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## **OSCE Implementation Meeting on Human Dimension Issues Warsaw, 1998**

**Report by the  
International Helsinki Federation for Human Rights  
(IHF)**

### **Excerpts on the Balkan Countries**

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#### NATIONAL HELSINKI COMMITTEES IN

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## **Preface**

This report is based on the information the International Helsinki Federation for Human Rights (IHF) has received in 1998 during investigations carried out by the IHF Secretariat, affiliated Helsinki Committees and IHF partner organizations.

This reports is composed of a selection of some forms of human rights violations in 28 participating States of the Organization for Security and Cooperation in Europe (OSCE). Therefore, absence of a country in no way implies that no violations of OSCE commitments or other internationally guaranteed human rights have been committed in that country in 1998. Nor does the IHF intend any political statement in the selection of countries and problems herein described.

For developments in the Federal Republic of Yugoslavia (including Serbia, Montenegro and Kosovo), please see the separate IHF report.

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The International Helsinki Federation for Human Rights (IHF) is a non-governmental organization that monitors compliance with the human rights provisions of the Helsinki Final Act and its Follow-up Documents. In addition to supporting and providing liaison among 34 Helsinki committees, the IHF has direct links with human rights activists in countries where no Helsinki committees exist. It criticizes human rights abuses regardless of the political system of the state in which these abuses occur.

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The opinions expressed in this report are those of the IHF only.

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## 1 a) **Rule of Law: General, Independence of the Judiciary, Fair Trials and Defendants' Rights**

- Relevant commitments:
- Par. 13.9 of the "Questions relating to Security in Europe" in the Vienna Document;
  - Par. 1 to 5.21 of the Copenhagen Document;
  - Par. 19.1 to 19.2 vii, 20.1 to 20.4 of the Moscow Document;
  - Undertakings under "Human Rights, Democracy and the Rule of law" in the Charter of Paris;
  - Par. 18 of Chapter VIII of the Budapest Document.
  - Par. 9 of the Lisbon Document

### **Albania**

#### The Rule of Law

Albania still does not have a constitution: the country is governed on the basis of Constitutional Provisions in force since 1991. In September 1997, a commission was formed to draft a new constitution. The Democratic Party, however, now in opposition, refused to participate in the work of the commission. Despite this and other difficulties, the draft is now completed and published as a brochure, and it is expected to be discussed in the parliament soon. The new constitution is scheduled to come into force on 28 November 1998, the Albanian day of independence, if adopted by a referendum. The government is confident that the schedule will hold, despite recent unrest. New attempts are being made to involve the Democratic Party in the final stage of discussion and for the approval of the draft constitution.

The opposition has been allowed to operate freely. However, reports have been received about dismissals of lower ranking employees in the administration and police chiefs, who were replaced by others possessing no better qualifications, suggesting political motives. The general situation in the country has clearly obstructed the realization of human rights; the dramatic rise of criminality, poverty and massive unemployment affect all individuals, as does widespread corruption. The flow of refugees from Kosovo has added to the country struggle.

On 23 August 1998, the government arrested six officials of the former Democratic Party government who were accused of "crimes against humanity" for suppressing unrest in 1997, among other things, through, orders to use chemical weapons, airplanes, and helicopters against civilians. The officials are former Defense Minister Safet Zhulali, Interior Minister Halit Shamata, head of the anti-corruption agency Blerim Cela, deputy head of the secret service Bujar Rama, Vlora police chief Sokol Mulosmanaj, and army General Kreshnik Lusha. The decision provoked massive protest from the Democratic Party with former President Sali Berisha urging his supporters to "use all means" to overthrow the Socialist-led government.<sup>1</sup>

Following the assassination of Democratic Party deputy Azem Hajdari, the protests escalated into violent riots:

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<sup>1</sup> RFE/RL Newsline, 24 and 28 August 1998.

- On 12 September 1998, unidentified individuals shot and killed Democratic Party deputy Azem Hajdari<sup>2</sup> and his bodyguard in Tirana. The former president Sali Berisha made Prime Minister Fatos Nano personally responsible for the assassination. Protests escalated into riots, leading to the occupation of the state radio and television and the office of the prime minister by armed supporters of the Democratic Party that demand the prime minister to step down. The government vehemently denied any involvement in the assassination. The riots resulted in the death of at least seven individuals and dozens of injured people. Many observers feared that unrest would transform into anarchy similar to the 1997 incidents, however, both political sides appeared to avoid it. The government accused Sali Berisha staging a coup d'état and threatened to indict him. The parliament lifted his parliamentary immunity on 18 September.

All these developments brought about a governmental crisis, resulting in the resignation of Prime Minister Fatos Nano. The Socialist Party appointed General Pandeli Majko to form a new government.

### Independence of the Judiciary

The main concerns regarding the Albanian judicial system include the lack of a constitution (see above), insufficient professional qualifications of judges and other judicial staff, and a corrupt and politicized judicial system. In addition, misconduct by police adds to problems of law enforcement.

In recent years, the Albanian judiciary has become increasingly corrupt and deeply politicized. The former Democratic Party government interfered with the independence of the judiciary, routinely fired judges, including the chief judge of the Court of Cassation (Supreme Court), or removed them to lower posts after they had passed just verdicts in politically sensitive cases.

The Socialist-led government has proclaimed that one of its main objectives is to bring more order to the administration of justice. On 4 April 1998, President Rexhep Mejdani, in his capacity as the chairman of the High Council of Justice, called chiefs of various district courts of appeal and prosecutors to him, and declared that the council cannot be influenced by political forces. At the same time, he took up the problem of professionalism, the operation of courts and corruption, and criticized the Court of Cassation for having exceeded its power by dealing with first degree cases.<sup>3</sup>

One problem has been the low qualifications of many jurists. The Democratic Party government appointed as judges, and as other high-ranking judicial officials, politically loyal individuals who had completed only three- or six-month judicial training sessions.

In December 1997, a law was passed requiring a university degree for all judges and prosecutors. This triggered a hunger strike by several judges who claimed that the law was simply a politically

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<sup>2</sup> Azim Hajdari was a controversial figure in the Albanian political scene. A Democratic Party deputy, he was shot at almost exactly a year earlier by a Socialist Party deputy inside the parliament building. Hajdari claimed that it was a political attack, but evidence suggested that it was an individual act of revenge. The government condemned the attack, arrested the attacker and charged him with attempted murder. Hajdari was involved in several questionable incidents, including one involving an armed stand-off. On 25 February 1998, his parliamentary immunity was subsequently lifted and he, together with a dozen of others, was charged with resisting and offending the police. There were also speculations about his alleged involvement in arms trafficking to Kosovo. On 3 June 1998, Hajdari escaped an assassination attempt in his hometown of Bajram Curri.

<sup>3</sup> *Fax Letter*, No. 4, April 1998, Albanian Helsinki Committee.

motivated attempt to oust those judges who had received only the short training, and to favor Communist-era judges.<sup>4</sup>

In June 1998, the Socialist Party Minister of Justice, Thimio Kondi, upon his return from the Council of Europe, announced at a press conference that he planned to submit all judges and prosecutors to a test, proving their qualifications and ability to take care of their responsibilities.<sup>5</sup>

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<sup>4</sup> RFE/RL Newswire, 28 January 1998.

<sup>5</sup> *Fax Letter*, No. 7, May 1998, Albanian Helsinki Committee.

In March 1998, the government decided to propose that the parliament to give judges a substantial raise in salary, with the aim of strengthening their position, increase their independence and protect them against corruption. According to June press reports, a draft law providing financial independence of courts from the Ministry of Finance was under preparation.<sup>6</sup>

On several occasions, attempts to bring internationally recognized standards into the Albanian judicial system have encountered serious obstacles. In some cases, judges have been dismissed without proper proceedings. The case of the Court of Cassation has been the focus of particular attention. Authorities have strongly criticized it, and particularly its Chief Judge Avni Shelu, for corruption, without taking appropriate measures to investigate such accusations.

The pro-governmental media have carried out a virtual defamation campaign against the court, again without substantiating their claims. On the other hand, Judge Shelu has resorted to public statements incompatible with his function when he has questioned the competence of the High Council of Justice regarding the nomination of judges.<sup>7</sup>

- On 26 March 1998, the Albanian Helsinki Committee criticized an article published in the Social Party newspaper *Zeri I Popullit*, attacking the Chairman of the Court of Cassation Avni Shehu. The Committee called for more self-control and restraint in dealing with problems concerning the judiciary.
- In February 1998, the Constitutional Court became the focus of attention. As members of the court refused to undergo a rotation, i.e., to replace three judges with new ones, as stipulated by constitutional laws, Parliamentary Speaker, Skender Gjinushi, declared the court's decisions void until the judges abide by law. This decision was criticized by the Venice Commission of the Council of Europe which had also insisted upon rotation. Soon after that, in March, the Court agreed to rotation, and three members were replaced by new ones appointed by parliament.<sup>8</sup>
- On 14 March 1998, the parliament dismissed the chief judge of the Constitutional Court, Rustem Gjata. He was dismissed on the basis of a December 1995 law which provides for the dismissal of any high-ranking state official who had been involved in the activities of the Communist-era secret service. After the fall of communism, Gjata was loyal to the Democratic Party government. He claims that his dismissal was politically motivated. He refused to step down, but was hindered by police from entering his office.<sup>9</sup> On 12 April, Fehmi Abdiu, a former Socialist Party deputy, was appointed as his successor.<sup>10</sup>
- On 21 March 1998, the High Council of Justice fired Tirana City Court Chief Judge Qazim Gjojaj for "illegal possession of weapons." According to press reports, the secret service had given him four machine guns which he had passed on to his friends to "protect him from criminals" during the March 1997 unrest. A trial against him started in March 1998. He

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<sup>6</sup> Fax Letter, No. 8, June 1998, Albanian Helsinki Committee.

<sup>7</sup> Fax Letter, No. 6, May 1998 and No. 7, May 1998, Albanian Helsinki Committee.

<sup>8</sup> Fax Letter, No. 2, March 1998, Albanian Helsinki Committee; Fax Letter No. 5, June 1998; RFE/RL Newline, 24 February 1998.

<sup>9</sup> Fax Letter, No. 3, April 1998, Albanian Helsinki Committee.

<sup>10</sup> Fax Letter, No. 5, June 1998, Albanian Helsinki Committee.



claimed that he had returned all arms after the situation had calmed down, and that he believes that the real reason for his dismissal was his criticism of the Socialist Party government.<sup>11</sup>

## **Croatia**<sup>12</sup>

### Judiciary and Fair Trial

The Constitution of the Republic of Croatia declares that the judiciary is autonomous and independent. However, in practice, the Croatian judiciary is often politically influenced. This applies particularly to the Council of Defense and National Security (VONS) and Judicial State Council (DSV). On the local level, courts are often under the influence of local leaders belonging to the HDZ. In addition, Croatian courts are ineffective and overburdened with over a million unresolved cases. Court procedures are long, and the court rulings are not being implemented in thousands of cases.

President of the Supreme Court, Milan Vukovic, known for his statement that Croats could not have committed war crimes because they were defending themselves, has said that the autonomy and independence of judiciary will be achieved only with prohibiting lower courts from giving any kind of information to domestic and foreign NGOs and particularly to members of the OSCE mission.

- On 28 May 1998, Milan Vukovic again warned the presidents of the county courts, high commercial courts and the High Court not to give any information to NGOs and the OSCE. He said that giving information to such organizations is "clearly indicative of an anti-democratic relationship towards our judiciary . . ."

Since the above-mentioned speech, the Croatian Helsinki Committee, which has intervened in several court cases involving human rights violations, has been unable to receive any information from local courts regarding such cases. On 12 March 1998, the president of the Supreme Court wrote to the Committee that it has no right to become involved in such cases.

After the Constitutional Court found that the state had not been paying pensioners the full amount of their pensions, the court was immediately accused by authorities of working unconstitutionally and against the state. The vice-president of the parliament said that the law pertaining to the Constitutional Court would be changed because it does not have any right to judge what is constitutional and legal, or to define social justice and the rule of law. Consequently, the government of Croatia refuses to implement the rulings of the Constitutional Court, including the decision regarding the rights of 900,000 pensioners.

