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Commission staff examine religious liberty in Austria, Belgium, Germany and France

by *Karen S. Lord*

For the last few years, the Helsinki Commission has had a particular focus on the religious liberty situation in Western Europe, holding a series of briefings on the subject in 1998. The surprising and alarming rise of intolerance toward minority religious groups in stable, democratic countries has caused the Commission to focus on laws that discriminate between recognized and unrecognized groups and on government practice that is intolerant or encourages intolerance in society. The principles guiding the Commission's investigations have been the OSCE commitments on religious liberty, particularly the 1989 Vienna Document, Section 16. To better understand the situation in Western Europe, Karen Lord, Counsel for Freedom of Religion for the Commission traveled to Austria, Belgium, Germany and France with Dr. Jeremy Gunn from the Department of State's Office of the Ambassador-at-Large for Religious Liberty and Dr. David Little, Senior Fellow at the United States Institute for Peace.

The new Austrian law on religious organizations has been in force since January 1998. The law codifies a tiered system for government recognition of religious groups with the twelve recognized religions having access to

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government funding and the media, among other benefits. Groups wishing to accede to this status must undergo at least a ten-year period of government scrutiny and meet certain criteria such as size and theological qualifications which are determined by the Ministry of Education. The underlying principle for the Austrian Government officials that the delegation met with seemed to be the perceived need for government control of religion and religious groups.

The delegation met with Mr. German Mueller, head of the “Bureau for Sect Questions” in the Ministry of Family Affairs. The office, which was opened in November 1998, collects and disseminates information on various groups. Although the Bureau does not have prosecutorial authority, it does have the ability to affect public dialogue and to affect tolerance in society depending on how it collects and disseminates information. According to Mr. Mueller, the Bureau has an overall “preventive” character. An organizational report was submitted to the Parliament in April and a second report will be submitted in September to insure compliance with data protection laws. Information is gathered from open sources as well as from contacts with members of the public. The office examines the type of accusation—whether it is concrete or vague, the type of allegation, and whether there is possible criminal activity. If a report is received and no new information is received on the group within two years, that report will be erased. Mr. Mueller did acknowledge that information verification is crucial because of the subjective nature of religious activity; without verification, information will not be released to the public. The office is, in principle, willing to speak to members of these groups in the course of their investigations.

In 1997, the Belgian Parliament adopted a report on “sects” with an unofficial appendix listing 189 groups, which has been widely circulated in the press. The Parliament has also passed legislation establishing an “Advice and Information Center on Dangerous Sects” which is currently being set up by the Ministry of Justice and should be in place later this year. The Advice and Information Center will have a board of twelve experts and academics chosen by the Parliament and the Ministry of Justice to help advise and run the Center. The Center, like the Austrian Bureau for Sect Questions, has the ability to affect public dialogue on religious liberty and, depending on how it collects and disseminate information, may affect tolerance in society toward religious minorities. The Commission will continue to monitor the situation.

Another dynamic in Belgian politics is the fact that both the Flemish and the French-speaking (Walloon) communities have their own parliaments. In general, the concern over the “dangers of sects” in Belgium exists primarily in the French-speaking community. For example, the Walloon Minister of Education has begun an aggressive campaign to publish extremely inflammatory booklets

on the sects, which includes vague but alarming references to the sects' supposed "infiltration" of government institutions such as the schools, and their ability to lure the weaker members of society into their fold. More recently, television advertisements and previews at movie theaters, sponsored by the Walloon Government, warn about the dangers of sects and point the public to the booklets published by the Minister of Education. It appears that a number of politicians may have seen a political opportunity and have made combating "sects" a trademark of their platform.

Except for issues surrounding Scientology, the German Government appears to be more moderate in its approach toward minority religious groups. Several German officials stated that the most difficult religious liberty issue in Germany is the treatment of Muslims and there is a fairly lively public debate on this issue and the related issue of xenophobia. By way of comparison, there is very little public debate on the fundamental unfairness inherent in the German system of legal preferences given to certain religious groups. German law, like the Austrian law, gives preferential status to certain groups as "public law corporations" which allows these religious groups to avail themselves of certain benefits denied to other faiths.

The final report of the German Bundestag's Enquete Commission, which was issued in 1998, was much more moderate than the interim report, and concluded that the only continuing and significant "problem" is Scientology. Monitoring by government security offices appears to have decreased for other religious groups.

