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6. Freedom of Thought, Conscience, and Religion or Belief (including conscientious objection):

Austria, Belgium, Bulgaria, Czech Republic, Finland, France, Germany, Greece, Kazakhstan, Latvia, Macedonia, Romania, Russia, Turkmenistan, Uzbekistan.

## AUSTRIA and BELGIUM1

### Anti-Sect Policies in the Light of the Council of Europe's Sect Report

On 22 June 1999, the Council of Europe's Parliamentary Assembly unanimously adopted a recommendation, which gives priority to the prevention of dangerous sects. "Major legislation on sects is undesirable," the Assembly reiterated in a debate organized during its summer session.

The recommendation adopted following the debate referred to the risk that any legislation passed in this area might well interfere with the freedom of conscience and religion guaranteed by Article 9 of the European Convention on Human Rights. Nonetheless, the serious incidents of recent years did warrant greater control of groups referred to as "sects" - which the Assembly did not define further. Their activities should be carried out in keeping with the principles underlying democratic societies.

Therefore, it was seen as vital to have access to reliable, objective information on these groups, information which would be directed in particular at teenagers within the school curricula and at the children of followers of groups of a religious, esoteric or spiritual nature.

Consequently, the Assembly called on the governments of the member states:

- to support the setting up of national or regional independent sect information centers;
- to include information on the history and philosophy of major schools of thought and religion in the general school curriculum;
- to use criminal and civil law procedures against any illegal practices carried out by these groups;
- to encourage the setting up of non-governmental organizations to protect victims; but also
- to take firm steps against any discrimination or marginalization of minority groups and to encourage a spirit of tolerance and understanding towards religious groups.

the Assembly also requested that the Ministerial Committee of the Council of Europe to

set up a European Observatory on groups of a religious, esoteric or spiritual nature, to facilitate an exchange of information between different national centers. It added that the Council of Europe should also take action to promote the setting up of information centers in central and eastern European countries.

However, the academic world is far from agreeing with the sect report of the Council of Europe. In the 29 June 1999 issues of the magazine Die Welt Prof. Dr. Gerhard Besier (University of Heidelberg, Germany) published an article entitled "An Observatory Against Dangerous Thinking. Is there a struggle about religious freedom between Europe and the United States approaching?" In the article he summed up some of the main arguments opposed to the recommendations made in the report:

According to Besier, the Council of Europe demands a "sect" observatory as the most important prerequisite in order to fight "possibly dangerous movements" and to protect European citizens from something which has not even been solidly proved to be "dangerous." In contrast that approach, the experts consulted by the Enquete Commission of the German Bundestag concerning "So-Called Sects and Psychogroups" unanimously reached the conclusion that no greater danger emanates from these suspected groups than from other religious and similar associations."

Besier charges that the Council of Europe report includes contradictions. For example, among other things, the Council of Europe member states are recommended to establish "independent, national or regional information centers about sects" but should also support non-governmental organizations. As a rule, such information centers have not been "independent" as they are either under the control of so-called "opters-out of sects" or representatives of the established great churches. On the other hand, the report states, that steps should be taken to prevent any discrimination and marginalization of the suspected religious groups.

Besier concludes that "The bottom of the conflict might be the European attempt to limit the wide field of ideology, above all for political reasons. The more members the great official churches lose and the number of religious associations grows, the more unpredictable the mental character of large parts of the population will be. Of course: there is no room for supervisory requirements such as these in an open society."

#### Anti-Sect Policies in the Light of the Council of Europe's Sect Report

Despite the controversial character of the Council of Europe's Sect Report, its recommendations do put the anti-policies enforced in several countries in an awkward position. The French, Belgian, German and Austrian parliamentary members of the Council of Europe's Assembly have voted in favor of this report although it is contradictory to the policies carried out by their own state. Therefore, it is indeed noteworthy to compare anti-sect policies carried out by France, Belgium, Germany and Austria with the recommendations contained in that report.

Among the unanimous condemnations made by the parliamentary assembly were the use of the word "sect"; making any distinction between a "sect" and a religion; the involvement of governments in the theological debate about whether to label groups "religions" or not; the state recognition of only certain religions; the state supervision of sect observatories; the spreading of information about certain people/groups before those people/groups concerned have had a chance to challenge it; the lack of tolerance

and dialogue; and any form of discrimination, marginalization and value judgements towards beliefs and minority groups.

Clearly marking out the area in issue, the parliamentary assembly unanimously decided that only the activities carried out by religious, esoteric and spiritual groups should be examined.

### Sect or Religion?

Currently, Austrian, Belgian, French, and German policies in this regard are completely founded on the distinction between "sects" and religions. The Parliamentary Assembly considers this to be a "pitfall, which the authorities must avoid." Its warning is extremely clear, and calls the neutrality and secularity of the four countries into question. The text of the Council of Europe's report sets it out extremely clearly:

"The state could agree to adopt the course suggested by certain groups and distinguish between religions - by definition good - and sects - necessarily dangerous - or even between good and bad sects. Once again we do not think that such an approach is acceptable. Under Article 9 of the European Convention on Human Rights, States are prohibited from distinguishing between different beliefs and from creating a scale of beliefs which is, in our view, unacceptable. Merely making such a distinction would constitute a disproportionate violation of the freedom guaranteed by Article 9 of the European Convention of Human Rights because the very basis of this freedom is the absence of distinction between beliefs, which explains the state's duty to maintain neutrality.

