response to an article in it that had said that the Interior Ministry in Nakhichevan (an autonomous republic of Azerbaijan) lacked leadership. According to *Turan*, President Elcibey met with a group of 36 journalists who had protested the beatings to "express his solidarity" with their concerns about the free press in Azerbaijan.

#### **Georgia**

The Georgian government's attempt to quash the movement supporting ousted president Zviad Gamsakhurdia has included a crackdown on the press. Radio Liberty reports that on June 25, the day after a coup attempt failed to reinstate Gamsakhurdia, Georgian Procurator Vakhtang Razmadze closed temporarily two pro-Gamsakhurdia newspapers, *Iveria Express* and *Tavisupali Sakartvelo*.

Paramilitary groups loyal to the government are reported to harass pro-Gamsakhurdia journalists repeatedly. For example, the editor-in-chief of

*Tavisupali Sakartvelo* and one of its correspondents claim that in February they were brought to a Tbilisi police station and told they should not attend any pro- Gamsakhurdia rallies. The office of *Iveria Express* was ransacked at least four times after its closure and re-opening.

### **Moldova**

Largely because of the tense atmosphere created by the armed secessionist movement and military efforts to quell it, the right to express views dissenting from both the "Dniester Moldovan Republic" (DMR) and the Moldovan government was restricted in both the media and public life in 1992. Authorities of the secessionist DMR have closed or dismantled (by, for example, removing editorial boards) at least four Dneister newspapers, including *Slobodzeiskie Novosti*, and have established central control over radio and television broadcasting. Jamming of Moldovan radio in the territories nominally under the control of the DMR, begun in 1991, continued in 1992. Likewise, distribution of the printed media on both sides of the political divide has been impeded.

Although the armed conflict along the Dniester River unquestionably has exacerbated violations of free speech sharply, the entire span of media in Moldova is plagued by the legacy of continued economic dependence on government subsidies, which often impairs unbiased reporting. This problem, compounded by an inadequate system of professional accountability, has resulted in a press that in some cases has played a role in intensifying rather than helping to explain tensions in Moldova. Helsinki Watch interviewed many individuals involved in the armed struggle who indicated that they had joined the fighting in response to reports—many inaccurate and alarming—of atrocities being committed in the disputed area and elsewhere.

Some individuals in the region of the DMR professing opposition either to the *de facto* existence of the DMR or to the Moldovan government's failure to recognize it were harassed, dismissed from work and physically attacked. Systematic, organized raids on doctors and teachers trained outside the DMR were carried out apparently as punishment for their presumed position to the DMR.

### **Russia**

The number of available newspapers and journals professing a wide variety of views inspires some confidence that freedom of expression is on firm ground in Russia. However, political speech that is critical of the Russian parliament or impugns the Yeltsin administration is on much shakier ground.

In the most controversial media issue in 1992, the Russian parliament voted on July 17 to take over ownership and control of *Izvestia*, the leading newspaper of the Russian Federation. *Izvestia* had been openly critical of the parliament and its chair, Ruslan Khasbulatov. At the same time in July, the parliament postponed voting on a measure creating a media oversight committee that would have been empowered to impose censorship on radio and television stations. The Press and Information Ministry refused to re-register *Izvestia* as the parliament's newspaper, and Mikhail Poltaranin, Press and Information Minister, announced that he was prepared to take the matter to the Constitutional Court of Russia. In August the Court requested that parliament cease its efforts, and so far the parliament has not succeeded in taking over the newspaper, which is now protected from further takeover efforts by a presidential decree.

The parliament claimed that the *Izvestia* takeover was purely a property

issue since *Izvestia* previously had been in the possession of the USSR Supreme Soviet. After the dissolution of the Soviet Union, a journalists' collective assumed control of the newspaper and its facilities. Although the property claims of the Russian Supreme Soviet may have some validity, political motivations pervade the controversy.

Some attempts have been made to accommodate opposition views on government-owned television. In early July, for example, Ostankino (CIS television) agreed to meet some of the demands of nationalist right-wing groups who had staged demonstrations in front of the television studio for one month. In response, Ostankino granted time to three opposition political parties for a bi-monthly television program.

#### **Turkmenistan**

There were several reported incidents in 1992 of suppression of critical voices in Turkmenistan, both in politics and in the media. In February, several leaders of the political opposition in Turkmenistan were detained by authorities and otherwise discouraged from attending their scheduled meeting with U.S. Secretary of State James Baker, who was in Ashgabat on a diplomatic mission. Among them was Akhmukhamed Velsapar, a writer and activist in the banned *Agzybirlik* (Unity) movement who had publicly criticized the republic's social ills, such as high unemployment and infant mortality. Velsapar and some ten others were placed under house arrest on October 24 and November 1, and two of their apartments were ransacked following meetings with visiting representatives of Amnesty International.

Mukhammedmurat Salamatov, who is the founder and editor of *Daianch* (Turkmenistan's first independent journal), was arrested on March 11 at Ashgabat airport, and some 24,500 copies of the journal found in his possession were confiscated. He was tried three times on charges of violating the republic's press law, and although charges were eventually dropped, he was beaten by unknown individuals on October 3 and he reports that he and his family continue to be harassed and threatened. He believes the incidents were an attempt to silence the journal's criticism of President Niyazov and the republic's Minister of Internal Affairs.

#### **Ukraine**

Ukrainian President Leonid Kravchuk attempted to quell open disapproval of the fragile Ukrainian government. On August 26, he issued a statement threatening foreign visitors with expulsion from Ukraine without the right to return if they "carry out activity that undermines the country's unity, political stability, and ethnic harmony." The statement was aimed at intimidating members of the World Forum of Ukrainians, a diaspora organization, which during its meeting in Kiev had criticized the Ukrainian government and called for its dissolution. No deportations have been reported.

In October, the Ukrainian government began to investigate two individuals on charges of slandering the state. According to *The Moscow Times*, one of them, Vladimir Kniazhitskii, had been quoted in a Ukrainian newspaper calling President Kravchuk "a cog" in the old Soviet bureaucracy. The other, Valentina Yerofeeva, had described both Kravchuk and Russian President Boris Yeltsin as "degenerates," impugning them for having turned their backs on the Communist Party.

#### **Uzbekistan**

The year 1992 has seen a crackdown on critics of the government of Uzbek

President Islam Karimov that is unprecedented in the area in recent years. Abuses range from the broad use of detention and arrest, to strictures on public gatherings, and physical attacks on opposition leaders, their offices and homes. As a result, several leading figures in Uzbekistan's political opposition, particularly *Birlik* (Unity), and its human rights community have fled the republic.

The violent attack of June 29 on several members of the *Birlik* popular movement was perhaps the crudest incident of repression of free speech. Abdurakhim Pulatov, co-chair of *Birlik*, and Miralim Adilov, legal consultant and member of the *Birlik* central presidium, were both hospitalized with serious head injuries, and two other *Birlik* members were wounded, when a gang of unidentified men attacked and beat them with metal rods outside the Tashkent procuracy building, in full view of law enforcement officials who had just finished interrogating Pulatov and Adilov. On October 19, upon his return to Tashkent from Turkey, where he had been receiving medical treatment, Pulatov was again assaulted. According to *Birlik* and Western sources, the attackers, who were armed, were turned over to the police. According to police officials, the attackers were KGB agents who were assigned to protect Pulatov. No charges have been brought.

Other leading *Birlik* members were also harassed in 1992. According to a *Birlik* co-chair, the chair of the Khwarazm chapter, Abdulla Iusupov, was beaten near his home on January 12; Pulat Akhunov, former member of the USSR Supreme Soviet and currently deputy chair of the *Birlik* political party (an unregistered party which is separate from the *Birlik* movement), was attacked at the Tashkent airport on January 21 by three unidentified assailants, and later arrested on July 29 in the city of Shakhrikhan, Andijan oblast', on what are believed to be trumped-up charges of assault; and Bobir Shakirov, chair of the social organization "National Mejlis" and a former political prisoner, was attacked and beaten twice in July. On August 15, Shakirov's apartment was ransacked and he was arrested. He is now in pre-trial detention on charges of organizing an unsanctioned meeting.

*Erk* is the only registered opposition political party in Uzbekistan. According to *Erk* chair Muhammad Solih, however, *Erk* too suffers from government harassment: in 1992 its bank account was confiscated and its newspaper banned. Solih resigned his seat in parliament in July to protest what he perceived as the undemocratic conduct of President Karimov's administration. No progress was made in 1992 in *Birlik*'s series of efforts to become registered as a political party. The highly restrictive Law on Public Organizations, adopted in February 1991, outlaws all parties that promote a religious platform; as a result, the Islamic Renaissance Party, for example, which exists in other republics, remains banned in Uzbekistan. According to a report in *Nezavisimaya Gazeta*, at least 19 activists from the Islamic Center and *Birlik* movement were arrested on March 17-18 in the eastern city of Namangan, considered a center of Islamic revival, for reasons that have yet to be explained.

The expression of dissenting political views in the press has also been restricted in Uzbekistan. The newspaper *Erk* frequently has been denied access to newsprint and has appeared with the telltale marks of censorship—sections blocked-out—although its namesake movement is legally registered. The newspaper's funds and equipment, such as its computer, were confiscated. Like the popular movement *Birlik*'s newspaper, which appears in independent Uzbek- and Russian- language versions—*Mustaqil Haftalik* and *Nezavisimyyi Ezhenedel'nik*, respectively—is unregistered and must be published outside the republic (in Russia) and illegally distributed on Uzbekistan territory. *Birlik* leaders have

reported that the newspapers have been confiscated at the airport as they enter Uzbekistan.

#### **Anti-Defamation Laws**

Ukraine and some Central Asian governments use anti-defamation laws to stifle criticism and intimidate political opposition. Modeled on the 1990 USSR law criminalizing slander of the USSR president, laws defending the honor and dignity of the president and, in some cases, members of other executive bodies were enforced in Kazakhstan, Tajikistan and Uzbekistan in 1992. In Kazakhstan, existing legislation limits criticism of public officials other than the president as well, and they carry penalties of fines and up to two years of detention either under house arrest or in prison. The law on the protection of the honor and dignity of public officials adopted in March, and its apparently wide application, has effectively removed checks on the power of politicians and lawmakers.

#### **Kazakhstan**

Several individuals are currently under arrest on charges of violating Article 170-3 of the Kazakhstan criminal code, which protects the "honor and dignity of the president of the republic." On August 19, publicist Karishal Asanov was charged and arrested under subsection 2 of the Article for his book *Thoughts About a People's Fate or A Word About the Spectre of "Sovereignty,"* excerpts of which appeared in an article entitled "Don't Believe the President's Smile" in the third issue of *Haq* (Truth), the newspaper of the outlawed radical political party *Alash*. In it he questions President Nazarbaev's competence to govern Kazakhstan and states that "the habits of a dictator do not allow Mr. N.A. Nazarbaev to hide even under the cover of presidential power." Bolatbek Akhmetaliev, one of the *Alash* leaders, has been held since December 15, 1991, for violations of this same subsection, allegedly committed during a public demonstration.

Akhmetaliev is also being charged under Article 170-4 subsection 2 of the Kazakhstan criminal code, allegedly for having "publicly slandered the honor and dignity of a people's deputy," Mufti Ratbek Haji Nysanbai-uli in December 1991. In view of these and other criminal charges, Akhmetaliev underwent psychiatric analysis, scheduled for April 27, 1992, and was diagnosed to have a "psychopathy" that the President's office claims will be accounted for in considering the criminal act for which he is incriminated.

On August 14, *Demokraticheskaia Rossiia Press* reported that the editorial board of the newspaper *Birlescu* (Unity), was facing charges, among other things, of insulting the Kazakhstan prime minister and the mayor of the Kazakhstan capital, Alma-Ata. *Birlescu* is the publication of the independent trade union confederation of the same name, which came under heated attack in 1992. On September 15, the People's Court of Petropavlovsk reconfirmed an earlier decision to ban the newspaper *Voznesenskii Prospekt* for insulting the honor and dignity of President Nazarbaev, according to a report in *The Express Chronicle*.

#### **Tajikistan**

The Procuracy of Tajikistan brought charges in February against Mirbobo Mirakhimov, the former leader of the Tajik political movement "Rastokhez," and Shodmon Iusupov, chair of the Democratic Party of Tajikistan, for insulting the honor and dignity of then-President Rakhmon Nabiev. Iusupov had spoken out at a demonstration in January, stating that Nabiev's politics "were not intelligent but very stupid politics." Charges against Iusupov were dropped in the spring,

and Mirakhimov's case was suspended until further notice.

#### **Ukraine**

The Khar'kov chapter of "Memorial" reports that several of its members have been fined heavily, in one instance as much as 40,000 rubles, for apparent violations of the law protecting the dignity and honor of members of executive bodies.

#### **Uzbekistan**

According to Birlik leaders, a Tashkent lawyer named Suleimanov was sentenced this year to six months of deprivation of freedom for allegedly slandering the Uzbekistan president. Charges were brought in connection with articles he published in *Komsomol'skaia Pravda* in which he criticized the procuracy and other government bodies in Uzbekistan.

#### **Freedom of Association and Assembly**

Regulations limiting freedom of association and assembly are widely applied in Kazakhstan, Uzbekistan and Georgia. Several organized groups have been banned in Kazakhstan, including Alash, allegedly for their involvement in violent activities, and most trade unions, whose newspapers have also been closed by government order. According to the Kazakhstan President's office, Bolatbek Akhmetaliev and other Alash members are currently imprisoned, among other things, on charges of organizing an unsanctioned meeting and demonstration on October 1, 1991, allegedly "with the goal of preventing the meeting of the President of the Republic of Kazakhstan with other leaders of other republics of the CIS," in purported violation of Article 183-1 of the Kazakhstan criminal code.

The new Turkmenistan constitution, adopted on May 18, 1992, bans all political parties that claim an ethnic or religious platform. Moreover, the constitution does not explicitly guarantee the right to hold meetings, demonstrations or assemblies, but permits such gatherings only "within the framework provided by the current legislation."

Uzbekistan enforces particularly restrictive laws on assembly, requiring permission from local authorities not only for public demonstrations but also for gatherings in private homes. These regulations have been applied on numerous occasions in 1992 to prevent public displays of criticism. Most illustrative of violations of this basic freedom are the police activities and subsequent mass arrests that followed a series of attempted demonstrations scheduled to protest the opening of the session of the Uzbekistan Supreme Soviet on July 2. On this date, Birlik and Erk planned a series of joint public demonstrations to be held in several cities throughout the republic. According to witnesses, in the early hours of that day, Ministry of Internal Affairs (MVD) and other law enforcement officials blocked the main square in the capital and closed major arteries of traffic that would have allowed people to congregate in the city. Scores of arrests were carried out in Tashkent, Bukhara, Kokand, Namangan and Samarkand.

