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Who Will Stand for Religious Freedom?

In 1997, a number of countries in the OSCE region passed laws restricting religious liberty, most notably Russia, Macedonia—and Austria?

You may be asking, "Is this a misprint? Of the three countries that have taken formal, legislative steps to restrict religious freedom in 1997, Russia and Macedonia are partially understandable, though not excusable, given their recent totalitarian histories. But Austria?"

In December, both houses of the Austrian Parliament passed a law strikingly similar to the legislation signed a mere two-and-a-half months earlier by Russian President Boris Yeltsin. The Austrian law is also surprising given the international outcry that passage of the Russia law generated, both at the OSCE, in other European bodies, and in the United States. Among other provisions, the law restricts the registration of religious groups, notably requiring that a religious group represent 0.2 per cent of the population and have been in Aus-

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War Crimes Update 2

Head of U.S. Mission Sam Brown and Rep. Maurice D. Hinchey (D-NY) at Copenhagen

The Copenhagen Ministerial Council Meeting

The OSCE held its sixth Ministerial Council meeting in Copenhagen on December 18 and 19. In contrast to past ministerial meetings, no ministerial "document" or communique *per se* was adopted. Instead, the Danish Chairman-in-Office (CiO) submitted, for the record, a summary of the meeting. At the same time, in line with past practice, several decisions on specific topics were adopted by consensus by the participating States. Although no decisions were adopted on regional issues, regional issues were discussed in the CiO's summary.

During the course of the meeting, statements were made by participating States, partners for cooperation, and Mediterranean partners for cooperation; contributions were also provided by the Council of Europe, NATO, and the Western European Union. The 1997 CiO, Danish Foreign Minister Helweg Petersen and the President of the Parliamentary Assembly, Javier Ruperez of Spain, also addressed the meeting.

U.S. Presence

For the second year in a row, the United States was represented at a major OSCE meeting at a level lower than that called for by the meeting's

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

Updates on War Crimes Prosecutions

From an address by David J. Scheffer, the U.S. Ambassador at Large for War Crimes Issues, made at the New England School of Law, January 14, 1998:

On Arrests: "As of mid-January 1998, 79 individuals have been publicly indicted by the Tribunal. Fifty-seven are ethnic Serb, 19 are ethnic Croat, and three are ethnic Bosniak. Three indictees have died, meaning that we know of 76 living indictees. Fifty-four remain at large and 19 are in custody in The Hague. The indictments against three ethnic Croats were withdrawn last month and they were released from custody. Of those indictees at large, 52 are ethnic Serbs and two are ethnic Croats. Of those indictees in custody now, only three are ethnic Serbs, 13 are ethnic Croats, and three are ethnic Bosniak."

On Funding: "…the United States entered into intensive consultations with the Tribunal and with the Dutch Government in October to determine what is most critically needed to strengthen the Tribunal's capabilities and ensure timely trials of those who are in custody. The answer was two-fold. First, the Tribunal's full budget request for 1998 needed to be approved in New York by the General Assembly. . . .In the end, we were pleased with the outcome on the Tribunals' budgets. The General Assembly approved 97% of the Tribunal's request, resulting in a budget of $69 million for calendar year 1998, which reflects more than a 30% increase over the 1997 budget. That is an extraordinary development given the budgetary crisis at the United Nations. The projected U.S. assessment for the 1998 budget will be over $17.5 million.

"We were advised that the second priority was the immediate construction of a second major courtroom that would be fully functional and capable of conducting joint trials with multiple defendants. Last week I visited The Hague and delivered to the Dutch Government $1 million as the U.S. share of a joint Dutch-U.S. undertaking to build such a courtroom by April of this year. The new courtroom will greatly enhance the Tribunal's capacity to hold trials and thus lessen the pre-trial detention periods of indictees in custody. A third smaller courtroom will be built with a generous donation by the British Government. The Canadian Government has offered funds to assist with courtroom capacity as well."

☞Erika B. Schlager

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tria for 20 years. Also, the statutes of a religious body must include a description of religious doctrine clearly different from those of existing religious communities or churches. Effectively, the government may decide the legitimacy of a branch of a particular religion.