The Croatian Helsinki Committee has observed many trials which have not fulfilled international standards of due process. Individuals are not treated equally before a court of law; whether charges are raised and whether a person is convicted of an alleged crime often depends on the ethnicity or the political background or connections of the accused. Bearing in mind that the

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<sup>11</sup> *Fax Letter*, No. 3, April 1998, Albanian Helsinki Committee.

<sup>12</sup> Based on *Report on Some Human Rights Concerns in the Republic of Croatia*, Croatian Helsinki Committee, 1 September 1998.

judiciary is almost completely "ethnically cleansed" of non-Croats it is obvious that defendants representing ethnic minorities are in a difficult position.

- A judge of the Court of Offenses in Dvor na Uni, Ante Zlicaric, punished a Serb returnee because he drove an unregistered tractor. The ruling was in accordance with the law; however, all recently settled people, including Croats from Bosnia and Herzegovina, also drive unregistered tractors and are not being punished. Judge Zlicaric wrote: "There are no extenuating circumstances regarding his case because he is a returnee from Serbia. He found his house undamaged while Croat returnees, who left in 1991 because of the Chetnik paramilitary forces, come back and find their entire property destroyed..."
- Jadranka Basic, an unemployed single mother of two, was sentenced to four months in prison for entering somebody else's apartment when she could no longer afford to pay rent for her own apartment. Members of the army, police forces and representatives of the ruling party who have committed similar acts have not been charged.

The courts in Split have issued many valid rulings regarding the return of the appropriated property. However, the majority of these rulings have not been implemented, although for some cases the dates for the evictions of illegal residents have been postponed up to 15 times.

The members of the army, police and representatives of the ruling party, invalids and volunteers in the war are never sentenced for occupying property illegally.

- In May 1998, the local weekly newspaper *Narodni list* reported the head of the Zadar police station, Svemir Vrsaljko saying that "our experience has shown that there is evidence which leads us to believe that there is a connection between some officials in the Ministry of Justice and the police forces which enable the offenders to get away with their crimes or not being brought to justice."

## **1 b) Democratic Institutions**

### **Bosnia and Herzegovina<sup>13</sup>**

#### Electoral Rights

On 12-13 September 1998, parliamentary and presidential elections were held in Bosnia and Herzegovina. They were carried out under improved conditions compared to the 1997 local elections. During the election campaign, the media covered the programs of the competing parties in a more balanced manner, and due to restrictions set by the OSCE, hate speech and expressions of extreme nationalism were largely avoided. There was considerable in-depth political debate about key questions such as the return of refugees, minority issues, economy, reconstruction, employment, improvements in the educational system, and social rights.

Another important feature of the elections was a high degree of security provided for voters and a greater respect for freedom of movement. The voting was carried out without any reported incidents of intimidation or pressure on voters in most polling stations. The irregularities registered during the two days of elections cannot significantly effect the results of the elections and their democratic character.

However, OSCE election monitors did report some serious problems not directly related to the procedure of casting ballots. The electoral materials were delivered with delay to 107 polling stations (1.3 percent of the total number of polling stations), and approximately 60 stations were therefore unable to open on the first day of the elections. The final voter registers were incomplete and inaccurate, causing a high number of tendered ballots. The complex design of the ballot caused problems for many voters, leading to a high number of invalid votes (approximately 10 percent).

The few incidents of violence and intimidation which were reported during the elections took place in Zvornik, Banja Luka, Stolac, and Bihac. In addition, the fact that many indicted war criminals remain at large influenced the political atmosphere in some areas, particularly in Pale and western parts of Herzegovina.

The improvements registered during the election campaign and the election days emphasize the importance of establishing permanent election legislation and a national election commission in Bosnia and Herzegovina. It is also crucial to make the final voter registers accurate and complete for the next elections. Finally, it is necessary to simplify the ballots and voting procedures so that the conduct of future elections can be securely transferred from the OSCE to authorities in Bosnia and Herzegovina.

### **Macedonia**

See Citizenship.

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<sup>13</sup> Information from the Helsinki Committee in Bosnia and Herzegovina to the IHF, September 1998.

## 2. Capital Punishment

- Relevant commitments:
- Par. 24 of the “Questions relating to Security in Europe” in the Vienna Document;
  - Par. 17.1 to 17.8 of the Copenhagen Document;
  - Par. 36 of the Moscow Document;
  - Par. 58 of Chapter VI of the Helsinki Document;
  - Par. 19 of Chapter VIII of the Budapest Document.
  - Par. 9 of the Lisbon Document

### **Albania**<sup>14</sup>

The Albanian penal code, in force since 1995, provides for the death penalty. In the course of 1998, there has been increasing public pressure on courts to hand down death sentences. The death penalty is widely regarded as an indispensable deterrent to increasing criminality. Several individuals were sentenced to death by Albanian courts in 1998, all of them for murder.

Such a tendency is not only in violation of Albania’s international commitments but also poses serious threat to legality in a situation in which it is difficult for Albanian courts to guarantee independent and professional administration of justice. When Albania was admitted to the Council of Europe in 1995, it undertook an obligation to abolish the death penalty within three years and, in the meantime, to suspend all executions on appeal. No executions have been carried out. However, there is strong support both among the public and in the legislative in Albania to retain the death penalty in the new constitution, presently under preparation.

The treatment of death row prisoners in Albania is a matter of deep concern. In the course of its investigations into the treatment detainees at Albanian police stations, the Albanian Helsinki Committee found that internal regulations at the Vlora police station order prisoners sentenced to death to be held with strapped hands and legs, and to wear a metal helmet until their cases have been reviewed by all court levels. It is claimed that this is done to prevent them from committing suicide.

- Adem Bendaj (48), detained in August 1997 and sentenced to death on 6 April 1998, had been held, restrained on hands and feet, and forced to wear a metal helmet for five months as of the date the Albanian Committee met him at the Vlora police station. His case was pending in the Court of Cassation. Bendaj had recently been allowed to have his feet released due to symptoms of paralysis.

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<sup>14</sup> Based on information from the Albanian Helsinki Committee.

### 3. Citizenship

Relevant commitments: - Par. 55-57 of Chapter VI of the Helsinki Decisions 1992.  
- Par. 9 of the Lisbon Document

#### Croatia<sup>15</sup>

Non-Croats, particularly young individuals who were born in Croatia or in other republics of the Former Yugoslavia, still face difficulties in obtaining Croatian citizenship documents even if, by law, they are entitled to them. Their applications are either turned down or the proceedings are prolonged; during this period they cannot apply for work or enjoy the rights guaranteed to citizens. Moreover, many local authorities refuse to accept authorizations by courts in former Yugoslav republics. Documents written in Cyrillic are not recognized at all.

- Nada Momic, born in 1973 in Strmica near Knin (Croatia), has been unable to obtain citizenship documents. Her mother was born in Croatia and her father, although born in Bosnia and Herzegovina, had lived and worked his whole life in Croatia. The entire family fled Croatia for the Federal Republic of Yugoslavia (FRY) during the military operation "Storm." Momic's mother returned first to her home village and tried to obtain citizenship papers for her husband and her daughter. All her attempts were unsuccessful. Her daughter finally entered Croatia with old birth certificates and IDs, while the father was waiting in the FRY for his documents. The police in Knin refused to accept Momic's application for Croatian citizenship papers, arrested her and took her before the Court for Offenses. The court decided to deport Momic from Croatia to Bosnia and Herzegovina for three years despite the fact that she is not a citizen of Bosnia and Herzegovina and has no prospects there. A few days later Momic managed to cross the border illegally and return to Croatia. However, the police arrested and deported her again.

It is extremely difficult for Croatian refugees presently residing abroad to obtain citizenship papers. Their requests are often turned down or not considered at all. These refugees have only old documents, which are not accepted by Croatian embassies or consulates. They are caught in a vicious circle: in order to be granted a citizenship document, they must travel to Croatia to personally collect necessary documentation from authorities. However, they cannot enter Croatia without a valid travel document - which can be granted only if applicants have proof of citizenship.

Some individuals are also denied citizenship documents on grounds of the "protection of national security and legal system." They are given no official explanation for the refusal, an act violating a decision by the Constitutional Court.

#### Macedonia<sup>16</sup>

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<sup>15</sup> Based on *Report on Some Human Rights Concerns in the Republic of Croatia*, Croatian Helsinki Committee, 1 September 1998.

<sup>16</sup> Based on *The Macedonian Side of the Conflict in Kosovo - Report of the Netherlands Helsinki Committee and the Norwegian Helsinki Committee in cooperation with the International Helsinki Federation for Human Rights (IHF): Fact-Finding Mission to Macedonia, 25. September - 1. October 1998*

In connection with the 18 October and 1 November parliamentary elections, observers are focussing on two issues. Human rights organizations have repeatedly criticized the Macedonian citizenship act as a poor piece of legislation. Ethnic Albanian's claim that the process of handling applications and complaints is corrupt and arbitrary. In July 1995, 143.000 people were reportedly living in Macedonia without citizenship. At present, Albanians claim that as many as 50.000 Albanians in Macedonia are still without citizenship and, consequently, have no right to vote.

## **Slovenia**<sup>17</sup>

A January 1998 study on Slovenia prepared by Maggie Gillian Grace for the European Parliament, which cited IHF information on the problematic citizenship issue, raised public discussion in Slovenia. The publicity appeared to result in greater readiness on the side of the Ministry of the Interior to start working on the backlog of citizenship and visa applications, many of which were submitted as long as seven years ago.

As of this writing, many cases have been solved favorably - but an even larger number have been rejected or are still pending. This omission signals the unwillingness of the government to solve the problem on collective basis, as, due to restrictive and obstructive legislation, it appears to be impossible for the Ministry of the Interior to process the pending applications individually within a reasonable time. So far, the ministry has been able to process less than 1,000 cases annually. According to Helsinki Monitor of Slovenia, approximately 40,000 cases are pending. They represent part of the 130,000 former permanent residents of Slovenia who, following the secession of Slovenia from former Yugoslavia, were illegally erased from the register of permanent residents because of their non-Slovene ethnic origin. The ministry, however, claims that the number of unsolved cases is only 2,000-8,000.

Some 90,000 former permanent resident, erased from the resident records, have left Slovenia, seeking refuge abroad. The remaining 40,000 live virtually outside the law.<sup>18</sup> As non-citizens, these individuals of non-Slovene or ethnically mixed origin, including children and youths born in Slovenia, have lost their right to education in state-run schools, social and health insurance, employment, pensions, property, privatization shares, and other social and political rights. Nor are they entitled to social welfare benefits or state-allocated humanitarian aid. As a result, they are pushed outside society and human solidarity. This problem is particularly acute among the Roma, many of whom do not possess any valid identification documents.

Helsinki Monitor of Slovenia has called for the harmonization of Slovene legislation according to European standards, in order to make it transparent and functional, and to grant non-Slovene long-term residents residence permits or visas. This would enable citizens of former Yugoslav republics, who have their roots in Slovenia, to legally live and work in Slovenia, and guarantee them freedom of movement, the right to property and other basic human rights.

On the basis of former Yugoslav legislation, only the Hungarian and Italian minorities are officially recognized. Other ethnic minority groups face discrimination. For example, in Ljubljana, ethnic Croatians, Bosniaks and Serbs can no longer enjoy primary education in their mother tongue. In addition, the Ministry of the Interior has been working on a draft law on the

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<sup>17</sup> Based on *Developments in the Field of Human Rights in Slovenia (January through September 1998)*, Helsinki Monitor of Slovenia.

<sup>18</sup> The figures are estimated on the basis of the 1991 census.

use of Slovene alphabet, that would prohibit the official use of some letters typical to the Serbian and the Croatian languages. If adopted, such a law would force individuals of Serbian and Croatian origin to change their names to follow the authorized Slovene alphabet.