On January 16-17, Ministry of Internal Affairs troops were sent in to calm a demonstration on the campus of Tashkent State University. In the ensuing chaos, two students were killed and tens of others wounded by shots apparently fired by MVD troops. According to students enrolled at the university at the time, in the immediate aftermath of the violence, measures were taken to make organized protests difficult: most classes at the university were suspended for approximately two months, and students living in dormitories were forced out of them and ordered to re-enroll at educational institutions in other cities,

while students from outlying areas were brought in their stead.

## **Criminal Justice System**

### **Right to Counsel**

The right of detainees to timely access to legal counsel was violated on a regular basis in those areas of the former Soviet Union that saw armed conflict in 1992. This occurred especially in circumstances surrounding the apprehension of suspected criminals during times of a state of emergency or other war-like situations.

In Moldova, several inmates and former prisoners with whom Helsinki Watch spoke reported that they were advised by prison wardens and investigators that they should defend themselves and not hope ever to have legal counsel. As a result, Igor' Yermakov, arrested for illegal possession of a weapon by Moldovan government authorities in the war-torn city of Bendery, has been in prison since June 20 and has not had access to counsel.

In Kazakhstan, Bolatbek Akhmetaliev, an Alash leader, at first was denied the right to engage a Moscow attorney for his defense. The investigation went on without Akhmetaliev's counsel of choice, but once the investigation was finished he was allowed to hire a Moscow lawyer. The attorney claimed he was permitted infrequent access to his client, despite the fact that by law the accused has the right to meet his lawyer every day.

In Tajikistan, Dushanbe Mayor Ikramov, who was arrested and detained in March in connection with alleged corruption, was consistently denied access to his lawyer. At one point the lawyer, Igor' Naumkin, was prevented from meeting with his client for 31 consecutive days. Subsequently, Mr. Ikramov was moved from Dushanbe to a jail in northern Tajikistan without the knowledge of his lawyer.

### **Administrative Detention**

Administrative detention, the legal practice of holding individuals for up to 15 days for such misdemeanors as petty hooliganism and participating in unsanctioned gatherings is an abusive practice left over from the Soviet era. No successor states to the former Soviet Union have repealed the laws authorizing this practice, which exceeds accepted international norms, and indeed some periodically have extended the detention to one month. In practice, administrative arrest and detention are used to restrict the movement and communication of individuals who voice opinions contrary to those of the government, and as such has proved a legal instrument for violating the freedom of speech.

### **Azerbaijan**

Attempts to curb use of administrative detention suffered a setback in Azerbaijan in 1992 when acting president Isa Kamberov issued a decree on June 3 granting "internal department chiefs" the right to double the length of stay under administrative detention, according to an Interfax report, "due to the tense situation in the republic, to the escalation of aggression on the part of the Armenian armed forces, and to the need of the disarmament of the unlawfully formed detachments." As a result, many individuals were held in prisons for one month—and in some cases well beyond that time—without being charged. The same decree, which was enforced for one month, also granted the Internal Ministry the authority to conduct searches of private homes without a warrant.



### **Georgia**

During the period of rule by the Georgian State Council, Gamsakhurdia supporters were widely and routinely subject to harassment in the form of administrative arrest primarily for participating in unsanctioned gatherings. Police and Mkhedrioni, a paramilitary group that is not directly under government control, took suspects to police stations, subjected them to degrading treatment and sometimes beatings, and in some cases in the autumn, detained them longer than 15 days, apparently to keep them off the streets during the October 11 elections.

### **Uzbekistan**

Pulat Akhunov, deputy chair of the outlawed Birlik party and an activist in its movement of the same name, was detained twice in June. According to a report in *The Express Chronicle*, Akhunov was arrested during a traffic check and held for ten days beginning on June 26 on charges of "offending a police officer," an event which coincided with his efforts to conduct a joint meeting of the leaders of the oblast' chapters of the Birlik popular movement and Erk. His detention was extended by ten days for his apparent participation in a prison brawl. He was arrested again on July 28 on what Birlik co-chair Abdurakhim Pulatov believes are trumped-up charges of assault. Deputy chair of the Society for Human Rights of Uzbekistan, Mikhail Ardzinov, was held for ten days apparently without formal charges, during which he held a hunger strike in protest. Birlik supporters K. Akhmedov and N. Eshniiazov were held under administrative arrest for ten and fifteen days, respectively. Following numerous stints in administrative detention, Yadgor Obid, a member of Birlik's central council, fled Uzbekistan.

### **Economic Crimes**

According to the Russian Ministry of Justice, since 1989 some 17,000 persons have been convicted under article 154 of the Russian criminal code for speculation. About 5,400 were convicted in 1991. Speculation, which carries a sentence of between three and seven years of imprisonment, was made legal by a decree of January 29, 1992, yet thousands of these individuals remain in prison. A general amnesty issued in June allowed the release (subject to certain restrictions) of, among others, inmates who had served 20 months of sentences of up to five years. Some "economic prisoners" were accordingly released under this amnesty, but no special provisions were made to speed the release of all people convicted of speculation.

### **Death Penalty**

The death penalty remains in place in all of the former Soviet republics except Georgia and Armenia, where it was officially rescinded in previous years. (In Georgia, however, summary executions reportedly take place to punish Georgian troops who engage in marauding in Abkhazia.) During the Soviet era, death penalty cases, which were usually tried at first instance in republic supreme courts, could be appealed to the USSR Supreme Court. After the break-up of the Soviet Union, death penalty cases continue to be tried in the first instance in republic supreme courts, leaving defendants without a separate court of judicial appeal.

In January, President Boris Yeltsin established a clemency commission to review death sentences. Since then only one execution has been carried out, and all others are under the commission's consideration.

Responding to international pressure, the Azerbaijani government in May suspended the execution of five Armenian men charged with murder. The case is

now under consideration by President Elcibey.

### **Political Prisoners**

On February 7, the last 10 individuals charged during the Soviet era with political crimes were released from Perm-35 prison. Sadly, new names were added to the rolls of political prisoners in individual former republics.

During the past few years efforts have been made on the part of the RSFSR and now the Russian Federation to seek out and identify cases of illegal imprisonment. In 1992, this job fell largely to the Human Rights Committee of the Russian Supreme Soviet. In a meeting in September during a visit to New York, committee chair Sergei Kovalev, responding to the question of whether there were still political prisoners being held in Russia, answered "yes and no." He explained that he did not know of any, but did not exclude the possibility that some remained behind, bypassed in the amnesties of the late 1980s and early 1990s that released political prisoners en masse, or imprisoned on non-political charges. Kovalev reported that his committee was flooded with letters of inquiry which, because of the lack of manpower, were largely neglected, but that the committee was investigating certain particularly compelling cases. To date, no cases have been found to be political.

In Moldova, several individuals who protested against the conduct of the self-proclaimed Dniester Moldovan Republic (DMR) or who were active in those political groups that were known to oppose the DMR, primarily the Christian-Democratic Popular Front, were arrested by DMR authorities on criminal charges during the course of the armed conflict in Moldova's eastern territories. It is believed that their arrests were politically motivated and that criminal proceedings against them were initiated as a cover-up.

The most egregious arrest was that of Stefan Urîtu, former chair of the Tiraspol' branch of the Popular Front and dean of the Physics and Mathematics Department at the Shevchenko Pedagogical Institute in Tiraspol'. On June 2, in a sweep that brought into municipal detention centers at least three other activists from the Popular Front on similar charges, Stefan Urîtu was arrested in his home, beaten by arresting officials, and charged with having committed a "terrorist act" as defined in Article 63 of the Moldovan SSR criminal code. Depending on which part of the article under which he is being charged (the DMR Procurator General has not clarified this point), Urîtu could face the death penalty. He was held without access to legal counsel for over two months, and then released on September 6, although charges against him have not been dropped. Urîtu has maintained his innocence, and it is widely believed that the charges against him were a fabrication used to silence his dissent.

Numerous individuals who are active in opposition movements and the opposition media in Kazakhstan, Turkmenistan and Uzbekistan were also detained as a form of political harassment on charges ranging from traffic violations to illegal assembly.

### **Rehabilitation of Victims of Soviet Oppression**

The successor states continue to make progress in rehabilitating victims of abusive and punitive Soviet policies. The biggest breakthrough in this process in 1992 was the opening to public scrutiny of the long secret KGB files, allowing the nature and extent of such abuses to come to light. As documents are unearthed in archives, including warrants for execution, issues that have long plagued the Soviet Union's international relations are being resolved. Most dramatic among these revelations this year were documents released on October 14 proving Soviet responsibility for the massacre of 20,000 Poles in Katyn forest. Ordinary citizens, on the other hand, had little success in 1992

in gaining access to the files, and have much longer to wait before archival facilities can accommodate all those pursuing inquiries.

The successor states acknowledge but do not assume responsibility for past crimes, and have failed in their legal obligation to compensate adequately victims of these injustices. There is little likelihood that the successor states will make full compensation of victims a priority in the foreseeable future since state coffers are largely empty during this transitional time, and economic demands are more than the nascent economic structure can satisfy. Moreover, on a symbolic level, there is clearly an unwillingness on the part of the newly independent states to pay for the abuses of the former USSR.

### **Psychiatric Abuse**

Systematic, government-sponsored abuse of psychiatry for political reasons appears to have come to an end in the former USSR. Progress has been made in instituting legal provisions for humane and responsible health care for the mentally ill, although it has been pursued more successfully and vigorously in some regions of the former Soviet Union than in others. In Russia, for example, the mental care legislative act "On Psychiatric Care and the Citizens' Rights With Regard to Such Care" was passed on July 2, 1992, setting minimum standards for humane treatment of psychiatric patients, including limitations on how long a patient may be incarcerated before being allowed access to legal counsel, and rights to correspondence, visits, and informed consent before treatment is given. The principles articulated in "On Psychiatric Care" improve on those laid out in Russia's mental health care law adopted in January 1988. Georgian authorities are preparing a similar draft law, as may be other former republics. Despite such progress, there is still no effective review system, and no standardized mechanism for issuing accreditation to psychiatric facilities.

The American Psychiatric Association has noted a general improvement in the attitude of former Soviet psychiatrists and mental health professionals and administrators toward patients in 1992, but bemoans the fact that the profession remains largely discredited by its past record of abuse and lacks the education necessary to reverse its legacy of mistrust and ignorance. This process is further impeded by the slowness of the system to replace those authorities who are responsible for past abuses with enlightened, appropriately trained cadres.

One of the most notorious restrictions on mentally ill patients from the Soviet era that persists today is the existence of a register of individuals who have been released from mental facilities and who as a result are stigmatized and deprived of certain rights, including the right to drive a car, travel abroad, and hold some jobs. Before the *glasnost* period of reform, there had been millions of individuals on the register. There is no information available on the current size of the register. Legislative bodies in most of the former republics are discussing amending the practice, although the prospect for progress on this issue in the immediate future is unclear.

Much work remains to be done in the legal sphere. Except in Russia, there are no laws in the former Soviet Union that guarantee minimum humane treatment of mental patients. In the absence of any standardized methods for disseminating legislation, even those laws that do exist to protect the rights of mental patients rarely find their way into the hands of mental health professionals or, more important, the patients themselves. Moreover, there are no provisions for enforcement of the guarantees enshrined in the current law.

### **Conscientious Objection**

In a departure from the experience of past years, only a handful of cases of punishment for conscientious objection have reached the attention of advocacy groups in 1992. This may be explained in part by a lack of information on cases of imprisonment of conscientious objectors, and in part by the relative enthusiasm with which men of conscription age are willing to serve in national as opposed to "Soviet" armies. To date, only Azerbaijan, Moldova and Ukraine have ratified laws on alternative service. Armenian legislation provides options for individuals whose religious beliefs conflict with state requirements, but the republic has not yet passed a law concerning enforcement of this option or for accommodating pacifist objections. Turkmenistan issued a decree, reported by Interfax on July 16, approving alternative service on construction sites. Draft laws on alternative service in Belarus, Kyrgyzstan and Russia are expected to come before legislatures in 1993.

An added complication is that not all new states have adopted citizenship laws, and even in those that have, many residents have not yet declared their intention to adopt a new citizenship. Thus, there are many officially stateless individuals whose obligations to serve in the military are unclear.

According to the Moscow Helsinki Group, local procuracies in the Russian Federation are currently pressing criminal charges against more than 400 people who have refused to begin military service. While it is not known how many of these are currently in pretrial detention, 41 are currently serving sentences handed down in 1991 and 1992 for refusing to serve.

The Moldovan parliament passed the law "On Alternative Service" on July 9, 1992, featuring provisions for males between the ages of 18 and 27 to refuse military service "due to religious or pacifist convictions" (Article 3) on condition that they instead perform "government service...that has a civil and socially useful character" (Article 4). The Chişinău branch of "Memorial" reports that several men of German origin who had decided not to adopt Moldovan citizenship were obliged to serve in the Moldovan Republican Army, and some sustained casualties. Their objections to military service apparently were neither religious nor pacifist but political, a category not accounted for under the new law.

Armenia and Ukraine have adopted legal provisions permitting alternative service on the basis of religious objection. In Armenia, the "Law on Freedom of Conscience and Religious Organizations," adopted on June 17, 1991, grants the option of civil service to individuals whose religious beliefs prevent their involvement in the armed forces. The Ukrainian law, passed in 1992 based on a draft prepared in December 1991, also makes alternative service available only to those who exhibit "genuine religious conviction" (apparently not defined in the law), and in addition mandates service in non-combat capacities of double the length of those who serve in the military.

Although most successor states have shown increased sensitivity to the issue of conscientious objection, in some states there has been legislative backsliding, particularly in those regions embroiled in regional armed conflict. Article 9 of the law "On the Armed Forces of the Azerbaijani Republic," adopted in October 1991, offers 24 months of alternative civil service to men between the ages of 18 and 25 "for reasons of conscience," six months longer service than a regular tour in the armed forces. On June 11, 1992, however, in the heat of the bloody escalation of the fighting in the disputed enclave of Nagorno Karabakh, the Azerbaijani parliament suspended this alternative; it is unclear when it will be reinstated. The Acting President of Tajikistan, a republic burdened with the demands of a civil war, issued a decree on October 14 declaring that "resolute measures" would be taken against

individuals evading conscription. Though not facing the pressures of armed internal conflict, Turkmenistan, too, took a harsher stand on the issue by stiffening penalties against deserters and threatening them with criminal charges.

