

Problems of Religious Freedom and Tolerance in Selected OSCE States

Report to the OSCE Supplementary Meeting
on Freedom of Religion or Belief
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July 17-18, 2003

**International Helsinki Federation for Human Rights
(IHF)**

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This reports surveys recent developments regarding religious freedom and tolerance in ten selected OSCE countries, which are of particular concern to the IHF. The chapters are primarily based on information from Helsinki committees and IHF cooperating organizations. The report is not meant to be comprehensive and the length of a chapter does not necessarily reflect the gravity of our concerns.

The IHF hopes that the report will serve as a useful background document for the discussions to be held during the OSCE Supplementary Meeting on Freedom of Religion or Belief in Vienna on July 17-18, 2003.

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Summary

The developments discussed in this report indicate that the situation regarding religious freedom and tolerance is deteriorating in parts of the OSCE region, and that so-called “non-traditional” religious movements are increasingly stigmatized and repressed.

In several of the countries covered in the report, one church enjoys preferential treatment from the state in comparison with other churches. This church, with which a majority of the population at least nominally identify themselves, is typically depicted as “traditional” or “national” and is considered to have played a “special role” in the history of the country. Privileges afforded to the majority church amount, for example, to financial support, tax-exempt status, control over religious instruction in schools and opportunities to directly influence policy decisions on religious matters. This situation appears to be in line with that of many West European countries, where one church or a few religious communities have enjoyed similar privileges for a long time.

In some cases the privileged position of the majority church is based on formal agreements or legal provisions, in others it is of an informal character. In late 2002, the Georgian government and the Georgian Orthodox Church concluded a constitutional agreement, thus cementing their close relationship. The Belarusian government and the Belarusian Exarchate of the Russian Orthodox Church signed a similar agreement in June 2003, and the Armenian government and the Armenian Apostolic Church are currently negotiating an agreement. Russian authorities at federal, regional as well as local level have individually concluded formal agreements with the Russian Orthodox Church, and in Bulgaria the Bulgarian Orthodox Church has been granted the exclusive status of a legal entity with the force of law. The Greek government has allowed the Greek Orthodox Church to informally influence its policies. The fact that the majority church is in a privileged position in these states clearly has a negative impact on the situation of other religious communities.

In these countries, as well as in the other countries covered in the report, the authorities treat so-called “new” religious communities with suspicion and restrict their activities in different ways. In a general pattern, religious communities must register with the authorities in order to obtain legal status and/or to be able to engage in the full range of religious activities. At the same time the registration requirements are strict – for example, they typically involve a requirement of a high number of members – and the registration process is open to arbitrary implementation. Such provisions are laid down by a 1996 Turkmen law, a 1997 Russian law, a 1998 Uzbek law, a 2001 Armenian law as well as by new restrictive laws that were adopted in Belarus and in Bulgaria in 2002. A draft law imposing strict registration requirements is currently under consideration in Georgia. In Greece registration is not required, but minority religious communities are not allowed to open and operate houses of worship without a license, a policy that has also resulted in arbitrary decisions.

The Turkmen and Uzbek governments routinely crack down on meetings held by unregistered religious communities and intimidate, arrest, fine and abuse those present for participating in “illegal” activities. In Turkmenistan, evictions and expulsions have also frequently been used for repression of minority groups, and in several cases houses of worship have been destroyed. In Russia and Belarus, members of unregistered communities regularly experience difficulties when seeking to buy or rent meeting premises from the authorities and are sometimes fined, arrested or deported. For the first time in the country, a church building that belonged to an unregistered community was destroyed in Belarus in 2002. Some local Russian authorities also reportedly treat unregistered religious groups as “illegal,” and the new Belarusian law on

religion outlaws all collective practice of faith by unregistered religious groups. In Armenia and Greece, members of minority groups reportedly experience discriminatory treatment by authorities as well as by private actors. In Greece, a ban on proselytism that allows for arbitrary implementation targeting minority religions remains in force, and in Georgia, a broadly-worded ban of a similar kind has been proposed.

Security concerns are increasingly used to justify restrictive policies against minority believers. Following September 11, the Uzbek government has sought to mute international criticism of its relentless campaign against independent Muslims by presenting it as an Uzbek contribution to the “war on terrorism.” Under this pretext, the government has continued arbitrarily to arrest, torture and sentence independent Muslims to lengthy prison sentences, or even to death, in trials grossly violating international fair trial standards. Since the mid-1990s thousands of Muslims have been imprisoned for their convictions. Muslims prisoners are subject to notoriously harsh treatment and in numerous cases Muslims have allegedly died in custody as a result of the treatment they have suffered. In a development raising fear that the Uzbek government will expand its campaign against “religious extremism” in full scale to non-Muslim believers, security arguments were – for the first time – explicitly used to justify the criminal prosecution of a member of a non-Muslim minority religious community in 2002.

In Russia, a 2002 anti-extremism law is so vaguely worded that it may be used to stifle legitimate religious activities under the guise of defending national security. In inter alia Turkmenistan and Uzbekistan, the security services are actively involved in monitoring the activities of minority religious communities, and in Bulgaria, a government office on religious affairs was in 2002 granted broad powers to “police” the activities of such communities. Moreover, the governments in some former Soviet republics, including Armenia and Belarus, have publicly emphasized the need to take action against “sects” considered to represent a “danger” to national security.

Since the mid-1990s, the Belgian and French governments have been engaged in efforts to monitor and control the activities of religious groups depicted as “harmful sects.” While these policies have been justified by the need to increase public awareness of the destructive teachings advocated by certain religious movements, they have primarily targeted religious groups that have never been engaged in anything but peaceful and lawful activities and have, in fact, encouraged prejudice and intolerance toward minority religious groups. The governments in the two countries have not taken any effective measures to counteract the hostility and discrimination suffered by members of those groups depicted as “sects.” The “anti-sect” policies pursued by the Belgian and French governments have also set a problematic precedent for former socialist countries that have sought to present restrictive policies toward “new” religious movements as democratically acceptable.

In Georgia, Orthodox extremists have sought to secure public support for their attacks on religious minority groups by claiming that the activities of these groups threaten the Georgian nation. During the last few years, extremist mobs have persistently raided and looted private homes of members of minority communities, destroyed their places of worship, burnt their property, and intimidated and physically abused them. The mobs have repeatedly used brutal methods, as a result of which victims often have needed hospital treatment and sometimes have sustained permanent injuries. The authorities have seriously failed to take adequate measures to respond to the spiral of violence. In some cases police and local administration officials have been involved in attacks and investigations into complaints filed by victims have been slow, ineffective or non-existent. As of this writing, not a single perpetrator has been punished.

In virtually all countries covered in the report – albeit to a varying extent – media have encouraged negative attitudes toward minority religious groups by engaging in prejudiced and offensive reporting. Adding to restrictive government policies, such reports have contributed to fostering a general climate of intolerance toward “new” religious movements.

In Armenia, Belarus and Turkmenistan, no laws on alternative civilian service to military service exist and the authorities in these countries continue to imprison young male members of minority religious communities who refuse to serve in the army for conscientious reasons. During the last few years the Turkmen authorities have also imprisoned several religious activists on fabricated criminal charges and, as noted above, a member of a religious minority was criminally prosecuted and convicted for his religious activities in Uzbekistan in 2002. The criminal prosecution of a minority believer in Armenia in 2001 set another troubling precedent, although the victim eventually was acquitted.

In most countries covered in the report, Jehovah’s Witnesses have been a particular target of harassment.

Overview of international standards protecting freedom of thought, conscience and religion

The preamble of the UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief notes that “religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life.”¹ In a similar vein, the European Court of Human Rights has observed that “freedom of thought, conscience and religion [...] is one of the most vital elements that go to make up the identity of believers and their conception of life”, adding “but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned.”²

Article 18 of the 1948 Universal Declaration of Human Rights (UDHR) states that “[e]veryone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.” Article 18 of the International Covenant on Civil and Political Rights (ICCPR) and article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) reiterate the content of this provision. The ICCPR article uses a slightly different wording, and talks about “freedom to have or to adopt a religion or belief of his choice” instead of “freedom to change his religion or belief.” However, the UN Human Rights Commission has stated that this expression “necessarily entails the freedom to choose a religion or a belief, including the right to replace one’s current religion or belief with another or to adopt atheistic views, as well as the right to retain one’s religion or belief.”³ The ICCPR article also establishes that “[n]o one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.”

In the 1975 Helsinki Final Act, the OSCE states agreed to “respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.”⁴ They have subsequently reaffirmed this commitment on repeated occasions.⁵ In the 1990 Copenhagen Document, the OSCE states acknowledged that the right to freedom of thought, conscience and religion “includes freedom to change one’s religion or belief.”⁶

The ICCPR does not allow any derogation from article 18, even in time of public emergency, and establishes that the freedom to manifest one’s religion or belief “may only be subject to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the rights and freedoms of others.” When commenting on this provision, the UN Human Rights Committee has emphasized that “[l]imitations must be imposed by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18.” The committee has further reminded states of the fact that the grounds listed as permissible grounds for limitations must be strictly interpreted and that restrictions on other grounds than those specified, such as national security reasons, are not allowed – even if they would be allowed as restrictions to other rights guaranteed in the covenant. The committee has also underscored that all

¹ The UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief was adopted by the UN General Assembly as Resolution 36/55 of November 25, 1981.

² European Court of Human Rights, *Kokkinakis v. Greece*, May 25, 1993 (00014307/88).

³ UN Human Rights Committee, *General Comment 22 -- The right to freedom of thought, conscience and religion (Art.18)*, July 30, 1993.

⁴ “Declaration on Principles Guiding Relations Between Participating States” of Final Act of the Conference on Security and Cooperation in Europe, 1975, (Helsinki 1975), principle VII, par.3.

⁵ See Concluding Document of Madrid – The Second Follow-up Meeting, 1983, (Madrid 1983); Concluding Document of Vienna – The Third Follow-up Meeting, 1989 (Vienna 1989); Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 1990, (Copenhagen 1990); Concluding Document of Budapest, 1994; and Istanbul Document, 1999.

⁶ Copenhagen 1990, par. 9.4.

restrictions must be non-discriminatory in character and that they must relate directly and be proportionate to the aim they were introduced for.⁷

The ECHR lists the same conditions as the ICCPR as to acceptable limitations, with the addition that all restrictions must be “necessary in a democratic society.”⁸ According to the European Court of Human Rights, in order to meet this requirement, any restriction must correspond to a “pressing social need” and must be “proportionate to the legitimate aim pursued.”⁹ As regards the requirement that restrictions be “prescribed by law,” the court has observed that it does not only involve that a restrictive measure should be based on domestic law, but also that the law in question “should be both adequately accessible and foreseeable, that is, formulated with sufficient precision to enable the individual – if need be with appropriate advice – to regulate his conduct.”¹⁰

In the 1989 Concluding Document of Vienna, the OSCE states recognized that “the exercise [...] of the rights relating to the freedom of religion or belief may be subject only to such limitations as are provided by law and consistent with their obligations under international law and with international commitments. They will ensure in their laws and regulations and in their application the full and effective exercise of the freedom of thought, conscience, religion and belief.”¹¹ A similar statement was included in the 1990 Copenhagen Document.¹²

Like all fundamental human rights, the right to freedom of thought, conscience and religion must be applied without discrimination of any kind.¹³ The OSCE states have explicitly undertaken to respect this right “without distinction as to race, sex, language or religion.”¹⁴ The UN Human Rights Committee has particularly stressed that ICCPR article 18 is not limited in its application to “traditional religions” and has expressed concern regarding “any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.” The committee has also emphasized that the fact that a certain religion is recognized as an official, traditional or state religion or that its adherents comprise the majority of the population must not result in any discrimination against followers of other faiths or non-believers.¹⁵ In this context, the European Court of Human Rights has concluded that the right to freedom of religion as guaranteed by the ECHR “excludes any discretion on the part of the State to determine whether religious beliefs or the means used to express such beliefs are legitimate.”¹⁶

Moreover, the UN Human Rights Committee has pointed out that the freedom to manifest one’s religion or belief as protected by the ICCPR covers a broad scope of activities – not only ceremonies, rituals and teaching, but also practices vital to such acts, such as the construction of houses of worship, the observance of religious holidays, the establishment of religious schools as well as publication and distribution of

⁷ Ibid.