In the summer of 1998 a new discriminatory law on military pensions was adopted. It virtually legalized the practice of not paying legally earned pensions to officers of the former Yugoslav army, most of whom are non-Slovenes. The decision is based on the concept that non-Slovene military personnel were “aggressors” during the former Yugoslav crisis. Now, some are not entitled to any pension at all, others to only part of what they should. Helsinki Monitor of Slovenia has prepared a case to be filed to with the Constitutional Court of Slovenia to contest the law. In the past seven years some 90 former military officers have lived without pensions, social and health insurance and state-allocated humanitarian aid. Some 23 other employees of the former Yugoslav army equipment service “Remontni zavod,” located in Bregana, are without their allowances after having been dismissed because they are ethnic Croats. It has been estimated that approximately 300 non-Slovene workers of other firms in the border territory have been dismissed and stripped off their pensions because they are now regarded as foreigners. The paying of pensions is dependent on negotiations on the succession of former Yugoslavia. However, the people affected cannot wait for the results of negotiations, because they are already living on the verge of destitution. To help them over the worst, Helsinki Monitor of Slovenia has been able to distribute international humanitarian aid to these people.

Since Slovenia became independent, some 1,200 non-Slovene families have been evicted from apartments that belonged to the former Yugoslav army. In addition, many families have been evicted from janitors’ apartments and workers’ homes. Forced eviction has continued despite the government declared moratorium on them: the Ministry of Defense is in the process of selling the apartments to third persons.

#### 4. Freedom of Thought, Conscience, Religion or Belief

- Relevant commitments:
- Principles under “Questions relating to Security in Europe” in the Concluding Document of Madrid (hereinafter “Madrid Document”);
  - Principles 16.1 to 16.11, and 17 of the “Questions relating to Security in Europe” in the Concluding Document of Vienna (hereinafter “Vienna Document”);
  - Par. 9.4, 18.1 to 18.6, 32.3 and 33 of the Document of the Copenhagen Meeting (hereinafter “Copenhagen Document”);
  - Undertakings under “Human Rights, Democracy and Rule of Law” in the Charter of Paris for a New Europe (hereinafter “Charter of Paris”);
  - Par. 9 of the Lisbon Document

#### **Bulgaria**

##### Freedom of Religion<sup>19</sup>

Following the recommendation of the European Commission for Human Rights in Strasbourg, the Bulgarian government has taken measures towards signing an agreement for the registration of Jehovah’s Witnesses as a legal entity. Despite this planned positive step, it has, at the same time, restricted the right of Jehovah’s Witnesses to gather and practice their religion, and to distribute their publications.

- On 19 February 1998, police dispersed a gathering of Jehovah’s Witnesses from private premises in Burgas. It acted on the authorization of the prosecutor.
- On 15 May 1998, the mayor of the Zapaden District in Plovdiv fined two Jehovah’s Witnesses 500.000 levs (approximately 500 German Marks) for gathering for a religious meeting in a private home and for proselytism.
- On 17 May 1998, police allowed the pro-governmental Internal Macedonian Revolutionary Organization (IMRO) to dissolve a gathering of Jehovah’s Witnesses in the town of Kiustendil. The police officer in charge of the case stated that Jehovah’s Witnesses had no right to profess their religion in Bulgaria.

Illegal confiscation of printed materials produced by unpopular religious minority communities continues:

- On 19 February 1998, the police in Burgas entered, with a prosecutor’s search warrant, four apartments inhabited by Jehovah’s Witnesses. In one of the apartments, police confiscated over 70 books, brochures and other materials.
- On 12 March 1998, Varna customs officials confiscated nine issues of the *Watch Tower* magazine and other Jehovah’s Witnesses’ materials, because they were allegedly of "sectarian religious nature."

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<sup>19</sup> Based on *Human Rights in Bulgaria (January through August 1998)*, Bulgarian Helsinki Committee.



## Greece<sup>20</sup>

The Greek constitution gives the Eastern Orthodox church the status of an official religion, relegating other religions to a disadvantaged status. In September 1996, in a judgment against Greece for violation of article 9 on religious freedom, in the case of Jehovah's Witnesses, the European Court of Human Rights criticized Greek legislation for "allowing far-reaching interference by the political, administrative and ecclesiastical authorities with the exercise of religious freedom" and for "imposing rigid or indeed prohibitive conditions on the practice of religious beliefs by certain non-Orthodox movements," concluding that there is "a clear tendency on the part of the administrative and ecclesiastical authorities to use these provisions to restrict activities of faiths outside the Orthodox Church." Moreover, in November 1996, UN Special Rapporteur Abdelfattah Amor

*"notes that there are limitations on freedom of worship which are inconsistent with internationally established human rights norms. (...) [He] considers the constitutional provisions prohibiting proselytism to be inconsistent with the 1981 [UN] Declaration and stresses the need for greater respect for internationally recognized human rights norms, including freedom to convert and freedom to manifest one's religion or belief, either individually or in community with others, and in public or private (...). These comments also apply to the [1938 and 1939] Necessity Acts concerning proselytism. Removal of the legal prohibition against proselytism is very strongly recommended. Failing this, proselytism could be defined in such a way as to leave appropriate leeway for the exercise of religious freedom. With regard to legislation governing places of worship, the Special Rapporteur is in favor of abolishing the Necessity Acts and elaborating a new law which would dispense with the need to seek the opinion of the Orthodox Church for the construction of places of worship and would confer on the State the competence to guarantee religious freedom (...). With regard to the legislation on identity cards, which provides for mention to be made of the holder's religion, the Special Rapporteur recalls the resolution of the European Parliament (see chap. I, B, para. 30) which considered this provision, firstly, as a violation of the fundamental freedoms of the individual, particularly freedom of opinion and religious freedom, which are the exclusive province of the human conscience and, secondly, as a provision that should be abolished. The Special Rapporteur fully supports this resolution. (...) Lastly, regarding other legal issues, (...) the Special Rapporteur believes it necessary to ensure that internal law is consistent with international law. With regard to the revision of the Constitution, the Special Rapporteur would like to see the necessary changes introduced in that context or set out in formal texts, with assurances that they will be interpreted in a manner consistent with religious freedom."*

No amendments to these laws, dating from the dictatorship of the 1930s, have been introduced. The 1998 constitutional amendments have not taken into account the UN recommendations. As a result, Greek legislation and practice has remained quite intolerant. In December 1997 the European Court of Human Rights convicted Greece for having denied a Catholic Church in Crete the status of judicial person, and in February 1998, for having unjustly convicted Protestants for proselytism of civilians.

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<sup>20</sup>Based on *The Report on Greece to the 1998 OSCE Implementation Meeting*, Greek Helsinki Monitor and the Minority Rights Group - Greece, September 1998.

In December 1997, a court, with hardly convincing evidence, violated freedom of religion in disbanding the Church of Scientology because of business activities inappropriate for an association; because the aims pursued by the church were alien to the nature and the substance of the human being as a free person; and to the morals and customs of the Greek people; and because it had allegedly engaged in proselytism and spying.

## **Romania**

Romanian government's State Secretariat for Denominations violates freedom of religion by refusing to register "new" religious groups. Religious groups such as Jehovah's Witnesses and the Baha'i community - both of which have been registered as foundations - are denied the right to freely exercise their religious beliefs and by being prevented from building places of worship, cemeteries, etc.

In 1994, the Eastern Orthodox Church of Romania added to its name the appellation "the National Church of Romania." Although not formally recognized, in practice Romanian authorities consider it as such and, therefore, it benefits from substantial financial support from the state and enjoys a tremendous political influence. It also benefits from extensive exposure and airtime on national radio and TV, but has strongly protested the broadcasting of Evangelical radio stations.<sup>21</sup>

- In the early 1990s, Christian Radio Romania, an Evangelical radio station, received broadcasting licenses to open radio stations in six Romanian cities. Licenses are normally granted for five years. The National Committee of Audiovisual Matters, which grants broadcasting licenses, announced that Christian Radio Romania would not be granted any additional broadcasting licenses and that, at the expiration date, these licenses would not be renewed.<sup>22</sup>

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<sup>21</sup> "Romania: Appeal from the President of the Romanian Missionary Society," Human Rights Without Frontiers, 6 August 1998.

<sup>22</sup> Ibid.

## 5. Freedom of Expression and Free Media (including Human Rights Defenders)

Relevant commitments: Freedom of Expression and Media

- Par.9.1 and 10 of the Copenhagen Document;
- Undertakings under “Human Rights, Democracy and Rule of Law” in the Charter of Paris;
- Par. 26, 26.1, 26.2 and 28.9 of the Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE (hereinafter “Moscow Document”);
- Par. 36-38 of Chapter VIII of the Budapest Document 1994 – Towards a Genuine Partnership in a New Era (hereinafter “Budapest Document”).
- Par. 9 and 11 of the Lisbon Document

Human Rights Defenders: - Par. 13.5 of the Vienna Document;  
- Par. 10 of the Copenhagen Document;  
- Chap. 8, Par. 18 of the Budapest Document

### Albania

#### Freedom of the Media

Under the government led by the Socialist Party, in power since the summer of 1997, state television and radio have generally provided more balanced reporting than during the Democratic Party government, when state-owned media served as an organ of the government, with virtually no access by the opposition.

However, the Democratic Party, now in opposition, has complained about biased reporting in national electronic media and harassment against media outlets loyal to the opposition.

Soon after coming to power, the new Socialist-led government took measures to amend restrictive media legislation. Private radio and television stations emerged despite the absence of legislation, and parliament started working on a draft law aimed at legalizing private broadcasters and turning state-owned Albanian Radio and Television (RTSH) into a public broadcaster.<sup>23</sup> On 2 September 1997, the parliament amended the Broadcast Law, stipulating that RTSH give more space to “alternative opinion.”<sup>24</sup>

The absence of a clear procedure for obtaining a broadcast license has allowed room for arbitrary denial of licenses for independent radio and television stations on political grounds.

In April 1998, the Parliamentary Commission on the Media presented a draft broadcasting law to the public. The draft, among other things, sets licensing standards for private stations, softens the requirements for licensing and provides for a National Council of Radio and Television and a Regulatory Board of Telecommunications, which will play an important role in the licensing

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<sup>23</sup> *The Albanian Media Monitor*, Vol. 2, No. 12, 9 July 1998, Institute for Journalism in Transition.

<sup>24</sup> *The Albanian Media Monitor*, Vol. 1, No. 1, 4 September 1997, Institute for Journalism in Transition.

process. The latter will define national and local frequencies and present those options before the National Council of Radio Television, which will then organize a public tender for frequencies.

Assistance by the Council of Europe and the Soros Foundation guaranteed wide publicity of the draft law. They sponsored public events, including discussions on both independent and state-run television stations.<sup>25</sup>

Experts assume the slow pace of preparation of individual radio and television stations for the process of legalization and licensing will be the main problem in implementing the new law. Another problem is the transformation of RTSH from a state into a public broadcasting institution.<sup>26</sup> The draft law will soon be submitted to the parliament.

### The Press

On 4 September 1997, a new press law was adopted which replaced the much-criticized, restrictive 1993 law. The new law simply declared that “the press is free” and “the freedom of the press is protected by law.” The law became effective immediately. Although it was important to replace the old repressive legislation, the vague formulation of both laws has been criticized by many jurists.

The main problems of the press are financial. The press has difficulties financing their operation, and, due to increasing economic problems, readers have less money to buy newspapers and magazines. In addition, the standards of journalism are low and professionalism is often ignored in the ongoing competition for readers. The distribution network is poor, leaving much of the country without organized distribution. The December 1997 one-week publication strike did not influence the government’s refusal to reduce taxes for the press.<sup>27</sup>

Since the new government took office, beating, imprisonment and harassment of journalists has no longer been a problem. Variety in the press has also improved. Traditional newspapers have lost readership, whereas new papers have gained. At the same time, according to a survey carried out by the Albanian Media Monitor, the majority of people distrust the press. Sixty-three percent believe that the press itself is generating problems for ordinary people.<sup>28</sup>

## **Bulgaria**

### Freedom of Expression<sup>29</sup>

Government control over the national electronic media, criminal prosecution against critical journalists for “defaming” and “slandering” public officials, and illegal confiscation of printed materials of unpopular religious minorities continue to be the most serious problems with regard to freedom of expression in Bulgaria.<sup>30</sup>

In August 1998, the Council of Europe published a report concerning Bulgaria’s obligations under European human rights standards. The two Council of Europe rapporteurs, Mr. Atkinson and Mr. Gjellerod, stated that the problem of the freedom of the media should be given special attention.