These provisions and numerous others violate international commitments that Austria has made, including Article 9 of the European Convention, Principle VII of the Helsinki Final Act, and para. 16 of the Vienna Concluding Document. Specifically, Principle VII commits Austria to insure "freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience." This commitment to governmental non-interference in the life of religious bodies is clearly reiterated in subsequent OSCE documents. Notably, at the 1989 Vienna Follow-up meeting Austria authored language that the OSCE participating States should "foster an atmosphere of tolerance and respect" for religious groups, language later used in the detailed religious liberty section of the Vienna Concluding Document—now directly contravened by the new Austrian law.

Elsewhere in Western Europe, France, Belgium, and Germany have all instituted parliamentary investigations of minority religious groups in recent years. In 1996, the French Parliament issued a report after secret hearings, "Cults in France," listing 172 "dangerous cults." A Belgian parliamentary commission issued its report in 1997, with an appendix listing 189 "dangerous" groups. The German Bundestag's Commission on Sects and So-Called Psycho Groups began its investigations in 1997 and issued an interim report. Last November, the German delegation at the OSCE Implementation Review Meeting in Warsaw assured the U.S. delegation that the Bundestag would not be issuing a list of "dangerous" groups, while maintaining that investigations would continue so the government could warn the German people of "dangerous" groups. The Commission has received reports indicating negative repercussions to religious groups in all three countries when an investigation is initiated or if a group is listed in a government report. Also, the European Parliament of the E.U. and the Council of Europe's Parliamentary Assembly have discussed resolutions on cults and there is pressure on these bodies to consider further action.

The alarming trend toward religious intolerance in Europe, particularly Western Europe, is viewed by the Helsinki Commission as a clear violation of OSCE principles of religious freedom.

☞Karen S. Lord

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modalities. U.S. Secretary of State Madeleine Albright declined to attend the meeting, sending Deputy Secretary of State Strobe Talbott in her place. (Similarly, President Clinton declined to attend the OSCE Summit of Heads of State or Government held in Lisbon last year, sending Vice President Gore instead.) This practice seems to reflect two problems. First, OSCE meetings are producing decisions that are, arguably, not summit-worthy. Second, American (and European Union) representatives are facing summit fatigue, as the OSCE, NATO, G-7, U.N. General Assembly, etc., have generated increasingly crowded calendars of high-level meetings.

On the margins of the Copenhagen Ministerial, the OSCE Parliamentary Assembly (PA) also held a meeting of its officers to prepare for the annual PA meeting in July. Commissioner Rep. Steny H. Hoyer (D-MD) attended that meeting as a PA Vice-President and participated in the U.S. Delegation to the Ministerial.

Comprehensive Security Plan Still in Neutral

Reflecting a continuing preoccupation of the OSCE participating States with military-security matters, the bulk of the statements made by delegations addressed the ongoing negotiations on a "comprehensive security model for the twenty-first century." Notwithstanding this preoccupation, the comprehensive security model largely remains an empty vessel waiting to be filled.

The concept for a "comprehensive security model" grew out of Russian proposals formally advanced prior to the 1994 Budapest Summit and adopted as a platform for further negotiations at the 1996 Lisbon Summit. In Copenhagen, the participating States took a small step forward, agreeing on guidelines for an OSCE "Document-Charter" on European security. In fact, negotiations have arguably achieved little in this area since Lisbon, and the very use of the hyphenated term "Document-Charter" reflects deep and continuing disagreement regarding the nature of this exercise. (Russia and France have long leaned toward the adoption of legally binding charters in the OSCE; the United States, among others, has long opposed such an approach.) "Non-hierarchical mutually reinforcing" has become the term of art to describe relations among institutions in the international security architecture.

The new guidelines for negotiation specify that the result will be politically binding and will continue to uphold the consensus rule. (Both of these points run counter to the security concepts proposed by the Russians in 1994.) The guidelines also reiterate that every participating State is free to choose or change its security arrangements, including treaties of alliance. Other elements of the guidelines bore a striking resemblance to Lisbon Summit language, e.g., there was an agreement to talk about ways for the OSCE to be more effective, without reaching agreement on how to be more effective. A final "Document-Charter" is to be adopted by an OSCE Summit of Heads of State or Government at a later date.