⁸ ECHR (article 9.2) states: “Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

⁹ European Court of Human Rights, *Serif v. Greece*, December 12, 1999 (00038178/97).

¹⁰ *Hasan and Chaush v. Bulgaria*, October 26, 2000 (00030985/96).

¹¹ “Questions Relating to Security in Europe” of Vienna 1989, par. 17.

¹² Copenhagen 1990, par. 9.4.

¹³ UDHR article 2; ICCPR article 2; ECHR article 14.

¹⁴ “Declaration on Principles Guiding Relations Between Participating States” of Helsinki 1975, principle VII, par. 1;

“Questions Relating to Security in Europe” of Vienna 1989, par.11.

¹⁵ UN Human Rights Committee, op.cit.

¹⁶ European Court of Human Rights, *Manoussakis and others v. Greece*, September 26, 1999 (00018748/91).

religious material. In the opinion of the committee, religious ceremonies, such as the wearing of distinctive clothing and the observance of dietary regulations, are also covered by ICCPR article 18.¹⁷ The European Court of Human Rights has, inter alia, remarked that freedom of thought, conscience and religion comprises the right of a believer to bear witness about his or her convictions – in words and in deeds – and the right of religious communities to function without arbitrary state intervention.¹⁸

The UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (article 6) specifically lists a number of freedoms that should be interpreted as included in the right to freedom of thought, conscience and religion. Among these are freedom “to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes”; “to write, issue and disseminate relevant publications”; “to teach a religion or belief in places suitable for these purposes”; “to train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief”; “to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief”; and “to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.”

In a similar spirit, in the 1989 Vienna Concluding Document, the OSCE states pledged, among other things, to “respect the right of religious communities to establish and maintain freely accessible places of worship or assembly”; to “allow the training of religious personnel in appropriate institutions”; and to “allow religious faiths, institutions and organizations to produce, import and disseminate religious publications and materials.”¹⁹ In the same document, the OSCE states undertook to “grant upon their request to communities of believers, practising or prepared to practice their faith within the constitutional framework of their states, recognition of the status provided for them in their respective countries.”²⁰ This provision acknowledges the fact that it nowadays is of crucial importance for religious communities – as well as for other organizations – to have judicial status, since the right to engage in many collective activities is tied to such a status.²¹

The UN Human Rights Commission has repeatedly recognized “the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion, as laid down in article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights.” Accordingly, the commission has called on states to “refrain from subjecting conscientious objectors to imprisonment and to repeated punishment for failure to perform military service.”²² Likewise the Parliamentary Assembly of the Council of Europe has underscored that “[t]he right of conscientious objection is a fundamental aspect of the right to freedom of thought, conscience and religion enshrined in the Universal Declaration of Human Rights and the European Convention on Human Rights.” The assembly has also stated that alternative service to military service should be of “a clearly civilian nature” and “should be neither deterrent nor punitive in character.”²³

¹⁷ UN Human Rights Committee, op.cit.

¹⁸ European Court of Human Rights, *Kokkinakis v. Greece*, May 25, 1993 (00014307/88); and *Hasan and Chaush v. Bulgaria*, October 26, 2000 (00030985/96).

¹⁹ “Questions Relating to Security in Europe” of Vienna 1989, par. 16.4, 16.8 and 16.10.

²⁰ “Questions Relating to Security in Europe” of Vienna 1989, par.16.3. See also “Questions Relating to Security in Europe” of Madrid 1983, par. 14.

²¹ See discussion by Krassimir Kanev in IHF, *Religious Freedom in South-Eastern and Central Europe*, March 2000, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=1374.

²² See, for example, UN Human Rights Commission, *Resolution 1998/77*.

²³ Parliamentary Assembly of the Council of Europe, *Recommendation 1518 (2001) – Exercise of the right of conscientious objection to military service in Council of Europe member states*, May 2001.

Furthermore, article 20 of the ICCPR prohibits “any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence.” In the 1989 Vienna Concluding Document, the OSCE states agreed to “take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms” and to “foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers.”²⁴

²⁴ “Questions Relating to Security in Europe” of Vienna 1989, par. 16.1 and 16.2.

An overwhelming majority of the citizens of Armenia (95%) nominally belong to the Armenian Apostolic Church, membership in which is viewed as closely linked to Armenian ethnic identity. The country's law also recognizes the Armenian Apostolic Church as "national church," and the state gives it preferential treatment in comparison with other churches. At the same time so-called "non-traditional" religious communities, the number of which has increased rapidly since the fall of the Soviet Union, are subject to harassment and discrimination.

Among the privileges enjoyed by the Armenian Apostolic Church is the right, as the only religious community in the country, to offer religious instruction in schools. In addition, in 2002, the history of the Armenian Apostolic Church was introduced as a compulsory subject in several schools. In March 2000, the Armenian government and the Armenian Apostolic Church signed a so-called Memorandum of Understanding, which was aimed at providing the basis for a later agreement between the two parties to elaborate their relationship. As of this writing, an agreement is yet to be concluded.

The Armenian law "On the Freedom of Conscience and Religious Organizations," which was revised in 2001, requires that all religious communities except the Armenian Apostolic Church register with the authorities to obtain legal status. This status *inter alia* allows religious groups to rent meeting places, to publish newspapers and magazines and to sponsor visas of foreign visitors. One of the requirements for registration is that a group has at least 200 members, a requirement that has caused problems for some small religious groups. Moreover, the authorities have consistently refused to register the Jehovah's Witnesses, although this community has some 7,000 members. Since Armenia's independence in 1991, the community has filed several applications for registration, but each time the authorities have rejected the application, without providing any satisfactory explanation as to how the community has failed to meet the requirements imposed by law.²⁶

Moreover, during the last few years, there have been numerous cases where Jehovah's Witnesses, as well as members of other non-traditional religious communities, allegedly have been dismissed from their jobs or physically attacked because of their religious convictions. According to the Armenian Helsinki Association, the authorities have failed to duly investigate and prosecute such cases. The Armenian Helsinki Association has also received reports about cases where law enforcement and judicial authorities have acted in a discriminatory manner toward members of non-traditional communities. For example, police have declined to investigate criminal complaints filed by Jehovah's Witnesses who have fallen victim to violence and judges have shown open contempt for parents who are Jehovah's Witnesses when ruling on custody cases.

- In May 2003, a Yerevan court heard a child custody case, where the father demanded that he be granted the right to custody of his three children with the argument that their mother is not capable of granting them a good and proper upbringing since she is a Jehovah's Witness. Acting in a scornful manner toward the mother, the judge asked her a number of irrelevant and disrespectful questions and implied that the religious convictions held by Jehovah's Witnesses are aimed at "destroying families" and that all children should be brought up "in the spirit of the Armenian Apostolic Church." The judge did not pose a single question to the father before ruling in his favor.

²⁵ Unless otherwise noted, based on information from the Armenian Helsinki Association.

²⁶ Information from the Office of General Counsel of the Jehovah's Witnesses to the IHF, June 2003.

In some cases members of minority religious groups have also been criminally prosecuted on grounds which raise concern that they have been targeted solely because they confess non-traditional faiths. For example:

- In June 2001, the regional prosecutor's office in Armavir brought charges against Jehovah's Witness Lyova Margaryan under the then Criminal Code article 244, which criminalized "infringement of the rights of citizens under the guise of performing religious rituals." According to the prosecutor's office, Margaryan had "enticed" minors into participating in meetings organized by Jehovah's Witnesses in the town of Metsamor, close to the capital Yerevan. It was the first time in 20 years that charges were brought under this article, which was introduced in the Soviet Union in the 1960s and carried a maximum penalty of five years in prison. In September 2001, the regional court in Armavir acquitted Margaryan. This verdict was subsequently upheld on appeal by the Appeal Court in Yerevan and the Court of Cassation, which is the highest court in the country. The Cassation Court concluded that the charges against Margaryan were unfounded and stressed that the Constitution protects freedom of worship.

While the acquittal of Margaryan was welcome, it remains a matter of concern that such prosecutions are possible under the country's Criminal Code. Indeed, a new Criminal Code was adopted earlier this year, and will enter into force as of August 1, 2003. However, the new Code contains an article with the similar wording as that of the former article 244, although the maximum penalty that may be imposed under it has been decreased from five years to three months of imprisonment.

Moreover, the authorities continue to imprison Jehovah's Witnesses who refuse to serve in the army on conscientious grounds. When Armenia was admitted into the Council of Europe in January 2001, it made a commitment to "adopt, within three years of accession, a law on alternative service in compliance with European standards and, in the meantime, to pardon all conscientious objectors sentenced to prison terms or service in disciplinary battalions, allowing them instead to choose, when the law on alternative service has come into force, to perform non-armed military service or alternative civilian service."²⁷ In violation of this commitment, dozens of Jehovah's Witnesses have been held liable under Criminal Code article 75, which punishes refusal to carry out military service with up to three years in prison, since 2001. In some cases prison terms have been increased upon appeal and in others conscientious objectors have been convicted twice for the same "offense."²⁸ As of June 2003, 22 Jehovah's Witnesses were imprisoned as conscientious objectors, 13 of which had been convicted in 2003. The cases of three Jehovah's Witnesses were pending in court, while eight had been released after serving part of their sentence, but were requested regularly to report to police.²⁹

In 2002, the Parliamentary Commission on Defense, National Security and Internal Affairs drafted a law on alternative service. However, this draft has been seriously criticized by local NGOs and by OSCE experts. Most worrisome, the draft proposed by the commission only foresees alternative service in the form of unarmed military service and not in the form of civilian service. According to information received by the Armenian Helsinki Association, the government is currently preparing a new draft.

The IHF and the Armenian Helsinki Association are also concerned that representatives of the government have expressed mistrust and suspicion toward non-traditional religious communities. In September 2002, the

²⁷ Parliamentary Assembly of the Council of Europe, *Opinion No. 221 (2000), Armenia's Application for Membership of the Council of Europe*, paragraph ivd.

²⁸ Information from the Office of General Counsel of the Jehovah's Witnesses to the IHF, June 2003.