Moreover, such an approach is dangerous because if a dispute arose, the debate would focus not on the activities of the groups concerned but on the nature of their beliefs. The first means of defence for some groups is to seek to demonstrate that their beliefs constitute a religion, so that they can then claim to be acting accordingly, even if that entails the commission of illegal acts. In these circumstances, if state authorities agree to enter into an ideological discussion they are obliged to determine the classification of the beliefs concerned and will find themselves in an inextricable situation. Either they will have to accept that the belief concerned is not a religion and will be accused of violating religious freedom and of persecuting the group concerned. Or alternatively, they will have to consider that the beliefs of the group effectively constitute a religion, and the latter will take advantage of state recognition to justify all its actions, even illegal ones. In both cases, the state authorities will take part in a religious controversy and therefore fail in their duty to remain neutral under the terms of Article 9 of the ECHR. This kind of debate is therefore a trap in which some groups systematically try to ensnare the authorities and which the latter must be at pains to avoid."

Faced with the impossible choice between using the term "religion" or "sect" (the latter being a concept with "extremely pejorative connotations"), the Parliamentary Assembly unanimously agreed that the diverse facets of beliefs could be encompassed and any negative prejudice could be avoided by the use of a more general formula: "religious, spiritual or esoteric groups."

### The Sect Observatory

By calling on the governments to set up independent information centers on groups of a religious, esoteric or spiritual nature and an European Observatory by the Committee of

Ministers,<sup>2</sup> the Assembly substantially condemned the state-dependent Sect Observatories set up by France and Belgium whatever the name given to the state agencies charged with observing and learning how better to fight sects. France tried to pass an amendment that sect information centers be state-controlled to justify its own Sect Observatory and its Interministerial Mission to Fight Sects, but Sweden was opposed to it and the reporter, Mr Nastase, reminded the Assembly that this had already been legally decided against. Austria, Germany and Belgium failed to come to the rescue of a France still smarting from the refusal of its two other amendments. It has to be emphasized that the Belgian Anthrosophical Society took the state of Belgium to court over the law that set up an Information and Advice Center to examine harmful sectarian organizations. In the society's view, the administrative co-ordination body is discriminatory against Belgians who are not part of an established religion and contravenes the state's duty to remain secular, as surveillance and collated personal data will be used against individuals without their agreement or control. The case is pending as of this writing. The outcome of this lawsuit will be of utmost importance for similar information and advice centers in Austria and Germany.

### Sect Campaigns

The Assembly recommended that the Committee of Ministers "take measures to inform and educate young people and the general public."

The Assembly, however, added the following guarantee: the information gathered should be reliable and should emanate "neither exclusively from sects themselves nor from associations set up to defend the victims of sects." In addition, the individuals concerned should have the opportunity of expressing themselves "as to the objectivity of such information."

The position taken by the Assembly opens up the way for initiatives previously dismissed by some member states and lends stability to those already set up by sociologists and religious historians, such as INFORM in Britain. A European Observatory should co-ordinate all the private state-independent centers and remain free from any political control.

According to the Council of Europe's standards, the sect prevention brochure, widely distributed by the French Community in Belgium is contrary to the criteria of the Council of Europe's report. Following the case brought by the Anthrosophical Society, the French Community was ordered to cease its distribution until the information concerning the Anthrosophical Society had been removed. The same criticism can be made towards Austria and a number of German Federal States (Länder) which distribute brochures on the prevention sects on a massive scale.

The civic education brochure aimed at high-school students in France, which contains a chapter on sects, should also be withdrawn from circulation, so false and error-ridden is the information it contains about certain "sects." The information comes from associations to defend the victims of sects; it was not shown to the individuals and religious groups concerned before publication nor was it checked either by the Ministry of Education.

### The Final Solution - Ban?

The Council of Europe's report suggests "as a last resort to ban certain groups which are

known to shelter the perpetrators of criminal activities."

The conditions of placing a ban are very restrictive and questions arise as to whether such a move would even be effective. Followers cannot be stopped from meeting together either in public or in private, or from communicating by fax, email or Internet.

Besides, this recommendation could have unforeseen implications if the Council of Europe upholds its refusal to see any distinction between "sects" and "religions." It should be noted that the Catholic Church harbors perpetrators of criminal activities every time it closes its eyes to the pedophile actions of members of its own clergy.

### Conclusions for the OSCE

All major international human rights conventions as well as other international conventions to which Austria, Belgium, France, and Germany are signatories include a clause that prohibits discrimination on the basis of religion.

The OSCE participating states, which comprise all European countries except the Federal Republic of Yugoslavia, have pledged not only to prohibit discrimination but to "take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life, and to ensure the effective equality between believers and non-believers." (Article 16 of the Vienna Concluding Document)

The OSCE participating states also have taken upon themselves the affirmative obligation of promoting tolerance. As the 1989 Vienna Concluding Document provides, all participating states shall "foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers." (Article 16.2 of the Vienna Concluding Document)

Therefore, Austria, Belgium, France and Germany and the other member states of the OSCE must respect and implement the provisions of these international instruments which fully guarantee the freedom of religion and belief of their citizens.