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<sup>25</sup> *The Albanian Media Monitor*, Vol. 2, No. 7, 6 April 1998, Institute for Journalism in Transition.

<sup>26</sup> *Ibid.*

<sup>27</sup> *The Albanian Media Monitor*, Vol. 2, No. 12, 9 July 1998, Institute for Journalism in Transition

<sup>28</sup> *Ibid.*

<sup>29</sup> Based on *Human Rights in Bulgaria (January through August 1998)*, Bulgarian Helsinki Committee.

<sup>30</sup> See Freedom of Religion.

The state electronic media continues to be under the control of the National Radio and Television Council (NRTC), dominated by pro-government members. A government-appointed commission is still responsible for the allocation of frequencies for private radio and television stations.

The national radio and television continue to be governed by the 1996 Radio and Television Act, which allows for government interference primarily through the appointing managers loyal to it. On 17 January, the NRTC elected new general directors of the national radio and television who were supporters of the government.

Discussion on a new draft Radio and Television Act has provoked major problems. According to the government draft, only the parliament and president of the republic would have the right to appoint members of the NRTC, with parliament electing four members and the president three. Given the current political situation, the NRTC would fall under the control of a single political force. The draft law also provides that the allocation of radio and television frequencies be carried out through concessions, which would put a heavy financial burden on a large part of the candidates, apart from a number of other restrictive and discriminatory provisions. Several non-governmental organizations, and most private radio and television operators, have united against the draft law. Subsequently, during the second reading of the draft in parliament, some restrictive and discriminatory provisions were deleted. As of this writing, the draft is still under discussion.

Broadcasts, especially news and political programs, on the state television and radio are distinctly pro-governmental. In the beginning of July 1998, an independent group for media monitoring reported that criticism against the government on the air of the national media amounted to only one percent, compared to 30-60 percent in the printed media.

The Hashove program, a popular political, satirical television show, seriously contested the respect of media freedoms in Bulgaria.

- On 10 January 1998, the NRTC banned the broadcasting on national television of the Hashove program, after it had aired a program critical of the government. The producers negotiated with several other stations for the airing of their program, but the stations continued to be under pressure from pro-governmental circles.
- On 29 April 1998, despite an earlier agreement, the director of the Pleven Theater of Drama refused to give the Hashove crew a hall for their show. According to the city mayor, the Ministry of Culture had instructed the director to cancel the agreement.
- At the end of July, the so called Economic Police Force - the department dealing with economic fraud - carried out checks of cable operators in Burgas who had broadcast the Hashove program. The police forbid them from broadcasting several foreign television programs, citing a lack of broadcast permits. Other local cable operators, however, who did not have permits but who had not broadcast the Hashove program, were not checked, and could continue their operation unhindered.
- In the beginning of March, the Managing Board of the National Radio took national radio journalist Diana Yankulova off the air for three months for conveying information about the distribution of anonymous information about the minister of the interior.

- On 5 March 1998, Svetoslava Tadarakova was dismissed from national television by its general director who claimed that "her statements in the media ruin the good reputation of Bulgarian national television."

Journalists who sharply criticize the manner in which public officials carry out their duties continue to face criminal charges for "slandering" and "defaming" officials. Several journalists have received suspended sentences or fines. No effective prison sentences have been passed as of this writing.

Between April and June 1998, several initiatives were undertaken to put an end to measures against free writing. In April, parliament turned down the proposal of several deputies to impose a moratorium on the sentencing of journalists. Shortly after, again at the initiative of deputies, a case was filed with the Constitutional Court, requesting that it declare the penal code provisions in question (articles 146(1), 147(1) and 148 (1) in connection with article 161) as unconstitutional, and to rescind them. The initiators of the complaint argued that those provisions contradicted the principles of equality and non-discrimination, as well as the principle of the proportionality of an imposed sentence, as proclaimed in the Bulgarian constitution and in the European Convention on Human Rights. On 14 July, the Constitutional Court rejected the motion, and ruled that those provisions of the penal code did not contradict the constitution.

## **Croatia**<sup>31</sup>

### Freedom of the Media

The situation of the Croatian media has deteriorated in 1998. This has happened despite efforts made by authorities to introduce some superficial changes in order to create the illusion of democracy and to quiet protests at home and from abroad.

Several independent radio and TV stations have been prevented from operating, a terrorist attack was carried out against a newspaper, and several journalists have been beaten. Reporters critical of the government have faced court proceedings. The "privatization," or the sale of important media outlets such as *Vecernji list*, *Slobodna Dalmacija* and the private *TV-Mreza*, to the governing Croatian Democratic Community (HDZ) has continued.

President Franjo Tudjman has continued the practice of personally appointing the director and editor of state television, an act in violation of Croatian law. The Council of the Croatian Radio and Television (HRTV) and the Council of Telecommunications serves as the right hand of the governing party and the president. NGOs defending human rights and media freedoms are still poorly represented in state television.

### Broadcast Media

Despite strong domestic and foreign pressures for the democratization and for the abolition of HDZ monopoly on Croatian state television, this self-appointed "cathedral of the Croatian spirit" is still controlled by President Tudjman. In order to promote "privatization," an open debate has been carried out about the privatization of one of the three channels of the state television but no

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<sup>31</sup> Based on *Report on Some Human Rights Concerns in the Republic of Croatia*, Croatian Helsinki Committee, 1 September 1998.

practical measures have been taken to that end. There have also been discussions about amending the law on state television. A proposal of Forum 21 (a group of journalists who promote freedom of the electronic media) and a number of NGOs, including the Croatian Helsinki Committee, regarding membership of the Council of the Croatian television, was supported by members of the opposition parties in the Croatian parliament. However, the HDZ majority blocked its passage.

A series of incidents of censorship in state television have given rise for concern.

- State television censored the part of the 1997 Christmas charter of Archbishop Josip Bozanic in which he spoke about the "sins of the authorities" in creating a disastrous situation in the country, and about the suspensions of several politically unsuitable editors-in-chief.
- Tihomir Ladsic, the editor of the main news program and a member of Forum 21, was suspended after he had refused to censor the news regarding the presentation of a publication by the Croatian Helsinki Committee. He was also criticized for his 30-second report on a critical press conference held by the Liberal Party.

There has also been a crack-down on critical independent radio and television stations. Several stations have been put off the air on grounds such as the failure to pay debts for using radio frequencies or for technical reasons, while other stations, close to the government, have continued to operate despite similar deficiencies.

- On 10 May 1998, TV Moslavina television was closed down. Widespread protests by the public and NGOs have failed to have any effect. The official reason for the closure was "disrespect of the conditions on use of the radio transmitter and radio frequency." However, it is believed that the real reason is the fact that the National Association of Television (NUT), which consists of six independent local television stations, is located at the TV Moslavina headquarters and their network was close to being realized.

### Harassment of Journalists

Several journalists have faced intimidation, been physically assaulted and faced other harassment.

- At the end 1997, some 60 journalists and the editor-in-chiefs from Slavonski Brod received a threatening letter signed by the Croatian Patriotic Action, a previously unknown group, accusing the journal of being anti-Croatian and threatening its staff with death. *Novi Brodski List* had written about criminal activities taking place in the region of the Posavina and Brod counties.
- Soon after the above-mentioned incident, two unknown perpetrators brutally beat Nenad Hlaca, the editor-in-chief of *Karlovacki list*. Prior to that incident, the editorial office had received an anonymous call saying that it was "high time to get rid of Serbs from newspapers." *Karlovacki list* had been reporting about the removal of the opposition from power by the HDZ in the town of Duga Resa.
- At the end of January 1998, the editor-in-chief of *Sisacki tjednik* and a correspondent of the *Hrvatska informativna novinska agencija* (HINA) or the Croatian Informative News Agency, Zeljko Maljevac, was brutally beaten. The perpetrator was the son of the owner of the firm



Sport Kalino, who reportedly had shouted that the beating was a retaliation for what Maljevac had written about his father and other prominent people. Maljevac had reported on a theft in the Sisak refinery, a conflict in the Sisak branch of the HDZ, about replacements in the Croatian Intelligence Service (SIS), killings, extortion and other serious criminal activities. Maljevac is not aware of any action taken against his attacker.

- On 18 June 1998, the office of the *Imperial* newspaper was bombed in Zagreb. The perpetrators have not been caught, nor have charges been brought against a military intelligence service officer who beat an *Imperial* journalist. *Imperial* is generally regarded as the organ of the most rigid faction of the Croatian intelligence service and known for "trash journalism" because it uses methods such as verbal intimidation, forgery, defamation and hate speech.

The government has employed a new tool to silence the independent media: government officials have charged journalists with causing them "emotional anguish" through writing critical articles. Over 400 court proceedings have been initiated against publishers and journalists, demanding in total over 50 million German marks for the "damages." There are 70 trials pending against *Feral Tribune* alone, initiated by members of the government or other officials, President Tudjman and his family, war crimes suspects and other alleged criminals.

- Tomislav Mercep, an alleged war criminal, is seeking compensation of 4 million German marks for damages caused by "emotional anguish" because of an article in *Feral Tribune* describing crimes allegedly committed by his troops in Pakracka poljana.
- On 26 March 1998, journalists Davor Butkovic and Vlado Vurusic were sentenced to six months in prison because of an article they published in *Feral Tribune* claiming that the brigadier of the Croatian Council of Defense of Bosnia and Herzegovina, Ivica Rajic, wanted by the Hague Tribunal, was living in the Hotel Zagreb in Split in October 1996. The hotel was owned by the Ministry of Defense of the Republic of Croatia.

## Greece<sup>32</sup>

Greek press is largely free, but courts frequently sentence journalists to prison in libel cases, most of which involve articles that could not be considered anything more than harsh criticism of public officials. Such convictions are aimed at intimidating the press, especially provincial one which are already in a weak position, as they have limited means.

Greece is the only traditionally democratic European country in which journalists are punished with prison and not fines for such crimes. This alarming phenomenon was aggravated by the announcement of a proposed amendment to introduce prison sentences of at least two years in cases of insult and defamation through the electronic media. On 18 August 1998, Minister of Justice Evangelos Yanopoulos announced his intention to introduce an additional paragraph to articles 361 (on insult) and 362 (on defamation) of the Greek Penal Code, as follows:

*"A newscaster or broadcaster of a television or radio station who broadcasts, reads or allows the broadcasting of messages with insulting or defamatory content is punishable with imprisonment of at least two years. The supervising director of the employee, who gave*

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<sup>32</sup>Ibid.

*the order for the broadcasting or reading of that message or allowed its broadcasting is punished as instigating principal or secondary accessory depending on the case.”*

He added that the prosecution of such cases will be at the discretion of the public prosecutors, without requiring prior complaint by the persons allegedly offended. Moreover, he stated he was also considering introducing fines up to 5,000,000 drs. (USD17.000) for such “crimes” and compelling the electronic media to broadcast full identity data of all individuals whose messages will be broadcast. The IHF and Greek Helsinki Monitor and Minority Rights Group - Greece condemned the proposed amendments to the Greek penal code that would severely limit freedom of speech in the electronic media.