Other Military Decisions

Focusing on the military side of implementing the 1995 General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton agreement), the Ministers welcomed the appointment by the CiO of French Ambassador Henry Jacolin as a Special Representative to conduct the process of regional stabilization outlined by Article V of the Dayton agreement. The Ministers agreed that broad participation by the countries in the Bosnian region would contribute to the success of the Article V regional arms control negotiations. At the same time, they cautioned that Article V negotiations should not prejudice the integrity of existing arms control and Confidence- and Security-Building Measures or alter obligations under Dayton agreement Articles II and IV or under the Conventional Armed Forces in Europe Treaty.

Media Representative Named

The Ministerial Council appointed German parliamentarian Freimut Duve as the new OSCE Representative on Freedom of the Media (RFM). Duve was appointed to a three-year term, with a possible one term extension.

The mandate for this position had already been adopted in Vienna on November 5, 1997, at a reinforced meeting of the Permanent Council. The RFM will have an office in Vienna, staffed by three advisors; he will also have funding to hire special consultants. He is tasked with "advocat[ing] and promot[ing] full compliance with OSCE principles and commitments regarding freedom of expression and free media." In addition to monitoring compliance with these commitments and providing an early warning function for the Permanent Council, he is mandated to help resolve instances of non-compliance.

Originally, Germany–the principal sponsor of the idea for a RFM–sought to have the post established at the

same level as the High Commissioner on National Minorities (HCNM). This was opposed by some delegations which opposed placing the RFM in a higher-ranking position to the Director of the Office for Democratic Institutions and Human Rights. A Turkish counter-proposal would have elevated both the ODIHR Director's post and the RFM position to a level just below that of the HCNM, but this idea was rejected by Germany.

The compromise ultimately agreed upon establishes the post of RFM at the same pay level as a U.N. Assistant Secretary General. In OSCE terms, that places Duve below the Secretary General and the High Commissioner for National Minorities, but still above the ODIHR Director. It is understood that the level of the ODIHR is to be revisited by the Permanent Council at a later date, with a view to raising it.

Permanent Council to Review Human Dimension Meetings and Secretariat Operations

The Ministerial instructed the Permanent Council to establish new modalities for the Implementation Meetings on the Human Dimension. This mandate stemmed from a growing sense that these meetings, held in Warsaw every year in which there is not a full-scale review conference of all OSCE commitments, have become stale and unproductive since the first such meeting was held in 1993. (At the most recent meeting, held in November 1997, ODIHR Director Gerard Stoudmann held discussions with both governmental and non-governmental representatives to solicit their views on possible changes.)

Similarly, the Permanent Council was tasked with reviewing ways to enhance the Vienna-based Secretariat's operational capabilities. Although the Secretariat has expanded rapidly over the past few years as the OSCE took on larger and larger missions, this expansion has been, for the most part, purely reactive to crises and not the result of a coherent plan.

Two experts groups will begin work on these issues in Vienna in early 1998. The human dimension group must finish its work and present recommendations to the Permanent Council by August 1998, and the Secretariat group by September 1998.

Scale of Payments Changed

A new payment scale for large OSCE missions and projects was tentatively approved as a means to facilitate the OSCE's ability to react swiftly and flexibly. (At the insistence of Canada, the new scale will only be formally adopted pending a silence procedure which expires on March 15.) Earlier this year, the OSCE also established provisions for a Contingency Fund to allow for immediate action in crisis situations.

Historically, all costs in the OSCE were paid according to a set scale of assessments; based on that scale, the United States pays 9 percent of the OSCE budget. But when the OSCE began to take on large-scale operations in places like Albania, Bosnia, and Croatia, smaller OSCE countries (particularly the micro-states) balked, arguing that if they were charged under the normal OSCE scale for such missions, their assessments could exceed their entire annual defense budgets. Accordingly, funding for large-scale, extraordinary projects have come from voluntary contributions. In those instances, the United States has frequently paid a hefty share of costs; for some parts of the Bosnia mission, for example, the United States paid approximately 22 percent.

Under the new scale, the United States will continue to pay 9 percent of the regular budget, but only 12.4 percent of the costs for qualifying projects. The new scale will apply to projects with budgets over 185 million Austrian Schillings (currently just over 15 million dollars); at present, only the missions to Bosnia-Herzegovina and to Croatia will qualify. (The European Union countries will continue to pay, collectively, 58.8 percent of the regular budget and will now pay 65 percent of the special projects budget.)

Why Do Today What You Can Put off 'Til Tomorrow? Decision on Date and Location of Next Summit Postponed

Although summits of OSCE Heads of State or Government have been held every two years since 1990, the Copenhagen Ministerial declined to schedule such a summit for 1998, effectively putting off a decision until March.