### BULGARIA3

The situation of some religious minorities remains precarious in Bulgaria. Both local and governmental authorities have indicated that religious minorities are not appreciated in the country.

In January 1999, the municipal council in Burgas grossly violated the Denominations Act by refusing to register the local branch of the Jehovah's Witnesses despite the fact that they have been registered with the central authorities. The council asked the Witnesses to prove that they have not been banned in any country belonging to European Union.

On 10 June 1999, the Ministry of Interior issued an expulsion order to Mr. Daruish al-Nashif, a stateless person, who has legally resided in Bulgaria since 1995 with his family. On 4 July, he was expelled to Syria. His two children are Bulgarian citizens. The reasons for expulsion were not cited in the order – in accordance with a provision of the

Foreigner's Act that prohibits the officials to do that. The order itself is not subject to judicial control – which is allowed in other cases - because it is based on "national security" considerations.

#### CZECH REPUBLIC<sup>4</sup>

In a case pending before the Circuit Court in Jicin as of this writing, a mother who is a former member of the Jehovah's Witnesses has been refused access to her 6-year-old daughter. The daughter is (by a court decision) under the care of her father. The mother was stripped of the guardianship as it allegedly turned out that she had not fulfilled her parental duties: it was claimed that she had not taken the child to a doctor, but rather to religious meetings of the Jehovah's Witnesses and prevented her from socializing with other children. Now the mother can meet her daughter only for six hours in a month, a fact that seriously affects family ties. The expert appointed by the court has recommended much broader access of mother to her daughter.

Czech prison legislation does not include the right to a special diet on the basis of religious or other convictions, a fact that has created problems to Muslim prisoners. Thus Muslim prisoners are served pork every day, usually cut in so small pieces and mixed with other ingredients that it is impossible to separate the meat from the rest of the meal. Pork fat is almost always exclusively used in cooking. As a result, Muslims cannot eat warm meals at all if they want to abide by the religious rule to avoid pork.

#### FINLAND<sup>5</sup>

##### Conscientious Objection

The amendments to the Conscription Act (19/1998), which came into effect on 1 February 1998, reduced the minimum length of military service from eight months to six months, the average term being seven. On 15 December 1998, the Finnish parliament adopted an act on alternative civilian service, the length of which remained 13 months.

The failure to shorten alternative civilian service has led to a situation in which the difference in length of non-military service and military service is no longer based on the concept of equality. Moreover, the length of civilian service can be regarded as punitive.

The Finnish government has justified this differential treatment by claiming that military service is generally more strenuous than civilian service, and that conscientious objectors who had completed their service do not have additional service that would correspond to the reservist military maneuvers for which conscripts are liable.

#### FRANCE and GERMANY

(See Austria and Belgium)

#### GREECE<sup>6</sup>

Constitutional amendments introduced with a first parliamentary vote in 1998 did not affect the privileged status of the Eastern Orthodox Church. 7

## Jehovah's Witnesses

In January 1999 the European Court of Human Rights struck out of its list the appeal of a Jehovah's Witness plaintiff who had been under surveillance by the Greek state, following a settlement between Greece and the plaintiff (Tsavachidis vs. Greece). Greece, admitting the surveillance, promised that neither Tsavachidis nor any other member of that church ever be under surveillance again.

However, Jehovah's Witnesses continue to face harassment. They are still summoned to police stations for "identity checks," face difficulties in burying their dead in the cemeteries, and in carrying out legal building works.

In January 1999 Panayotis Pantazis was buried in a field outside the cemetery in Trymoniko near Serres, because the local authorities refused to bury him inside it.

On 11 July 1999 the Mayor Papayanis incited the residents of Kassandreia to hold a protest rally to impede the construction of a house of worship by local Jehovah's Witnesses, who had obtained the necessary building permit in 1995 - which the municipality had objected with both lawful and seditious means - and other necessary permits in 1999. During the July protest the mob dug a trench around the Jehovah's Witnesses' property using the municipality's bulldozer and then proceeded to park cars in front of the property to make access impossible. Under that pressure, the Zoning Office temporarily revoked the permit and construction stopped.

## Muslims

The Muslims' most serious problem remains the choice of the muftis and of the continuous prosecution of one elected mufti. Currently, there are two muftis in Xanthi and two in Komotini - one appointed and one elected. The case of a conviction of the elected mufti of Komotini was heard by the European Court of Human Rights in January 1999.

Mehmet Emin Aga's prosecution is a serious case of violation of the human rights of an individual in Greece.

He was elected Mufti of Xanthi in August 1990. In August 1991 the Greek government applied a new 1990 law abolishing the old 1920 one that called for elections of muftis. The government appointed Emin Sinikoglu as Mufti of Xanthi. Aga has been charged with violation of Article 175.2 of the Penal Code (pretense of authority) because he had issued 33 messages to the Muslims on religious holidays, signing them as Mufti of Xanthi. To this day, the First Instance Courts have convicted him to over 112 months imprisonment (the last conviction to 12 months on 24 March 1999). Appeal Courts have reduced the sentences to some 70 months. Aga has spent six months in prison and has bought off the balance, at considerable financial cost.