- On 1 April 1998, an Athens court sustained on appeal the prison sentence of four years and two months for “libel” and “publishing a false document” against Makis Psomiadis, journalist and owner of the daily *Onoma*, and ordered that he be incarcerated. This sentence was handed down because of an article which appeared in February 1996, in which the journalist accused the Minister of the Environment and Public Works, Costas Laliotis, of having been paid a commission for awarding a German company the construction of the new international airport in Athens.
- On 3 September 1998, Giorgos Kondyloudis, journalist and publisher of *Eolika Nea*, a daily on the island of Mytilini (or Lesbos), was convicted by a three-member Misdemeanour Court to eight months in prison for insulting deputy Franklinos Papadelis. He was sentenced in connection with a letter to the editor, published on 16 June 1997, which called the deputy’s views “childish” and “politicians [in general, not the deputy] unworthy, who disgust people.” He appealed the verdict, and the sentence is currently suspended pending appeal. Insult carries a maximum sentence of one year, but sentences usually do not exceed two months, or, if the defendant wants to appeal, four months - the minimum sentence to have the right to appeal. Eight months for insult is an unusually severe sentence.
- On 3 September 1998, Yannis Tzoumas, journalist and publisher of *Alithia*, a daily on the island of Chios, was convicted to four months’ imprisonment for defamation. He was charged for an August 1997 incident in which he was accused of defaming Minister Stavros Soumakis. Initially, he was charged with aggravated defamation for having claimed that the minister, when visiting Chios, was staying at the house of a ship owner who was under investigation. The journalist also claimed the minister had managed to get tickets for himself and his wife on the eve of the 16 August 1997 Olympic Airways flight.<sup>33</sup> The paper called him “minister of the ship owners ... who sunbathes at the villas of the ship owners.” During the trial, the facts were confirmed as accurate, but the court considered that the “harsh style” of the article constituted an act of defamation.
- On 17 September 1998, journalist Makis Triantafyllopoulos was convicted and given a suspended sentence of eight months for defamation of Minister of Justice Evangelos Yannopoulos, in an article in the daily *Kalimera* in January 1998. In the article, he argued that the minister was interfering with justice in a case implicating the governor of the Social Security Fund, Gregory Solomos, in seeking favorable treatment for the latter.
- On 2 September 1998, Abdulahim Dede, a journalist of the Turkish minority, was sentenced by the Xanthi court in northern Greece to eight months in prison for trying to install a radio

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<sup>33</sup> This flight is always fully booked three months in advance.

antenna in his back yard. He was arrested on 1 September, kept at police headquarters overnight and sentenced the next day under expeditious procedure, which is rarely used for charges such as building without a permit. Such procedure has rarely been used against a journalist. Dede was released after filing an appeal; the sentence is currently suspended pending appeal. Other cases pending against Dede for illegally operating radio stations are due to be heard on 22 October 1998. He was charged in February 1996 for launching the radio station Radio Isik without a broadcast license. In 1997, Dede was given a six-month suspended sentence for defamation of an ultra-nationalist activist from Thrace; he was charged in connection with an article published in Thrace's Turkish minority newspaper *Trakyanin Sesi*. Dede recently won the 1998 Hellman/Hammett grant of Human Rights Watch as a result of that harassment. Over three thousand radio stations operate in Greece without licenses, several of which have also installed antennae without permission.

On 13 July 1998, a Salonica court ordered "the removal from the "Dictionary of Modern Greek Language", in every future reprint or edition (...) of the entry "Bulgarian (...) 2. (abusive) the follower or player of a Salonica team (mainly PAOK, [a soccer team based in Thessaloniki])." It also threatened the book's author, Professor George Babiniotis, and publisher with a fine of 2,000,000 drachmas (USD 6.500) each, and - the former - with a month's detention if the order was not applied. The court ruled that the entry in question offended the personality of the plaintiff (lawyer and elected City Councilor of Salonica Theodore Aspasidis), and that "it creates confusion about the national origins of the players and the followers of PAOK and more generally the Macedonians." The verdict stated that the abusive meaning should not have been included in the dictionary as its use is occasional and not sustained. It was based on the following explanation, quoted by the judge in his verdict:

*A good dictionary does not simply record linguistic reality but also aims at instructing the reader. We turn to it to learn. For that reason, linguistic reality recorded therein, i.e., the use of a particular word, must be the one that has in some way been consecrated in Greek society, that is has been generalized and sustained. Occasional or isolated use is not enough. The aforementioned word 'Bulgarian', in its abusive meaning, has been probably used by an insignificant portion of football fans from Southern Greece, in fact more as a slogan than with the meaning of the word.*

Regrettably, that argument was first made by Professor M. Stathopoulos, chairman both of the newly formed National Human Rights Commission in Greece and of the NGO "Citizens Against Racism." A second case against that dictionary was heard on 20 July, by a similar Salonica court, for the entry of the abusive meaning of the word "Pontic." "Pontics" is a term which refers to Greeks from the Black Sea who were "repatriated" at various times during the 20th century. It also has a pejorative meaning of "very naive, stupid." The court's verdict had not been published by late September. The only positive development was a motion to the Supreme Court by its Prosecutor, Panayote Dimopoulos, released on 24 July, asking for the cassation of the verdict. In this motion, the prosecutor reverses the verdict's rationale, in relation to both the offense to the personality of the plaintiff and the criteria for the entries in the dictionary. Furthermore, P. Dimopoulos added that the court made a "spurious and erroneous interpretation of the related articles of the civil code, instead of defending freedom of expression and scholarly research."

On 24 July 1998, Greek Helsinki Monitor and Minority Rights Group - Greece wrote to the president of the Supreme Court, stating their disagreement with the verdict's rationale and interpretation of the laws, and requesting that the Supreme Court instruct the lower courts how to

avoid such erroneous interpretations in this and other similar cases which shatter the credibility of the courts in Greece.

## **Macedonia<sup>34</sup>**

### Freedom of the Media<sup>35</sup>

In the first half of 1998, the media in Macedonia took important steps towards pluralism. Private electronic media finally began to operate in the framework of the new Law on Broadcasting Activity (Law No. 08-1 490/1 of 24 April 1997), although the law was criticized for not providing for an independent and transparent licensing procedure. New regulations on Macedonian state radio and television (MRTV), if implemented, would give independent radio and television stations more technical resources to transmit on a national level. The most notable improvement has taken place in the field of the printed media: radical reductions in prices and the emergence of new newspapers and magazines have led to increasing pluralism.

### The Broadcast Media

The Broadcasting Council, a parliamentary appointed body in charge of the electronic media, was set up in September 1997. According to the Law on Broadcasting Activity, the council and the Ministry of Communications and Transport are responsible for establishing the number of frequencies that may be allocated. At the end of December 1997, the government announced that it would allocate four licenses for radio and television stations at the national level (two each), and 203 licenses for the local level (123 for radio and 80 for television stations).

The Broadcasting Council received 190 applications, six of which were submitted for broadcasting on a national level. On the basis of recommendations of three expert groups, the council proposed to the government to allot 117 licenses, of which three were for broadcasting at a national level and 114 at a local level. The government decided to allot 115 licenses. It rejected the applications of two television stations to broadcast nationwide.

The two stations - TV Fiesta in Kumanovo and TV Uskana in Kicevo - criticized the rejection of their applications. Their main objection was a lack of transparency in the licensing procedure. The Broadcasting Council both refused to publish the names of the stations whose applications were approved and to give any explanations for denial. The biggest problem appeared in Skopje, where the number of allotted licenses were not proportional to the demand. Some of the rejected radio and television stations complained to various international organizations about the decisions, while others threatened to go on strike.

Following criticism both at home and from abroad, the government and the Broadcasting Council yielded, and announced a second round of allocation of a further 25 broadcasting licenses, ten for radio and 15 for television stations. Most of these licenses were allotted under the time-sharing system, i.e., several stations sharing one frequency. Despite the allocation of additional frequencies, suspicion remained about the adequacy of the procedure. For example, independent experts raised the question of why more licenses were not allotted during the first round, if there were so many frequencies available.

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<sup>34</sup> Officially recognized by the United Nations as the "Former Yugoslav Republic of Macedonia."

<sup>35</sup> Based on *Human Rights in the Republic of Macedonia (January through June 1998)*, Helsinki Committee for Human Rights in the Republic of Macedonia.

The 1997 law on the operation of the MRTV has not yet been implemented. The law stipulates that the MRTV be divided into two parts, separating its technical department (responsible for the transmitters) from the rest of the company. This would mean that the transmitters - which are the only ones in all of Macedonia - would become available to other radio and television stations. However, as of this writing, the division has remained formal without practical consequences. The Broadcasting Council has urged the company to start the application of the law.

### The Press

In the sector of the printed media, the positive tendency of 1997 towards increasing pluralism continued. The decision to reduce the prices of newspapers has increased their circulation. New publications have emerged, weakening the monopoly of the publishing company Nova Makedonija, a joint stock enterprise one third of whose shares belong to the state.

The independent daily newspaper *Dnevnik* was the first to make the decision to radically reduce the per-copy price to only five denars (approximately USD ,20). In anticipation of the appearance of the new private daily newspaper *Makedonija Denes*, the pro-government daily newspaper *Nova Makedonija* reduced its price to ten denars per copy. Presently, the total circulation of all Macedonian-language newspapers (including *Nova Makedonija*, *Vecer* and *Dnevnik*) totals 130.000 daily copies, which is at least four times larger than their total circulation prior to the price reduction.

The Nova Makedonija publications, however, still insist on receiving subsidies allocated in the state budget for distribution, which were intended to generally support the print media. Since 1998, the weekly magazines *Fokus* and *Denes* and the bi-weekly magazine *Forum* no longer receive such funds. Moreover, Nova Macedonia, which owns around 500 kiosks, continues to hold a virtual monopoly on the distribution of newspapers and magazines. Privately printed media are forced to distribute their publications through a modest chain of about 200 kiosks owned by the joint stock company Tutun, and through alternative distribution methods such as street vendors.

Two years ago, the publisher of *Dnevnik* requested that the government grant it locations for setting up kiosks under the same conditions as the government had granted locations to other papers. As of this writing, *Dnevnik* has not received a reply. Some foreign foundations and companies have expressed their willingness to support the growth of private distribution networks, but the refusal of the government to allot locations for stands remains the main obstacle to the realization of these plans.

The Helsinki Committee for Human Rights of the Republic of Macedonia received information on the following case of ill-treatment of a journalist:

- In July 1998, the owner and managing editor of the weekly magazine *Fokus*, Nikola Mladenov, was brutally beaten by unidentified individuals in front of his house in Skopje. Mladenov was injured seriously. He suspects that the incident was closely related to the critical reporting of *Fokus*. By early September, the perpetrators had not been found. At the end of 1997, another journalist of the same magazine had been beaten.

In the beginning of September 1998, the election campaign leading to the 18 October parliamentary elections began. The parliament adopted rules providing for equal presentation of

all competing political parties in the state media. As of this writing it was too early to see how the rules were implemented.

## **Romania**

### Freedom of Expression

Despite commitments made in international fora, the government of Romania has repeatedly failed to bring criminal legislation in line with international human rights standards. In the spring of 1998, the Chamber of Deputies rejected a government initiative to amend several of the most criticized provisions of the penal code and the penal procedure code, including articles 205 (insult), 206 (libel), 238 (offense to authority) and 239 (verbal offense to authority) of the penal code. These articles have been used increasingly to punish outspoken journalists who have criticized authorities.<sup>36</sup>

- On 23 July 1998, Ovidiu Scultelnicu and Dragos Stangu, journalists with the independent daily *Monitorul*, received a one-year prison sentence each, lost their civil rights and were prohibited from exercising their profession for one year. Moreover, they were fined up to one and a half billion lei (USD 160.000). They were found guilty of writing a “defamatory” article about Police Colonel Petru Susanu, published on 27 May 1998. The journalists had criticized Susanu’s working methods and expressed doubts about the origin of his fortune.<sup>37</sup>
- On 29 August 1998, two other Romanian journalists working for the Botosani *Monitoriul* were fined 100 million lei (USD 11.250) for libel. The journalists had written that a local politician had abused his position by having court proceedings against his son quashed. The son was accused of demolishing a building that was listed as a protected historical monument.<sup>38</sup>

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<sup>36</sup> APADOR-CH’s (Romanian Helsinki Committee) Concerns on the Human Rights Situation in Romania (January-August 1998).

<sup>37</sup> Reporters Sans Frontières, 4 August 1998.

<sup>38</sup> Reporters Sans Frontières, 30 August 1998.

## 6. Freedom of Association and Peaceful Assembly

Relevant commitments: - Par. 9.2, 9.3, and 10.3 of the Copenhagen Document;  
- Undertakings under “Human Rights, Democracy and the Rule of Law” in the Charter of Paris.

### **Bulgaria**

#### Freedom of Association and of Peaceful Assembly<sup>39</sup>

In 1998, freedom of association and the right to peaceful assembly have been restricted on several occasions. Unpopular ethnic and religious minority groups and trade union activists attempting to hold meetings have been hindered from doing so.<sup>40</sup>

In March and April 1998, the government undertook strict measures against protest rallies of striking engine drivers who demanded higher wages. The strikes were labeled illegal by several Bulgarian courts, each time on different grounds. This gave the management of the railroad company the opportunity to dismiss all officials of the Trade Union of Engine Personnel, even those against whom no law suits had been brought, on a disciplinary basis, in gross violation of the Labor Code.