²⁹ Ibid.

prime minister stated that measures to prevent the spread of “dangerous sects” should be given priority to complying with commitments made to the Council of Europe as well as other international human rights standards. Arguing that “sects” threaten national security, he advocated that minority religious communities not be allowed to recruit new followers in the country and that their activities be restricted in other ways.³⁰ Such statements inevitably foster prejudices and hostility toward minority religions, and thereby undermine religious tolerance in Armenia.

³⁰ Keston Institute, “Prime Minister Widens Council of Europe Defiance,” September 25, 2002.

The Belarusian Constitution provides for freedom of religion and equality of all religious communities in the country, but in practice these principles are violated. The regime of President Aleksander Lukashenka openly backs and financially supports the Belarusian Exarchate of the Russian Orthodox Church, which many citizens consider an integral part of Belarusian history and culture. Minority religious communities, on the other hand, are subject to persistent harassment, and a new 2002 Law on Religion grants the authorities new wide-ranging opportunities to restrict the activities of such communities.

Formalizing their mutual relations, the government and the Belarusian Exarchate of the Russian Orthodox Church signed a constitutional agreement – a concordat – on June 13, 2003. As of this writing, it is unclear how the concordat will be implemented. However, representatives of minority religions have expressed fear that it will result in increasingly privileged treatment of the Russian Orthodox Church to the detriment of other religious communities.

While cultivating its relations to the Belarusian Exarchate of the Russian Orthodox Church, the Lukashenka regime has continually pursued a restrictive policy toward other religious communities. In particular, the authorities have refused to register a number of minority religious groups that are considered “non-traditional,” including all Orthodox groups that are not subordinated to the Russian Orthodox Church.

- In March 2003, a Minsk court rejected a suit by the True Orthodox parish based in the village of Zaboloty, which had been denied registration by the authorities for the second time in May 2002. The motivation for the refusal to register the parish, which is a member of the Crimea diocese of the True Orthodox Church, was that its statute “incited religious hatred” and that its constituent documents were “invalid.” The court overlooked testimony given by the bishop of the Crimea diocese, who confirmed that the parish had been duly incorporated into his jurisdiction and that its activities were in no way harmful. Similar argumentation as in this case has been used to deny registration to True Orthodox Church parishes in the village of Poddubie and in the capital Minsk.

Those groups that are not registered with the authorities, as well as some registered ones, have often experienced difficulties when seeking to buy or rent premises for worship. Moreover, there are numerous reports of members of minority communities who have been warned, fined or arrested for participating in religious meetings or singing religious songs in public places. Members of small religious groups established in rural areas have been the primary victims. This is a recent example of an incident of harassment:

- In May 2003, the evangelist Mikhail Balyk was fined a sum equivalent to €1 for “illegally conducting worship services” at an address rented by the unregistered Pentecostal Union, as well as in private homes of congregation members, in the town of Zheludok.

In some cases property belonging to non-traditional communities have been destroyed. In an unprecedented case an entire church building was destroyed in the summer of 2002:

- In July 2002, the Berestovitsa District Administration decided to demolish a newly re-constructed church building that belonged to the Belarusian Autocephalous Church, an Orthodox church that repeatedly has been denied registration on grounds that “one Orthodox Church [i.e. the Russian

³¹ Based on information from the Belarusian Helsinki Committee.

Orthodox Church] is enough for the country.” On the day when the decision of the local administration was due to be carried out, members of the church attempted to defend the church building and some of them even chained themselves to it. However, they were violently dispersed by police and the building was bulldozed.

Moreover, in November 2002, a new restrictive Law on Religion entered into force in the country. The State Committee for Religious and Ethnic Affairs claimed that the law, which was drafted in consultation with the Belarusian Exarchate of the Russian Orthodox Church, is aimed at protecting citizens from dangerous “sects” and “cults.” However, in reality it places far-reaching restraints on all religious activity.

According to the preamble of the law, Russian Orthodoxy has played a “determining role” in spiritual, cultural and state developments in Belarus, while Catholicism, Lutheranism, Judaism and Islam are depicted as “traditional” religions. As regards other faiths, the law establishes that only such religions that existed in the country already before 1982 and have at least 10-member congregations will be officially recognized. Religious groups that are not registered with the authorities are not allowed to collectively practice their faith, while registered groups need permission to conduct ceremonies and will only be able to hold occasional and small-scale meetings in private homes. All religious literature will be subject to censorship prior to import or distribution and foreigners may not lead religious communities. The law also regulates a broad range of other activities. Many provisions of the law are vaguely formulated and therefore open to arbitrary implementation.

The Belarusian Helsinki Committee fears that implementation of the new law will drastically worsen the situation of minority religious communities in the country. The committee is particularly concerned that those religious groups that were registered with the authorities when the law took effect are obliged to re-register within two years. According to the State Committee for Religious and Ethnic Affairs, the law will not be retroactively applied and religious groups will not be deprived of their legal status even if they do not meet the requirements imposed by the new law, including a requirement of at least 20 members. However, the Belarusian Helsinki Committee is suspicious of these promises, and believes that many religious groups will be denied re-registration with the motivation that their statutes are not fully in accordance with the law (an argument that already has been used on repeated occasions to deny registration to minority religious communities – see, for example, the case of the True Orthodox Church parish above). The committee is also concerned that smaller religious communities will not have sufficient resources to go through a lengthy and complicated re-registration process, but will opt to go underground. As of this writing, the committee finds that it is too early to comment on how the re-registration process has begun.

The state press in Belarus also contributes to spreading negative attitudes toward minority religions by engaging in offensive and prejudiced reporting.

- In a 2002 editorial contribution to the newspaper *Narodnaja Gazeta*, which is controlled by the parliament, Protestants were depicted as “sectarians” and their activities were associated with satanic sects. The Full Gospel Union responded by filing a complaint with a Minsk court. However, the court dismissed the complaint and ruled that the article was part of a “scholarly dispute.”

The Belarusian Constitution guarantees the right to conscientious objection, but a law on alternative civilian service is yet to be adopted in the country. As a result, the authorities continue to subject members of religious minority communities who refuse to carry out military service for conscientious reasons to criminal prosecution or administrative sanctions.

The relationship between the state and religions in Belgium is historically rooted in the principle of recognition and non-recognition of religions. However, recognition criteria have never been enshrined in the Constitution, in decrees or in laws. Six religions – Catholicism, Protestantism, Anglicanism, Judaism, Islam and Orthodoxy – and secular humanism (*laïcité*) are currently recognized by the state. These communities enjoy advantages that are denied to other religious groups. In addition to treating different religious organizations unequally on the basis of their status, the government has unduly interfered with the internal affairs of some religious communities and has failed to remedy discrimination suffered by members of religious groups officially listed as “harmful sects.”

In a system clearly discriminatory toward non-recognized religious groups, the state provides funding only to recognized religions. State subsidies are provided by all taxpayers, including those who profess a non-recognized religion or who do not adhere to any religion or belief system. Thus, members of non-recognized religious communities indirectly contribute to financing recognized communities. The issue of reforming the funding system has been raised at government level, but a concrete proposal is yet to be made.

Eight federal ministries as well as the ministries of the country’s three linguistic communities, the ministries of its three regions (Flanders, Wallonia and Brussels), the administrations of its ten provinces and its 589 municipalities are involved in the financing of recognized religions and secular humanism. The federal state pays the salaries and costs for accommodation of community leaders and subsidizes the construction and renovation of places of worship. The federal state also decides how many clerics will be remunerated within in each recognized religious community, an arrangement that Human Rights Without Frontiers (HRWF) has criticized as an unacceptable interference with the internal affairs of these communities. The country’s municipalities are required to pay the running costs of the ecclesiastical administrations that recognized religions operate – without having any right to control how the money spent actually is used. Islam remains dramatically under-financed in comparison with other recognized religions.

Non-recognized religious groups are also discriminated against in other ways than in terms of funding. For example, while chaplains of recognized religions and moral advisers of secular humanism officially have been granted the right to access prisons, detention centers for asylum-seekers, hospitals and military departments, non-recognized religious groups may not conduct visits in such institutions.

Moreover, the Belgian government has repeatedly interfered with the internal affairs of individual religious communities. At the request of the government, a Muslim representative body was created to function as the spokesperson of Islam in 1998. The country’s Muslims were invited to elect a constituent assembly, from which would emerge an executive to serve as the official interlocutor with the state. Apparently with the intention of securing an executive that would be “cooperative,” the government meddled in the appointment of executive members. The government screened all candidates and did not allow any member to take up his or her position before he or she had been formally approved. This interference caused wide resentment within the Muslim community, and the relations between the representative body and the government have continually been tense.³³ Tensions between the two parties reached a new climax at the end of 2002, when the Muslim assembly appointed a number of new members to its executive. As the government refused to

³² Unless otherwise noted, based on Human Rights Without Frontiers (HRWF), “Annual Report on Human Rights in Belgium” from the years 1999-2002. HRWF is an IHF cooperating organization.

³³ HRWF, “Religious freedom, intolerance and discrimination in the European Union: Belgium 2002-2003,” April 2003, p. 6.

endorse these members, a stalemate developed. In this situation, two senators were tasked to mediate, and as a result of the mediation, the government and the Muslim executive agreed in April 2003 that half of the members of the executive be replaced. The new executive is due to remain in office until May 31, 2004, when new elections to the Muslim assembly are scheduled. According to HRWF, it can be expected that the government will initiate changes to the process for electing representatives to the Muslim assembly before that date.³⁴

Another problematic development relates to measures taken by the Belgian authorities to identify, warn the public against and monitor the activities of so-called “harmful sects.” In March 1996, the parliament passed a law creating a parliamentary commission to examine the issue of “sects.” A year later, this commission presented a report, attached to which was a list of 189 movements suspected of being “harmful sects.” Although the introduction to the report stated that there was no intent to characterize any of the listed groups as “dangerous,” the list quickly became known in the media and to the public – precisely – as a list of “dangerous sects.” Ever since the publication of the report, groups and members of groups included on the list have reportedly been subjected to harassment and discrimination both by authorities and by private actors. Victims include, inter alia, members of Adventist, Evangelical, Pentecostal, Jehovah’s Witness, Sahaja Yoga, Spiritual Human Yoga, Raelian and Church of Scientology communities.

- Some Belgian municipalities have made it a requirement for civil service positions not to belong to any “harmful sect.”
- Religious associations mentioned on the official list of groups suspected of being “harmful sects” are often denied the right to rent public meeting venues.
- In divorce cases, courts sometimes deny child custody to a parent on grounds that he or she is affiliated with a “harmful sect.” In some cases, courts also grant a parent who is a member of a “sect” visitation rights only on condition that he or she does not “expose” his or her child/children to the teachings or lifestyle of the religious group in question.
- The tax department has denied the Japanese religious group Sukyo Mahikari the right to exemption from property tax for its place of worship because it is included on the list of groups suspected of being “harmful sects.” As of this writing, a court procedure initiated by Sukyo Mahikari in 1998 to appeal the tax department decision is still pending.