In March 1999 the Holy Synod of the Church of Greece announced a discriminatory monthly financial benefit only for Christian families with at least three children living in Tharace. Thrace is also home of Greece's Muslim population. This was done to combat the supposedly higher birth rate of the Muslims. The government did not react to this act.

## Conscientious Objection8

In January 1998, Law 2510/97 came into effect. It stipulates that the status of conscientious objector and civilian alternative service or unarmed military service are available to conscripts who declare that they oppose the personal use of arms for fundamental reasons of conscience based on religious, philosophical, ideological or moral convictions (Article 18.1-3). However, some of the law's provisions still fall short of international standards, and its application remains unsatisfactory.

The law provides for a punitive length of the alternative civilian service (18 months longer than military service in normal cases, up to 30 months longer in special cases that call for shorter military service of as little as 6 months, but not for comparable shorter alternative service). Moreover, the right to perform alternative civilian service may be derogated from in time of war or public emergency. In addition, alternative civilian service, including the examination of a candidate's application for the recognition of his status as conscientious objector, is under a military rather than a civilian authority.

The application of Law 2510/97 remains unsatisfactory or clearly discriminatory against conscientious objectors. Applicants are given very little time (about seven days) to gather all the documents they are requested to submit to the authorities for their recognition as conscientious objectors. In some cases it is impossible to provide them all within that short time, and with their dossier incomplete it is not possible to get the status.

At least 25 conscientious objectors, who have performed civilian alternative service in health institutions throughout Greece (such as Rethymnon, Siderokastro/Serres, Nigrita/Serres, Drama, Avlida/Evoia, Mytilini), have been subjected to punitive measures. They have had to work long hours (up to 56-68 hours a week without a day off), service incomparable with that in military service. They have been threatened that should they not comply, they would be punished, including the revocation of their right to alternative civilian service. Some institutions have refused to pay the agreed, and still very inadequate, monthly salary of 58,000 drachmas (less than US\$ 200). The housing of conscientious objectors sometimes also remains inadequate.

In August 1999, the Ombudsman reportedly issued a series of constructive recommendations, including the partial "demilitarization" of the alternative service; the abolition of the unconstitutional possibility to change the status of a conscientious objector back into that of a draftee; the decrease of the length of the service; the introduction of the same special categories of shorter service as for military service; and the inclusion of even NGOs to the groups of institutions in which such service can be carried out. There is a vague governmental promise that the improvements will be introduced before the end of 1999.

## KAZAKHSTAN9

The Kazakh Constitution provides for freedom of religion and prohibits persecution on the ground of religion. Religious intolerance has emerged in Kazakhstan in the last four years, however, and has become more alarming in 1999. Its primary targets are "non-traditional" religious communities.

The number of publications propagating supremacy of some religions over others –



typically "traditional" religions over "non-traditional" ones – has increased. The publications call for bans and restrictions on the practice of minority religions, interference with their internal affairs, denial of state registration, and persecution of their believers.

In the beginning of 1999, the Ministry for Information and Social Accord submitted to parliament a draft proposal on amending the law "On Freedom of Confessions and Religious Associations." The preamble of the draft states that it is directed at "strengthening state control over and regulation of the activities of non-traditional religious associations, which have raised great concern on the part of the local bodies of state power." Various public and human rights organizations have criticized the draft for violating human rights in proposing legal preference for some "traditional" religions to the detriment of others.

On 13 March, the Almaty Helsinki Committee organized a round-table discussion on the draft amendment and on freedom of conscience in Kazakhstan. Representatives from 47 religious associations, NGOs and IGOs, the Ministry of Justice, and the Ministry for Information and Social Accord took part in the round table. The spiritual Muslim leadership and the Russian Orthodox Church declined the invitation. The participants in the round table unanimously concluded that the adoption of the bill in the form it was at that date would be inadmissible.

In an interview on 20 March with the governmental paper *Kazakhstanskaya Pravda*, the Minister of Information and Social Accord, Mr. Sarsenbaev, said that the government "does not intend to amend the law 'On Freedom of Confessions and Religious Associations' this year." He said he fully understands that the issue is delicate and that authorities should proceed without haste but rather with the utmost care. The draft amendment was recalled and is pending in the Ministry of Justice as of this writing.

In March the procuracy (Prosecutor's Office) conducted activities tantamount to control of constituent documents and activities of officially registered communities of Jehovah's Witnesses in several regions of southern Kazakhstan. Believers were summoned to the Procurator's Office and interrogated about their attitudes toward blood transfusions, bringing up children, participation in elections, and other issues. Such activities go far beyond the competence under the law of procurators. The procurators referred to a joint order by the procurator general and the Committee for National Security (CNS). The Almaty Helsinki Committee inquired of the Attorney General about the legality of the operation of the Procurator's Office. It received a reply that the operation was lawful.