Of the four countries that the delegation visited, France presents one of the most serious problems for religious liberty. The French National Assembly issued a report in 1996 that identified 179 "sectes," including the Pentecostal Church of Besançon, the Institute de Theologique de Nimes (an evangelical church and school affiliated with the Southern Baptists), the Mormons, and the Jehovah's Witnesses. The list, which was compiled based on reports that had been filed with the police but

never prosecuted or even verified in any manner, is appalling in its lack of due process or protection of human rights for minority groups. In addition, groups that were listed cannot legally challenge the listing because the report is not a legal document under French law. The list has been the basis for continued official and unofficial discrimination and harassment; some groups that were listed have reported difficulty in renting public halls, being subjected to extremely negative media reports, an inability to obtain commercial bank loans, and the loss of jobs by some of their members because of their affiliation with a listed group.

Recently, the French Government has increased pressure on groups listed in the 1996 Parliamentary Report on Sects, including the creation of an "Interministerial Mission to Battle Against Sects" and the granting of legal standing in criminal trials to two private "anti-sect" groups. In addition, the operating expenses of these two groups are partially subsidized by the French Government. As President of the Interministerial Mission, Mr. Alain Vivien wields tremendous authority within the French Government in the field of religious liberty and all levels of the French Government appear to defer to his judgement on these matters. Using the 1996 report as a base, Mr. Vivien continues to monitor and disseminate information on groups he considers "dangerous." No appropriate mechanism for dialogue exists between the Interministerial Mission and religious groups as Mr. Vivien and his staff refuse to meet with religious groups to discuss their work.

The Helsinki Commission will continue to report on the situation in these countries and to urge the governments of Austria, Belgium, Germany and France to uphold their OSCE commitments, specifically the commitments to "take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief" and to "foster a climate of mutual tolerance and respect" found in the 1989 Vienna Document section 16.1 and 16.2. □

Women's human rights in war, peace and transition

By Maureen T. Walsh

From April 28-30, the U.S. Agency for International Development, in cooperation with the nongovernmental organization World Learning, hosted a conference in Bucharest, Romania entitled "From Trauma to Wholeness: Romanian Women Coming Into Their Own." The conference, which approximately 250 Romanian women attended, represented one of the first opportunities in the post-communist era for an organized gathering of Romanian women to discuss issues of concern in their lives, including domestic violence, economic opportunities, and women's health issues. To provide the conference attendees with a regional perspective on such issues, this author delivered a speech describing the human rights concerns facing women in the OSCE region generally, in war, peace and transition today. The following is an excerpt from that speech:

"While communism prevailed in East-Central Europe, the most basic human rights—freedoms of speech, religion, movement, and association—were denied to all people—men, women and children alike. In fact, communism's impact was arguably even worse for women than men. After the fall of communism, governments' records for respecting human rights began slowly to improve. Since 1990, however, a distinction has emerged between equality in law, both domestic and international, and equality in fact. It became clear that women throughout the OSCE area, notwithstanding international legal and political commitments, constitutional clauses and domestic legislation, continue to fall behind men in the enjoyment of fundamental rights and freedoms, in their participation in political life, and even in the OSCE as an institution.

"Recognizing this reality, in 1991 the OSCE participating States adopted a politically binding document, known as the Moscow Document, in which each country acknowledged that 'the full development of society and the welfare of all its members require equal opportunity for full and equal participation of men and women.' The Moscow Document enumerates the obligation of countries to achieve equality of opportunity between men and women not only in law but in fact. The document also acknowledges that certain issues affecting women exclusively also deserve and require attention. The Document recognizes that women do not yet enjoy full eco-

nommic opportunities and that, in particular, States must promote nondiscriminatory employment policies and practices, and equal access to education and training. In addition, the Moscow Document recognizes the need to "eliminate all forms of violence against women, and all forms of traffic in women and exploitation of prostitution of women" and the need to promote equal opportunity for full participation by women in all aspects of political and public life.