What is more, in 1999, two bodies were established to disseminate information about and coordinate the fight against “harmful sects” – the Center for Information and Advice on Harmful Sectarian Organizations (Sect Observatory) and the Inter-Ministerial Coordination Agency of Fight against Harmful Sectarian Organizations. The independence, objectivity and impartiality of both bodies are questionable. In particular, the recruiting method of the members of the Sect Observatory is problematic: half of the members are nominated by the Council of Ministers with approval by the House of Representatives, while the rest are directly appointed by the House of Representatives. In an indication of the political character of the recruiting method, the body is currently composed of representatives of political parties, the Catholic Church and various “anti-sect” movements. In addition, the Sect Observatory operates under and is funded by the Ministry of Justice. Neither the Sect Observatory nor the Inter-Ministerial Coordination Agency has taken any effective measures to address and put an end to the discrimination experienced by members of groups

³⁴ HRWF, “Towards a new Muslim Executive recognized by the State,” April 29, 2003.

depicted as “harmful sects,” and the activities of the two bodies have increased rather than reduced prejudice against such groups.

The Bulgarian Constitution recognizes Orthodox Christianity, which over 80 percent of the population identifies themselves with, as the country's "traditional" religion. The government currently in office in the country openly backs one fraction within the divided Bulgarian Orthodox Church, and has enforced a controversial Denominations Act that provides for extensive restrictions of the activities of other religious communities.

Since the early 1990s there has been a schism between two fractions within the Bulgarian Orthodox Church: the synod of Patriarch Maxim and the so-called "alternative synod." The latter accuses the former of cooperating with the regime during the communist era. The relations between the two synods have gradually worsened and have at times assumed violent forms.

- In July 2002, two ministers representing the synod of Maxim beat Father Stefan Kamberov of the alternative synod to death near Dobrinishte. The perpetrators were arrested and charged with premeditated murder. As of this writing, the case is still pending in court.

After taking power in 2001, the coalition government under Prime Minister Simeon Saxe-Coburg-Gotha, former Bulgarian Monarch, expressed support for the synod led by Patriarch Maxim and pledged to take measures to the end the division within the church. A concrete measure to this end followed when the Bulgarian parliament approved a new Denominations Act in December 2002.

Prepared by a particularly appointed parliamentary working group, the new law was pushed through the parliament in a process that did not allow due time for the political opposition or civil society groups to review it and to comment on its provisions. The working group also failed to submit the final draft to the Parliamentary Assembly of the Council of Europe for consultation, although it had stated that it would do so when it was set up in 2001.

The new law, which replaced an outdated law dating back to 1949, was severely criticized by religious and human rights organizations for its restrictive and discriminatory nature. These groups found that the provisions of the law violated both the Bulgarian Constitution and international standards on freedom of thought, conscience and religion. In a joint appeal, representatives of different religious groups as well as human rights lawyers and activist asked the president to veto the law. However, the president did not respond to this demand but signed the law. As a result, the law entered into force as of December 29, 2002.

Under the new law, the synod of Patriarch Maxim is recognized as the only legitimate representative of the Bulgarian Orthodox Church, while the alternative synod is prohibited from using an identical name and from making any claims for property that belongs to that church. This measure clearly runs counter to a ruling by the European Court of Human Rights in 2000, which concluded that state action favoring one particular leader of a divided religious community constitutes an infringement of freedom of religion.³⁶ The law also

³⁵ Based on Bulgarian Helsinki Committee (BHC), *Human Rights in Bulgaria in 2002*, at <http://www.bghelsinki.org/frames-reports.htm>; and Krassimir Kanev, "The New Bulgarian Religious Law – Restrictive and Discriminatory," unpublished as of this writing.

³⁶ This ruling concerned the refusal of the Bulgarian authorities to register one of the two branches of the country's divided Muslim community in 1995. See ECHR, *Hasan and Chaush v. Bulgaria* (Appl. No 30985/96), Decision of October 26, 2000, §78.

grants the synod of Patriarch Maxim the status of a legal entity with the force of law and thereby places the synod in a privileged position in relation to other religious communities in the country.

Moreover, the new Denominations Act retains the requirement that all religious communities, except the Bulgarian Orthodox Church, must register with the authorities in order to be able to practice their beliefs in public. Decisions on registration are made by the Sofia Municipality Court. However, a special government body on religious affairs – the Religious Denominations Directorate – may give “expert opinions” to this court on any matter related to registration, which raises serious concern about the impartiality and neutrality of the registration process. The registration process also involves that a religious community submit a statement on its belief system and its worship and observance practices, thus undoubtedly opening up an avenue to arbitrary decisions. Local branches of a particular religious community must register with the municipal authorities upon application by their central leadership. According to the Bulgarian Helsinki Committee, this requirement is aimed at ensuring that the central leadership of various religious communities exercise effective control over their member congregations. Similar legislation does not exist regarding non-religious groups, such as trade unions and political parties.

In another problematic provision, the law grants the Religious Denominations Directorate powers to “investigate indications and complaints by citizens alleging that their or their relatives’ or friends’ rights and freedoms have been violated as a result of a third person’s abuse of the right to freedom of religion.” The Bulgarian Helsinki Committee has criticized the wording of this provision as excessively vague, and has expressed serious concern that implementation of it will result in a situation where the Religious Denominations Directorate acts as a “religious police force,” keeping religious believers and communities under constant control. The Religious Denominations Directorate may also advise the police on whether to issue visas to foreign religious leaders and activists who have been invited by religious communities to visit the country. Again, no such mechanism exists for non-religious groups wishing to sponsor visas of foreign guests.

The law also lists a number of activities that religious organizations are not allowed to engage in, some of which seem unnecessarily broadly formulated and go beyond the grounds for restrictions of religious activity permitted by international law. A religious organization may, for example, be subject to sanctions if it is considered to use religious convictions to achieve political goals or to recruit minors without the consent of their parents. Among the sanctions foreseen are measures to ban the organization from publishing religious material, to suspend its activities or to revoke its legal status. Legal proceedings against a religious community may be initiated by a motion to court of any interested party. Most disturbingly, there is a danger that religious communities – in violation of the legal principle of double jeopardy – may be punished twice for the same activity, as the religious denominations directorate also may impose administrative fines on such groups or their members for any breach of the law. The Bulgarian Orthodox Church may not be subject to any measure affecting its status as a legal subject *ex lege*.

Krassimir Kanev, chairman of the Bulgarian Helsinki Committee and an expert on religious freedom issues, has concluded that the restrictive and discriminatory provisions of the new Denominations Act reflect a prejudiced attitude toward minority religions as well as toward religion *per se*. He has further noted that they are based on poor knowledge of international human rights law and of the character of different religious beliefs.

Following the adoption of the law, 50 opposition MPs petitioned the Constitutional Court, demanding that it declare unconstitutional the provisions of the law that establish a privileged status of the Bulgarian Orthodox

Church. As of this writing, the Constitutional Court has declared the petition admissible but is yet to rule on the case.

France

In France, separation of state and church is a leading principle, and by law the state may only interfere with the affairs of religious groups to the extent it is necessary to guarantee public order.³⁷ With reference to the need to ensure public security and respect for citizens' rights, the French government has actively engaged in efforts to control the activities of so-called "sects" during the last decade, which has had negative implications for religious tolerance in the country. Upon taking office in the summer of 2002, the current government indicated that it intends to assume a more moderate approach toward "sects" than its predecessors. Bearing this in mind, the IHF calls on the government to review all policies related to "sects" in order to ensure that they are constructive, proportionate and in full accordance with international human rights standards, and to take effective measures to counteract prejudice and discrimination against "non-traditional" religious groups in the country.

In 1995, a French parliamentary commission set up to study the so-called "sect" issue published a report, which listed 172 religious groups deemed to be "harmful" and "dangerous" "sects." The publication of this study, which was rejected by experts because of its poor methodology, was ensued by a wave of bigoted and slanderous media reports targeting the listed groups as well as by increasing public suspicion and intolerance toward them. Although the list is not a legally binding document, local authorities as well as private actors have also used it to justify discriminatory actions against members of those groups included on it, e.g. when renting meeting facilities and when hiring or promoting employees.³⁸

In 1998, the French government established the Inter-Ministerial Mission for the Fight against Sects (*Mission interministérielle de lutte contre les sectes* – MILS) to coordinate the monitoring of "sects," and appointed as its head Alain Vivien, chairman of an anti-sect movement. This body was criticized for contributing to fostering mistrust and fear against the groups listed as "sects." According to Human Rights Without Frontiers (HRWF), the mission "was in constant contact with anti-sect groups of which it was the official channel." The HRWF has further noted that "MILS played an advisory role at ministries in which it created a network of agents whose mission was to thwart the actions of sects."³⁹ MILS was also criticized for independently developing activities abroad, often seen to be in violation of religious freedom, and for misusing funds.

In a positive move, MILS was dissolved after its president resigned following the June 2002 parliamentary elections. After publicly acknowledging the criticism targeted at MILS, the new government under Prime Minister Jean-Pierre Raffarin set up a new commission, the Interministerial Mission of Vigilance and Fight against Sectarian Deviances (*Mission interministérielle de vigilance et de lutte contre les dérives sectaires* – MIVILUDES), to replace MILS in late 2002. The name of the new body was supposed to reflect a more moderate and liberal attitude than the previous body had showed. According to the decree that established MIVILUDES, the mission should respect civil liberties and carry out international activities related to its mandate only under supervision by the Ministry of Foreign Affairs. The decree also provided for a less bureaucratic composition of the body than that of MILS.⁴⁰

³⁷Human Rights Without Frontiers (HRWF), "From the MILS to the MIVILUDES: France's Sect Policy after the Fall of the Socialist Government -- research paper written by Régis Dericquebourg, University Charles de Gaulle-- Lille 3," April 4, 2003.

³⁸See HRWF, "New Dramatic Developments in the Sect Issue," July 7, 1998; and update to this press release of March 4, 1999.

³⁹HRWF, "From the MILS to the MIVILUDES," op.cit.

⁴⁰Mission interministérielle de vigilance et de lutte contre les dérives sectaires, Decree No. 2002-1392 of November 28, 2002, at <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=PRMX0200164D>

Jean-Louis Langlais, senior officer of the Ministry of the Interior, was nominated president of MIVILUDES. HRWF considers it significant that an official and not an “anti-cultist” was selected for this position, but has voiced some misgivings regarding the fact that a number of previous members of MILS as well as people well-known for their negative attitudes toward minority religions are included in MIVILUDES.⁴¹ In an interview given to HRWF in March 2003, the new president of MIVILUDES emphasized that the issue at stake is not to fight “sects” as such but merely “deviances” these might have. However, he also admitted that it is difficult to define the concept of “deviances.”⁴² At this stage it appears premature to comment on the work of MIVILUDES and the course pursued by it as compared to that of MILS.

Furthermore, the so-called About-Picard Sect Bill remains a matter of concern. This law, which is intended “to reinforce the prevention and repression of groups of a sect-like character” (*loi tendant à renforcer la prévention et la répression des mouvements sectaires portant atteinte aux droits de l’homme et aux libertés fondamentales*), was passed by the Senate in May 2001 and approved by the National Assembly a few weeks later, in spite of strong opposition by French churches, by national and international NGOs and by legal experts.

The law introduced a new criminal offence of “fraudulent abuse of the state of ignorance or weakness of a minor, a person whose particular vulnerability on account of age, illness, infirmity, a physical or mental disability or pregnancy is apparent and known to the perpetrator, or a person in a state of psychological or physical subjection resulting from the use of severe or repeated pressures or of techniques such as to impair that person’s judgment, with the aim of inducing that minor or person to commit an act or omission seriously harmful to his or her interests.” The penalty amounts to three years’ imprisonment and a heavy fine.⁴³ This provision gives rise to concern because some of the expressions used in it, such as “psychological or physical subjection” and “pressures,” are vague and ambiguous and may result in varying interpretations and possibly in arbitrary implementation restricting freedom of religion, expression and association.