In the newspaper *Panorama* the chief mufti of Kazakhstan, Mr. Nysanbai-uly, stated that some young Kazakhs leave Islam for other religions because of "instability of legislation." According to him all Kazakhs should be Muslims as they traditionally have had no other religion. The chief mufti repeatedly appealed to the Ministry of Justice and the lower Chamber of the Parliament, calling on them for a joint effort to oppose the trend in which people have been joining other religions.

There have been numerous statements in the Kazakh press by high-ranking officials against "religious extremism." A high CNS official stated on 11 June that "religious fanatics increasingly jeopardize the stability in Kazakhstan." He promised that the state would take "resolute measures to suppress them."

Also President Nazarbaev has either misunderstood or deliberately ignored the real meaning of freedom of conscience. In an interview with Radio Svoboda in Astana on 4 May, while talking about Islamic fundamentalism, he said that "we are Sunnite Muslims and must follow this route..." The Almaty Helsinki Committee condemned such a statement. Speaking in its professional capacity, it said that such statements by the president can cause division and unrest among the people of Kazakhstan along national-religious lines. The identification of Kazakhs with Sunnites can be perceived as a religious-political instruction and a virtual ban on other religions, the committee said.

Kazakh and Uzbek authorities cooperate in what they perceive as a fight against "religious extremists."

On 15 July 1999, Uzbek authorities informed their Kazakh counterparts that in Taraz, near the Uzbek border, Wahabis were having a summer camp where 150 armed "fanatics" were undergoing military training. The Ministry of the Interior deployed 250 men of the anti-terrorist "Sunkar" unit in an operation called Oblako (Cloud). The unit, together with the local police, arrested the 70 people who were staying in the camp. According to the Almaty Helsinki Committee, the victims consisted of a group of Sunnite Muslims who had been having a peaceful summer camps there for the last three years, among them children. The entire group was arrested and detained for several days, including children. Some of them were charged but had no access to a lawyer. An independent information agency "Poli-Ton" asked experts about their opinion on how real the threat of religious extremism is in Kazakhstan. In the opinion of the majority of them, the threat is highly exaggerated because the activity of various religious groups is strictly regulated by the state; only a few groups labelled "extreme" can really be termed as radical; traditional Islam is not deeply rooted in Kazakhstan; religious fundamentalism and extremism are not necessarily the same; there are no groups in Kazakhstan that are large enough to implement the extremist ideas, and the influence of neighboring countries is not likely to promote religious extremism in Kazakhstan.

Some experts regard statements against "religious extremists" as a theoretical pretext for fighting dissidents.

LATVIA10

### Conscientious Objection

Legislation currently in force in Latvia does not permit conscientious objection or alternative military service. According to the Law on Obligatory Military Service, ordained clergymen from confessions represented in the military chaplain's service are exempt from military service. However, the Jehovah's Witnesses are not represented in this body. In March and April 1999 Vladimirs Gamojonovs and Romans Nemiro submitted a request to a Riga court to rescind a decision of the Defence Ministry's Military Recruitment Commission regarding their conscription into the Latvian armed forces. Both individuals are Jehovah's Witnesses and the former is a clergyman. Both individuals have invoked Article 99 of the Constitution, which guarantees freedom of thought, conscience and religion and Article 9 of the European Convention on Human Rights. In his 6 May reply to the Jehovah's Witnesses Riga Congregation, Defence Minister Girts Kristovskis acknowledged that "One could agree that in the current situation not conscripting Jehovah's Witnesses into obligatory military service (which is not possible under existing laws) would not cause any fundamental losses to Latvia's army and

alternative solutions in legislation should be permitted." The case is scheduled to be heard in court in August.

## MACEDONIA<sup>11</sup>

The right to freedom of religion and conscience is not sufficiently respected in Macedonia. The 1997 law on religious communities and groups paved the way for discrimination against religious minority groups. It favors traditional religions, registered as "communities," and discriminates against new religious associations, registered as "groups." According to the law, "one religion can have only one religious community," a provision which favors "traditional" religions. The law also enables authorities to take arbitrary measures against religious groups.

In 1998, four Evangelical churches filed complaints in the Constitutional Court, challenging the constitutionality of the law. On 24 December, the court ruled unconstitutional six articles of the law.<sup>12</sup> However, the court did not rule unconstitutional other discriminatory articles. They include Article 8, that allows only one religious denomination for any one faith, and Article 19, which requires permission from the Office of the Affairs of Religious Communities and Religious Groups to hold religious events in public places.<sup>13</sup>

In addition, the discriminatory practice of the Office of the Affairs of Religious Communities and Religious Groups has raised concern. Among other things, it recently prohibited the distribution of written materials and the propagation of the beliefs by religious minority groups but allowed the traditional churches, particularly the Orthodox Church, to perform those same activities.

## ROMANIA<sup>14</sup>

### Legal Background

According to the 1995 Education Act, religious education is compulsory in primary schools. APADOR-CH (Romanian Helsinki Committee) considers that this provision is unconstitutional and that it violates the ICCPR and the European Convention on Human Rights. When ruling on a complaint against this provision, the Constitutional Court did not rule this law unconstitutional, but in 1995 handed down an interpretation that allows students to refuse to take part in the religious education for reasons of conscience.