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<sup>39</sup> Based on *Human Rights in Bulgaria (January through August 1998)*, Bulgarian Helsinki Committee.

<sup>40</sup> See also Freedom of Religion and Minority Rights.

## 7. Prevention of Torture and Conditions in Prisons and Detention Facilities

- Relevant commitments:
- Par. 23.1 to 23.6 of the “Questions relating to Security in Europe” in the Vienna Document;
  - Par. 16.1 to 16.7 of the Copenhagen Document;
  - Undertakings under “Human Rights, Democracy and the Rule of Law” in the Charter of Paris;
  - Par. 20 of Chapter VIII of the Budapest Document.
  - Par. 9 of the Lisbon Document

### Bulgaria

#### Torture and Ill-Treatment<sup>41</sup>

Excessive use of force, torture and ill-treatment by law enforcement officials has continued in Bulgaria in 1998. Members of the Roma community in particular have been targets. No legislative measures have been taken to protect individuals from abuse: detainees still do not have effective guarantees for legal counsel from the moment of detention, nor do they have legal rights to impartial medical examination by a doctor of their own choice. In addition, the expansive, legal use of firearms by the police has led to at least four deaths, and numerous injuries. However, unlike previous years, this problem received wider publicity in 1998, including at the highest governmental levels.

The Bulgarian Helsinki Committee has received numerous credible reports about the excessive use of force and firearms by law enforcement officials which have resulted in injuries, permanent disability and even death. Abuses have been committed in various circumstances, including during pursuit of criminal suspects or attempted escapes of apprehended persons; during arrest and detention as a punishment; and during detention with the aim of extorting confessions or information. In addition, Roma are often ill-treated out of purely discriminatory motives.

Police violence during detention (aimed at extracting a “confession”) or attempted fleeing by a suspect was sporadic. However, ill-treatment was used virtually systematically at the moment of apprehension, with the aim of punishing suspects, and with purely discriminatory motives, particularly regarding Roma.

In May 1998, this problem became the focus of a public debate, as Chief Prosecutor Ivan Tatarchev and Director of the National Investigation Service Boyko Rashkov presented the parliament and executive a comprehensive report on the illegal use of force and firearms by police officers, particularly during and following apprehension of criminal suspects. The report contains information on 135 cases known to officials of the National and Regional Investigation Services (operating under the Supreme Judicial Council) and 70 cases filed against police officers to Prosecutor’s Offices. All were filed in the period between January 1997 and March 1998.

The report, although widely publicized, was mainly interpreted in light of institutional war waging between the prosecution and the Ministry of the Interior, and not as serious human rights concerns. Also, the reported cases do not include all cases of actual police violence. This was highlighted by the fact that only one case mentioned in the report appeared both on the list of the prosecution and the investigation services, although both lists covered the same period of time. In addition, many cases brought to the attention of the prosecution by local human rights monitors

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<sup>41</sup> Based on *Human Rights in Bulgaria (January through August 1998)*, Bulgarian Helsinki Committee.



have not been adequately investigated, and the investigations into a large number of the reported cases have been subsequently suspended.

The Ministry of the Interior, in principle, acknowledged the problem of police brutality, but, in the course of a debate, claimed that the problem was highly exaggerated, staged by circles hostile to the government, and that the ministry itself was taking adequate measures to deal with it. In a 3 July interview with Radio Free Europe, Minister of the Interior Bogomil Bonev stated that concern for human rights was instrumentalized for the political struggle, and from there on it could easily be turned into an instrument for crime in Bulgaria.

In practice, little progress has been made in 1998 to investigate complaints to Prosecutor's Offices regarding excessive use of force by law enforcement officials in 1997. Most of those cases are still at the stage of preliminary investigation, suggesting that the authorities responsible for their clarification hope they will be forgotten as the time goes by. Many other investigations have been suspended.

- The prosecutor suspended investigations into the murders of Kolyo Todorov and Elin Karamanov on the grounds that the police had used firearms lawfully. Todorov, arrested for theft, was killed by a police officer in May 1997 when he tried to escape. Karamanov was killed by a traffic police officer in February 1997 while collecting scrap iron on the banks of the Maritsa river.
- In June 1998, the investigation into a mass beating in the Neron-2 Club was suspended, without charges being brought against a single law enforcement official. The special police forces of the Metropolitan Directorate of Internal Affairs raided the disco on 28 June 1997, forcing those present to lie down on the floor, and kicking and beating them randomly. Fifty-one victims filed complaints.

As of the end of August 1998, only two investigations had been completed and the perpetrators convicted.

- In February 1998, a police officer was sentenced to nine years' imprisonment for the murder of Emil Petrov-Germanetza, who was shot dead on 20 March 1997 during a dispute. In July, another police officer received a 1,5 years' suspended sentence for the murder of Angel Bozhkov. Bozhkov was shot dead by a police officer on 10 December 1997, while driving his own car, which had earlier been reported stolen and later returned. He had failed to report this immediately to the police.

Bulgarian law allows law enforcement officials wide powers to use firearms. Article 80 of the Ministry of the Interior Act allows them to use firearms during apprehension of a person who is in the process of committing or has committed a crime, or in order to prevent the escape of a person who has been arrested on accusations of having committed a crime. Local and international human rights observers have, on numerous occasions, pointed out that these regulations contradict principles 4 and 9 of the UN Principles on the Use of Force and Firearms by Law Enforcement Officials, because they allow for the arbitrary use of firearms. In addition, several clashes between police officers and civilians suggest that the police have significantly exceeded their powers.

- On 31 December 1997, an officer from the Regional Investigation Service in Stara Zagora shot dead 17-year-old Stefan Stefanov after a dispute.

- On 30 January 1998, a policeman shot and killed the 17-year-old Rom Tsvetan Kovachev in Kostinbrod.
- On 24 March 1998, police officers from Pleven beat many protesting workers, including women, at the local petrol refinery "Plama." The act was justified by the necessity to secure free access to the enterprise for administrative personnel, but the activities undertaken by the police were obviously not proportional to the stated aim. As a result of the beating, seven workers were hospitalized for emergency medical treatment. The same day, the management of the Pleven police stated that the police officers had not exceeded their power.
- On 28 March 1998, a policeman shot dead 26-year-old Ivan Markov after a domestic quarrel in the village of Bunovo, near Pirdop.
- On 20 June 1998, law enforcement officials shot dead 26-year-old Rom Yordan Yankov in Sofia. They were pursuing him, mistakenly taking him for a wanted criminal.

Raids, especially in Roma neighborhoods, were often of purely punitive character, and were not connected with any resistance whatsoever against the police. Such raids have resulted in mass beatings of innocent people.

- On 23 March 1998, fifteen local police officers raided the Roma neighborhood in the town of Krivodol. The officers, who were drunk, entered the neighborhood at approximately 8 p.m. with the aim of retaliation for a fight between a Rom and a police officer earlier that day. According to witnesses and victims, many people, including women and children, were beaten. None of the victims dared file complaints with the police, fearing retaliation.
- On 10 July 1998, in the largest raid this year, around 80 policemen raided the Roma neighborhood in the village of Mechka, near Pleven, which houses 272 Roma. The police beat people and destroyed their personal property. The Pleven District Prosecutor's Office allowed the search, in order to search for stolen goods and household animals. The Pleven Regional Directorate of Internal Affairs claimed that the Roma had prevented 17 police officers from carrying out their searches, whereupon the police had called for backup in order to complete their operation. More than 30 people were injured, including a 10-year-old child whose arm was broken. The property of at least 15 houses was virtually destroyed. The victims were not allowed to obtain medical certificates in the nearby town. Only days later could 15 victims acquire medical certificates. Nine victims filed complaints with the Military Prosecution in Pleven. As of this writing, preliminary investigations are underway. Eventually, the police put forward two versions of the incident: first, that the Roma were beaten because they had resisted the police, and second, that the victims' injuries resulted from a fight among the Roma which had occurred several days earlier. Most media reports sided with the police, thus feeding a number of racist stereotypes against the Roma.

## **Croatia**

### Prison Conditions and Prisoners' Rights<sup>42</sup>

The rights of prisoners are not observed.

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<sup>42</sup> Based on *Report on Some Human Rights Concerns in the Republic of Croatia*, Croatian Helsinki Committee, 1 September 1998.

- Radenko Radojic was sentenced to four years imprisonment for terrorist activities. He was not released after serving his full sentence, and new charges were brought against him. He went on hunger strike twice in order to obtain a decision regarding the duration of his prison term, to no avail.
- Miro Bajramovic was detained on 1 September 1997, but has not been indicted. He has spoken publicly about war crimes committed by Tomislav Mercep's troops in the beginning of the armed conflict in former Yugoslavia. Authorities have allowed the alleged perpetrators of these crimes to visit him in prison and pressure him to change his statements or to keep silent. In June, after Bajramovic had tried to commit suicide, he told the Croatian Helsinki Committee representative that he had been subjected to ill-treatment and harassment at the order of the Service for the Protection of the Constitutional Order (SZUP). He said he had been beaten for 30 days, and suffered fractures in his jaw and two broken ribs. He claimed the Intelligence Services had forced him to give a public statement denying his previous statement. He went on hunger strike twice to protest his treatment and the fact that he was not allowed to receive his mail. He has not been allowed to contact the International Criminal Tribunal in The Hague.

## **Macedonia<sup>43</sup>**

### Misconduct by Law Enforcement Officials<sup>44</sup>

Abuse by the police has become a serious concern in Macedonia. According to the Europe and Central Asia Division of Human Rights Watch, affiliated with the IHF, police misconduct is ignored by Macedonia's political leaders, and tolerated by the international community.

Violations cut across ethnic lines: all citizens of Macedonia have suffered violence at the hands of the police, as well as procedural violations, almost always with no recourse through the courts. The common characteristic of victims, rather than ethnicity, is usually the person's opposition political activity or low social-economic status. Ethnic Albanians are particularly susceptible to police misconduct.

The most serious forms of police abuse are the use of excessive force at the time of arrest and physical ill-treatment of those in detention. Individuals are sometimes arrested without a warrant and beaten until they confess to a crime. Moreover, individuals are often held longer than the twenty-four hours allowed by law, not informed of the reason for their arrest, and denied immediate access to a lawyer.

There are clearly insufficient efforts by government officials to reduce police abuse by promoting better training, more democratic laws, and a system of accountability. The Ministry of Interior is reluctant to discipline its employees, the prosecutor's office is resistant to pressing charges against police officers, and the courts often refuse to convict, despite a preponderance of evidence.

- On 10 July 1997, Prime Minister Branko Crvenkovski visited the policemen stationed in Gostivar, praised their work on national television, and gave them the sign of "thumbs up." This happened despite the fact that the most severe case of police brutality took place in Gostivar in July 1997.

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<sup>43</sup> Officially recognized by the United Nations as the "Former Yugoslav Republic of Macedonia."

<sup>44</sup> Based on "Police Violence in Macedonia," press release, Human Rights Watch/Europe and Central Asia Division, 7 April 1998. For details, see the report *Macedonia: Police Violence, Official Thumbs Up*.

Human Rights Watch charged that it appears that, due to the fact that Macedonia is an important alley for the international community in the Southern Balkans, the UN and the OSCE have downplayed both this and other forms of human rights abuses in Macedonia.

## **Romania**

### Misconduct by Law Enforcement Officers

During the first six months of 1998, the APADOR-CH<sup>45</sup> received information about three cases of police shootings at suspects. Although the police stated that the shootings had been lawful, APADOR-CH considers that instances in which police officers, by law, may use firearms exceed those provided by international standards. In addition, APADOR-CH stated that, in all three cases, the police acted without taking into consideration the principle of proportionality when using firearms.

In 1998, there have been an increasing number of police raids in discos, bars and other similar localities. Although the police argue that this is part of their preventive work, APADOR-CH said that such a mentality sets a dangerous pattern of intimidation and creates fear among individuals who happen to be in those places.