Also, under the law, a “sect,” as well as any other legal entity, may be dissolved if it is considered to meet two sets of criteria: a) it “pursues activities with the objective or effect of achieving, maintaining or exploiting the psychological or physical subjection of persons participating in those activities”; and b) it or its managers have been finally convicted of one or more of certain criminal offences. Dissolution proceedings may be initiated before a high court at the request of the public prosecutor or on an application by any interested party.⁴⁴ This provision raises concern because of the vagueness of the expression “psychological or physical subjection” and, in addition, because the list of crimes that is covered seems unnecessarily broad. Among the listed crimes are unintentionally causing physical or mental harm to others, practicing pharmacy illegally and misleading advertising.

⁴¹ HRWF, “Jean Louis Langlais is new President of the French Mission,” December 12, 2002; HRWF, “From the MILS to the MIVILUDES,” *op.cit.*

⁴² HRWF, “Interministerial Mission for Vigilance and Fight against Sectarian Deviances (MIVILUDES): Interview with Jean-Lois Langlais, president of MIVILUDES,” March 13, 2003.

⁴³ Chapter V, Section 6 bis of ACT No. 2001-504 of 12 June 2001 to reinforce the prevention and suppression of sects which infringe human rights and fundamental freedoms. English translation of the law included in Council of Europe, Report on Freedom of Religion and Religious Minorities in France, prepared by rapporteur Cevdet Akcali on behalf of the Committee on Legal Affairs and Human Rights, October 31, 2002 (9612/2002).

⁴⁴ Chapter I, Section 1 of ACT No. 2001-504 of 12 June 2001 to reinforce the prevention and suppression of sects which infringe human rights and fundamental freedoms. See previous footnote for information on English translation of the law.

In November 2002, a rapporteur appointed by the Parliamentary Assembly of the Council of Europe (PACE) to investigate whether the About-Picard Sect Bill meets European human rights standards presented his findings.⁴⁵ PACE subsequently adopted a resolution reminding the French government of the fact that the rights laid down by ECHR articles 9 to 11 (freedom of thought, conscience and religion; freedom of expression; and freedom of assembly and association) may be restricted only on certain conditions and concluded that “ultimately, should the case arise, it will be for the European Court of Human Rights, and it alone, to say whether or not the French law is compatible with the ECHR.” The resolution also called on the French government to reconsider the law.⁴⁶

As regards the Jehovah’s Witnesses, which is one of the largest groups that have been listed as “sects,” a number of important court decisions were issued in the latter half of 2002.

- On December 18, 2002, the Court of Appeal of Versailles reversed a decision by a lower court and convicted Jean-Pierre Brard – a French deputy, *Journal 15-25 ans COM* and the director of this magazine for defamation. The court ordered that a communiqué drafted by it be published in *Journal 15-25 ans COM* as well as in a national daily paper and that the defendants pay €4,000 to the Christian Federation of Jehovah’s Witnesses. The verdict related to a September 2001 report on sects published by *Journal 15-25 ans COM*, where Brard accused the Jehovah’s Witnesses of employing the same methods as international criminal organizations. In March 2003, Brard appealed the verdict to the Court of Cassation, which is the highest court in the country.⁴⁷
- On November 6, 2002, the Auch High Court ordered the dissolution of an organization that had been explicitly created to prevent Jehovah’s Witnesses from constructing a place of worship in Berdues. The court found that the organization’s goal was to “hinder the free exercise of religion.”⁴⁸
- On October 17, 2002, the administrative court of Orléans annulled a municipal decree issued by the mayor of Sorel-Moussel, which granted him the pre-emptive right to purchase a plot of land that the local Jehovah’s Witness community had intended to buy and use for the construction of a house of worship.⁴⁹

⁴⁵ Council of Europe, Report on Freedom of Religion and Religious Minorities in France, prepared by rapporteur Cevdet Akcali on behalf of the Committee on Legal Affairs and Human Rights, October 31, 2002 (9612).

⁴⁶ Council of Europe, “Freedom of religion and religious minorities in France,” Resolution No. 1309/2002.

⁴⁷ HRWF, “Jehovah’s Witnesses v. Jean-Pierre Brard: A Defamation Case,” March 20, 2003.

⁴⁸ HRWF, “Judicial Dissolution of an anti-Jehovah’s Witnesses Association,” December 12, 2002.

⁴⁹ Ibid.

Georgia

The Georgian Constitution provides for separation of state and church, but also establishes that the Georgian Orthodox Church has played a “special role” in the country’s history. A recent constitutional agreement (a so-called concordat) between the state and this church further strengthens its position. Minority religions face restrictions of their activities and fear that such restrictions will increase if the concordat is actively implemented and if a draft religion law that has been proposed by the government is adopted. Most worrisome, members of minority religions continue to be subject to violent attacks by Orthodox extremists who act with impunity.

The concordat between the state and the Georgian Orthodox Church, which was signed in October 2002, grants the Georgian Orthodox Church a number of rights that other religious communities in Georgia do not enjoy. According to the concordat, the state decides with consent of the Orthodox Church, whether other religious communities may use Orthodox symbols and terminology and whether they may build churches, publish religious literature and produce worship items such as ecclesiastical paintings and icons. The concordat also grants the Orthodox Church tax-exempt status; the right to recover all property that previously belonged to it but was confiscated during the Soviet era; and the right to decide who can offer religious education in schools as well as the content of such education. Representatives of minority religious communities have expressed concern that the concordat will be implemented in a way so as to further obstruct their opportunities to exercise their religious convictions.⁵⁰

Unlike all other former Soviet republics, Georgia has not adopted any law on religion since the fall of the Soviet Union, although such a law has been under discussion for several years. In the latest development, the Ministry of Justice presented a comprehensive draft for a law on religion in June 2002. This draft law introduces a number of provisions related to registration, which have been criticized by human rights activists and representatives of minority faiths for opening up the possibility of arbitrary implementation restricting freedom of religion. Under the draft law, religious groups must register with the government in order to be able to operate lawfully in the country. One of the requirements for filing an application is that a group submits address and other personal information of 50 founding members. As part of the application process, the group will also be subject to a “religious expert assessment,” the form and content of which are unclear. According to another vaguely worded provision, registration will not be granted to those religious groups whose “objective and activity are in breach of the Constitution.”⁵¹

Moreover, the draft law prohibits “improper proselytism,” which is defined as “the offer of material or social benefits with a view to attracting new members to a religious entity or a confession or psycho-ideological influence on a person with the same end without apparent preliminary consent on the part of the latter.” According to a proposed amendment to the Criminal Code, such activities will be punishable with up to two years in prison. Representatives of minority religious have expressed fear that the provisions outlawing “improper proselytism” may be used to repress religious groups that are involved in legitimate social care activities.⁵²

⁵⁰ *RFE/RL Newslines* October 15, 2002; *RFE/RL Newslines* October 23, 2002; Keston Institute, “Orthodox-State Concordat Signed,” October 15, 2002; Keston Institute, “Veto for Patriarchate Over All Church-Building and Religious Literature,” October 23, 2002.

⁵¹ Keston Institute, “Draft Religion Law Consultation,” July 9, 2002; Keston Institute, “Serious Concern over Draft Religion Law,” July 9, 2002

⁵² *Ibid.*

In a development strongly condemned by human rights NGOs and monitoring bodies, members of minority religions have been subjected to severe harassment and violence in Georgia during the last few years. Orthodox extremists, who particularly have singled out Jehovah's Witnesses, Pentecostals, Baptists and Evangelic Christians for attacks, have raided and looted private homes, destroyed places of worship, burnt religious literature and other property, and threatened and physically abused believers. The extremists have repeatedly used exceptionally brutal methods, such as beating believers with clubs and sticks spiked with nails, leaving many victims in need of hospital treatment and some with permanent injuries.⁵³ Between 1999 and mid-2002, over 100 attacks were recorded,⁵⁴ and since then the number has increased further.

The Orthodox extremists have sought to secure public support for their attacks by claiming that the activities of religious minorities threaten the Georgian identity and the Georgian nation, both of which generally are viewed as closely linked to the Georgian Orthodox Church.⁵⁵ The media has also contributed to strengthening suspicious attitudes against religious minorities by reporting on attacks in a prejudiced and biased manner.⁵⁶

Most troubling, the authorities have not responded adequately to the wave of religious violence. Police have often failed to respond to appeals by victims or have passively stood by as attacks have been carried out. In some cases police and local administration officials have also participated in attacks.⁵⁷ What is more, while victims have filed nearly 800 complaints with prosecutors, investigations into such complaints have typically been slow, ineffective or non-existent and have rarely resulted in indictment.⁵⁸ In July 2002, 99 Jehovah's Witnesses filed a joint application with the European Court of Human Rights, documenting 30 different cases where prosecutors and courts have declined to open criminal procedures in spite of apparent evidence of criminal acts, including eyewitness testimony, photographs and video clips. As of June 2003, not a single perpetrator of religious violence in the country had been punished.⁵⁹ Courts have also summarily dismissed complaints by victims against police and other officials in spite of overwhelming evidence of their complicity in attacks.⁶⁰

The president and some government representatives have officially condemned expressions of intolerance against religious minorities, but the government has not taken any effective measures to remedy the prevailing climate of impunity that the attitude on part of the police, prosecutors and courts have resulted in. As a consequence, the situation has continued to deteriorate.⁶¹

⁵³ Human Rights Watch, *Memorandum to the U.S. Government on Religious Violence in the Republic of Georgia*, August 29, 2001, at <http://www.hrw.org/backgrounder/eca/georgia/>; submission by the Office of General Counsel of the Jehovah's Witnesses to the US State Department for the Country Reports on Human Rights Practices 2002.

⁵⁴ Keston Institute, "Religious Minority Leaders Condemn Religious Violence Again," July 8, 2002.

⁵⁵ Human Rights Watch, *Memorandum to the U.S. Government...*, op.cit.

⁵⁶ Compare European Commission against Racism and Intolerance, *Report on Georgia*, CRI(2002)2, April 23, 2002, at <http://ishrg.tripod.com/newsletters/ecri.pdf>

⁵⁷ See, for example, Human Rights Watch, *Briefing Letter to the Human Rights Committee*, March 15, 2002, at <http://hrw.org/press/2002/03/briefing-0315-ltr.htm>

⁵⁸ Office of the General Counsel of the Jehovah's Witnesses, "Violent Religious Intolerance Remain Unchecked in Georgia," January 30, 2003.

⁵⁹ Jehovah's Witnesses in Georgia, "Thirty new cases against Georgia filed with the European Court," July 23, 2002.

⁶⁰ Submission by the Office of General Counsel of the Jehovah's Witnesses to the U.S. State Department for the Country Reports on Human Rights Practices 2002.

⁶¹ For example, in February 2003, President Shevardnadze stated that "religious violence must be curbed," but failed to outline any concrete measures for how to further this aim. Civil Georgia, "Shevardnadze calls to curb religious violence," February 26, 2003.