### **The Right to Monitor**

The Memorial Human Rights Center reports unimpeded access in its monitoring activities, which have taken place in Armenia, Azerbaijan, Georgia, Moldova, Russia and Ukraine. In the summer of 1992, the Moscow Helsinki Group, together with other human rights groups specializing in prisoners' rights and prison reform, abuses in the military, and abuses in psychiatry and the rights of the mentally ill, opened the Moscow Human Rights Center. The Russian government facilitated this endeavor by making office space available in downtown Moscow, and it is to be hoped that the Russian government will continue to support this and other human rights projects.

Governments in Russia, Central Asia and Georgia have been less cooperative in granting local activists access to prisons. For example, a planned visit to prisons that was part of an international conference on prison reform held in November in Moscow was disrupted by the Russian authorities' decision to allow only the foreign visitors access to prisons. The authorities reversed this decision only in response to pressure from the conference organizers.

In Uzbekistan, members of the Birlik movement attempted to form a human rights organization in the spring of 1992 but were denied registration by the government. Although the movement has a political agenda, that should not have impeded their freedom of association.

International human rights monitors worked and traveled almost unimpeded in the former Soviet Union in 1992. A notable exception was the expulsion of two representatives of Amnesty International from Turkmenistan on October 25 on the pretext that they had been traveling on invalid visas. They were also forbidden to leave the republic through Russia, and thus were forced to travel out by way of Azerbaijan.

### **U.S. Policy**

The U.S. government has provided diplomatic and financial support for the fledgling states that were established following the December 1991 Minsk agreement that effectively dismantled the Union of Soviet Socialist Republics. U.S. policy, on the whole, has been nurturing and benign.

In an address in Princeton in December 1991, Secretary of State Baker defined the principles on which the U.S. government would base its relations with the successor states to the Soviet Union as "respect for human rights, particularly respect for equal rights for minorities; adherence to democracy and to free markets; and of course nuclear safety." The dizzying speed with which the successor states have adopted, rejected and revised their own social and political experiments has made it difficult to ascertain how well these states are adhering to Baker's principles during a chaotic period of transition. Because U.S. policy has been largely reactive rather than forward-looking, it has been only marginally effective in curbing violations of rights by the new governments and in mitigating the internal strife that threatens the freedoms of millions of individuals.

Many remnants of the former Soviet infrastructure, including organs of state security, remain in place today and continue to function as they used to, inviting arbitrary and sometimes corrupt implementation in the area of law enforcement. In addition, many members of the Soviet bureaucracy remain in

their previous jobs or have been reshuffled for the sake of appearances but retain their previous responsibilities. Former communists remain as president in Kazakhstan, Moldova, Turkmenistan, Ukraine and Uzbekistan. Moreover, several leaders who came to power by exploiting nationalist sentiments have proven to be at least abusive as their communist predecessors. Most egregious was Zviad Gamsakhurdia, who came to power in Georgia in May 1990 and was ousted by force in January 1992, in part because of widespread dissatisfaction over his violations of freedom of speech. In addition, Abulfaz Elchibey who was swept to power in Azerbaijan on a groundswell of popular support in June 1992, has since launched a counter-offensive in Nagorno Karabakh that has caused an escalation in the conflict with many new civilian casualties.

U.S. policy toward the former Soviet Union in 1992 suffered most from an apparent belief that the shedding of communism and the turn to a market economy would necessarily be accompanied by democracy and a respect for human rights. In his statement of April 9 before the Senate Foreign Relations Committee, Secretary Baker repeatedly linked the concepts of "building democracy" and "building free markets." During his week-long whirlwind tour of the newly independent states in early February, Secretary Baker seemed satisfied with those who paid lip service to this simplistic yardstick. For example, following his February meeting with Uzbek President Islam Karimov, who won in an election in which several opposition parties were forbidden to participate, Mr. Baker stated: "The President in our meetings in effect recited those principles [relating to democracy, the free market and human rights] back to me today. I am well pleased by what I heard." The same sentiment was echoed in Baker's warm speech during his visit to Tbilisi, Georgia, on May 25, when he praised the work of State Council member Eduard Shevardnadze while ignoring violations of free speech in the troubled republic, which have silenced many real and alleged supporters of ousted president Gamsakhurdia.

On October 26, President Bush approved the "Freedom for Russian and Emerging Eurasian Democracies and Open Markets Support Act" (Freedom Support Act), which provides for the distribution of \$410 million to the new states in humanitarian aid and development programs. Secretary Baker has characterized the Act as "every bit as much a policy statement...as a legislative package." The Freedom Support Act contains a crucial provision whereby aid and other economic benefits can be withheld from any of the countries that violate human rights.

The U.S. Congress exercised its prerogative to withhold aid to successor states on human rights grounds. An amendment to the Freedom Support Act denies aid to Azerbaijan beginning January 1, 1993, to protest human rights abuses committed by Azerbaijan during the protracted conflict in Nagorno Karabakh and Azerbaijan's blockade of Nagorno Karabakh and Armenia. The amendment (which the Bush Administration repeatedly opposed) is laudable but lacks even-handedness with regard to Armenia, which is unofficially supporting the Armenians in Nagorno Karabakh who are also responsible for human rights abuses.

In the course of 1992 the State Department took the lead in the international community by opening a far-flung network of embassies in the newly independent states. By the end of the year, U.S. embassies were operating, with varying degrees of efficiency, in the capitals of all of the former Soviet republics. A new consulate, in Vladivostok, Russia, was also opened on September 22. Ambassadors were approved for all countries except Armenia. In addition, some 500 Peace Corps volunteers are expected to be in place throughout the former Soviet Union by the end of fiscal year 1993.

Mobilizing qualified cadres of foreign service officers with backgrounds in development and the local cultures is a colossal task and, given time

constraints, has been met admirably by the State Department. To date, however, there is only one U.S. foreign service officer in the entire former Soviet Union who is charged with the responsibility of monitoring violations of human rights on a full-time basis: the second secretary at the U.S. embassy in Russia. Because human rights violations continue on a large scale in the former USSR, the State Department should increase the attention paid to human rights within the diplomatic service.

One of the most important steps toward bringing the twelve former Soviet republics into conformity with international human rights standards was taken in January 1992 when all new states (except Georgia, which was admitted in March) joined the Conference on Security and Cooperation in Europe (CSCE). During 1992, the U.S. government's Helsinki Commission (also known as CSCE) sent congressional and staff delegations to all of the successor states where, according to their August report, they "paid special attention to human rights issues and the process of democratization in the new states."

The U.S. Congress in 1992 initiated the Benjamin Franklin Fellowship Program, which provides \$7 million from 1992-1994 to offer citizens of the successor states a higher education in the United States in the fields of law, business, public administration and economics. Students are selected on the basis of academic merit, and must return to their home countries for at least two years upon completion of their American education. The program, which is desperately needed, should be expanded, in the view of Helsinki Watch, to include journalism and human rights training in addition to the law.

Radio Free Europe/Radio Liberty and Voice of America, U.S. government-funded radio stations that for decades have broadcast alternative programming into the former Soviet Union, came under attack again in 1992 as legislators were assessing the stations' continued usefulness. It is to the credit of the U.S. government that the level of funding for these important services has been maintained in 1992. Until legal mechanisms for ensuring freedom of speech are established and implemented in all of the new states, the U.S. government should continue to provide uncensored views and information through the radio broadcasts and research institutes.

In January 1992, President Bush pledged \$645 million in economic aid to the newly independent states during 1992 and 1993. Government agencies such as the U.S. Agency for International Development have greatly expanded their previous development interests in the former Soviet Union. One such effort is "Operation Provide Hope" and "Operation Provide Hope II," through which massive humanitarian aid was delivered throughout the former Soviet Union. The human rights aspect of this program lies in its commitment to educational training in the legal and judicial systems, manifested in joint projects for study of the rule of law in which judges and legal experts will be brought to the United States for training, and in programs to provide U.S. legal experts to assist in revising legislation to conform to international standards.

#### **The Work of Helsinki Watch**

In 1992, Helsinki Watch maintained its traditional monitoring on the territory of the former Soviet Union and, thanks in large part to the opening of its Moscow office in November 1991, has extended and made permanent its presence in areas that previously were accessible only by sending occasional fact-finding missions. The loosening of restrictions on foreign visitors that has taken place in the last few years, particularly on international human rights monitors, has given Helsinki Watch the opportunity to work as an integral part of the human rights community in Russia and elsewhere in the region. The office is engaged in the vital exchange of information and mutual support with local

human rights groups and with those in need.

One of the most important advances in 1992 has been the promotion of cooperative relations with local human rights groups, a dream long thwarted during the Soviet era. In June, a Helsinki Watch representative completed a joint mission to Tajikistan with members of the Human Rights Group of the Moscow-based organization "Memorial," which has branches throughout the former Soviet Union; a joint report will be issued on their findings in December. In November another joint Helsinki Watch-Memorial mission visited Georgia to investigate reports of police abuses and violations of free speech.

In 1992, Helsinki Watch representatives traveled on one or more occasions to Armenia, Azerbaijan, Moldova, Tajikistan, Kazakhstan and Uzbekistan, and issued or will issue reports on the findings of each mission. The missions to Armenia and Azerbaijan in April, May and October investigated abuses committed in connection with the internal battle for territorial and political autonomy in Nagorno Karabakh and included a follow-up mission to look into evidence of reckless air bombings in the beleaguered territory. The missions to Tajikistan in June gathered information about the May demonstrations, and the mission to Moldova in August explored allegations of human rights abuses perpetrated during the bloody conflict over the secessionist movement in the eastern areas of the republic as well as the increased tensions among ethnic groups living in the region. A November mission to Uzbekistan and Kazakhstan investigated police harassment and the crackdown on free speech and press. Each of these missions widens Helsinki Watch's network of contacts with local journalists and the human rights community and strengthens future work in the region.

Helsinki Watch has dedicated much of its resources to investigating the tragic turmoil in the Caucasus mountains—in Armenia, Georgia and Azerbaijan. Protests against suppression of free speech and concomitant violence generated two related newsletters, "Conflict in Georgia: Human Rights Violations by the Government of Zviad Gamsakhurdia," in December 1991, and "Human Rights Violations in the New Georgia" in January 1992, following Zviad Gamsakhurdia's ouster. In March, Helsinki Watch published *Bloodshed in the Caucasus: Violations of Humanitarian Law and Human Rights in the Georgian-South Ossetian Conflict*, concerning violations in the ongoing battle for control of South Ossetia. In June, Helsinki Watch issued a newsletter, called "Helsinki Watch Deplores Murder of Refugees in South Ossetia," about the brutal murder of some 36 refugees by Georgian irregulars as they fled the theater of conflict in South Ossetia on May 20.

On the basis of its two-week mission in April and May to Armenia and Azerbaijan, including Nagorno Karabakh, Helsinki Watch published *Bloodshed in the Caucasus: Escalation of the Armed Conflict in Nagorno Karabakh*, which details the latest phases in what may be the most long-lived armed conflict to have scarred the face of the former Soviet Union. The report includes information concerning the notorious "Operation Ring" campaign, and the slaughters in Khojaly and Maraga, sites of some of the most brutal fighting in Nagorno Karabakh.

As violence increased in the spring of 1992, Helsinki Watch issued a newsletter, "Overview of Areas of Armed Conflict in the Former USSR," outlining the nature of the abuses and giving background on the areas of greatest concern. The August Helsinki Watch mission to Moldova resulted in a report, *Borders and Bloodshed: Human Rights Violations in Moldova*, in December.

In addition to the continued monitoring of these "hot spots," Helsinki Watch has also maintained a strong hand in protesting abuses that result from the legacy of the inadequate Soviet political and legal systems. Reviving the



debate on a problem with which the organization has taken issue for many years, Helsinki Watch released a newsletter, "Russian Residence and Travel Restrictions" in August, which challenged the abusive practice, born of the Soviet period, of limiting internal and external travel, a violation of the fundamental right to freedom of movement.

In April, Helsinki Watch sent a letter to Russian Minister of Justice Nikolai Fyodorov protesting the continued imprisonment of individuals serving terms for speculation and requesting further information on the subject. The letter has gone unanswered.

On July 9, a letter was sent to Uzbekistan President Islam Karimov protesting the brutal beatings of several leaders of the political opposition movement Birlik on June 29, including Abdurakhim Pulatov, co-chair of the popular movement, and Miralim Adilov, his legal counsel and a fellow member of Birlik. In its reply, the Ministry of Foreign Affairs emphasized Uzbekistan's right to deal with internal problems as it deemed fit.

In response to reports that Bolatbek Akhmetaliyev, a leader of the outlawed Alash party, was being mistreated in detention, among other things on charges of slandering the Kazakhstan president, Helsinki Watch sent a letter of inquiry and concern in August. The President's office confirmed that Akhmetaliyev had been handcuffed in the hospital and was under psychiatric care.

Helsinki Watch sent a letter on November 5 to Turkmenistan President Niyazov condemning the house arrests of individuals who expressed dissenting opinions and urging an immediate end to systematic violations of freedom of movement and speech in the republic.

Helsinki Watch representatives have also participated in international conferences on prison reform and on women's rights, both of which took place in Moscow in November. In addition Helsinki Watch has continued to provide a forum in the U.S. for visiting and resident specialists in the field of human rights, and has met with diplomats from the region stationed in the United States. Guests have included Sergei Kovalev, chair of the Human Rights Committee of the Russian Supreme Soviet, and Lydia Semina, staff director of the human rights committee and a member of the Russian Human Rights Project Group; Andrei Kozyrev, Foreign Minister of the Russian Federation; Abdurakhim Pulatov, leader of Uzbekistan's Birlik movement; Lydia Grafova, founder of Civilian Assistance, a refugee advocacy group, and observer for *Literaturnaia Gazeta*; Evgenii Zakharov, co-chairman of the Khar'kov (Ukraine) branch of Memorial; Seyran Bagdasarian, deputy to the parliament of Armenia; and Revaz Gvarliani, a Georgian film director and producer of human rights-related films.

## **TURKEY**

### **Human Rights Developments**

The human rights situation in Turkey worsened considerably in 1992. Killings by security forces, in house raids and during peaceful demonstrations, increased substantially over the previous year. So did assassinations by unknown assailants in southeast Turkey, including the killing of eleven journalists—with no serious efforts by the Turkish government to investigate these murders. Torture continued unabated. Sixteen people died in suspicious circumstances while in police custody. Free expression continued to be severely restricted; writers and journalists were detained and prosecuted, and journals were banned and confiscated. Freedom of assembly and association were also sharply restricted. Government abuses of Kurdish civilians in southeast Turkey

accelerated, and Kurdish ethnic identity continued to be under attack.