Moreover, the newly amended Education Act introduces religion as a compulsory subject for all primary, secondary and high school classes. Theoretically, any officially registered religious community is allowed to give religious instruction in schools. However, since "new" religions have not been registered by authorities, they are also excluded from giving religious instruction.

The rights of religious minorities - in particular those established as associations or foundations because they have not been acknowledged as denominations – have been violated in recent years. Law enforcement officials have failed to protect members of these groups when adherents of other religions, led by their priests, have attacked or threatened them. It appears that Orthodox priests are allowed to harass members of

minority religions with impunity.

Religious minority groups have been prevented from building their own places of worship. The letter of 25 March 1997 from the State Secretariat for Denominations to all mayors and prefects urged them to reject all applications for building licenses (or to cancel those already issued) lodged by religious groups not acknowledged by the state as religious denominations. Despite protests by those affected and court decisions (including a decision of the Supreme Court of Justice), the orders given in the letter have not been withdrawn.

Another practice that touches upon the freedom of conscience is the excessive display of religious symbols in universities. In 1998, several students of Bucharest University protested against this practice. As a result, the Rector's Office somewhat restricted the dissemination of religious propaganda in the university, but Orthodox crucifixes and icons continue to be displayed massively in classrooms. APADOR-CH stated that, as the students, who attend lectures, belong to various denominations, this situation infringes upon the principles of freedom of conscience.

Although the penal law prohibits racist, chauvinist and anti-Semitic discourse, those who have used hate speech massively in the media have not been punished. Several complaints, related to blatant racist and chauvinist acts, have been filed with the General Prosecutor's Office. Despite this, no one has yet been prosecuted.

## RUSSIA

The 1997 Federal Law on Freedom of Conscience and Religion has continued to show its effects in 1999. Smaller religious groups not registered as "traditional" religions (which are Orthodoxy, Islam, Judaism and Buddhism) have suffered under increasing intolerance.

At the same time, on 5 May 1999 a trial against Jehovah's Witnesses in Moscow ended with a decision that the group would be re-registered as a legitimate religious organization authorized to continue its work in Russia.<sup>15</sup> The trial had opened three years before as the prosecutor required the community to be banned because it had allegedly violated the law on religious associations by promoting religious discord, breaking up families and withholding medical treatment in the name of one true religion. The prosecutor also labeled it anti-governmental, anti-social, anti-traditional and anti-Christian. A large part of the prosecution involved attempts to prove that that religion was theologically incorrect, with strong backing by the Russian Orthodox Church. Four previous investigations had found no evidence to support the accusations. The Moscow human rights community regarded this trial as precedent: if the community had lost the case, authorities would have been emboldened to attack other groups, too.

Another embattled religious group, the Evangelic Lutheran Mission of Khakassia, an autonomous Siberian region, won its registration battle at a hearing on 12 February.<sup>16</sup> The Russian Ministry of Justice also re-registered the Russian United Methodist Church as a "centralized" religious organization on 26 January 1999.

However, several religious communities have reported harassment or problems with registration, and there has been an increase in anti-Semitism.<sup>17</sup>

In December and January, officials of the tax service conducted searches at the Word of Life Church's premises in Magadan and took with them all the church's financial documentation. On 5 February 1999, the police threatened church members during a nighttime search conducted under the pretext of a hunt for drug traders.<sup>18</sup> Allegedly, there was pressure on church members working in state institutions to choose between their faith and their job.<sup>19</sup>

On 1 April 1999 the Ministry of Justice refused registration to the Russian branch of the Jesuits under the 1997 law on religion. The law requires three communities and a minimum of 10 Russian members in each community. <sup>20</sup>

A Protestant congregation in Ekaterinburg complained about continuous harassment, which took the form of demonstrations during its sermons. These actions were allegedly largely initiated by local leaders of the Orthodox Church.<sup>21</sup>

In Chechnya, the leader of the Grozny Baptist Church, Aleksandr Kulakov (65) was abducted on 12 March 1999. He was later beheaded and his head displayed at a stall in Grozny market. Kulakov had taken over the leadership after Pastor Alexey Sitnikov was kidnapped and disappeared on 9 October 1998. Other Christian churches that retain a presence in Chechnya are the Russian Orthodox Church and a few Seventh Day Adventists. A Russian Orthodox priest, Father Issihy, was kidnapped about the same time as Alexey Sitnikov, but was later freed. On 27 and 28 March 1999 two more Orthodox priests were kidnapped.<sup>22</sup>

## TURKMENISTAN

### Baptist Community

The Baptist community has faced serious intolerance.