"Eight years after the Moscow Document was signed there remains much work to be done toward implementing these commitments in the OSCE region. Let us first look at the question of what is happening to women's lives in war-torn countries of the OSCE. During conflicts in Bosnia, Kosovo, Tajikistan and elsewhere women struggled to survive and protect their families. This was a struggle shared by men. Combatants target civilians as a blatant tactic of war and sexual violence against women by rape was chief among their weapons. During the Bosnian conflict, forced impregnation was, perhaps, the most bestial tool used to wage genocide. Lack of accountability for violence against women is constant regardless of whether a country is at war or at peace, but rape is a war crime and a crime against humanity. Thankfully, at least some perpetrators of this heinous crime in Bosnia are today facing the consequences of their actions before the International Criminal Tribunal in the Hague.

"Today, Bosnia is in a post-conflict setting. According to government statistics, due to war casualties and the mass exodus of men avoiding military service, of a total population of 2.2 million people in postwar Bosnia, only 590,000 are adult males. Although women have become nominal heads of many households they have not taken on a correspondingly greater role in public life and their social and economic position has actually deteriorated since the war's end. Moreover, the reintegration of demobilized soldiers into an economy that is unable to create jobs has led to frustrated and angry men who have trouble readjusting to their old lives and turn their anger against their wives and girlfriends, leading to higher rates of domestic violence, divorce and suicide than before the war.

"In a post-conflict situation, women are suffering the lingering effects of trauma and have increased needs for

physical and mental health care yet they often have minimal or no access to the services and assistance they need. In addition, women who are now heads-of-households must struggle against sex discrimination, and a lack of legal redress when they are faced with discrimination, to gain access to financial resources. Women's support networks have disappeared and must be rebuilt. There is a vital role for nongovernmental organizations in this process. The international community at work in Bosnia, and other post-conflict settings, must also integrate women's concerns into their work.

"In other parts of the OSCE region, including Romania, societies are progressing through a peacetime transition from communism to democracy. To answer the question, what is happening in women's lives today in these transitional countries, I will now describe briefly the issues that the OSCE is addressing to encourage implementation of OSCE commitments on 'gender equality.' These issues implicitly reflect many of the concerns faced by women in these transitional countries.

"A key step toward improving gender equality, and a primary issue raised in OSCE meetings on women's human rights issues, is the need to increase women's participation in political life and as members of national parliaments in OSCE participating States. By way of example, the average percentage of women worldwide serving in the lower house of a parliament is 13.1 percent. In Romania, as of last year, only 7.3 percent of the representatives in the Chamber of Deputies were women. While there is no reason male representatives should not promote and ensure gender equality, continuing discrimination against women indicates that women themselves must have access to political power at the national level in order to be effective.

"Increasing the numbers of women in parliaments and at regional and local levels, however, represents only half the story. Women must also have access to decision-making bodies across the policy spectrum and their views must be taken seriously and incorporated into decisions. Moreover, women serving in elected positions must fight against being limited to certain policy areas that are indicative of gender stereotyping, such as cultural and social affairs issues, at the expense of involvement in other key policy areas such as trade, industry, transportation and economic affairs.

"Another key issue in a country undergoing democratization is access to education and vocational training.

Ensuring equality of access to education and training for girls and boys is a vital part of the issue. In times of economic hardship, families may favor education for boys rather than girls, and this will ultimately affect girls' access to economic opportunities generally and to certain careers specifically.

"With the fall of communism, equal access to economic opportunities became a fundamental concern for women. Regrettably, the transition to market economies has been accompanied by an increase in discriminatory practices in employment. Occupational segregation based on gender stereotyping is evident in the types of jobs women can get, the level of responsibility they are given, and the difference in wages they are paid. In some countries, such as Russia, women are commonly fired from their jobs during maternity leave. As with any loss of employment, such actions can severely handicap a woman's long-term prospects for career advancement and immediately affect her eligibility for employment-related benefits.

"Many countries do not yet have effective anti-discrimination legislation to prohibit this type of conduct by employers. In the Czech Republic, for example, the government passed an employment law that bans discrimination on the basis of sex, religion, and national origin but, amazingly, in practice employers remain free to consider sex, age, or even attractiveness when making hiring decisions, since the Czech courts have decided that this does not necessarily constitute 'discrimination' under the law.