The coalition government that took office in late November 1991 (made up of Suleyman Demirel's True Path Party and Erdal Inonu's Social Democratic Party) made a number of promises. Among them vows to end torture; to enact significant legal reforms; to draft a new constitution and, meanwhile, to repeal certain restrictive provisions in the current constitution; to acknowledge the "Kurdish reality"; and to respect freedom of the press. None of these promises has been kept.

A legal reform bill was passed by Parliament on November 18 and ratified by President Turgut Ozal. Although the new law shortens detention periods somewhat for people suspected of ordinary crimes, it preserves possible 30-day detentions for political suspects. And the maximum detention period for ordinary criminal suspects (eight days) is far longer than detention periods that have been outlawed by the European Court of Human Rights. The new law also assures a detainee's right to meet in private with his or her lawyer during every stage of the interrogation; this right already exists under Turkish law, but is almost never observed in practice. The law also assures legal representation for those who cannot afford it—a new development—but if a defendant is found guilty, the Union of Bar Associations can ask for return of court and defense fees.

During the first days of the Demirel government, the administration took some positive steps: the notorious Eskisehir Prison was shut down; 227 people who had been deprived of their citizenship for political reasons regained it; and some films and cassettes were removed from a list of banned artistic works. Since then, one Kurdish-language paper has been allowed to be published and distributed; a Kurdish institute has been permitted to open in Istanbul (but not to hang a sign outside its office); and a policy of allowing parents freedom to choose their children's names, including Kurdish names, was adopted.

Turkey faces serious problems: extremist left-wing groups, chiefly Dev Sol (Revolutionary Left), assassinated 54 police and other officials in western Turkey in 1992, and set off bombs in crowded civilian areas as well. The Kurdish Workers Party (PKK), a separatist group that espouses the use of violence for political ends, continues to wage guerrilla warfare in the southeast, frequently in violation of international humanitarian law, or the laws of war.

But instead of attempting to capture, question and indict people suspected of illegal activity, Turkish security forces killed suspects in house raids, thus acting as investigator, judge, jury and executioner. Police routinely asserted that such deaths occurred in shoot-outs between police and "terrorists." In many cases, eyewitnesses reported that no firing came from the attacked house or apartment. Reliable reports indicated that while the occupants of raided premises were shot and killed, no police were killed or wounded during the raids. This discrepancy suggests that the killings were, in fact, summary, extra-judicial executions, in violation of international human rights and humanitarian law. The practice demonstrates the Demirel government's apparent abandonment of its stated commitment to a "state of law based on human rights and freedoms."

Seventy-four people were known to have been killed in house raids in 1992, as compared to 19 people shot and killed in such raids in 1991. Of the 1992 shootings, 40 alleged terrorists were killed in western Turkey—in Istanbul, Ankara, Adana and Mersin—and 34 alleged PKK members were killed in southeast Turkey.

Contrary to international law and standards, Turkish police continued to

shoot and kill peaceful demonstrators—more than 100 during 1992. By contrast, in 1991 ten people were killed by police using live ammunition as a method of crowd control. In March 1992, during the celebration of the Kurdish New Year, government troops opened fire and killed at least 91 demonstrators in three towns in the southeast. Nine others were killed in demonstrations in the southeast in mid-August. Peaceful demonstrators were also killed in Istanbul, Izmir, Adana, Antalya and the southeast. No one has been charged in connection with any of these deaths.

During 1992, torture continued to be routinely and systematically used during the interrogation of both political and non-political suspects. Sixteen people died in suspicious circumstances while under interrogation in police headquarters—five in western Turkey and 11 in the southeast. Police asserted that six of the 13 had committed suicide; three of the five were children, ages 13, 17 and 17. No one has been charged for any of the 16 deaths, and only two cases are being investigated.

Torture takes place in police interrogation centers. Although a 1989 decree ordered that detainees have immediate access to lawyers, such access is consistently denied in practice.

In August, Helsinki Watch interviewed 24 victims of torture in four cities in western Turkey: Istanbul, Ankara, Adana and Antalya. Some were Kurds, some were left-wing activists, and some were suspected of ordinary crimes. All told horrifying tales of their treatment at the hands of the police. Torture techniques included: suspension by arms or wrists, blindfolded and naked (the "Palestine hanger"), while electric shocks were applied to genitals and other sensitive body parts; *falaka* (beating the soles of the feet); rape and sexual abuse; severe beatings; attacks with highly pressurized water; being dragged by the hair or having hair pulled out; having one's face pushed into a septic tank; and being placed in a cell with an attack dog and repeatedly bitten. Nine of the detainees were released and never charged with a crime. Charges against others included political offenses like distributing magazines or literature; attending a leftist's funeral; writing for a left-wing or pro-Kurdish journal; occupying a university building in a protest action; taking photos at a student demonstration; hanging posters for a journal; and covering a student demonstration. None had been allowed to see a lawyer; only one had seen a doctor while in detention.

Torture is not confined to adults. In January, Helsinki Watch issued a report detailing the torture by police of nine children between the ages of 13 and 17. Some were suspected of political offenses such as distributing literature or attending a protest rally. Some were suspected of ordinary crimes. Most were released without being charged with any crime. Torture techniques used including slapping, punching, hitting with truncheons, *falaka*, the Palestine hanger, electric shock, and inserting a truncheon into the anus. None of the children had been allowed to see lawyers; none of the children's families was notified of their whereabouts. During 1992, Helsinki Watch continued to receive reports of the torture of children.

The PKK's guerrilla war, begun in 1984, markedly intensified during 1992. Of the approximately 5,000 deaths that have resulted in the past eight years, 2,000 occurred in 1992. Many who died were unarmed civilians, caught in the middle between the PKK and security forces, targeted for attacks by both sides.

In 1992, the military markedly stepped up its attacks and frequently killed civilians and destroyed civilian homes, in some cases bombing villages from the air. At least one city, Sirkak, was nearly obliterated by Turkish security forces in August. The Turkish government stated that the PKK had

attacked Sirnak, provoking the attack, but Sirnak residents denied the claim. Homes and shops were so badly damaged and the residents so fearful that only between 2,000 and 3,000 people remain in a city that had contained 35,000. Helsinki Watch has received reports of similar destruction in other towns in the southeast.

In addition, Kurdish villagers were frequently forced by the government to choose between acting as village guards, thus making them targets of PKK attacks, and abandoning their homes and fields. The Diyarbakir Human Rights Association branch has listed 400 villages that have been abandoned in the southeast.

The PKK continued to attack and kill large numbers of village guards as well as civilians; in many cases bodies of victims were suspended from telephone poles with notes indicating they had been killed as informers.

During 1992 there was a disturbing increase in the number of suspicious deaths in southeast Turkey. More than 100 people were killed by unknown assailants; most of the victims had been leaders or in positions of responsibility in the Kurdish community, including doctors, political leaders, lawyers, teachers, human rights activists, businessmen. Eleven were journalists, all but one of whom had written for left-wing or pro-Kurdish journals, and several had written about purported connections between a "counter-guerrilla" force and Turkish security forces. Nine of the eleven were deliberately targeted for assassination, including several shot with one bullet in the back of the head. Although there were eyewitnesses to several of the murders, the Turkish government has made no serious effort to investigate the murders or to find the killers, who appear to have acted with impunity.

Kurdish ethnic identity continued to be under attack in 1992. Although the authorities repealed a law forbidding the speaking of Kurdish on the street, using Kurdish in court or in other official settings is still forbidden. Kurdish associations have been closed. Education in the Kurdish language is forbidden. Cassettes with Kurdish songs are frequently confiscated by the police. Kurds have been detained and interrogated for working with the Mesopotamia Cultural Center in Istanbul. Kurdish cannot be spoken on Turkish television, nor can advertisements for a Kurdish newspaper appear. Kurds have been detained and arrested for singing Kurdish songs at wedding ceremonies in Izmir, Adana and Gaziantep.

During 1992, scores of journalists, editors and writers were beaten, interrogated, tortured, charged, tried and sometimes convicted for what they had written, edited or published in Turkey. Most were charged under the very broad Anti-Terror Law for such offenses as "criticizing" or "insulting" the president, public officers, Mustafa Kemal Ataturk or the military; printing "anti-military propaganda"; "praising an action proscribed as a crime"; "praising a terrorist organization"; or spreading "separatist propaganda."

Turkish authorities also raided editorial offices and confiscated and banned dozens of issues of small, left-wing or pro-Kurdish journals. The most frequent targets were the journals *Ozgur Gundem* (Free Agenda), *2000'e Dogru* (Towards 2000), *Yeni Ulke* (New Land), and *Mucadele* (Struggle).

Freedom of assembly continued to be restricted. During 1992, dozens of meetings, demonstrations and marches were banned, and dozens of demonstrators and marchers were prosecuted. Moreover, as noted, police used live ammunition as a method of crowd control, and shot and killed more than 100 non-violent demonstrators.

Many independent Turkish associations were harassed, restricted, raided and sometimes closed during 1992, and many of their members were detained, tortured and indicted. Some associations closed during 1992 were the

Association for Struggle against High Cost of Living and Unemployment, the Association for Rights and Freedoms, the Association for a Patriotic and Democratic Culture, the Association of the Unemployed, the Patriotic Women's Association, the Art and Culture Association of Kartal, the Folklore Education Association, and the People's Houses of Karsiyaka, Adana and Bursa. The associations' members were charged with such offenses as "shouting illegal slogans," "possessing confiscated or prohibited publications," violating the Law on Associations or the Anti-Terror Law, "having links with illegal organizations," engaging in "activities incompatible with [the organization's] aims," or "carrying out illegal activities."

### **The Right to Monitor**

The Human Rights Association (HRA), a large organization with 20,000 members and 40 branches throughout Turkey, continued to operate with legal authorization, monitoring human rights developments during 1992. However, the association suffered from regular governmental abuse. Association branches were raided; the Istanbul and Bursa branches were raided several times during the year. The Adana branch has been closed by authorities. In addition, HRA officers and members were detained, tortured and sometimes charged with violations of the law of associations, spreading separatist propaganda, or committing offenses such as "organizing a funeral."

One human rights monitor, Siddik Tan, an active HRA board member from Batman in southeast Turkey, was murdered on June 20 by three unidentified armed attackers. Tan had been injured in an earlier attack, on July 2, 1991, by a bomb that had been placed in his car. No one has been charged with his death, and Turkish authorities have made no serious effort to find his murderers. Nor have Turkish authorities made any serious effort to find the killers of Vedat Aydin, one of the founders of the Diyarbakir HRA, who was murdered in Diyarbakir on July 5, 1991.

HRA officials reported that death threats against HRA members were common. In May, a leaflet containing death threats against 28 people was widely circulated in southeast Turkey. All 28 were Kurds; all were either members of Parliament or had spoken out on behalf of Kurds in Turkey. One, writer and journalist Musa Anter, was murdered on September 20. Some of the 28 had investigated human rights violations against Kurds. Four were members of the HRA: Yavuz Binbay, president, Van HRA; Sekvan Aytug, president, Sirnak HRA; Faik Tunefan, member, Istanbul HRA; and Omer Hazar, member, Istanbul HRA.

One of the four, Yavuz Binbay, was beaten almost to death by security officers in southeast Turkey during the Kurdish New Year celebrations in March. He suffered six skull fractures and a crack in the orbit of his eye, as well as a series of heart attacks following the assault. On April 3, he was arrested on charges of unlawful assembly, unauthorized demonstration and spreading separatist propaganda.

Sekvan Aytug, another HRA president on the death-threat list, was arrested on May 14 in Sirnak, charged with "organizing certain funeral activities." He was severely tortured during interrogation.

### **U.S. Policy**

The Bush administration has had no positive impact on human rights in Turkey. Although the State Department continues to report behind-the-scenes efforts to persuade the Turkish government to end torture, the abuse continues at the same rate as before. In a statement to the House Subcommittee on Europe and the Middle East reported below, Assistant Secretary of State for European and

Canadian Affairs Thomas M.T. Niles acknowledged that torture has not diminished under the new government. But the State Department has made no effort to persuade Turkey to end the use of deadly force during house raids in western and southeast Turkey, to outlaw the use of deadly force against peaceful demonstrators, or to investigate the murders of journalists and community leaders in the southeast. Nor has the U.S. government condemned Turkey for its armed attacks against civilians in the southeast. During the Kurdish New Year killings by security forces of at least 91 peaceful demonstrators, State Department spokeswoman Margaret Tutwiler went so far as to congratulate Turkey on its "use of restraint."

The Bush administration, like the Reagan administration, has never linked human rights to foreign aid for Turkey. Nor has it explained to Congress, as required by section 502B of the Foreign Assistance Act, what "extraordinary circumstances" warrant provision of military and security assistance to Turkey in light of its consistent pattern of gross violations of human rights.

Turkey continues to be a close and important U.S. ally. Turkey's support of the U.S.-led coalition during the Gulf War, its permission for U.S. planes based in Turkey to fly missions over northern Iraq to protect the Iraqi Kurds, and its potential influence over the Turkic republics in the former Soviet Union, all contribute to its importance as a U.S. ally. Turkey continues to be the third largest recipient of U.S. aid; for fiscal year 1992 it received grants for \$578 million in military assistance and economic support funds. For fiscal year 1993, in an important departure from past assistance patterns, Turkey will receive \$450 million in military assistance in the form of loans (not grants), and \$125 million in economic support funds—grants. In addition, \$180 million worth of excess military equipment (helicopters, aircraft, vehicles and the like) was transferred to Turkey in 1991 and 1992.

In February, after a two-hour meeting in the White House with Prime Minister Suleyman Demirel, President Bush said, "Turkey is indeed a friend, a partner of the United States, and it's also a model to others, especially those newly independent republics of Central Asia." He referred to the relationship between the United States and Turkey as an "enhanced partnership." He made no mention of ongoing human rights violations in Turkey.

The U.S. continues to provide anti-terrorism training to Turkish police. During an August fact-finding mission, Helsinki Watch found that 74 police officials had been trained in the United States under the Anti-terrorism Assistance program during 1992. These officials were in charge of, or employed in, the Anti-Terror sections of police interrogation centers—the places in which political suspects are interrogated, and torture routinely takes place. In one police center, Helsinki Watch saw on the wall a U.S. Department of State certificate stating that the official in charge had been trained in the United States.

On a more positive note, the chapter on Turkey in the State Department's *Country Reports on Human Rights Practices in 1991* provided a picture of human rights abuses in Turkey that was more accurate than earlier reports. Issued in January 1992, the report stated that Turkey "has not succeeded in reducing the incidence of torture of persons in police custody." It also discussed several cases of torture.

Other human rights abuses described in the report included the deaths of 18 people in police custody, "the use of excessive force against noncombatants in the southeast by security forces trying to suppress terrorism," restrictions on freedom of expression, and the absence of the right of detainees to have an attorney present during interrogation.