Shagildy Atakov, a Baptist, was arrested in his home in Turkmenbashi in December 1998. He was allegedly beaten severely while in prison, resulting in the loss of his eyesight. In late July, a group from his congregation tried to visit him, but was refused access by the prison director. On 3-4 August 1999, a court in Ashgabad sentenced Atakov to four years' imprisonment and fined him USD\$12,000. Another trial was called after prosecutors complained that the punishment, two years in a labour camp and a \$12,000 fine under Article 228 of the Criminal Code, handed down at the first trial had been too lenient. The charges stemmed from his activities as a car trader before he joined the Baptist congregation in Turkmenbashi. This congregation belongs to the Council of Churches of Evangelical Christians-Baptist, which rejected state control during the Soviet period. It does not, therefore, have state registration. <sup>23</sup>

### Jehovah's Witnesses

Jehovah's Witnesses in the city of Seidy claim they are being persecuted because of their religious beliefs. Allegedly the akim (head of the local administration) of the city of Seidy ordered them to confess to Islam. They claim to be followed constantly by police officers when they are out in the streets. Apparently, they do not have the opportunity to associate even in their own homes. Police have broken down their doors and burst into

their apartments several times. Jehovah's Witnesses are also threatened with losing their jobs and expulsion.

On 10 May 1999, police officers forcefully interrupted a Bible meeting in a private home when representatives from the police department, the Prosecutor's Office and the National Security Committee (KNB) burst into the apartment, and accused the people present of attending an illegal meeting. Following an unsanctioned search of the apartment, where they confiscated Bibles, the people present were taken to the police station and held for more than three hours. They were afterwards taken to the akim's office where they were fined. 24

## UZBEKISTAN

Religious freedom is formally guaranteed by Article 31 of the Constitution of Uzbekistan and the International Covenant on Civilian and Political Rights, which Uzbekistan ratified in 1996. However, under the threat of rise in religious fanaticism, and also as a convenient pretext to get rid of political opponents, the Uzbek authorities have launched a major crackdown against all religious groups not under the control of the government, Muslim and non-Muslim.

Several amendments in two articles of the Criminal Code, which specifically target unregistered religious groups of all faiths, went into force on 12 May 1999. Ostensibly aimed at the prevention of terrorist acts – such as the February bomb attacks in Tashkent blamed on hard-line Muslim fundamentalists - the amendments can be used to impose lengthy prison sentences and massive fines on unregistered religious groups or to confiscate their property. Due to the restrictions stipulated in the May 1998 Law on Religion, it is extremely difficult to obtain registration for smaller religious groups.<sup>25</sup>

### Muslims

Thousands of independent Muslims and self-proclaimed members of Hizb ut-Tahrir are believed to have been arrested in recent months,<sup>26</sup> at least two of whom recently died in detention.

On 29 April 1999, several members of Hizb ut-Tahrir were reportedly arrested in the city of Margilan, in the district of Ma'arif. Among them was 'Umar 'Aleef Hasan Irkinovich. While in custody, Irkinovich was tortured within earshot of his companions. The guards engaged in the torture subsequently requested the other detained persons to write their identity reports, after which they were released. The next day, the deputy governor of Margilan and the director of some charitable organisations in Margilan reported to Irkinovich's family that their son had died of a heart attack during interrogation. Later the same day, the family received a death certificate stating that the death was a result of food entering the respiratory tract and choking the deceased. When preparing the body for the funeral, the family members discovered marks of torture, including a swollen head, torn mouth, broken ribs, and marks left by chains around the hands and feet and by electric shocks on all parts of the body.<sup>27</sup>

On 14 June 1999, Tashkent police arrested Farkhod Usmanov reportedly for possession of an illegal leaflet. The son of a well-known imam, Nosir-kori Usmanov, was held in incommunicado detention for 11 days. Then his body was returned to his family along

with a death certificate claiming that the 42-year old had died of heart failure. The body was reportedly covered with bruises and other marks of torture. 28

### Jehovah's Witnesses

Jehovah's Witnesses were harassed, arrested and charged for peaceful religious activities.

On 3 May 1999, Aleksandr Li and Umid Sultanov, both Jehovah's Witnesses in the city of Chirchik, were stopped by the police in the street for identity check. Discovering that Li and Sulatanov were carrying religious magazines, the police officers took the two men to a police station where they were questioned about the origins of the magazines. Two days later, Aleksandr Li and Umid Sultanov were sentenced to administrative arrest of 15 days on the basis of Article 240 of the Administrative Code of the Republic of Uzbekistan for violating legislation on religious organizations. They were imprisoned immediately.<sup>29</sup>

Article 240 of the Administrative Code stipulates that performing illegal religious activities, such as organizing and holding religious meetings for young people, and proselytism and other missionary activities, shall be punished by a penalty from five to ten minimal monthly salaries, or administrative arrest up to fifteen days. The congregation of Jehovah's Witnesses in Chirchik is among the many organizations which has faced problems in registering.<sup>30</sup>

### Protestant Christians

Since Uzbekistan became independent in 1991, the autonomous republic of Karakalpakstan has maintained a strict stance against the steady growth of Christianity among its population.

In March 1999, Na'il Asanov (27) was arrested in Bukhara, where he works as a pastor of a church seeking official registration. Several women were arrested with him. Police allegedly found drugs in his possession and beat him severely. Although Asanov declared he had never seen the packet of drugs before and wrote out a statement that it did not belong to him, police destroyed the statement and forced him to sign a document saying that he had found the packet on the street. Investigators then released him and the women. Two days later, however, he was re-arrested on drug charges. Friends who visited Asanov reported that they had found him beaten, handcuffed to the bars with his hands above his head and deprived of food.<sup>31</sup> On 24 August the Embassy of Uzbekistan in Vienna informed the IHF that a court in Buchara had repealed the charges against Asanov.