"The lack of economic opportunity for women can have tragic consequences. Unable to find employment in their own locality, many women are lured by advertisements for jobs overseas that promise money and travel. Unbeknownst to the women, these ads are placed by criminal networks that will send the women to foreign countries, take away their passports, let their visas expire, and force them into prostitution to work off their 'debts' and regain their passports. Women who fail to comply are subjected to beatings, rape, confinement with minimal food or liberties, and sometimes death.

"Such criminal conduct constitutes trafficking in human beings. It particularly affects women and children and is a form of modern day slavery. In 1997 alone, an estimated 700,000 women of all nationalities were trafficked worldwide; 100,000 of these originated in the former Soviet Union. The main OSCE countries of origin for trafficking are Russia, Ukraine, Poland, and the Baltic States. Women also come from Belarus and

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Moldova. The main countries through which women are transported include Poland, Hungary, the Czech Republic and Romania. Some countries are beginning to focus attention on legislation necessary to help protect women from this industry.

“Trafficking in women is but one form of violence that women in this region, as throughout the world, continue to face. Domestic violence and the failure to provide mechanisms to punish perpetrators are a continuing cause for concern. Creating social conditions in which women feel physically and psychologically secure is fundamental to women’s ability to participate fully and equally in family life, economic life and political life. Physical and psychological security is part of the social and international order in which rights and freedoms can be fully realized.

“Combating domestic violence requires a multifaceted approach and demands a long-term commitment. The first step in ending domestic violence, and in ensuring compliance with international standards that call on countries to end violence against women, is to acknowledge the existence and scale of the problem. Next, effective and accessible mechanisms must be created to hear and respond to domestic violence complaints. A legal and psychological climate must be created in which women can make their complaints to local authorities. Courts must take such complaints seriously. Laws against domestic violence must be adopted and consistently implemented so that societies will begin to understand that violence against women, including domestic violence against spouses, is unacceptable, that it is punishable, and that it will be punished.

“Support for victims of violence is also vital. Such support must address women’s initial needs, such as offering them shelter and counseling, but must also provide opportunities for women to learn skills that will enable them to generate income and redress economic inequalities that trap many women in violent situations. Finally, with both domestic violence and trafficking in women, reforming the root causes of the problem is vital—namely, the lack of economic opportunity for women, lack of effective legal and other remedies, and the social and cultural conditions that condone violence. Moreover, as with each of the issues I have mentioned, while some of these reforms will require responses by legislatures and government entities other necessary changes are best combated by NGOs, communities, and faith-based organizations.” □

Russian Federation human rights Ombudsman criticizes religion law

by John Finerty

Oleg Mironov, Russia’s Ombudsman for Human Rights, has sent a message to the State Duma committee on public groups and religious organizations in which he criticizes several aspects of the Russian Law on Freedom of Conscience signed into law by President Yeltsin in September 1997. According to Mironov, the preambular language of the law, which refers to “the special role” of Orthodoxy in the history and culture of Russia, and the mention of several other faiths as deserving respect as an integral part of Russia’s heritage, constitutes discrimination inadmissible under the Russian Constitution.

Mironov also criticized the practical effects of the law that leads to discrimination between religious organizations that have existed in Russia for over 15 years and those that have not, that such discrimination contradicts “both the European Convention and precedents of the Council of Europe.”

An attorney by profession and former member of the Communist Party faction of the Duma, Oleg Mironov was appointed Russia’s Human Rights Ombudsman (succeeding former Soviet dissident Sergei Kovalev) in May 1998. Human Rights Without Frontiers calls his statement on the religion law “his first serious action in defense of human rights in Russia.”

Further from Moscow, a Russian court in Magadan, Russian Far East, rejected an attempt by the city prosecutor to close a Pentecostal church whose chief pastor was accused of “hypnotizing congregants to extort donations.” According to a May 28 Associated Press story, the court also ruled that authorities had violated the congregation’s rights by “illegally videotaping church services and attempting to forge church documents.”