However, the report downplayed the severity of other human rights abuses in Turkey. For example, it represented that "[t]here were no known political killings attributable to the government," in disregard of security force killings of suspects in house raids and of nonviolent demonstrators. In addition, the report stated that peaceful assemblies are permitted but may be restricted to designated sites. It failed to report that dozens of meetings, demonstrations and marches were banned in 1991, and dozens of demonstrators and marchers were detained, beaten and sometimes prosecuted. The report mentioned the use of live ammunition for crowd control only in the case of security forces' killing of demonstrators during the funeral of human rights activist Vedat Aydil. It neglected to report that three other peaceful demonstrators had been killed by security forces.

Moreover, in discussing freedom of association, the report cited the closing of branches of only one association—Ozgur Dernegi (Freedom Association). It neglected to state that dozens of other associations or their branches had been closed, including Ozgur-Der (The Association of Fundamental Rights and Freedoms); the Kadikoy, Cankaya and Kecioren branches of the People's Houses; the Construction Workers' Solidarity Association; and the Revolutionary Youth Association.

Discussing torture, the report listed common torture techniques such as the use of cold water hoses, electric shocks, beating of the genitalia, and hanging by the arms. It failed to describe other appalling forms of torture, such as rape, truncheons forced into the vagina or anus, sleep deprivation, denial of food or water, and placing a suspect in a small cell with an attack dog. The report also failed to state that children as well as adults are tortured.

In a written statement prepared for a hearing on Turkey held by the House Subcommittee on Europe and the Middle East on September 29, Secretary Niles acknowledged that torture has not decreased:

On the issue of torture, it had previously been our impression that, reflecting the policy of the new government, the trend was in a favorable direction. Recent reports, however, indicate that allegations of torture have not diminished, and torture may have actually increased.

On free expression, Secretary Niles was more sanguine:

I have previously expressed our satisfaction that laws on thought crimes have been abolished, and are no longer a basis for arrests.

The secretary neglected to report that journalists and writers are now prosecuted for thought crimes under the broad and vague Anti-Terror Law, enacted in 1991, and that a number of journalists are currently serving prison sentences for their writings.

The State Department also glossed over persistent restrictions on Kurdish cultural rights. State Department spokesman Richard Boucher said on October 8 that the U.S. has "supported the efforts the Turkish government is making to ensure the cultural and political rights of all the Turkish citizens, including those of Kurdish origin...." In referring to the Turkish government's efforts "to ensure the cultural rights of its Kurdish minority," Boucher ignored continuing restrictions on the use of Kurdish in courts, schools and official settings, and the ongoing harassment of Kurds attempting to express their ethnic

identity, as described above.

### **The Work of Helsinki Watch**

During 1992, Helsinki Watch continued its attempts to improve human rights in Turkey by focusing attention on Turkey's appalling human rights record and trying to persuade the Bush administration to pressure the Turkish government to end human rights abuses. Helsinki Watch sent three missions to Turkey during the year: one in January to meet with government officials and others and to release *"Nothing Unusual": The Torture of Children in Turkey*; another to southeast Turkey at the end of April to investigate killings by security forces during the Kurdish New Year celebrations; and the third to Istanbul, Ankara, Adana and Antalya in August to visit police interrogation centers, to interview recent victims of torture, and to measure the new government's compliance with its pledges on human rights.

In August, Helsinki Watch met with State Department officials and Congressional committee staff members to report on the dreadful state of human rights in Turkey, and to urge an investigation of U.S. training of Turkish police under the Anti-terrorism Assistance program.

Helsinki Watch issued three major reports. The first, *"Nothing Unusual": The Torture of Children in Turkey*, released in January, described the routine torture of children under the age of 18. The second, *Denying Human Rights and Ethnic Identity: The Greeks of Turkey*, released in March, described the harassment and abuse of the small remaining Greek community in Turkey. The third, *Broken Promises: Torture and Killings Continue in Turkey*, was released in December.

In addition, seven newsletters were issued: "Violence against Civilians Increasing," released in January; "Kurds Massacred: Turkish Forces Kill Scores of Peaceful Demonstrators," "Five Journalists Killed; Free Expression Restricted," and "Eleven Deaths in Detention Since February; Three were Children who 'Committed Suicide'," all released in June; "Human Rights Activist Murdered; Human Rights Association Under Attack," released in July; "Eight Journalists Killed Since February; A Ninth Critically Wounded," released in August; and "Censorship by Assassination: Eleven Journalists and one Newspaper Distributor Murdered Since February," released in December. One of the reports (*"Nothing Unusual"*) and two newsletters were translated into Turkish and distributed in Turkey, resulting in considerable additional press attention.

Helsinki Watch published four op-ed articles in 1992 on Turkish human rights abuses: two in *The Washington Post* (including one reprinted in *The International Herald Tribune*), one in *The New York Times*, and one in *Kathimerini*, an influential Athens daily. Letters to the editor were also published in *The New York Times* and *The Washington Post*.

## **UNITED KINGDOM**

### **Human Rights Developments**

The United Kingdom continues to receive little attention from the international human rights community. Yet in recent years freedom of expression in Britain has been restricted; there is an appalling use of lethal force by all sides in Northern Ireland, where U.K. emergency legislation suspends basic due process guarantees; and conditions in many prisons violate international standards.

Violations of human rights continued in Northern Ireland during 1992. Security forces shot and killed five people in disputed circumstances, and questions continued to be raised about the thoroughness and impartiality of



investigations of killings by security force members. Paramilitary groups killed 63 people and set off more than 150 bombs. Security forces also continued to harass civilians—both children and adults—and to damage civilians' property in house raids. Both children and adult detainees continued to be abused physically and verbally.

More than 3,000 people have been killed in Northern Ireland since 1969 in political violence associated with "The Troubles." A state of emergency has existed in the province since its partition from the Irish Free State in 1922. Emergency laws give the security forces—the Royal Ulster Constabulary (RUC) and the British Army—broad powers to stop people on the street, to question and search them, to search their homes, to detain them for as long as seven days without charges, and to exclude people from Northern Ireland or Great Britain.

In addition, the right to trial by jury for offenses connected to political violence has been suspended. The right to silence has been restricted by rules that permit a court to draw adverse inferences from a person's refusal to answer questions. And evidentiary rules in non-jury courts permit the admission into evidence of unreliable confessions, some of which may have been secured by abusive treatment in detention. Three of four Ulster Defense Regiment soldiers who had been convicted of a 1983 murder were released in July 1992 when the Court of Appeal held that police officers had lied at their trial in 1986.

Helsinki Watch continues to be extremely concerned about the use of lethal force by security forces and paramilitaries. The five people killed by security forces in 1992 were shot in two incidents:

- Irish Republican Army (IRA) members Peter Clancy, Kevin Barry O'Donnell, Patrick Vincent and Sean Farrell were shot and killed on February 16 by undercover soldiers after attacking the Coalisland RUC station. The RUC reported that uniformed troops encountered armed men and an exchange of gunfire ensued. However, eyewitnesses reported that the victims had just driven up to St. Patrick's Church and were still in their car when surrounded by troops who immediately opened fire. Questions were raised as to whether the men could have been arrested, rather than killed.
- Peter McBride was shot dead in the New Lodge area of Belfast by two regular British Army soldiers on September 4. McBride had been stopped, questioned and searched by an army patrol. He broke away from the patrol and ran down a street. The soldiers chased him, took firing positions and shot him in the back. The soldiers were charged with murder the next day.

The standard applied for the use of lethal force by security forces in Northern Ireland continues to be "such force as is reasonable in the circumstances." This standard provides too much leeway and leads inevitably to abuses. Instead, deadly force should be permitted only when absolutely necessary, and only in proportion to the immediate danger posed by a suspect.

Sixty-three people were killed by paramilitaries between January 1 and October 28, 1992. Roughly half were killed by republicans, chiefly the IRA, and half by loyalists, chiefly the Ulster Freedom Fighters (UFF). In addition, more than 150 bombs were set off—some as large as 500 pounds. Paramilitary killings violate not only domestic criminal law but also, in the case of civilian victims, the principles underlying international humanitarian law.

A Helsinki Watch mission that visited Northern Ireland in April found that children were frequently stopped on the street, kicked, hit, insulted and

abused by security forces. Street harassment of adults continued as well.

Ill-treatment of detainees during interrogation also continued in 1992. Children under 18 and adults were threatened, tricked, insulted and frequently physically assaulted by police during interrogation.

On the positive side, security force members were charged or prosecuted in two cases: two Ulster Defense Regiment soldiers and a civilian were found guilty of a 1989 murder, and investigations of disputed killings by security forces resulted in charges being brought against two Royal Marine Commandos and one police officer in two cases.

The United Kingdom has one of the highest prisoner-to-population ratios in Europe—about 97 per 100,000. Overcrowding is a serious problem in England, and is particularly serious in local, pretrial prisons where two or three prisoners are frequently confined in cells designated for one. Sanitary conditions are abysmal in some British prisons, and many prisons are just now installing in-cell plumbing. Prisoners often lack clean clothing and bedding, and do not have access to regular showers. Prisoners also suffer from excessive idleness in the large pretrial prisons where few work or educational programs are offered, forcing some inmates to spend all but a few hours locked in their cells.

Free expression continues to be restricted in the U.K. The Official Secrets Act provides criminal penalties for revealing a broad range of foreign policy, defense and military information, regardless of whether the material has been previously disclosed elsewhere or its release is in the public interest. There is no affirmative right in the U.K. to engage in peaceful public assembly or to hold a meeting in a public place, and there is no practical right of appeal from police decisions to restrict or ban public assembly. A broadcasting ban prohibits spoken words by people who "solicit or invite support for" a list of proscribed groups in Northern Ireland.

#### **The Right to Monitor**

There is no evidence to indicate that human rights monitors are harassed by government officials in the United Kingdom.

#### **U.S. Policy**

There have been no public indications that the Bush administration has attempted to persuade the government of the United Kingdom to improve human rights conditions. About U.S. policy in Northern Ireland, Ralph R. Johnson, Deputy Assistant Secretary of State for European and Canadian Affairs, said in May 1990:

The United States advocates peaceful solutions to the problems of Northern Ireland. Consequently, we support the efforts of the United Kingdom and Ireland to use the Anglo-Irish Agreement to address the social, economic, political, and security problems of Northern Ireland.

This means, in our view...finding acceptable political solutions, and eliminating terrorism.

Johnson went on to say that U.S. support for human rights in Northern Ireland includes promoting "fairness in the administration of justice."

Despite these statements, the administration has not publicly criticized in its own voice the U.K. or the Northern Ireland Office for the improper use

of lethal force by security forces, restrictions on the right to a fair trial, abuses of detainees during interrogation, or street harassment and house raids against civilians. The chapter on the U.K. in the State Department's *Country Reports on Human Rights Practices in 1991* does raise some questions about human rights in Northern Ireland, but puts these in the voices of others who have criticized such things as: extrajudicial killings and allegations of a "shoot to kill" policy on the part of security forces; in-house investigations of killings by security forces; the treatment of accused terrorists in police custody; and conditions in prisons.

The U.S. government contributed \$19,704,000 in fiscal year 1992 to the International Fund for Ireland, which aims to improve the economic and commercial life of areas of Northern Ireland that have suffered severely from sectarian strife since 1969.

#### **The Work of Helsinki Watch**

During 1992, Helsinki Watch continued to monitor human rights developments in the United Kingdom. A fact-finding mission to Northern Ireland in April investigated abuses of children under 18. This was followed in July by a report, *Children in Northern Ireland: Abused by Security Forces and Paramilitaries*, which received a good deal of attention from the press and the government.

The report found that the extent of violence inflicted on children is appalling. Children have lost their lives in political violence at the hands of both paramilitaries and security forces. In addition, police officers and soldiers harass young people on the street—hitting, kicking, insulting and threatening them; police officers in interrogation centers insult, trick and threaten youngsters and sometimes physically assault them; and children are locked up in adult detention centers and prisons in shameful conditions.

As for paramilitary groups, the report found that both the IRA and the Ulster Defense Association (UDA) act as alternative police forces, punishing children they believe to be "anti-social" by shootings, severe beatings and sometimes banishment from Northern Ireland.

In June, Helsinki Watch and the Human Rights Watch Prison Project issued a report entitled *Prison Conditions in the United Kingdom*, which was based on a July 1991 mission to the U.K. The report concluded that prison conditions in England are characterized by serious overcrowding, excessive idle time for most prisoners, and unsanitary conditions. The report stated that prison conditions in Northern Ireland are generally better than those in England, although conditions at Belfast Remand Prison were similar to those at local prisons in England. Most prisoners in Northern Ireland do not have access to in-cell plumbing.

### **THE FORMER YUGOSLAV REPUBLICS**

#### **Human Rights Developments**

Although five new states emerged in 1992 from the former Yugoslavia, human rights problems in each are interrelated and, therefore, will be discussed in one chapter. Continuing armed conflict in Croatia and, particularly, the outbreak of war in Bosnia-Herzegovina have been marked by appalling brutality inflicted on the civilian population and extreme violations of international humanitarian law. Violence and discrimination against minority groups in Serbia, Croatia and Bosnia-Herzegovina exacerbated ethnic tensions in each

republic. Repression in Kosovo and violations of civil and political rights in Serbia and Croatia continued.

The dissolution of post-World War II Yugoslavia became final in 1992 with international recognition of three new states (Slovenia, Croatia, Bosnia-Herzegovina), the secession of Macedonia and the formation of a new Yugoslav state (the union of Montenegro and Serbia, including the provinces of Vojvodina and Kosovo). Croatia's and Slovenia's independence were recognized by the European Community and other countries on January 15. The European Community recognized Bosnia-Herzegovina's independence on April 6. The United States recognized Croatia, Slovenia and Bosnia-Herzegovina as independent states on April 7. The three former Yugoslav republics were admitted as member states to the United Nations on May 22. The republic of Macedonia also declared its sovereignty but the international community on the whole has not recognized that republic's independence because Greece objects to Macedonia's name, which it regards as part of Greek heritage. On April 27, the republics of Montenegro and Serbia (including the provinces of Vojvodina and Kosovo) joined to form a new Yugoslav state. Few countries have recognized the current Yugoslav state as the legitimate successor to the former Yugoslavia. In September, Yugoslavia was expelled from the United Nations.

#### **Violations of the Rules of War in Bosnia-Herzegovina and Croatia**

With the support of the Yugoslav armed forces and the Serbian government, Serbian insurgents in Croatia had seized over 30 percent of Croatia's territory by January 1992, when a cease-fire between the warring factions was brokered by Cyrus Vance, Special Representative to the U.N. Secretary General. U.N. peacekeeping troops were sent to Croatia and, although full-scale fighting has subsided in most parts of the country (with the exception of some areas that border Bosnia-Herzegovina), violations of the rules of war continue in Croatia.