These are just a few examples of attacks reported by Jehovah's Witnesses during 2002⁶²:

- On September 16, 2002, a mob of masked men raided a Jehovah's Witness meeting held in a private home in Napareuli, near Telavi. The mob members ransacked the home, destroyed religious literature, and stole money and personal belongings. They insulted, cursed at and physically assaulted those present, and beat one participant unconscious. Gunshots were also heard. According to eyewitnesses, a leading member of the local administration was involved in the attack. Local police refused to accept any complaints about the incident.
- On August 15, 2002, a bus full of members of the ultra-Orthodox organization Jaava arrived at the home of Jehovah's Witness Shalva Mamporia in the village Ortasheni near Gori. The Jaava members bet Mamporia and threatened to kill him unless he agreed to convert to Christian Orthodoxy. While keeping him locked in a shed, they also destroyed and looted his home and burnt religious literature as well as a stage and furniture used for Jehovah's Witness conventions.
- On April 7, 2002, some 25 religious extremists armed with clubs and an axe invaded a Jehovah's Witness meeting in Tbilisi. The extremists looted the home where the meeting took place, confiscated religious literature and personal belongings of the owner and assaulted those attending the meeting. Police were initially reluctant to respond to a call for help, and when they finally arrived, they derided the victims and told them not to conduct such meetings again.

The most notorious attacks on religious minorities have been led by Vasili Mkalavishvili, a defrocked Greek Orthodox priest, who has openly stated that he has received backing from the police and security services.⁶³ In response to international pressure, the authorities eventually brought criminal charges against Mkalavishvili and one of his aides, Petre Ivanidze, in 2001. The trial was opened in January 2002, but has repeatedly been postponed for various reasons, including a lack of security in the courtroom. At many hearings, Mkalavishvili's supporters have burst into the courtroom in large crowds, carrying provocative banners, icons and crosses and intimidating and attacking victims, lawyers and international observers. In spite of promises to the contrary, the court has failed to take adequate measures to address the situation and to guarantee security.⁶⁴ As a result, a menacing atmosphere has continued to prevail in the courtroom, and has not only prevented the proceedings from progressing but has also seriously undermined their credibility. Representatives of minority religions have criticized the authorities for not showing any real commitment to prosecuting Mkalavishvili, and have depicted the trial against him as a "charade," initiated solely to ward off international criticism. The minority representatives have pointed out that Mkalavishvili is tried for only a few attacks⁶⁵, none of which is among the most serious that have occurred during the past few years, and that he is likely to receive only a lenient sentence even if found guilty.⁶⁶ Since the trial was opened, Mkalavishvili has staged new attacks on religious minorities.⁶⁷ This is only one example from this year:

⁶² Submission by the Office of General Counsel of the Jehovah's Witnesses to the US State Department for the Country Reports on Human Rights Practices 2002.

⁶³ Human Rights Watch, *Memorandum to the U.S. Government...*, op.cit.

⁶⁴ Office of General Counsel of the Jehovah's Witnesses, "Violent Religious Intolerance Remain Unchecked in Georgia," January 30, 2003; Office of General Counsel of the Jehovah's Witnesses, "Extremists attack victims and attorneys in Georgia court," April 29, 2003; Forum 18, "Georgia: Scepticism Greets New Pledges to End Religious Violence," March 25, 2003.

⁶⁵ Initially the case covered five attacks, but after two of the plaintiffs withdrew from the case in protest to the manner in which it is conducted, it presently covers only three cases.

⁶⁶ Keston Institute, "Violent Priest's Trial a 'Charade,'" November 4, 2002.

⁶⁷ Forum 18, "Scepticism Greets New Pledges to End Religious Violence," March 25, 2003.

- On January 24, 2003, an ecumenical service, involving five Christian minority dominations, was scheduled at the Central Baptist Church in Tbilisi. However, an hour before the service was due to begin, a mob of Orthodox extremists led by Mkalashvili arrived at the place. The mob smashed the windows of the church, and verbally and physically abused church members who were preparing the service, including by throwing bricks and stones at them and by beating them mercilessly. As a result of the attack, the service was cancelled.⁶⁸

In early June 2003, a court order was issued to arrest Mkalashvili, pending the outcome of his trial. However, he reportedly went into hiding in order to avoid arrest.⁶⁹

The IHF strongly condemns the vicious circle of religious violence that has been allowed to develop in Georgia during the last few years. We are extremely concerned that the charges brought against Vasili Mkalashvili by no means reflect the gravity of the crimes he has committed and fear that the continued failure of the authorities to hold him and his supporters, as well as other extremist actors, liable for the full number of violent acts they have carried out will serve to further escalate religious intolerance in the country. We call on the Georgian government to take urgent measures to put a halt to all forms of religious violence; to ensure that all complaints of such acts be properly investigated; and that all perpetrators be prosecuted and tried in fair, impartial and transparent proceedings.

⁶⁸ Forum 18, “President Pledges Punishment for Religious Violence,” March 25, 2003; Forum 18, “No End to Impunity Despite Presidential Pledge,” Tuesday May 6, 2003.

⁶⁹ Forum 18, “‘We’ll be back’, mob warns Pentecostals,” June 16, 2003.

An overwhelming majority of the Greek population associate themselves with the Greek Orthodox Church, which is recognized as the “prevailing” religion in the Greek Constitution. The relationship between the state and the Greek Orthodox Church is intimate, and the church is afforded preferential treatment in comparison with other religious communities in terms of financial and other forms of support. The state regularly interferes in the affairs of the church, but the church is also able to influence the affairs of the state to a much higher degree than other religious communities. The fact that the Greek Orthodox Church enjoys a privileged status vis-à-vis the state negatively influences the situation of other religious communities in the country – in direct and indirect ways.

The Greek Orthodox Church has been criticized for encouraging prejudices and hostility against non-Orthodox groups in an effort to retain its dominant position. Such sentiments have also been echoed by the media and sometimes embraced by local authorities as well as by prosecutors and courts. As a result, a general climate of intolerance against minority religions prevails in the country, and many citizens hold the attitude that it is a “duty to be Orthodox” and that belonging to other denominations is “unpatriotic and heretical.”⁷¹

Members of minority religions are reportedly subject to discrimination at work places and in schools and face career limits within the military, the police and the civil service because of their religious convictions. Such practices have prompted some non-Orthodox believers to conceal their religious identity in order to be able to enjoy equal career opportunities with Orthodox Christians. NGOs also continue to receive reports about cases where people who belong to minority faiths are arbitrarily arrested or experience difficulties when they address the authorities regarding administrative affairs. Moreover, the country’s legislation contains a number of problematic provisions that may be implemented so as to unduly restrict the right of minority religious communities to exercise their religious beliefs.

Under Greek law, the Greek Orthodox Church, as well as the country’s Jewish and Muslim communities, are recognized as legal subjects of public law. All other religious communities are considered legal subjects of private law. These communities may obtain the status of a “known” religion, which allows them to worship freely but not to own property or to undertake financial transactions in their own name. In order to be able to operate as full legal subjects, they must establish a separate association or foundation in accordance with the provisions of the Civil Code. Thus, non-Orthodox minority religions are subject to a legal and administrative burden that the Greek Orthodox Church and the Jewish and Muslim communities do not encounter. They also do not qualify for certain tax exemptions that these three communities are entitled to. As the UN Special Rapporteur on the Question of Religious Intolerance has stressed, it is a matter of concern that the concept of a “known” religion is not defined anywhere in the law and that there is no formal mechanism through which religious communities can obtain this status.⁷²

The Greek Constitution establishes a general prohibition against proselytism. The constitutional prohibition is complemented by a special law, which was adopted during the military dictatorship of General Metaxas in the 1930s. This law states that “by proselytism is meant, in particular, any direct or indirect attempt to

⁷⁰ Unless otherwise noted, based on Greek Helsinki Monitor (GHM), *Religious Freedom in Greece*, September 2002, at http://www.greekhelsinki.gr/bhr/english/organizations/ghm_mrgg_religious_freedom_2002.rtf

⁷¹ This statement was made by a representative of the Greek Evangelical (Reformed) Church in 1999.

⁷² Abdelfattah Amor, Special Rapporteur of the UN Commission on Human Rights on the Question of Religious Intolerance, *Interim report concerning a visit to Greece*, (A/51/542/Add.1), November 1996.

influence the religious beliefs of a person of a different religious persuasion, with the aim of undermining those beliefs, either by promising material or moral gains, by fraudulent means or by taking advantage of this person's inexperience, trust, need, low intellect or naivety." According to the law, those who engage in proselytism may be subject to various sanctions, including fines, imprisonment for up to five years and deportation from the country. The provisions criminalizing proselytism have inter alia been criticized by the UN Special Rapporteur on the Question of Religious Intolerance, who has noted that "proselytism is itself inherent in religion."⁷³ The European Court of Human Rights has also expressed doubts regarding the provisions, and has stressed that a distinction must be made between "bearing witness" and "corrupt and deformed forms of proselytism." The court found a violation of article 9 of the European Convention on Human Rights (ECHR), which safeguards freedom of thought, conscience and religion, in a case where the Greek authorities had failed to show that a person convicted of proselytism had used improper means.⁷⁴

In 2002, a representative of the Greek government claimed that the provisions on proselytism are no longer actively implemented in the country. Since December 2001, when 14 Pentecostals were tried for proselytism but acquitted⁷⁵, there has been no case where representatives of minority religions have been prosecuted for proselytism.⁷⁶ While welcoming this development, the IHF and the Greek Helsinki Monitor (GHM) are concerned that the provisions on proselytism remain valid and call on the Greek government to show its commitment to freedom of religion by taking immediate action to abolish them.

According to other legislation dating back to the 1930's, all religious communities except those representing the Greek Orthodox Church must obtain permission from the Ministry of National Education and Religious Affairs to be able to open houses of worship. After consulting with the Greek Orthodox Church, the ministry grants permission on condition that the religious community applying for permission is a "known" religion, does not endanger public order or morals through its worship practices, and does not engage in proselytism. Houses of worship that are constructed or operated without a license may be closed down and those responsible may be brought to court. The European Court of Human Rights has noted that the licensing provisions "allow far-reaching interference by the political, administrative and ecclesiastical authorities with the exercise of religious freedom," in particular because they do not lay down any deadline for when the Ministry of National Education and Religious Affairs should make decisions and do not require that decisions be motivated or explained. The court has also concluded that: "[it] appears that [...] the State has tended to use the possibilities afforded by the [licensing provisions] to impose rigid, or indeed prohibitive, conditions on practice of religious beliefs by certain non-Orthodox movements, in particular Jehovah's Witnesses."⁷⁷

Since the late 1990s the situation has improved considerably and licenses are now normally issued as a routine matter. However, the problematic provisions remain in force, and in some cases non-traditional communities continue to experience difficulties when applying for a license. The Dodekatheists⁷⁸ have been waiting for a decision on their application for a license for two years⁷⁹, and the Scientologists were denied a license in 2000 on grounds that they are not a "known" religion. The latter decision has subsequently been

⁷³ Ibid.

⁷⁴ European Court of Human Rights, *Case of Kokkinakis v. Greece*, (Application 00014307/88), May 25, 1993, §49.

⁷⁵ For more information on this case, see IHF, *Human Rights in the OSCE region: The Balkans, the Caucasus, Europe, Central Asia and North America. Report 2002 (events of 2001): Greece*, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=98

⁷⁶ Information from the GHM to the IHF, May 2003.