In Vanino, Khabarovsk Region, local authorities continue to create problems for Dan Pollard, an American missionary whose difficulties were widely reported in the Western press last year. Pollard says he has been denied permission to stay in Russia. Earlier this year, a supposed compromise had been worked out whereby the church in Vanino where Pollard was serving would come under the jurisdiction of the Baptist Union of the Far East. However, in late May, Pollard reported that he has been denied a tourist visa for Russia and that several slanderous articles have appeared in the local press against him. □

OSCE Missions' human rights work focus of ODIHR seminar

by Robert Hand

In late April, the Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE) held a 4-day seminar on "Human Rights: The Role of Field Missions." The topic was chosen in light of the growing number and size of OSCE missions, each of which must address human rights issues in the context of different mandates. At the time of the seminar, the OSCE had deployed eleven long-term missions, eight other field activities similar to missions, and three representative offices to assist implementation of bilateral agreements. These field operations are located mostly in the Balkans, Baltics, Caucuses, Central Asia and the westernmost states emerging from the former Soviet Union. They range in size from four to two thousand mandated mission members (the number of deployed mission members is often lower). The largest and most well-known of these, the Kosovo Verification Mission (KVM) had been withdrawn just one month earlier, and the subsequent NATO action against Yugoslav and Serbian forces had become the dominant European issue.

Polish Foreign Minister Branislav Geremek, who was the OSCE Chairman-in-Office during the heightened mission activity which developed in 1998, welcomed the participants in the opening plenary. One of two guest speakers at the opening was KVM Head Ambassador William Walker of the United States, who described the increasing threats to his mission and the marginalization of its work leading up to its withdrawal. The Deputy High Representative in Bosnia-Herzegovina, Ian Martin, was the other guest speaker and offered more practical advice on establishing and deploying missions. Ambassador Norman Anderson, Head of the U.S. Delegation and former Head of the OSCE Spillover Monitor Mission to Skopje (Macedonia), made some suggestions for missions regarding personnel, training, balanced operations, transparency, authority, managing multiple responsibilities, educational outreach, post-election work and coordination with other OSCE institutions. He concluded that, ultimately, OSCE missions must remain true to the ideals which bound the OSCE participating States together a quarter century ago when they signed the Helsinki Final Act. The Russian delegation used the opening plenary to

criticize the OSCE for withdrawing the KVM and for double standards in decisions regarding OSCE mission deployments.

The participants then broke into two working groups, one on the role of human rights and field missions in conflict and crisis situations, and the other on the role of field missions in promoting and protecting human rights generally. Common themes in both groups included:

Personnel and Training: There was considerable criticism of the process of secondment of personnel, which can leave missions with less than qualified people. A six-month secondment contract is not very attractive, especially when some governments provide significantly better compensation than others. Direct OSCE hiring was suggested, but government representatives stressed that participating States would not simply provide the funds while losing control of their use and supporting a larger OSCE bureaucracy to administer mission hiring. Switzerland, Canada and Norway described their programs to make training as human rights field officers a prerequisite for being placed on national rosters for secondment, and this seemed a good compromise between the two views. In conflict and crisis situations, mission members should already have considerable knowledge of international human rights standards. In such situations, it is often easier to make military officers available, who are great at logistics but inclined to define mandates narrowly and, with some notable exceptions, are not adept at human rights work.

Mandates: There was little question among the participants that human rights should be part of every mission's mandate. At issue was the degree to which the human rights mandate should be defined, with some arguing for a detailed, specific mandate which adds authority when being implemented, and others arguing for broad, general mandates which allow for flexibility in what can often be highly divergent conditions even within a country.

Reporting: Participants mostly accepted the notion that monitoring and reporting was the essence of human rights field work, but some argued strongly that, while "bearing witness" is itself a worthy goal, mission members needed to be empowered to do more. Unfortunately, there were few answers to the question of how to do this,

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especially in dangerous conflict situations. There was general agreement that reporting should be regular, although some cautioned that if it were to become too frequent and routine it could lose its impact on those responsible for human rights violations.

Publicity: There was some of the traditional debate within the human rights community between the advantages of quiet and public diplomacy. A related topic was the degree to which a mission should maintain a good relationship with the host government, which in some cases might bear at least some of the responsibility for the human rights violations taking place. While the prevailing view favored publicity, some participants, such as those representing the International Committee of the Red Cross, noted that the success of their particular human rights endeavors required confidentiality. There were several calls for OSCE mission reports to be made public documents.

The proximity of Warsaw to Belarus enabled non-governmental organizations from that country to come to the seminar. In the working group setting, they criticized the Belarus authorities for their poor human rights record, especially in the area of elections and freedom of assembly. U.S. Delegation members supported these groups when Belarus representatives sought to counter their criticism with bogus claims.