In the 1992 Helsinki Document, the OSCE participating States agreed to hold summits of Heads of State or Government "as a rule, every two years on the occasion of review conferences." Almost immediately after adopting this decision, however, the participating States began to question the wisdom of establishing such a rigid and frequent schedule of meetings at the highest level. In 1994, the Budapest Document agreed that a summit would be held again in Lisbon in 1996 but, at the same time, the Budapest Document also mandated the Lisbon meeting to revisit the question of the frequency of future

summits. By 1996, however, that mandate appeared to have been forgotten and the question of the frequency of future summits was not even discussed in the negotiations on the Lisbon Document.

Since the Lisbon Document did not alter the Helsinki formulation that summits would be held "as a rule, every two years," most countries assumed that the next summit would be held in 1998. With that in mind, Turkey proposed last year that Istanbul should be the site of the next OSCE summit. Turkey's egregious human rights record, however, has led some—including the Commission Chairman and Co-Chairman—to oppose Istanbul as a site for the meeting. Some countries have also expressed reservations about a 1999 summit in Turkey, as that would coincide with the 700th anniversary of the establishment of the Ottoman Empire. No other possible candidate for a summit site has emerged, however.

Although the Lisbon Document failed to address the question of the frequency of future summits, the meeting itself clearly illustrated the problems which result from having too many summits too often. Many countries, including the United States and European Union countries, now juggle calendars overloaded with high-level, annual summits. Faced with increasing demands on his schedule and the thin substance of the pre-summit negotiations for Lisbon, the U.S. President simply declined to attend the 1996 OSCE summit. Lisbon therefore kept alive the basic question of whether the OSCE should hold summits on a biannual basis. At the other end of the spectrum, Russia has expressed interest in maintaining the current schedule, seeing an OSCE summit as a vehicle to deflect attention from the 50th anniversary NATO summit at which new members are expected to be admitted.

Finally, several participating States have argued that the next summit of Heads of State or Government should be put off until events and substance warrant such a high-level meeting—for example, when the Document-Charter on European Security is finished—rather than holding it according to an artificial schedule.

Thus, the lack of enthusiasm for Turkey's candidacy, combined with decreasing support from some countries for biannual OSCE summits and the desire of some countries to ensure that the next OSCE summit does not conflict in any way with the NATO summit, led the Ministers in Copenhagen to postpone a decision on the date and location of the next summit.

Accordingly, the date of the next OSCE summit will be decided at a reinforced Permanent Council no later than the end of March.

Norway Named as next CiO

Norway was named Chairman-in-Office for 1999; the current Troika, then, consists of Denmark (the outgoing CiO), Poland (the current CiO), and Norway.

Regional Issues Addressed

Although separate decisions on regional issues were not adopted at this meeting, regional issues were discussed in a Chairman's Summary. Such a summary is not a consensus-based decision, but rather a reflection of issues raised which are of concern to the participating States and the CiO.

The Summary reflected support for continuation of the mission in Bosnia, stressing the importance of implementing the 1997 election results. OSCE work in Albania will continue, with the OSCE providing the framework for coordinating international assistance. The Ministers welcomed the strengthening of the mission to Croatia, which has been expanded to begin work in Eastern Slavonia after the expiration of UNTAES' mandate.

The Chairman also voiced considerable concern over human rights concerns in Serbia, specifically noting that the recommendations on democratization made by Gonzalez last year have not been implemented and that violence is increasing in Kosovo. In addition, the CiO Special Representative for Kosovo, Ambassador van der Stoel, repeatedly has been refused a visa by Serbian authorities.

The Summary also reflected concern that Russian forces have not been withdrawn from Moldova in the early, orderly, and complete manner called for in the Lisbon Summit document. In addition, the CiO noted Ministers' support for reaching a solution to the conflict in Abkhazia, Georgia. They reaffirmed their support for the sovereignty and territorial integrity of Georgia, and welcomed the establishment of the Geneva process under the auspices of the United Nations.

Websites of Choice

The full text of the decisions and the Chairman's Summary is accessible on the homepage of the OSCE website, (www.osceprag.cz/). To read the CiO Summary or decisions, access the second Journal of the Day for the Copenhagen Ministerial.

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