After Bosnia-Herzegovina's independence was recognized by the international community on April 7, Serbian armed forces and paramilitary groups and the Yugoslav People's Army (JNA) launched an offensive and eventually captured 70 percent of Bosnia-Herzegovina's territory. Serbian and Yugoslav forces fought against the Bosnian (i.e., predominantly Muslim) army and Croatian forces that are both indigenous to Bosnia-Herzegovina and from Croatia proper.

On May 19, the JNA announced that it was withdrawing from Bosnia-Herzegovina. However, the Belgrade authorities claimed that 80 percent of the Yugoslav Army troops in Bosnia-Herzegovina were Bosnian Serbs who would be free to remain in Bosnia-Herzegovina and fight on behalf of Serbian forces in the republic after the JNA withdrawal. The result was that a force of at least 30,000 men and large quantities of war materiel, including combat planes, remained behind. Paramilitary groups based in Serbia continued to operate in Bosnia, with the knowledge and apparent support of the Serbian government. Weaponry, fuel, spare parts and other support are sent from Yugoslavia to Serbian-controlled areas of Bosnia-Herzegovina on a regular basis. Serbs and, to a lesser extent, Montenegrins from Yugoslavia cross the border to fight on behalf of the so-called army of the Serbian Republic of Bosnia-Herzegovina, the name adopted by the remnants of the former JNA in Bosnia-Herzegovina.

Members of the Croatian military were also active in Bosnia-Herzegovina, particularly during the early stages of the conflict. In addition, Croats from Bosnia formed their own army—the Croatian Defense Council (HVO)—and, in some cases, fought with the predominantly Muslim Bosnian troops against Serbian forces. Croatian and Bosnian troops in Bosnia-Herzegovina receive military and

other support from the republic of Croatia. Although Croatian and Bosnian (i.e., predominantly Muslim) troops are nominally aligned, tensions have increased between them. Armed clashes between Bosnian and Croatian forces in October exacerbated those tensions and led to the displacement of Muslims in the town of Prozor.

Since April, the extent and brutality of the violence in Bosnia-Herzegovina has led to extreme violations of the rules of war by all parties. The most egregious violations in both Croatia and Bosnia-Herzegovina involved the policy of "ethnic cleansing" implemented by Serbian forces. Muslim and Croatian forces also are using intimidation, harassment and violence against Serbs in some parts of Bosnia-Herzegovina and Croatia to force the flight of Serbs from areas under their control.

The Serbian policy of "ethnic cleansing" involves the summary execution, disappearance, arbitrary detention, deportation and forcible displacement of hundreds of thousands of people on the basis of their religion or nationality. The goal is to rid all Serbian-controlled areas of non-Serbs, or at least to diminish their numbers significantly. Non-Serbs who were deported from Serbian-controlled areas of Bosnia-Herzegovina were forced to sign prepared statements relinquishing ownership of their property to the Serbian authorities in the region. Serbian forces indiscriminately bombed, shelled and otherwise attacked Bosnian towns, cities and villages. They also deliberately shot at civilians, including displaced persons and refugees. Such indiscriminate use of force usually served no military purpose but was aimed at terrorizing the civilian population to induce its surrender or flight. Rampant rape and sexual abuse of women throughout Serbian-controlled areas of Bosnia-Herzegovina served a similar purpose. Deliberate and systematic torture was widespread in Serbian-controlled detention camps throughout Bosnia-Herzegovina, and summary executions, disappearances, severe beatings and sexual abuse were common there. The extent of the violence and its selective nature along ethnic and religious lines suggest crimes of genocidal character against Muslim and, to a lesser extent, Croatian populations in Bosnia-Herzegovina.

Despite a tenuous truce in Croatia, Serbian forces there also continued their campaign of "ethnic cleansing" in areas under their control. Non-Serbs who remain in the Serbian-controlled areas of the so-called Krajina region and eastern Slavonia have been murdered, disappeared, deported and forcibly displaced. In the latter part of 1992, "ethnic cleansing" in Serbian-controlled areas of eastern Slavonia increased despite the deployment of U.N. peacekeeping troops to the region. Moderate Serbs who voiced their opposition to the increasing violence and totalitarianism in Serbian-controlled areas were also murdered.

Croatian forces in Croatia and Croatian and Muslim forces in Bosnia-Herzegovina also were guilty of forcibly displacing Serbs on territory under their control. Croatian forces destroyed homes and entire villages once occupied by Serbs to prevent their return. This destruction was most serious in Slavonia and Dalmatia. A campaign of intimidation was used against Serbs in Croatia and in Croatian- and Muslim-controlled territories of Bosnia-Herzegovina to displace Serbs from those regions. Muslim forces destroyed Serbian villages in the Konjic municipality in Bosnia-Herzegovina. Croatian forces destroyed Serbian villages in the Capljina municipality in western Herzegovina. Croatian and Muslim forces in Bosnia-Herzegovina have detained Serbian civilians as hostages for the purpose of negotiating prisoner exchanges.

#### **Violations of Civil and Political Rights in Yugoslavia**

Serbian forces—primarily paramilitary groups—also undertook a policy of "ethnic cleansing" in Yugoslavia, primarily in the republic of Serbia. Methods used included intimidation, harassment, discrimination and forced displacement against Muslims, Croats, Hungarians and Albanians. The Serbian government of President Slobodan Milošević was silent in the face of these abuses, which many believe it condoned.

In the province of Vojvodina, Serbian paramilitaries and local extremists, with the apparent blessing of local, provincial and republican governments, led the campaign to displace forcibly non-Serbs from the area. Croats, Hungarians and others were expelled by Serbian militants from the villages of Hrtkovci, Sid, Slankamen, Indjija, Beksa, Petrovaradin, Plavna, Golubinci and Kukujevci. Most Serbs who were permanent residents of these villages did not support the expulsion of their non-Serbian neighbors and often intervened on their behalf. But Serbian refugees from Croatia and Bosnia-Herzegovina, in conjunction with Serbian paramilitary groups and political extremists, terrorized, beat and harassed non-Serbs in Vojvodina, forcing them to flee Yugoslavia. Their homes later were occupied by Serbian refugees from Croatia and Bosnia-Herzegovina.

Similarly, in the region of Sandžak, which straddles Serbia and Montenegro, violence by Serbian paramilitaries and local extremists forced Muslims to flee, particularly from the villages of Pljevlja, Priboj and Sjeverin. Some Sandzak Muslims have been murdered and disappeared by Serbian paramilitary forces. Helsinki Watch also received reports that Yugoslav military personnel, who were present in large numbers in Sandzak, were responsible for harassing and, in some cases, beating Muslims in Sandžak and demanding that they leave Serbia. Muslim refugees who had fled or been displaced from eastern Bosnia initially sought refuge in predominantly Muslim enclaves of Sandžak. Many have since left the region or are planning to leave because they feel threatened by the heavy military presence and paramilitary activity in the area, which reminds them of the persecution they had faced from those forces in Bosnia-Herzegovina.

Repression against the ethnic Albanian population in Kosovo continued in 1992. The Albanians, who comprise 90 percent of Kosovo's population, refused to recognize the Serbian government's abolition of autonomous status for the province and the establishment of direct rule from Belgrade. Instead, the Albanians formed their own parallel government and professional and civic institutions. Meetings of the underground Albanian government were banned, dispersed or obstructed by the Serbian police. Albanians continued to be arbitrarily detained, tortured and otherwise mistreated in detention. Dismissal of Albanians from their jobs on the basis of their ethnicity continued. Some Albanian workers were also illegally evicted from their homes. Albanians continued to be jailed for nonviolent political offenses, including possession of certain Albanian-language publications and participation in peaceful demonstrations. Most Albanians were sentenced to 30- to 60-day prison terms for such "offenses" and many served such prison terms multiple times. Freedom of the Albanian-language press remained restricted in Kosovo. The daily Albanian-language newspaper, *Rilindja*, remains banned. Articles and illustrations that were contrary to Serbian policy were banned, and journalists and editors were arrested and imprisoned. Serbs and Montenegrins were given preferential treatment before the law. A longstanding record of human rights abuses and discrimination against ethnic Albanians in Kosovo has socially and economically marginalized that population. Thousands of Albanians have fallen into poverty and been forced to emigrate. Conversely, Serbs and Montenegrins have been

accorded economic and political incentives to settle in Kosovo.

In 1992, the federal Yugoslav government of Prime Minister Milan Panić took modest steps to improve ethnic relations in Yugoslavia. Members of the new Yugoslav government met with non-Serbs in Vojvodina, Sandžak and Kosovo. The federal police were sent to the village of Pljevlja after paramilitary activity and violence increased in the town. The local paramilitary leader in Pljevlja was later arrested. Although such steps by the federal government were commendable, they were inadequate and had few results, as paramilitary activity, violence and harassment toward non-Serbs increased throughout Yugoslavia, with the apparent approval of the Serbian government of Slobodan Milošević. Members of the federal Yugoslav government claimed that the arrest of Serbian paramilitary leaders and their followers, who are responsible for much of the ethnic violence in Yugoslavia, lies within the jurisdiction of the Serbian and Montenegrin republican governments. But the federal government itself had a duty to arrest, prosecute and punish those responsible for violations of federal and international laws, including war crimes committed in Bosnia-Herzegovina.

The mainstream Serbian media continued to be controlled by the Serbian government, although Serbian journalists demanded more vocally than in prior years that professional and not political criteria define their work. The Politika publishing house and television station became more independent in 1992. The opposition media in Yugoslavia remains concentrated in the Belgrade area. The opposition station Radio B92 has long been denied access to frequencies that would enable it to broadcast into central Serbia, the bastion of Slobodan Milošević's support. An independent weekly, *Vreme*, continued to publish in Belgrade without any interference from the Serbian government.

#### **Violations of Civil and Political Rights in Croatia**

In addition to the violations of the rules of war noted above, most of the human rights violations in Croatia in 1992 involved discrimination against Serbs and restrictions on freedom of speech, association and the press. In Croatia, local government, police and military officials and individual extremists continued to perpetrate acts of violence against Serbs and to discriminate against and harass them, to force them to leave Croatia. Although many of these Serbs were law-abiding citizens of Croatia, some local Croatian extremists branded them supporters of, or collaborators with, the Serbian insurgents in Croatia and Bosnia-Herzegovina. The methods used to supplant Serbs from their homes in territory under Croatian control included dismissal from jobs, destruction of property, questioning by the police and general harassment by individual extremists. Although disappearances of Serbs decreased in 1992, Helsinki Watch received reports from family members of a Serb who had been abducted by unknown persons in the municipality of Djakovo and whose whereabouts remain unknown. Violence against Serbs and threats against peace activists in Osijek increased in the latter part of the year. Although most of the violence appeared to be organized and perpetrated locally, the republican government of President Franjo Tuđman did little, if anything, to punish and prevent such attacks. Although it promised to bring the perpetrators to justice, the Croatian government failed to arrest, prosecute or punish those responsible for the October 1991 massacre of at least 23 Serbs in Gospić. Nor did the Croatian government take steps in 1992 to punish and prevent mistreatment in detention of persons held by the Sisak police. The Croatian government also has failed to investigate thoroughly and to prosecute those responsible for abuses committed elsewhere in Croatia.

Throughout 1992, the Croatian government filed criminal charges against thousands of Serbs believed to have participated in the Serbian insurrection or committed war crimes in Croatia. In most cases, these Serbs were indicted under the Croatian criminal code for having "participated in or organized an armed rebellion." Some Serbs were tried and sentenced *in absentia* because they remained in Serbian-controlled areas of Croatia and Bosnia-Herzegovina or in Yugoslavia. In certain cases, the charges brought against Serbs appeared justifiable but in many instances little evidence existed to support the indictments. Rather, thousands of persons were arbitrarily indicted on the basis of their ethnicity or political affiliation.

In October, the Croatian parliament adopted an amnesty law that exempted from prosecution all those who had fought on the side of Serbian forces in Croatia (i.e., between August 1990 and September 25, 1992). The law did not exempt from prosecution those believed to have committed grave breaches of international humanitarian law (i.e., war crimes). The criteria that will be used to determine who will be amnestied and who will be classified as a "war criminal" has not been fully explicated. Although Helsinki Watch welcomes the amnesty law, we believe that those who are guilty of war crimes as defined by international law should be brought to justice, including members of the Croatian army and police, as well as Serbian insurgents. Moreover, the criteria used to determine who is a war criminal must be objectively based upon credible evidence.

Freedom of speech, association and the press were restricted in Croatia in 1992. In May, the president of the Serbian Democratic Forum, Milorad Pupovac; the president of the Croatian Party of Rights, Dobroslav Paraga; *Danas* columnist Jelena Lovrić; *Globus* columnist Tanja Torbarina; *Globus* editor-in-chief Denis Kuljiš; and *Slobodna Dalmacija* journalists Viktor Ivančić, Predrag Lucić and Boris Dežulović were charged by organs of the Croatian government with slander, "spread[ing] false information" and "disturbing the public." All had criticized the Croatian government, President Tudjman or former government officials. Jelena Lovrić was found guilty and sentenced to six months of probation. In other cases, charges were dropped or charges remain in effect but prosecution has not proceeded. The Croatian government has also repeatedly filed charges against members of the right-wing Croatian Party of Rights. While some of the charges appeared justifiable (e.g., illegal formation of paramilitary groups), others were based on the expression of the party's political view or its leadership's criticism of President Tudjman.

For almost two years, the Croatian government has tried to assume control over the independent daily newspaper *Slobodna Dalmacija*, which was privatized in 1990. In mid-1992, the Croatian government's Agency for Restructuring and Development once again refused to recognize the paper's privatization and claimed that it remained public property. Croatian courts have upheld the privatization of the paper, which does not espouse the views of the Croatian government or the ruling political party, the Croatian Democratic Union. The Croatian government has refused to accept the courts' rulings and in mid-1992 resumed efforts to bring *Slobodna Dalmacija* under its control. The government dismissed the paper's managing director and appointed a "managing committee" to oversee management of the paper. Helsinki Watch believes the Croatian government's long-term harassment of *Slobodna Dalmacija* violates freedom of the press in Croatia. In a similar case, prolonged harassment of the independent weeklies *Danas* and *Novi Danas* forced their closures in 1992.