On 3 June 1999, Lt. Sergei Danileiko was arrested after handing out Christian pamphlets in the Karakalpak language to other soldiers during a stopover at Nukus airport. Danileiko's plane was already in the air again when it was ordered to return to Nukus, where Danileiko was arrested for possession of Christian literature. One week earlier, another Evangelical Christian had been arrested in Nukus. 32

The twice-delayed trial of four Evangelical Christians arrested earlier this year took place on 9 June in Nukus, the capital of the Karakalpakstan autonomous republic in Uzbekistan. The four defendants - a 24-year-old Pastor Rashid Turibayev, Par'had Yangibayev and two others, identified only by the first names of Iss'ed and Salamat - were convicted for possession of and trafficking in drugs, but the charges are believed to

be fabricated. Turibayev was sentenced to 15 years in prison. Yangibayev, Iss'ed and Salamat each received a 10-year sentence. Article 273 of the Criminal Code reserves the maximum sentence of 15 years for "especially dangerous recidivists."<sup>33</sup> For Turibayev, this was not the first time he faced persecution. He has already spent a month in a psychiatric hospital for holding illegal religious meetings. In October 1997 he was sentenced to two years in forced labor. Although Turibayev was released from confinement before serving the full sentence, he was forbidden to leave the city without permission during the duration of his sentence. He has been required to pay 20 percent of his salary to the local government, and state security officers keep his church under continuous surveillance.<sup>34</sup>

According to the Uzbek Embassy in Vienna, Turibayev and Yangibayev were pardoned by the president and released on 19 August together with some other individuals imprisoned because of their religious conviction. While welcoming the release of the prisoners, the IHF emphasizes that the restrictive legal provisions still remain in force and provide for further imprisonment of believers.

FOOTNOTES: 1. By Human Rights Without Frontiers (affiliate of the IHF).

2. "The assembly calls on the governments of member states to set up or support independent national or regional information centres on groups of a religious, esoteric or spiritual nature [...] The assembly recommends the setting up of an European Observatory by the Committee of Ministers to make it easier for national centres to exchange information on religious, esoteric and spiritual groups."

3. Based on information from the Bulgarian Helsinki Committee to the IHF, June 1999.

4. Based on information from the Czech Helsinki Committee, prepared by Miroslav Krutina.

5. Based on information from the Finnish Helsinki Committee to the IHF.

6. Based on reports from Greek Helsinki Monitor and Minority Rights Group-Greece.

7. See IHF Annual Reports.

8. Based on information from Greek Helsinki Monitor and Amnesty International.

9. Based on information from the Almaty Helsinki Committee to the IHF, 10 August 1999.

10. As reported in Human Rights in Latvia, 1 January 1999 – 30 June 1999, Ieva Leimane, Latvian Center for Human Rights and Ethnic Studies.

11. Based on the Semiannual Report of the Helsinki Committee for Human Rights in the Republic of Macedonia.

12. Article 3 that banned "religious work and rituals" by unregistered groups; article 10 that required 50 adult members to form a religious group; article 11 that required one representative to file detailed information with the Office of the Affairs of Religious Communities and Religious Groups; article 13 that established an official register of legal religious groups; article 14 that granted legal status to a religious group from the date it was recorded in the official register; and article 22 that required permission from the Office for the Affairs of Religious Communities and Religious Groups for the construction or acquisition of religious buildings.

13. "Macedonia: Macedonian Evangelicals Successfully Challenge Restrictive Law," Human Rights Without Frontiers, 1 March 1999.

14. Based on APADOR-CH submission to the Human Rights Committee in Connection with the Fourth Periodic Report of Romania due in 1994: Romania. 29/04/97.

CCPR/C/95/Add. 7.

15. RFE Watchlist, 14 May 1999.



16. Human Rights Without Frontiers, March 1999.
17. See also Tolerance and Non-Discrimination.
18. RIPNET, 9 March 1999, distributed by Human Rights Without Frontiers (HRWF), 10 March 1999.
19. Keston News Service, 11 February 1999, distributed by HRWF, 10 March 1999.
20. Keston News Service, 20 April 1999, distributed by HRWF, 30 April 1999.
21. HRWF, 23 July 1999.
22. Compass, 31 March 1999.
23. Compass Direct/ Human Rights Without Frontiers, 6 August 1999.
24. Lubomir Muller, 16 June 1999.
25. For details, see IHF Annual Report 1999.
26. Human Rights Watch, 11 July 1999.
27. Hizb-ut Tahrir, Islam-list – Uzbekistan, 10 May 1999.
28. Human Rights Watch, 11 July 1999.
29. Information from Lubomir Müller, Attorney at Law, 17 May 1999.
30. Ibid.
31. Barbara G. Baker, Compass, 17 May 1999, distributed by Human Rights Without Frontiers (HRWF), 20 May 1999
32. Felix Corley, Compass, 11 June 1999, distributed by HRWF, 15 June 1999.
34. Ibid.
35. Barbara G. Baker, op.cit.