⁷⁷ European Court of Human Rights, *Case of Manoussakis and others v. Greece*, (00018748/91), September 26, 1996.

⁷⁸ The Dodekatheists believe in the twelve ancient Gods of Greece.

⁷⁹ Information from the GHM to the IHF, May 2003.

criticized by three Greek experts, who have concluded that, in accordance with the Greek Constitution, the Scientologists ought to have the right to open houses of worship irrespective of whether they form a religious movement or some other kind of movement with a metaphysical life philosophy.⁸⁰ In December 2000, 16 Catholics, Protestants and Jehovah's Witnesses were simultaneously tried for "the unauthorized operation" of houses of worship in spite of evidence indicating that they had obtained the required licenses. They were all acquitted.⁸¹ Although there has been no similar case in the last two and a half years⁸², it remains a matter of concern that such prosecutions are possible under the country's law and may be used to harass minority religious communities.

Currently there is no mosque to serve the Muslim community of Athens, which is believed to comprise more than 100,000 believers. In 2000, the government eventually decided to construct a mosque in the capital region. While land subsequently has been made available in Paenia, a suburb of Athens, construction is yet to start as of this writing. The choice of the location of the mosque has been criticized because the site is far from downtown Athens, where most of the capital's Muslims are settled. The Greek Orthodox Church has opposed plans to construct a mosque within Athens city, arguing that "the people are not ready for accepting the site of a minaret in the center of a Christian Orthodox country."⁸³

In a positive development, the government decided in 2001 to abolish the requirement that religious affiliation be indicated on identity cards, which had been criticized by minority religions as a source of discrimination.

⁸⁰ Unofficial English translation of expert opinion of professors Stathopoulos, Tsatsos and Melissas regarding the Church of Scientology of Greece, 2003.

⁸¹ For more information on this case, see IHF, *Human Rights in the OSCE region: The Balkans, the Caucasus, Europe, Central Asia and North America. Report 2001 (events of 2000): Greece*, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=839

⁸² Information from the GHM to the IHF, May 2003.

⁸³ Frank Bruni, "Muslims' Unanswered Prayer: A Place to Worship," *New York Times*, April 22, 2003.

According to the Russian Constitution, Russia is a secular state where state and church are separated and all religious communities are equal before the law. However, in reality, authorities give the Russian Orthodox Church privileged treatment throughout the country. At the same time, minority religious communities are often viewed with great suspicion and subjected to various restrictions of their activities.

In 1997, a restrictive Law on Freedom of Conscience and Religious Organizations was adopted. This law, which has been considered targeted against so-called “non-traditional” religions⁸⁵, establishes that Russian Orthodoxy has played a “special role” in the history, culture and spiritual development of the country.

In practice, authorities at both federal and local levels have entered into special agreements with the Russian Orthodox Church, thus granting it preferential treatment in terms of organizing worship and offering education in institutions such as prisons, schools, hospitals and military detachments.⁸⁶ Representatives of the church have also been invited to participate in political decision-making on matters related to religion, which often has resulted in biased policies against minority religious groups.

Under the Law on Freedom of Conscience and Religious Organizations, it is not compulsory for religious associations to register with the authorities, but only registered organizations have legal status and enjoy certain basic rights, such as the right to own property, to import and publish literature, to sponsor visas of foreign guests and to carry out religious services in other places than buildings designated for worship. A faith that has at least three congregations may be registered at the federal level. Those communities that already were registered when the law took effect were required to re-register by the end of 1999, a deadline that later was extended by a year, in order not to lose their legal status. As a norm, religious associations are required to have existed in the country for 15 years in order to qualify for registration.

In many regions, “non-traditional” religious communities have experienced difficulties to register or re-register with the authorities since the law entered into force. After lengthy and complicated procedures, religious associations have been denied registration for such dubious reasons as technical mistakes in application documents or elements in their teachings found to be “destructive.” In some cases, religious communities that have been denied re-registration have subsequently been subjected to liquidation proceedings in court. A 2002 ruling by the Constitutional Court set an important precedent in this respect.

- In 1999, the Moscow Branch of the Salvation Army was denied re-registration on grounds that it is a “paramilitary” body. Following this decision, the Moscow city authorities brought a case against the group, demanding that it be liquidated because of its failure to obtain re-registration. In September 2001, a Moscow district court responded to the demand by ordering that the local branch of the Salvation Army be closed down. The decision was subsequently upheld on appeal. However, in February 2002, the Constitutional Court ruled that the decisions allowing for the dissolution of the group were based on a misinterpretation of the Law on Freedom of Conscience and Religious Organizations, and stressed that a religious group cannot be liquidated for not meeting the re-registration deadline stipulated by the law if it has made an active attempt to re-register. As a result

⁸⁴ Unless otherwise noted, based on information from the Moscow Helsinki Group (MHG) to the IHF.

⁸⁵ Russian Orthodoxy, Judaism, Islam and Buddhism are often depicted as “traditional” religions, while other religions are seen as “untraditional.”

⁸⁶ According to the MHG, agreements of this kind have almost exclusively been concluded with the Russian Orthodox Church, but in some rare cases authorities have entered into agreements with other churches.

of the ruling, the courts that previously had sanctioned the dissolution of the group revoked their decisions. While relieved about this development, the Moscow branch of the Salvation Army continues to struggle for re-registration. After exhausting all legal avenues in the country, the group has filed an application with the European Court of Human Rights. This court is expected to decide on the admissibility of the case within a near future.⁸⁷

Since many provisions of the Law on Freedom of Conscience and Religious Organizations are unclear and contradictory, and regional and local authorities often have adopted complementary legislation, varying restrictive practices are applied in different parts of the country. Some regional and local authorities limit the rights of unregistered religious groups beyond what is explicitly stated in the federal law, and refuse, for example, to allow them to rent meeting premises even as individuals, while yet other authorities treat such groups as “illegal.” Irrespective of their status, minority religious communities also face other forms of harassment, such as denials of visas to or expulsion of foreign religious leaders. The religious communities most frequently targeted include the Salvation Army, the Jehovah’s Witnesses, the Church of Jesus Christ of Latter-Day Saints (Mormons) and various Protestant churches, such as Pentecost, Adventist and Church of Christ communities.

In Moscow, a threat of being banned has loomed over the Jehovah’s Witnesses for several years.

- In 1998, a Moscow prosecutor filed a complaint with a district court, demanding that the local group of the Jehovah’s Witnesses be banned under the Law on Freedom of Conscience and Religious Organizations because it allegedly “incites religious discord,” “breaks up families” and “infringes upon citizens’ rights and freedoms.” During the proceedings, which now are in their sixth year, the prosecutor has not been able to present any concrete evidence of wrongdoing of the members of the community, and have mainly sought to support her claims by referring to articles published in the Jehovah’s Witnesses’ magazine *The Watchtower* and materials used by them throughout the world. On repeated occasions, the proceedings have been postponed because of court-ordered “expert studies.” In February 2001, the presiding judge dismissed the charges against the Jehovah’s Witnesses, arguing that there was “no basis whatsoever” for liquidating and banning the group. However, the prosecutor successfully appealed this decision, and in May 2001, the Moscow City Court remitted the case to the district court for retrial. The retrial, which was opened in October 2001, has followed the same pattern as the initial trial, and as of this writing there is no end in sight to it. As the Jehovah’s Witnesses have pointed out, the litigation process is clearly a case of legal persecution against the community. A complaint by the Moscow Jehovah’s Witness group to the European Court of Human Rights was declared admissible in 2002, but the case is still pending.⁸⁸

⁸⁷ Keston Institute, “Moscow Salvation Army Risks Closure,” November 20, 2002; CNS News, “Salvation Army’s Moscow Woes Continue,” August 3, 2001, (redistributed by Human Rights Without Frontiers (HRWF)); Keston Institute, “Salvation Army Must Cease Its Activities in Moscow,” December 12, 2001; Slavic Center for Law and Justice, “Decisive Victory Won in Salvation Army Case,” February 15, 2002 (redistributed by HRWF); Slavic Center for Law and Justice, “Liquidation No Longer Threatens Salvation Army in Moscow,” April 18, 2003 (redistributed by HRWF).

⁸⁸ Based on information from the website of the Office of Public Information of Jehovah’s Witnesses: “Russia – Jehovah’s Witnesses Test Religious Freedom,” at <http://www.jw-media.org/rights/russia.htm>; the following press releases published by the Office of General Counsel of Jehovah’s Witnesses, “‘Trial of Faith’ Adjourned; No Date Set for Resumption,” April 5, 2002; “Moscow Trial Turns into Theological Debate,” February 14, 2002; “Trial to Ban Jehovah’s Witnesses in Moscow Resumes – No End in Sight,” May 12, 2003; “Moscow Court Orders Fourth ‘Expert Study,’” May 23, 2003; and HRWF, “Prosecution Offers No Evidence in Russian Human Rights Test Case,” February 20, 2002.

Regional and local authorities have also used security arguments to justify repressive measures against minority religions. In such efforts, they have found an ideological basis in two so-called government concepts from 2000, which establish as national security policy aims to counter “religious expansion” and to resist “the negative impact of foreign religious organizations and missionaries.”⁸⁹ Moreover, a July 2002 law “On Countering Extremist Activities” lays down a definition of “extremism” that is so vaguely formulated as to allow for arbitrary implementation targeting legitimate activities by non-governmental groups, including religious communities. According to the definition, for example, “propagating exclusiveness, superiority or inferiority of citizens on the basis of their religious beliefs or their social, racial, national, religious or linguistic affiliation” is considered an “extremist activity.” Although that may not have been the intention of the lawmakers, it is certainly possible to imagine that this expression could be interpreted to cover peaceful proselytism activities.⁹⁰

Adding to the concerns the anti-extremism law raises, a highly controversial working document on “countering religious extremism” leaked from a state commission in late 2002. This document, which had not been formally approved by the commission but served as basis for their discussions, identified the Roman Catholic Church, various Protestant communities as well as “pseudo-religious communities of foreign origin” and “groupings founded on different Eastern teachings” as primary threats to national security. It also mentioned expulsions of foreign priests among positive measures already taken to counter “religious extremism.” The Slavic Center for Law and Justice, a Russian NGO, expressed serious concern that such a “blatantly incompetent and anti-constitutional document,” which “implies culpability of certain groups only on the basis of their confessional affiliation and supposedly foreign origin,” was used even as a draft. The center also emphasized that an approach such as the one expressed in the document is aimed at encouraging rather than mitigating religious strife. The working document represented an outline for a report that the state commission was supposed to present at a joint meeting of the government, the security council and the council for relations with religious organizations, scheduled for early 2002.⁹¹ However, this meeting was indefinitely postponed.

⁸⁹ The two concepts are called the “Concept of National Security” and the “Concept of Information Security.”

⁹⁰ For more information on this topic, see the chapter on Vague, Arbitrary and Overly Broad Definitions of Terrorism in Criminal Law in IHF, *Anti-Terrorism Measures, Security and Human Rights – Developments in Europe, Central Asia and North America in the Aftermath of September 11*, April 2003.

⁹¹ Slavic Centre for Law and Justice, “Draft Report on Counter-extremist Measures by a State Commission Threatens Religious Minorities,” December 6, 2002 (redistributed by HRWF).