The Croatian government also obstructed freedom of association and expression. On May 5, a founding meeting of the Social Democratic Union, a



left-of-center political party, was banned by the Croatian police. Rather than protect the delegates from a crowd of protestors that had gathered outside the hall, the police cancelled the meeting for "security reasons." In early April, the Croatian police banned an International Peace Conference organized by the Croatian Anti-War Council on the island of Vis, where Yugoslav army personnel were stationed at the time. Again, the Croatian government cited "security reasons," on the grounds that Yugoslav forces could use the meeting as a pretext to repress the island's Croatian inhabitants. The Croatian government added that "any discussion [regarding] the future military status of this strategically important island can be organized only when the Republic of Croatia regain[s] its full sovereignty over the island."

Citizenship in Croatia has been arbitrarily granted over the past year. Many Serbs, Muslims, Albanians and some Croats who are otherwise residents of Croatia have been denied citizenship because they were not born in the country. Helsinki Watch has received reports that several persons born in Croatia also were denied citizenship for reasons that remain unclear. The Croatian government formed a commission in late 1992 to investigate, and possibly revise, any discrepancies involving the granting of citizenship. In the interim, those who remain without proper documents have been denied pensions or social security benefits. Also, students who have not obtained proof of citizenship can only be admitted or continue their enrollment in a university if they pay a fee, whereas those who have obtained Croatian citizenship continue to attend classes free of charge.

#### **Civil and Political Rights in Bosnia-Hercegovina, Macedonia and Slovenia**

Almost all of the violations of civil and political rights in Bosnia-Hercegovina were connected to the war in that country. Serbian forces in Bosnia-Hercegovina abducted Vladimir Srebrov, a writer of Serbian ethnicity, when he traveled to the Iližda section of Sarajevo to negotiate with Serbian forces. His captors said that they would try Srebrov for "treason" because he had failed to align himself with Serbian forces fighting against the Bosnian government. Similarly, the Bosnian government issued warrants for the arrest of two Sarajevo-based correspondents for the Belgrade-based daily *Borba*. The Bosnian government has accused the two journalists of "spying" for Serbian forces and both remain in hiding in Sarajevo.

In Macedonia, ethnic Albanians (who comprise approximately 30 percent of the republic's population) sought greater autonomy, including the recognition of Albanian as an official language in civic and governmental institutions. Although the Macedonian government of Kiro Gligorov dealt judiciously with Albanian groups, tensions between Albanian and Macedonian communities persist. No serious abuses of civil or political rights were reported in Slovenia in 1992.

#### **The Right to Monitor**

Human rights monitoring in Bosnia-Hercegovina became increasingly difficult and dangerous in 1992. Indiscriminate shelling and bombing of civilian centers, land mines, road barricades, vigilante violence and indiscriminate shooting at civilian vehicles made travel and on-site investigation of abuses extremely difficult. Road barricades and increasing vigilante violence in Serbian-controlled areas of Croatia also impeded the ability to monitor in those regions. Human rights monitors, including U.N. Special Rapporteur Tadeusz Mazowiecki, were prevented from visiting detention centers in Serbian-controlled areas of Bosnia-Hercegovina. Local Croatian police and military

officials at road barricades prevented inspection of certain areas in western Slavonia and Serbian police and military forces obstructed movement in Serbian-controlled areas of Croatia and Bosnia-Herzegovina. In Yugoslavia, the ability of monitors to take testimony also was impeded by the intimidating presence of the police in Kosovo and military and paramilitary forces in Sandžak. Despite such impediments, a variety of governmental and nongovernmental groups have monitored violations of human rights and humanitarian law in Croatia, Bosnia-Herzegovina and Yugoslavia.

In Bosnia-Herzegovina, a government commission (comprised of Serbs, Muslims and Croats) has been documenting violations of the rules of war in that country. In Croatia, several fledgling peace groups and professional associations have begun monitoring violations of human rights in their country. The Serbian Democratic Forum continued to document violations of human rights against Serbs in Croatia. As noted, the Croatian government has filed criminal charges against the Forum's leader.

In Yugoslavia, Albanian, Muslim and Serbian groups monitored abuses against non-Serbs and violations of civil and political rights throughout Serbia. Some Croatian and Hungarian groups also documented abuses committed against their ethnic groups. The major human rights monitoring group in Kosovo, the Council for the Defense of Human Rights and Freedoms in Kosovo, continued to monitor abuses without direct interference by the Serbian government. However, several members of the Council were arrested for their participation in activities of the underground Albanian government in Kosovo. In 1992, the federal Yugoslav government established a Ministry for Human Rights, which is led by Momcilo Grubac. Grubac visited sites of ethnic violence and strife and met with non-Serbs who were victims of physical assault, discrimination and harassment.

Though not their primary responsibility, the European Community Monitoring Mission, the United Nations High Commissioner for Refugees and the United Nations Protection Force operating in Croatia and Bosnia-Herzegovina monitored violations of human rights and humanitarian law. In some cases, protests were issued to the authorities responsible for such abuses but in most cases violations documented were kept confidential.

### **The Role of the International Community**

Efforts by the international community to bring peace to Bosnia-Herzegovina generally have failed. The United Nations, the European Community (EC) and the United States focused attention on adopting resolutions and negotiating and maintaining cease-fires, but failed to enforce or realize measures they had adopted. Although a series of trade and military sanctions against Serbia were belatedly applied, the international community did not find a way to stop or prevent egregious violations of the laws of war that continued to occur not only as a result of armed conflict but also in occupied areas where fighting had largely ceased.

### **The United Nations**

In 1992, a United Nations Protection Force (UNPROFOR) was sent to keep a tenuous peace between Serbs and Croats in Croatia. UNPROFOR was later expanded and sent to war-torn Bosnia-Herzegovina. In both cases, U.N. efforts have had minimal success. In early and mid-1992, 14,000 U.N. troops were dispatched to Croatia in accordance with a peacekeeping plan for the region. According to the general provisions of the plan, United Nations Protection Areas (UNPAs) were formed in regions of Croatia where Serbs comprised a majority or substantial minority of

the population. Three of the four UNPAS are controlled by Serbian forces (northern and southern Krajina and eastern Slavonia) and the fourth (western Slavonia) is controlled partly by Serbian and partly by Croatian forces.

U.N. forces were charged with demilitarizing the UNPAS by ensuring the withdrawal of the Yugoslav army and demobilizing all armed groups. The UNPROFOR plan calls for maintaining the political status quo in the UNPAS, that is, the continued functioning, on an interim basis and under U.N. supervision, of the existing local authorities and police until an overall political solution is reached. Accordingly, the Serbian-controlled local governments in Krajina and eastern Slavonia continued to have jurisdiction over those areas, as did the Croatian-controlled local governments in parts of western Slavonia. Although the existing political authorities in each UNPA remained, the plan required that the composition of the local police force reflect the ethnic composition of the community before hostilities commenced. U.N. forces were to monitor the work of the local police, and assist in repatriating all persons displaced from their homes in the UNPAS. U.N. troops were also responsible for securing the well-being of the population currently living in the UNPAS and those returning to their homes in those areas.

The UNPROFOR mission in Croatia has been partially successful in that the presence of U.N. troops in the UNPAS prevented a renewed outbreak of fighting in the country in 1992. However, Serbian forces refused to disarm in areas under their control and the UNPROFOR mission did little to force compliance with the disarmament plan. As a result, the rest of the U.N. peacekeeping plan could not be implemented. The police force in Serbian-controlled UNPAS remains Serbian, and non-Serbs expelled from their homes in those regions have not been allowed to return. (The exception is western Slavonia, where Croatian and Serbian forces have disarmed and steps toward repatriation of the displaced have slowly begun.) U.N. forces were unable to secure the well-being of the non-Serbian population in Serbian-controlled UNPAS, and forcible displacement, expulsions, killings, disappearances, physical abuse and harassment of the remaining non-Serbs continued in 1992. Moreover, moderate Serbs who opposed the extreme positions of the local authorities in Serbian-controlled UNPAS were murdered or disappeared. Despite its mandate, the U.N. peacekeeping force was unable to prevent or punish such actions in Serbian-controlled areas of Croatia.

With the outbreak of war in Bosnia-Herzegovina, the UNPROFOR mission in Croatia was expanded into Bosnia. U.N. efforts in Bosnia-Herzegovina focused on peacekeeping, the delivery of humanitarian aid, and the imposition of sanctions against Yugoslavia. But the U.N. did little, if anything, to address the commission of war crimes on a mass scale.

U.N. peacekeeping forces were dispatched to Bosnia-Herzegovina when there was no longer any peace to keep, and U.N. troops in the country operated without a clear mandate, their efforts marked by disorganization and political indecision. Disagreements among members of the Security Council and between the Security Council and the U.N. Secretary General Boutros Boutros-Ghali impeded the ability of the U.N. to speak decisively and with one voice. U.N. member states expected much from U.N. efforts but were unwilling to commit the necessary financial resources to implement plans. Moreover, the parties to the conflict frequently did not negotiate in good faith, thereby hampering U.N. operations in the region. U.N. efforts to deliver humanitarian aid to besieged areas of Bosnia-Herzegovina were impeded by continued fighting. Although a resolution was passed to provide armed escorts and to use force to protect shipments of humanitarian aid, such a resolution was enforced only once—on November 19, when a French battalion fired on Serbian forces attacking a relief

convoy in Bosanska Krupa. Attacks on convoys carrying humanitarian aid continued throughout 1992.

On May 15, the U.N. Security Council adopted Resolution 752, which called for an immediate cease-fire and an end to ethnic oppression in Bosnia-Herzegovina. It required Yugoslavia, particularly the republic of Serbia, to cease all interference in Bosnia-Herzegovina, and to use its influence to promote a cease-fire, oversee the disbanding and disarming of elements of the JNA and irregular Serbian forces, and end efforts to create a purely Serbian enclave by driving out other ethnic groups.

On May 30, the Security Council approved a resolution that imposed economic and trade sanctions on the Belgrade government as a means of enforcing the earlier demands. The resolution cited Chapter VII of the United Nations Charter, which requires compliance by all U.N. members with efforts to deal with "threats to international peace and security." The sanctions required all member states to cease trading in any commodity, including oil, with Yugoslavia and to freeze its foreign assets. All air traffic links with the country were suspended, and no one was allowed to repair, service, operate, insure or provide spare parts for aircraft registered in Serbia or Montenegro. The resolution banned Yugoslavia from participating in any international sporting event and required all countries to suspend cultural, scientific and technical contacts with Belgrade and to reduce the size of its diplomatic missions.

In October, the U.N. Security Council adopted a resolution that banned Serbian military flights over Bosnia-Herzegovina. However, the resolution did not provide for enforcement of the ban. Serbian forces later agreed to send their military aircraft to airfields under U.N. supervision so that they could not be used in further fighting. However, Serbian forces flew some missions in violation of the ban just after it was imposed and later violations also occurred. On November 16, the U.N. ordered a maritime blockade of Yugoslavia to enforce compliance with the sanctions. On November 18, the NATO allies agreed to enforce the naval blockade through stop-and-search operations of vessels traveling along the Adriatic coast and the Danube river.

Helsinki Watch supports the imposition of U.N. sanctions against Yugoslavia. Indeed, we believe such sanctions were long overdue. Sanctions should have been imposed against Serbia and Yugoslavia much earlier for their suppression of rights in Kosovo and their violations of the laws of war in Croatia, particularly for the use of indiscriminate force, the summary executions of civilians and disarmed combatants, and the detention of thousands of civilians, especially after the city of Vukovar fell to Serbian and Yugoslav forces. Had sanctions been imposed against the Serbian government early in the Balkan conflict, Serbian and Yugoslav forces might have been discouraged from committing further atrocities in Bosnia-Herzegovina.

Moreover, enforcement of U.N. sanctions remained unbalanced. Armaments, fuel and other materials used by Serbian armed forces continued to enter Yugoslavia despite sanctions. On the other hand, the sanctions provided no exemptions for the independent press in Yugoslavia, thereby hampering the ability of independent forces from disseminating views opposed to Serbian policies in the former Yugoslavia. The sanctions also imposed unnecessarily complicated approval procedures which the United Nations High Commissioner for Refugees and relief organizations had to follow before humanitarian aid could be distributed in Yugoslavia. Helsinki Watch believes that sanctions should not restrict the provision of aid or trade that is essential to meet basic needs for food, shelter, clothing, sanitation or medical care. Also, in general, we oppose sanctions that restrict the provision of aid, sales or exchanges for the purpose of disseminating information or ideas. Although Helsinki Watch supports

sanctions against the government-controlled press of Serbia and Montenegro because it is used as part of the governments' war propaganda efforts, we believe that independent press in Yugoslavia should be exempted from U.N. sanctions.

The United Nations possessed information confirming the existence of so-called concentration camps in Serbian-controlled areas of Bosnia-Herzegovina since at least early July. U.N. personnel stationed in Serbian-controlled areas of Croatia repeatedly informed their superiors of the existence of such camps near Bihac, Cazin, Velika Kladuša, Bosanska Dubica, Prijedor and Banja Luka. However, high-ranking U.N. officials withheld this information from the press and public and did little, if anything, to stop abuses in the camps. Only after the international press carried articles about the camps did the U.N. and the international community respond by demanding that the camps be opened to international inspection and that all civilians be released. Some detainees were released from the camps without international supervision, only to be summarily executed by their former Serbian captors. Others fled Serbian-controlled territory upon their releases only to find that Western countries refused to accept them for resettlement, leaving them to languish in Croatia and Bosnia-Herzegovina.

At a conference in London on the Yugoslav crisis in late August, a permanent body was established in Geneva to work full-time on the former Yugoslav republics. After the resignation of Lord Peter Carrington as chair of the conference, Lord David Owen, a former British Foreign Secretary, and Cyrus Vance, a former U.S. Secretary of State and Special Representative of the U.N. Secretary General, were assigned to coordinate efforts to negotiate peace in the former Yugoslavia, under the joint auspices of the U.N. and the European Community. Several working groups were formed to deal with various aspects of the problem, and Tadeusz Mazowiecki, the former Polish Prime Minister, was appointed as U.N. Special Rapporteur responsible for investigating human rights abuses in Bosnia-Herzegovina.

Despite all this activity, the U.N. failed to condemn publicly and vociferously major violations of the laws of war in the manner that allocated responsibility to the guilty parties. The failure to specify those responsible for particular abuses diminished the impact of the denunciations that were made. In a misconceived emphasis on neutrality, the U.N. was especially timid in its public condemnation of Serbian forces in Bosnia-Herzegovina. Although Bosnian and Croatian forces have committed egregious abuses of the laws of war, the vast majority and systematic implementation of such abuses have been committed by Serbian forces. Moreover, the U.N. did little, if anything, to stop, prevent and punish gross abuses of human rights and humanitarian law in Bosnia-Herzegovina.