The seminar closed with a plenary session. Rapporteurs from the two working groups combined their

work into one report which summarized the discussions. They concluded that, "first and foremost the responsibility for the promotion and protection of human rights lies with the participating States." Ambassador Anderson, for the United States, added that, indeed, the human rights work of missions will be enhanced if the perpetrators of human rights violations "know that missions do not operate in a vacuum." Janne Haaland Matlary, Deputy Foreign Minister of Norway, representing the current Chairman-in-Office was the guest speaker at the closing and discussed potential follow-up to the seminar's recommendations.

The seminar was, by virtually all accounts, a useful gathering. Its success can be credited to the organizational arrangements made by the ODIHR, including the selection of moderators who genuinely facilitated discussion. Overall participation was diverse and balanced, allowing views to be expressed from different angles of a common problem. While the Russian delegation began with a critical statement, there was no attempt to draw the seminar into a polemical exchange over NATO action against Yugoslav and Serbian forces. Finally, in preparation for the seminar, the International League for Human Rights and the Jacob Blaustein Institute organized its own, one-day seminar on the same subject in Washington, DC, from which came a set of concrete recommendations to the OSCE which were presented in Warsaw. □

OSCE Review Conference coming up

by Orest Deychakiwsky

The seventh Review Conference of the Organization for Security and Cooperation in Europe (OSCE) will be held this year September 20-October 1 in Vienna, and November 8-10 in Istanbul prior to a Preparatory Conference (November 11-17) to finalize the summit document. The Summit of Heads of State is scheduled for November 18-19 in Istanbul. As in previous years, the Review Conference will examine implementation of OSCE commitments in all dimensions: human rights, economic reform and the environment, and military security.

A large part of the Review Conference will focus on OSCE human dimension commitments, including freedom of religion, expression, association, prevention of torture, international humanitarian law, rule of law, democratic institutions (including elections), tolerance and non-discrimination and national minorities. There continue to be serious problems in a number of the OSCE countries. In some, we have witnessed widespread and even egregious violations of human rights or reversals of the democratization process. Other OSCE states experience problems with implementation of specific commitments, such as citizenship, free media, religious liberties, or treatment of Roma. The Commission's report on the 1998 Human Dimension Implementation Meeting, which includes all of the interventions made by the U.S. delegation, may be accessed on our website:

<http://www.house.gov/csce/>.

As at previous meetings, Helsinki Commission staff will participate actively on the U.S. delegation to the Review Conference, especially in the area of the Human Dimension. In anticipation of the Review Conference, the Commission is compiling information from a variety of sources, including nongovernmental organizations. We are interested in hearing from NGOs and individuals on specific concerns that might be raised at the Conference.

NGOs interested in participating in the Review Conference should contact the OSCE Office for Democratic Institutions and Human Rights in Warsaw (48-22) 520-0600. Further information can also be obtained on the OSCE's official website:

<http://www.osce.org/>. □

OSCE Mission ends; OSCE Project Coordinator in Ukraine established

by Orest Deychakiwsky

On April 30, the OSCE Mission to Ukraine became the first of the OSCE field missions to end, having largely successfully completed its mandate. The focus of the Mission's activities, begun in November 1994, was the status of Crimea, including reconciliation of the Crimean Constitution with the Constitution of Ukraine. The Ukrainian Government's relationship with Crimea has become normalized, and a Constitution for the Autonomous Republic of Crimea was adopted by the Ukrainian parliament in late 1998.

Another Mission area of activity was connected with issues surrounding the return to Crimea of the Crimean Tatars, forcibly deported by Stalin in 1944. Some 250,000 have returned since the late 1980s. The Mission has worked on helping to resolve the problems of resettlement, including questions of acquisition of Ukrainian citizenship for the formerly deported persons.

On April 30, the OSCE Permanent Council (PC) decided to establish an OSCE expert group for one month. On June 1, a "new form of cooperation" between OSCE and Ukraine was established, and an OSCE Project Coordinator in Ukraine was established. According to the decision, this new form of cooperation "will be based on the planning, implementation and monitoring of projects between relevant authorities of Ukraine and the OSCE and its institutions." During the initial phase, emphasis will be placed on a comprehensive review of human rights legislation in Ukraine. □

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