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<sup>45</sup> Romanian Helsinki Committee.

## 8. Tolerance and Non-Discrimination, Preventing Aggressive Nationalism, Racism, Chauvinism, Xenophobia and Anti-Semitism

- Relevant commitments: - Par. 40 to 40.7 of the Copenhagen Document;  
- Par. 30 to 35 of Chapter VI of the Helsinki Document;  
- Par. 9 of the Lisbon Document

### Croatia<sup>46</sup>

Most cases of human rights violations are related to racial and ethnic discrimination and hate speech by many state officials, particularly President Franjo Tudjman. This practice is supported by the government-controlled media. Members of non-Croat ethnic communities are consistently deprived of their fundamental constitutional and legal rights and subjected to verbal abuse by local authorities and high government officials, including judges and police officers. This is justified by authorities' xenophobic statements regarding permanent domestic and foreign "enemies" who are seeking through various methods, to defame Croatia and to jeopardize its existence.

Ethnic intolerance was evident again in July 1998 when there were several fires on the coast of Croatia. State-owned Croatian television publicly accused Serb returnees of committing arson in these regions without providing any evidence for such accusations. When dozens of empty Serb farms (200 farm houses and adjacent premises) were set on fire in the region of Kordun, Banija and Lika in the spring of 1998, the government-controlled media claimed that those fires were caused by electric fault - despite the fact that those parts of the country did not have electricity at all - or by explosion of gas bottles, all of which had already been stolen from these regions. Sometimes it was claimed that Serbs themselves had set the fires, "to spite Croatia."

Some Catholic priests in villages also promote ethnic intolerance. They have taken over non-Croat property (houses and apartments) and turned them into their chapels and offices, with the support of some high church officials. Archbishop Tamarut of the county of Senj and Rijeka supports the local vicar in Udbina who lives in a house belonging to a person who has fled Croatia.

When three Orthodox crosses were blown up in the Beli Manastir region during the summer of 1998, Croatian television reported the incident. However, it failed to mention that the crosses were Orthodox, thus leading the public to believe that the crosses were Catholic and that they were destroyed by Serbs.

People willing to co-operate with the Hague Tribunal, especially those willing to testify as witnesses of the crimes committed in Croatia during the war, have been publicly stigmatized. President Tudjman said that "Some sink so low as to send other people to the Hague, accusing those who have all the merit for the establishment and defense of the Croatian state." NGOs which report human rights violations have also been attacked by President Tudjman.

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<sup>46</sup> Based on *Report on Some Human Rights Concerns in the Republic of Croatia*, Croatian Helsinki Committee, 1 September 1998.

## 9. Migration, Refugees and Displaced Persons

- Relevant commitments:
- Principles 20 to 22 under “Questions relating to Security in Europe” in the Vienna Document;
  - Par. 39 to 45 of Chapter VI of the Helsinki Document;
  - Decisions in Chapter 2 of the Stockholm Council Meeting;
  - Par. 32 of Chapter VIII of the Budapest Document.
  - Par. 25-27 of Chapter VIII of the Budapest Document.
  - Par. 9 and 10 of the Lisbon Document

### **Bosnia and Herzegovina<sup>47</sup>**

1998 was proclaimed “the year of return” in Bosnia and Herzegovina. However, only a fraction of refugees and displaced person have been able to return. According to figures released by the UNHCR, between the signing of the Dayton Peace Accord and 30 June 1998, 475,000 out of a total of over two million refugees and displaced persons had returned. Of those, only some 15,000 could return to an entity in which they now form a “minority.”

Local authorities have continued to express their will for the return of minority groups. However, such statements have more often than not remained pure lip service. Prime Minister Dodik promised to allow 70,000 Bosniaks and Croats to return to “Republika Srpska,” but the UNHCR figures show that between the signing of the Dayton Peace Accord and 30 July 1998, only 1920 members of minority groups had returned to that entity. Moreover, as of end of August 1998, “Republika Srpska” had failed to revoke discriminatory housing legislation.

Federation authorities also continued to obstruct the return of refugees and IDPs. Although discriminatory federal housing legislation has finally been revoked, there continues to be obstacles for return, and authorities consistently fail to meet their targets. A striking example is the fact that by the end of August, only 1,752 individuals had returned to Sarajevo even though the target was the return of 20,000 minority members in 1998. This failure led to the July suspension of aid projects amounting to USD 22 million by the US and the EU. All in all, many more inhabitants have left Sarajevo since the signing of the Dayton Peace Accord than have returned.

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<sup>47</sup> Information from the Helsinki Committee in Bosnia and Herzegovina to the IHF, September 1998.

## 10. National Minorities (including Roma and Sinti)

- Relevant commitments:
- Principle VII of the Final Act of Helsinki;
  - Principles under the “Questions relating to Security in Europe” in the Madrid Document;
  - Principle 19 under “Questions relating to Security in Europe”, and par. 31 under “Co-operation in humanitarian and other fields” in the Vienna Document;
  - Chapter IV of the Copenhagen Document;
  - Principles under “Human Rights, Democracy and Rule of Law” in the Charter of Paris;
  - Report of the CSCE Meeting of Experts on National Minorities;
  - Par. 37 of the Moscow Document;
  - Par. 23 to 27 of Chapter VI of the Helsinki Document;
  - Chapter III of the Prague Meeting of the CSCE Council;
  - Par. 21-22 of Chapter VIII of the Budapest Document;
  - Par. 9 of the Lisbon Document
- Roma and Sinti:
- Par. 40 of the Copenhagen Document;
  - Par. 42.2 of the Moscow Document;
  - Par. 35 of Chapter VI of the Helsinki Document;
  - Par. 23-24 of Chapter VIII of the Budapest Document.
  - Par. 9 of the Lisbon Document

## Bulgaria

### Minority Rights<sup>48</sup>

Serious restrictions have been placed on the right of peaceful assembly for Bulgarian citizens identifying themselves as ethnic Macedonians. This occurs regardless of the fact that, in the beginning of July, the European Commission for Human Rights in Strasbourg admitted ethnic Macedonians’ complaint for violations of their right to assembly.

- On 18 April 1998, several hundred members of UMO (United Macedonian Organization) "Ilinden" were prevented from laying flowers at the grave of Yane Sandanski, a Macedonian historical figure, in the Rozhen Monastery. The group’s gathering and commemoration activities were banned by the Blagoevgrad District Prosecution. Those arriving car were fined for technical faults on their vehicles. Those traveling to the grave by bus were forced off the busses. They continued their way on foot, but, just before the village of Novo Delchevo, they were again stopped by police. In the town of Petrich, some people arriving by bus were taken to the police station for short periods of time. Several people managed to reach Yane Sandanski’s grave secretly. On the way back, they were stopped before entering the town of Sandanski. One of them, Vassil Gudjemov, was detained at the local police station because he did not have a passport. He claimed that he was beaten by the police during the short detention and that his front teeth were broken.

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<sup>48</sup> Based on *Human Rights in Bulgaria (January through August 1998)*, Bulgarian Helsinki Committee. For ill-treatment of Roma by law enforcement officials, see *Torture, Ill-Treatment and Misconduct by Law Enforcement Officials*.

- On 2 August 1998, the mayor of Petrich banned a commemoration organized by members of UMO "Ilinden" at the Samuilovata Krepost locality. Yordan Toshev, a local activist of the organization, was arrested and taken to the detention facility in Petrich for having thrown flowers at the feet of the policemen.
- On 3 August 1998, the Sofia mayor banned a peaceful protest organized by another group of UMO "Ilinden" commemorating the 85th anniversary of the signing of the Bucharest Peace Treaty. On 2 September, the mayor again banned a group of UMO "Ilinden" activists from holding a peaceful protest marking 12 September, the day of genocide of the Macedonians.

## Greece<sup>49</sup>

### The Turkish Minority

Greece formally recognizes only one minority: the “Muslim” minority living in Thrace whose rights are guaranteed by the 1923 Treaty of Lausanne. The government denies this minority the right to self-identification: the vast majority of its members identify themselves as Turks, irrespective of their Turkish, Pomak, Roma or other origin. The state, though, considers such identification illegal. Therefore, all “Turkish” associations have been dissolved, while the use of the adjective “Turkish” to identify the minority or its establishments may lead to prosecution.

- In July 1998, primary school teacher Rasim Hint was suspended for one year for a 1996 statement calling the school of Xanthi he was working in “Turkish” rather than “Minority” school. For the same reason, Hint received punitive transfer from the city of Xanthi to distant mountain villages between 1996-1998.

Article 19 of the citizenship law, which was used arbitrarily to deprive non-ethnic Greeks of their citizenship if they settled abroad, was abolished in June. Since its introduction in 1955, and according to government released figures, 60,000 Greek citizens, mostly ethnic Turks, had been deprived of their citizenship. As many as 1,000 of such former Greek citizens still live in Greece as stateless persons. They have been denied most of their rights, including those of the 1954 UN Convention Relating to the Status of Stateless Persons, ratified by Greece in 1975. In January 1998, the state finally gave some 150 such stateless persons identity documents, which allowed them to enjoy many other rights, and also travel abroad. However, in August and September, the government again refused to issue such documents to other stateless persons, in direct breach of the law. Moreover, the abolition of article 19 was not retroactive: so these stateless did not regain their citizenship.

A 1990 law gave the state the right to appoint muftis, against the will of the minority. Currently, there are two muftis in Xanthi and Komotini - one appointed and one elected. The elected mufti has been repeatedly convicted for “pretense of authority” for merely using the title of mufti in written statements.

- The elected mufti of Xanthi, Mehmet Emin Aga, has accumulated 79 months of prison in seven trials, 57 months in 5 recent trials.<sup>50</sup> Two more trials are scheduled for late 1998. He

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<sup>49</sup> Based on the *Report on Greece to the 1998 OSCE Implementation Meeting*, Greek Helsinki Monitor and the Minority Rights Group - Greece, September 1998.

<sup>50</sup> Sixteen months on 11 December 1997; 14 months on 25 February 1998; six months on 29 April; 7 months on 28 May; and 14 months on 24 June.



has served six months and bought off the other sentences. These convictions are a violation of religious freedom and freedom of expression.

In November 1996, UN Special Rapporteur Abdelfattah Amor stated:

*“As for the special provisions concerning Muslims and, more particularly, muftis and waqfs, the Special Rapporteur recalls article 6, paragraph (g), of the 1981 [UN] Declaration, which guarantees freedom to “train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief. The Special Rapporteur believes it necessary for the Greek authorities to comply fully and in good faith with the Treaty of Lausanne and with the country’s international undertakings. He also recalls the need to refrain from interfering in the affairs of a religion (...). The Special Rapporteur also emphasizes that the status of the Muslims of Thrace, and in particular that of the muftis and waqfs, should not be subordinated to considerations concerning Turkey, and strongly urges the parties involved to comply with their international undertakings, especially the Treaty of Lausanne. (...) As far as the Muslim minority in Thrace is concerned, the Special Rapporteur notes a static, unsatisfactory and prejudicial situation, especially in the religious sphere. The Muslim community in Thrace is beset with serious tensions and restrictions regarding the appointment of muftis, administration of waqfs and religious teachers. Priority should be given to satisfying the legitimate religious needs of the Muslims of Thrace. (...) With regard to education, the Special Rapporteur deplores the very low level of education among the Muslim minority in Thrace and welcomes the new legislation designed to make it easier for Muslim students to gain access to higher education. The Special Rapporteur hopes that this targeted policy will be extended to all levels of education including vocational training, thus ensuring that Thracian Muslims are no longer a disadvantaged and neglected group but will have the opportunity to integrate fully into Greek society and acquire true citizenship, thereby opening up new intellectual and cultural horizons.”*

Unfortunately, these recommendations were ignored by Greece, and the problems of the Turkish minority in 1998 have remained as important as they were in 1996.