On August 13, the U.N. Security Council called on states and international humanitarian organizations to submit information on human rights abuses in the former Yugoslavia. On October 6, the Security Council adopted a resolution calling for the creation of a commission of experts to examine and analyze evidence of grave breaches of the Geneva Conventions and other violations of humanitarian international law; five experts were later appointed. While Helsinki Watch welcomes the formation of the commission, we believe that its impact would be substantially greater if an international tribunal to try war criminals was promptly established.

In contrast to the UNPROFOR mission in Croatia and Bosnia-Herzegovina, the United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC) worked tirelessly to attend to the humanitarian needs of war victims and to document and protest, to the best of

their abilities, violations of human rights and humanitarian law in Croatia and Bosnia-Herzegovina.

In late 1992, delegates from the Conference on Security and Cooperation in Europe (CSCE) were dispatched to Yugoslavia. They are to monitor border points to ensure that sanctions against Yugoslavia are not violated and to monitor human rights in Vojvodina, Sandžak and Kosovo. As of this writing, their efforts remain preparatory and it is too early to assess the results of their work.

### **The European Community**

In contrast to its activist approach in 1991, the European Community was slow and divided in its response to the war in Bosnia-Herzegovina and the former Yugoslavia in 1992. Germany was the only EC country that consistently supported an active policy in the former Yugoslavia, but it too fell silent during the latter part of the year. France supplied much humanitarian aid to Bosnia-Herzegovina but was restrained in its criticism of Serbian forces in that country. Greece sought to deflect criticism of Serbia because it viewed that state as an ally in its efforts to deny international recognition to Macedonia. Britain was particularly ambivalent about criticizing human rights abuses in the former Yugoslavia and was the most reluctant of the EC countries to accept Bosnian refugees.

An EC monitoring mission that was launched in Croatia to monitor compliance with cease-fire agreements was gradually expanded to include parts of Bosnia-Herzegovina in 1992. However, when a member of the EC monitoring mission was killed near Mostar on May 2, the EC suspended its mission to Bosnia-Herzegovina the following day. On May 12, the last EC monitors withdrew from Sarajevo, declaring it too dangerous.

From the outbreak of war in Bosnia-Herzegovina, the EC sought to act as a broker of peace. However, after multiple rounds of unsuccessful talks, the EC deferred its efforts and let the U.N. take the lead in peace negotiations, under the auspices of an ongoing joint EC-U.N. effort.

EC negotiations were largely unsuccessful due to the lack of good faith by all parties, especially by Serbian forces, who continued to shell Sarajevo and other Bosnian cities despite assurances to the contrary. However, the failure of the EC conference also lies, in part, with the EC negotiators, who were more interested in reconciling the various parties than in ensuring that pledges were fulfilled and that gross abuses were denounced and punished.

Most EC countries have taken steps to implement U.N. sanctions against Yugoslavia. (However, petroleum and other aid frequently arrived to Serbia through Greece.) On July 10, European members of NATO and the Western European Union sent frigates and destroyers to patrol Yugoslavia's coast in an effort to ensure enforcement of the U.N. sanctions. On July 20, the EC accepted the opinion of its legal experts that the state formed by Serbia and Montenegro could not be regarded as the successor state to the former Yugoslavia and thus must apply anew to the U.N. and more than 40 other international bodies.

### **U.S. Policy**

The U.S. position toward the human rights situation in the former Yugoslav republics has been sluggish and inconsistent. The Bush administration initially misread the situation in the Balkans and then groped to define a policy that swung between complacency and active engagement. The lack of overall policy toward the former Yugoslav republics undercut the administration's ability to respond to grave human rights abuses.

In early 1992, the United States failed to exert its influence on Serbian authorities to end the forcible displacement of non-Serbs in Croatia. The U.S. rhetorically insisted on compliance with the U.N. peacekeeping plan but did little to force its enforcement. Only after full-scale war broke out in Bosnia-Herzegovina did the U.S. become involved. Tacitly acknowledging the EC's lack of success in the Yugoslav crisis, the U.S. tried to reestablish its waning credibility in Europe by taking the lead in responding to the Bosnian conflict. Starting in mid-April, the U.S. government issued numerous statements condemning the "ethnic cleansing" policies of Serbian forces in Bosnia-Herzegovina. On May 20, after Serbian authorities rebuffed U.S. appeals to permit safe passage of humanitarian aid into Bosnia-Herzegovina, the U.S. suspended permission for Yugoslavia's national airline to land in the U.S. The U.S. Ambassador to Yugoslavia, Warren Zimmermann, was recalled to Washington for consultations on May 16 and, on May 22, Secretary of State James Baker announced that Ambassador Zimmermann would not be returning to Yugoslavia. On May 22, the U.S. announced a series of diplomatic sanctions against Serbia, which included withdrawing military attaches and ordering the expulsion of their Yugoslav counterparts from the U.S., the closing of Yugoslav consulates in New York and San Francisco, and further reductions in the U.S. embassy staff in Belgrade. The U.S. also stated that it would withhold recognition of the Serbian-dominated government in Belgrade until Serbian forces were withdrawn from Bosnia-Herzegovina and peace was restored to the former Yugoslav republic.

On May 24 in Lisbon, Secretary Baker called for mandatory U.N. sanctions against Serbia. In his remarks, Secretary Baker prodded some European countries, particularly France and Greece, that were hesitant about imposing sanctions against Serbia. Also on May 24, Secretary Baker stated that the U.S. would not accept Serbia and Montenegro as the successor state to the former Yugoslavia in multilateral institutions.

The United States assumed an active role in initiating, drafting and implementing U.N. sanctions against the Serbian government. The U.S. moved quickly to implement the U.N. embargo against Yugoslavia and, on June 1, the U.S. Treasury Department announced that it was freezing the assets of the Yugoslav government and the republics of Serbia and Montenegro, including the state-owned airline and banks. On July 10, U.S. warships began to patrol the Yugoslav coast as part of a joint NATO/Western European Union flotilla aimed at strengthening enforcement of U.N. sanctions. On November 18, the U.S. agreed to cooperate with NATO enforcement of the naval blockade of Yugoslavia.

On June 23, while testifying before the Senate Foreign Relations Committee, Secretary Baker announced further U.S. sanctions against Yugoslavia. The sanctions, which were largely symbolic, entailed the closing of the last remaining Yugoslav consulate in the U.S., in Chicago. Secretary Baker also stated that the U.S. would more actively pursue efforts to suspend Yugoslavia from the U.N. and other international organizations. The sanctions also withdrew recognition from Belgrade's ambassador to the U.S.. On July 6, the U.S. placed further sanctions on Belgrade. The Treasury Department went beyond the U.N. embargo by extending it to all companies in Serbia and Montenegro. According to the Treasury Department, because the violence and rapid changes in the former Yugoslavia had made it difficult to identify ownership of entities subject to the economic embargo, the U.S. "was forced to regard all companies in Serbia and Montenegro and their foreign subsidiaries as either owned or controlled by the Yugoslav government." Violators of the embargo are subject to criminal fines of up to \$250,000 for individuals and \$500,000 for corporations, as well as imprisonment for up to ten years and civil penalties of up to \$10,000 per violation.

Proposals for the use of force either to attack abusive Serbian forces or to protect humanitarian convoys carrying relief supplies were discussed and debated within the administration. On the one hand, the Defense Department strongly opposed any direct combat role for U.S. forces and the State Department was willing to use arms only in defense of relief missions. On the other hand, members of the U.S. Congress, particularly in the Senate, pressed the Bush administration to consider military intervention to halt the Serbian offensive in Sarajevo. Eventually, the administration adopted the position that it was prepared to send U.S. troops to Bosnia-Herzegovina but only to help supply and safeguard humanitarian aid and only after a durable cease-fire was negotiated. The use of force was discussed when the U.N. debated imposing a no-fly zone over Bosnia-Herzegovina in September and October. The U.S. supported the use of force to enforce the no-fly zone but yielded to French and British pressure to refrain from such action.

Once U.N. and U.S. sanctions against Yugoslavia were in place, the U.S. seemed to disengage from the Bosnian situation. When reports of detention camps in Bosnia-Herzegovina appeared in the press, the Bush administration first confirmed and then tried to minimize the severity of the abuses taking place there. Press reports and leaked U.N. documents indicated that the abuses in the camps were systematically perpetrated against persons solely on the basis of their ethnic or religious affiliation. Initial efforts by the Bush administration to minimize the severity of the abuses appeared aimed at deflecting public calls for the use of force in Bosnia-Herzegovina. Only after continuing pressure to respond to the atrocities did Acting Secretary of State Lawrence Eagleburger issue a public call on August 5 for a war crimes investigation. In late August, George Kenney, the Yugoslav desk officer at the State Department, resigned his position to protest the timidity and lack of resolve in U.S. policy toward Bosnia-Herzegovina.

Despite a lack of foresight, the Bush administration should be commended for vigorously mobilizing international support for the long-overdue step of imposing U.N. sanctions against Yugoslavia. Helsinki Watch also welcomed President Bush's November proposal to create an international civilian force that could include Americans to monitor Serbian abuses in Kosovo. The U.S. embassy in Belgrade and the consulate in Zagreb have done a commendable job of documenting and protesting violations of human rights committed by all sides in the former Yugoslavia. However, U.S. protests concerning abuses against Serbs and suppression of freedom of the press in Croatia, while vociferous in early 1992, have been less frequent in the latter part of the year.

Helsinki Watch was pleased by the leadership role of the U.S. in urging a U.N. investigation of war crimes in the former Yugoslavia and by U.S. efforts to provide documentation to the commission. As a party to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the United States has committed that it will "undertake to prevent and punish this crime" (Article I). In addition, the Convention authorizes the United States to call upon the United Nations to take appropriate action under the U.N. Charter "for the prevention and suppression of acts of genocide." It is beyond the competence of Helsinki Watch to determine all the steps that may be required to prevent and suppress the crime of genocide—a matter that rests with the Security Council. However, Helsinki Watch believes that the United States should take the lead at the United Nations in seeking action that is "appropriate for the prevention and suppression of acts of genocide" as provided in Article VIII of the Genocide Convention.



### **The Work of Helsinki Watch**

Helsinki Watch maintained one or more staff members in the former Yugoslavia throughout 1992. Staff representatives investigated human rights abuses and sustained contacts with human rights activists, government officials and members of the press in all of the former Yugoslav republics. Helsinki Watch also devoted time to helping fledgling human rights groups in Serbia and Croatia develop their methodology and organize their work to address the rights of all citizens in their republics, not just the rights of the ethnic group to which they happen to belong.

Helsinki Watch conducted several missions to the former Yugoslavia in 1992. An investigation in Croatia and Serbia examined violations of the rules of war in Croatia in December 1991 and January 1992. The mission also investigated the status of civil and political rights in Croatia and Serbia. In January, Helsinki Watch sent a lengthy letter to Serbian President Slobodan Milošević and then Acting Minister of Defense and Chief of Staff of the Yugoslav People's Army, Blagoje Adžić. The letter detailed violations of the rules of war committed by Yugoslav and Serbian forces in Croatia and violations of civil and political rights in Serbia. Helsinki Watch representatives met with members of the Yugoslav People's Army and the Serbian government in January to discuss the letter. Similarly, a lengthy letter detailing abuses of the rules of war by Croatian armed forces and violations of civil and political rights in Croatia was sent to Croatian President Franjo Tudjman in February. Helsinki Watch representatives met with President Tudjman and members of the Croatian government in March to discuss that letter.

In April, May, June, September and October, Helsinki Watch sent missions to Bosnia-Herzegovina, Croatia, Slovenia and Yugoslavia to investigate rules of war violations in Bosnia-Herzegovina. Mission participants visited all of the aforementioned countries and interviewed victims and witnesses to abuses, refugees and displaced persons, local officials, combatants and U.N. personnel. Detention camps and prisons operated by Croatian, Muslim and Serbian forces were visited. A report documenting our findings and criticizing the work of the international community, *War Crimes in Bosnia-Herzegovina*, was released in August. An update on the human rights situation in Bosnia-Herzegovina will be released in mid-December.

In conjunction with the release of its August report, Helsinki Watch called on the U.N. Security Council to exercise its authority under the 1951 Convention on the Prevention and Punishment of the Crime of Genocide to prevent and suppress genocide in Bosnia-Herzegovina. Helsinki Watch also called on the Security Council to enforce the prohibition of "grave breaches" of the Geneva Conventions by establishing an international tribunal to investigate, prosecute, adjudicate and punish those responsible from all sides for war crimes on the territory of the former Yugoslavia. In its August report, Helsinki Watch named nine Serbian paramilitary leaders, Serbian political figures and Yugoslav army personnel against whom sufficient evidence is available to warrant an investigation to determine whether they had committed war crimes in the former Yugoslavia. Helsinki Watch also called for the investigation by the aforementioned tribunal of the murder by Croatian forces of at least 23 Serbs in the city of Gospić in late 1991.

On the basis of several missions in the past 18 months, Helsinki Watch released a report in October, *Yugoslavia: Human Rights Abuses in Kosovo, 1990-1992*. The report documented violations against Albanians in Kosovo, including mistreatment in detention, restrictions on freedom of association and the press, discrimination in employment and education, and the general social and

economic marginalization of the Albanian population in the province. The report also described the manipulation of the legal system by Serbian authorities to discriminate against Albanians in Kosovo.

In February, Helsinki Watch sent a letter to Serbian President Slobodan Milošević and then Acting Minister of Defense and Chief of Staff of the Yugoslav People's Army Blagoje Adžić expressing concern that prisoners captured after the fall of Vukovar were being executed in Bač, Vojvodina. In May, Helsinki Watch sent a letter to Croatian President Franjo Tuđman protesting efforts by the Croatian government to silence opposition journalists and political figures. On July 1, 1991, Helsinki Watch sent a letter to Dobrica Ćosić, the President of Yugoslavia, and several Yugoslav military officials expressing concern that Croats being tried for "war crimes" in Belgrade were denied due process, had been beaten in detention, and had been forced to confess to crimes under duress.

In 1992, Helsinki Watch testified before the U.S. Congress on three occasions regarding the former Yugoslavia. On February 5, Helsinki Watch testified at a hearing of the CSCE Commission on prospects for peace and human rights in the former Yugoslav republics. Helsinki Watch testified on human rights in the republic of Serbia on August 10 before the Trade Subcommittee of the House Ways and Means Committee. On September 16, in testimony regarding free trade and ideas before the Subcommittees on International Economic Policy and Trade and International Operations of the House Foreign Affairs Committee, Helsinki Watch noted that U.S. sanctions that ban cultural and informational exchanges with Yugoslavia wrongly include the independent press and other independent institutions in Yugoslavia.