#### The Macedonian Minority

Other ethnic minorities legally denied recognition include Macedonians. Ethnic minorities that are not officially recognized often suffer restrictions on their freedom of expression and association. In Florina (northern Greece), where most ethnic Macedonians live, four ethnic Macedonians were put on trial in September 1998 for “inciting citizens to commit acts of violence.” In September 1995, a mob, led by the mayor, attacked and ransacked the offices of the ethnic Macedonian “Rainbow” party after the four men hung a sign in Greek and in Macedonian stating “Rainbow - Florina Committee.” Those who attacked the offices have yet to be indicted, though charges were filed by Rainbow in 1995. The party was prosecuted for using the Macedonian language on the sign in a clear violation of the right to free expression, but was finally acquitted: in that trial, the political and social leadership of Florina were witnesses for the prosecution which had based its case *inter alia* on articles of the ultra-nationalist weekly *Stohos*. Another “Rainbow” leader is awaiting trial on 19 November 1998, on similar charges for having brought from Macedonia calendars bearing toponyms of Greek towns in Macedonian, and praising the inter-war pro-Macedonian policy of the Communist party.

Many ethnic Macedonians who fled Greece as a result of the 1946-49 civil war have not been allowed to re-enter Greece, even for brief visits, or attend the fiftieth anniversary reunion of their exodus in July 1988, despite written commitments to the contrary by the Greek government. Some were denied entrance because their passports mentioned birth places in Greece with only their old Macedonian name; others simply because they were on a “red list” of undesirables.

In July 1998, Greece was convicted by the European Court of Human Rights for violation of freedom of association (article 11 of the European Convention), because Greek courts did not allow the 1990 establishment of the “Home of Macedonian Civilization” (as translated in English by the European Court). The most important argument of that verdict was its position towards the Greek courts’ and state’s view that the Home of Macedonian Civilization was not allowed to be established as its founding members did not aim simply at cultural activity, but at supporting the view that there is a Macedonian minority. The “non-existence” of that minority was argued by the Greek courts using evidence full of “scholarly” quotes, even from texts dating back to the Nazi occupation: “a guide to Salonica written by German historians and archaeologists during the last world war states that...” The European Court in countering Greece’s arguments mentioned the binding character for Greece of the OSCE documents which the country has signed. The Court stated that the aims of the Home of Macedonian Civilization are “clear and legitimate” and added:

*“Even supposing that the founders of an association like the one in the instant case assert a minority consciousness, the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Section IV) of 29 June 1990 and the Charter of Paris for a New Europe of 21 November 1990 – which Greece has signed – allow them to form associations to protect their cultural and spiritual heritage.”.*

### The Roma Minority

Greece’s Roma minority is estimated at some 350,000. Half of them have no decent settlement: they live in at least thirty slums throughout the country with some of the worst living conditions in Europe. They are the most marginalized social group in Greece, subject to discrimination in education, employment and housing, and to police abuse.

- In Ano Liosia, in 1997, Roma were forced out of a state properties where they had lived in for ten years, and moved to a settlement surrounded by a wire fence.

Throughout 1998, Roma were expelled or threatened with expulsion at many other sites by municipal authorities, and sometimes the courts, while the often announced plan to find appropriate living quarters for them was never implemented.

- Most dramatic was the multiple expulsions in August 1998 of the largest destitute Roma community, made up of 3,500 people who had lived in Evosmos, near Salonica, for over thirty years: four mayors (three supported by the government party PASOK and one by the main opposition party New Democracy) threatened to prevent these Roma from settling in the former military camp allocated by the state and the public contractor appointed by the authorities from carrying out the necessary infrastructure works therein; as a result, this Roma community had to wander from place to place until it settled, in early September, supposedly temporarily, near a river, after being expelled from three more sites. No action was taken against the obviously racist mayors which continued to enjoy the support of their parties.

Amidst repeated allegations of excessive police violence against Roma, two cases, backed by forensic evidence, of the murder of one Rom in April and of the torture of two others in May, had not led, by late September 1998, to any disciplinary action against the police officers involved, despite repeated NGO denunciations, and court indictment in one case. The Ministry had simply launched inconclusive “sworn administrative investigation.”

- On 1 April 1998, Angelos Celal (28), was killed by policemen in Partheni (near Salonica). Reportedly, two police officers, who suspected Celal and three Roma friends of having stolen a car, opened fire on the four who, in a state of panic, went back to their car to escape police control. The policemen did not stop shooting. One bullet went into Celal’s back and a second one into his head, killing him. The rear window of the car was broken and two more bullets were shot at the car. On 2 April, the forensic Professor Dimitris Psaroulis of the University of Salonica certified that Celal died of a head wound caused by a shot from a firearm, he had received in the back of his head. He also reported that he had had another wound in the back. On 6 April, Celal’s father, Panayote, pressed charges against the police. On 24 June, the Prosecutor informed the police he had indicted three police officers for murder, conspiracy to commit murder, and other charges.

On 8-9 May 1998 L. Bekos and E. Kotropoulos (17 and 18 respectively) were ill-treated by police officers during their detention at the police station in the town of Mesolongi (Western Greece). The two Roma claimed that, during their detention at the police station, they were physically abused and threatened by police officers. The latter did not even allow them to call home and notify their families of their whereabouts. A forensic examination on 10 May, the day the youth were released, confirmed that the two Roma had been beat the previous day. On 1 July, the two Roma pressed charges against the police.

## **Macedonia<sup>51</sup>**

### Minority Rights

#### The Roma

According to the European Roma Rights Center (ERRC), the long-cherished view that Macedonia is somehow "exceptional" with respect to Roma has contributed to a consistently inadequate state response to human rights violations of Roma. ERRC charges that Macedonian authorities are among the most enthusiastic supporters of the idea that "Roma have complete civil rights in Macedonia," and have been lax in responding to the many acts which contradict this.<sup>52</sup>

As a result of omissions of the 1992 Citizenship Act, there are a high number of stateless individuals among the Roma in Macedonia. There are ethnic tensions and racially motivated violence against Roma, and Roma frequently fall victim to police violence and judicial abuses. Roma suffer forced homelessness and abuses by municipal authorities, including instances of discrimination in the allocation of social welfare payments and education. Service bans in restaurants, bars, clubs and discos are commonplace.<sup>53</sup>

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<sup>51</sup> Officially recognized by the United Nations as the “Former Yugoslav Republic of Macedonia.”

<sup>52</sup> *A Pleasant Fiction: The Human Rights Situation of Roma in Macedonia*, the European Roma Rights Center, 1998.

<sup>53</sup> *Ibid.*

According to the Helsinki Committee for Human Rights of the Republic of Macedonia, 1998 has been characterized by increasing intolerance towards the Roma minority. Violent clashes between ethnic Macedonians and Roma have taken place on an almost daily basis.<sup>54</sup>

The police have reacted promptly: they have intervened in violent incidents and continued investigations of them - particularly among the Roma population. Police activity has been accompanied by violations of several basic human rights, including violations of the right to privacy and human dignity, and physical abuse against Roma.<sup>55</sup>

Open expressions of prejudices, insults against Roma, and acts aimed at their humiliation are not a new phenomenon in Macedonia. This was also seen in a recent incident in which an ethnic Macedonian member of parliament openly insulted a Roma deputy on the grounds of his ethnicity. It appears that Roma are not sufficiently aware of lawful and legal mechanisms available to them for the protection of their rights, and do not trust that filing a complaint would genuinely help them. On the positive side, one Roma group has initiated legal proceedings against officers of the Ministry of the Interior for ill-treatment and abuse committed by the police.<sup>56</sup>

### Right to Education

Basic human rights problems in the field of education include a disproportionately low representation of minority group members in secondary education, particularly ethnic Albanian and Roma girls. Only a small percentage of minority group members receive higher education, and there is a near-total absence of ethnic minorities among teachers and school management (especially the university and its agencies). An additional problem is the lack of minority group participation in the drawing up of educational policy, curricula, and other educational programs.

The Helsinki Committee for Human Rights of the Republic of Macedonia has called for special programs for bringing members of ethnic minority groups (particularly Roma and ethnic Albanians) into the higher education system. It has noted that the issue of Tetovo University still has not been adequately solved, and that particular problems are expected to arise the moment the first ethnic Albanian students graduate from the university in the academic year 1998/99.<sup>57</sup>

The Albanian language Teachers' Faculty in Skopje is in formal operation, although essential issues concerning mutual relations between Macedonian and Albanian professors and those between students belonging to different ethnic groups still remain unsolved. The curriculum of this faculty does not include elements that would contribute to overcoming the prejudices and stereotypes and to the possibility of building principles of active tolerance.<sup>58</sup>

## **Romania**

### The Hungarian Minority

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<sup>54</sup> *Human Rights in the Republic of Macedonia (January through June 1998)*, Helsinki Committee for Human Rights of the Republic of Macedonia.

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*

<sup>57</sup> See *IHF Annual Report 1998*.

<sup>58</sup> See *IHF Annual Report 1998*.

On 2 September 1998, the Chamber of Deputies' Education Commission rejected a government amendment to the education law which would have set up a Hungarian-language state university. In December 1997, the Senate's Education Commission had rejected the amendment, but endorsed setting up separate bilingual departments.<sup>59</sup>

According to the Minister of Education, Andrei Marga, universities established on ethnic criteria are likely to provoke an increase in ethnic tensions.<sup>60</sup>

According to APADOR-CH,<sup>61</sup> tension between ethnic Hungarians and the Romanian majority population has increased. APADOR-CH considers this a result of government policy concerning the request of the Hungarian minority to establish their own institutions of higher education. It added that that the manner in which the political leadership of the country, the Ministry of National Education and a significant part of the press have responded to the claims of the Hungarian minority represents a return to the nationalist discourse from before 1996.<sup>62</sup>

APADOR-CH has urged the Romanian parliament to re-examine the draft bill for the modification of the law on education in order to guarantee that the final version be compatible with the legitimate aspirations of minorities.

### Homosexuals

Romania continues to classify homosexuality as a criminal offense. When Romania was admitted to the Council of Europe, the Council's Parliamentary Assembly recommended, among other things, that Romania modify its legislation against homosexuality to bring it up to par with international standards.<sup>63</sup> Five years later, however, article 200 of the Romanian penal code (same-sex relations) remains virtually unchanged. The law still punishes homosexual acts "which cause public scandal", "encourage a person" to commit homosexual acts, and "propaganda or association or any act of proselytism" with 1-5 years' imprisonment.<sup>64</sup>

International pressure has led to the release of some imprisoned homosexuals, but the real problem has remained unsolved.

- In March 1998, following the January meeting of representatives of the International Gay and Lesbian Human Rights Commission and Human Rights Watch with Romanian President Emil Constantinescu, and an Amnesty International campaign, Mariana Cetiner (40) was released.<sup>65</sup> Cetiner was being held in Aiud Penitentiary under article 200. She was serving a three years prison sentence imposed in 1996 for allegedly attempting to "seduce" another woman and causing "public scandal."<sup>66</sup>

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<sup>59</sup> RFE/RL Newslines, 3 September 1998.

<sup>60</sup> RFE/RL Newslines, 2 June 1998.

<sup>61</sup> Romanian Helsinki Committee.

<sup>62</sup> APADOR-CH's (Romanian Helsinki Committee) Concerns on the Human Rights Situation in Romania (January-August 1998).

<sup>63</sup> Advice No. 176/1993.

<sup>64</sup> "Romania: Legal reform Faces Uncertain Fate," the International Gay and Lesbian Human Rights Commission, Vol. VII, No. 2, 1988.

<sup>65</sup> Ibid.

<sup>66</sup> "Amnesty International Delegation Meets Romanian Ambassador in Lesbian Prisoner of Conscience Case," Amnesty International, 12 February 1998.

The National Peasants-Christian Democratic Party, the largest party in the coalition government, has expressed vociferous opposition to any change in the legislation. The Romanian Orthodox Church has also strongly opposed decriminalization of same-sex relations. Consequently, on 30 June 1998, the Chamber of Deputies of the Romanian Parliament rejected an initiative of the executive, aiming at modifying several of the most criticized provisions of the criminal code and criminal procedure code, including decriminalization of homosexual relations. Thus, article 200 of the penal code continues to constitute a genuine threat to human rights through its abusive interpretation and vague wording. Justice Minister Valeriu Stoica announced that the draft would be resubmitted to the parliament in the fall.<sup>67</sup>

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<sup>67</sup> APADOR-CH's (Romanian Helsinki Committee) Concerns on the Human Rights Situation in Romania (January-August 1998).