Turkmenistan

Apparently fearful of any opposition to its totalitarian rule, the regime of President Niyazov systematically stifles diversity of thought in Turkmenistan.⁹² While the personality cult around the president has assumed an increasingly quasi-religious character,⁹³ the exercise of freedom of religion has been increasingly repressed in the country since the mid-1990s. The regime only recognizes two religious denominations, Sunni Islam and Orthodox Christianity, and persecutes those who confess other faiths. Among those primarily targeted are Jehovah's Witnesses, Baptists, Pentecostals, Adventists, Hare Krishna's and Baha'is.

By law, all religious communities must register with the government in order to gain official status. According to the 1996 Law on Religion, any religious group that wishes to register must prove that it has at least 500 members who are at least 18 years old. Since the law entered into force, only congregations subjected to the state-sanctioned Sunni Islam Board or the Russian Orthodox Church have been granted registration. Other religious groups have not managed to meet the overly strict requirement or have arbitrarily been denied registration even if they have succeeded in collecting 500 names.⁹⁴

Those groups of the Sunni Islam Board or the Russian Orthodox Church that have obtained registration operate under strict control by the government. All unregistered religious communities are treated as "illegal" and are not allowed to carry out any religious activities, although this is not stipulated by law.⁹⁵ In a persistent pattern, the government has cracked down on meetings held by unregistered communities, and has subjected their members to intimidation, arrests, fines and ill-treatment since the 1990s. On repeated occasions, those hosting religious meetings have been evicted from their flats, and dozens of persons involved in the activities of unregistered communities have been forced into internal exile or – if they are foreigners – expelled from the country. Religious literature has been routinely confiscated, and in some cases houses of worship have been destroyed, including a newly built Adventist church that was bulldozed in 1999 under the pretext of the need to build a new road.⁹⁶ The National Security Committee (KNC, formerly KGB) has played a key role in the campaign against religious minorities, the goal of which seems to be to crush all activities of such groups in the country. These are just a few examples of incidents of harassment from the last few years:

- On May 27, 2003, 15 Interior Minister officers raided a Hare Krishna meeting held in a private flat in Ashgabad. Without producing any warrant, the officers searched the flat and confiscated religious literature and items. The officers filmed everyone present and used abusive language to demand that they reveal where other Hare Krishna's live. Two attendees were arrested and subsequently fined after a closed hearing, and one of them was beaten and warned that he would be given a lengthy prison sentence unless he stopped his religious activities. The police also reportedly indicated that they would evict the owner of the flat and force her to move to another city.⁹⁷

⁹² For an overview of the human rights situation in Turkmenistan, see *The Human Rights and Security Situation in Turkmenistan – Report on a Meeting Organized by the IHF and the Human Rights Center “Memorial” Moscow, Vienna, 8-10 June 2002*, at http://www.ihf-hr.org/viewbinary/viewdocument.php?doc_id=989

⁹³ In particular, the book *Rukhnama* authored by the president is an example of this trend. *Rukhnama*, which was published in 2001, is intended to offer daily guidance regarding “spiritual conduct” to the Turkmen people and has been compared to the Quran and the Bible by the president. RFE/RL, “Turkmenistan Adopts President’s Code of Ethics,” *Turkmen Report*, October 19, 2001.

⁹⁴ See, for example, Christian Solidarity Worldwide, *Turkmenistan Annual Report 2002*.

⁹⁵ Keston Institute, “Turkmenistan Crushes Religious Minorities,” January 25, 2001.

⁹⁶ Keston News Service, July 14, 2002.

⁹⁷ Forum 18, “Crackdown widens to Hare Krishna community,” June 10, 2003.

- On May 11, 2003, police and local administration officials broke up a Baptist meeting held in a private flat in the city of Turkmenbashi. The officials told the participants, who had gathered to read the Bible and pray, that they were breaking the law and wrote down their personal information. Those who had brought children with them were warned that they might be deprived of their parental rights. According to the city administration, each of the participants was likely to be fined 250,000 *manats* (about €45), which is equal to an average monthly salary in Turkmenistan.⁹⁸
- At the beginning of May 2002, a group of Protestants were summoned by the police in the village of Deinau, not far from the city of Turkmenabad. The order came after the police was informed that a Christian magazine addressed to one of the Protestants had been found in the local post office. The Protestants were forced to publicly renounce their faith by swearing an oath on *Rukhnama*, the “spiritual guide” authored by President Niyazov. Three of those summoned who refused to take the oath had gas and electricity cut to their homes and were later expelled from the village.⁹⁹
- On November 15, 2001, more than 40 persons were detained when police and local administration officials raided a Word of Life service organized in a private home in the capital Ashgabat. A majority of the participants were fined up to 1 million *manats* each, which is equal to four average monthly wages, and two were sentenced to short prison terms. Another three, who were foreign nationals, were expelled from the country.¹⁰⁰
- In June 2001, a district court in Ashgabat ruled that Jehovah’s Witness Maria Segzekov, her husband and their two children should be deprived of their flat “without provision of another place of residence.” This ruling came in response to a demand by the district administration, which claimed that Segzekov had violated the terms of the use of the family’s flat by hosting “unsanctioned” Jehovah’s Witness meetings. According to the district administration, Segzekov had neglected three written warnings. However, she said that she had received only one warning and had stopped conducting meetings after that. The district court verdict was subsequently upheld on appeal by the Ashgabat City Court and the Supreme Court.¹⁰¹
- On May 15, 2001, a number of KNB officers allegedly tortured Dmitri Meinichenko, a member of a Baptist church in Ashgabat. A few days earlier Meinichenko had been drafted for military service and taken to a military unit in Serdat, where he – with reference to his religious convictions – had refused to swear the military oath that all conscripts are expected to take. The KNB officers reportedly insulted and humiliated him and beat him with a truncheon on the knees, the buttocks and the head. When he continued to refuse to take the oath they forced him to hold the wires from a telephone and sent currents through his head. Finally, they put a hood on his head and beat him in his face and neck.¹⁰²

Moreover, while no law on alternative civilian service exists in the country, the government continues to imprison young male members of minority religious communities for refusing to serve in the army on

⁹⁸ F18, “Threats and Fines Follow Break-up of Baptist Sunday Service,” May 15, 2003.

⁹⁹ Keston Institute, “Protestants Forced to Renounce their Faith,” May 17, 2002.

¹⁰⁰ Keston Institute, “Protestants Fined Thousands of Dollars,” May 10, 2001; *Human Rights Watch World Report 2003*.

¹⁰¹ Keston Institute, “Campaign against Religious Meetings in Private Homes?,” June 12, 2001; Keston Institute, “Jehovah’s Witness Family Lodges Last-ditch Appeal against Eviction,” August 1, 2001; and Keston Institute, “Jehovah’s Witness Family Loses Supreme Court appeal,” October 4, 2001.

¹⁰² Keston Institute, “Baptist Conscientious Objector Tortured,” May 18, 2001.

conscientious grounds. Several religious activists have also been imprisoned on fabricated criminal charges during the last few years. Those imprisoned for their religious beliefs are reportedly not allowed to read religious material and are often singled out for groundless punishments and beatings by prison staff.¹⁰³ Refusal to swear an oath of allegiance to President Niyazov may be used as an excuse to deny religious prisoners release upon completion of their sentence.¹⁰⁴ As of June 2003, four Jehovah's Witnesses were imprisoned for their religious convictions, two of whom are conscientious objectors.¹⁰⁵

- On July 2, 2002, a district court in Ashgabad sentenced Nikolai Shelekov, a 20-year-old Jehovah's Witness, to one and a half years in prison for refusing to carry out compulsory military service. In gross violation of international fair trial standards, Shekelov was convicted a second time for the same "offence." Already in 2000 he had been sentenced to one year in prison for his refusal to serve in the army and had been released only after he had served his full sentence. Shelekov has reportedly contracted kidney problems while imprisoned.¹⁰⁶
- Also in July 2002, Oguldzhan Yangibayevana from the city of Seydi was sentenced to four years in prison on fraud charges. It was believed that she was prosecuted because she, in her capacity as lawyer, had helped other Jehovah's Witnesses subjected to harassment in her home city. The 40-year-old Yangibayevana has a young daughter, who is being cared for by her relatives while she is serving her sentence.¹⁰⁷
- Jehovah's Witness Kurban Zakirov was convicted for refusing military service and sentenced to one year's imprisonment in May 1999. When his prison term came to an end in May 2000, he was – as is the common practice – requested to swear an oath of loyalty to the president. However, he refused to do so because of his religious convictions. His refusal reportedly prompted a prison officer to pull off his shoulder strap and accuse Zakirov of attacking him. As a result of this incident, Zakirov was sentenced to eight years of imprisonment. At first Zakirov was held in a high-security camp in his hometown Turkmenabad, where he reportedly was sharing a cell designed for ten persons with 21 other men and was forced to sleep on a board only half of his height. The prison guards in this camp also exercised constant pressure on him to renounce his faith. In early 2002, he was reportedly transferred to a closed prison with a stricter regime, which, inter alia, prohibits inmates from exercising outdoors.¹⁰⁸
- In December 1999, Jehovah's Witness Yazmammed Annamammedov was sentenced to four years in prison on charges of having pistol cartridges, gunpowder and explosive material in his home. He and his wife stated that these items were planted in their home during the search that the police and the prosecutor undertook before arresting him. During his imprisonment, Annamammedov was reportedly subject to repeated punishments because of his religious convictions, including beatings and solitary confinement. He also developed tuberculosis, which was made worse by the fact that he

¹⁰³ Information from the Office of General Counsel of the Jehovah's Witnesses to the IHF, June 2003.

¹⁰⁴ Comment by Vitaly Ponomarev, director of the Monitoring Program of Human Rights in Central Asia of the Human Rights Center "Memorial" documented in *The Human Rights and Security Situation in Turkmenistan – Report on a Meeting Organized by the IHF and the Human Rights Center "Memorial" Moscow, Vienna, 8-10 June 2002*, p. 7.

¹⁰⁵ Information from the Office of General Counsel of the Jehovah's Witnesses to the IHF, June 2003.

¹⁰⁶ Keston Institute, "Mother Condemns Renewed Sentence for Jehovah's Witness," July 24, 2002.

¹⁰⁷ Information from the Office of General Counsel of the Jehovah's Witnesses to the IHF, June 2003.

¹⁰⁸ Amnesty International, *Concerns in Europe January-June 2002*, Keston Institute, "Six Jehovah's Witnesses in Labour Camp," January 23, 2002; Keston Institute, "Jehovah's Witness Serving Eight-year Sentence for his Faith," February 20, 2001.

and his fellow inmates were undernourished and were not allowed to spend more than 20 minutes outside each day. Showing imminent signs of death, he was finally taken to a prison hospital. In October 2002, Annamammedov was released after serving almost three years of his sentence.¹⁰⁹

- Baptist pastor Shageldy Atakov was arrested in December 1998 on allegedly falsified charges of swindling and forging documents. In March 1999, he was fined the vast amount of €12,000 and sentenced to two years in prison. Six months later, his fine and prison term were doubled. During his imprisonment, the pastor was repeatedly tortured and forcibly treated with psychotropic drugs, and his health steadily deteriorated. In May 2001, the authorities offered to release him if he and his family agreed to emigrate. Because he declined the offer, his imprisonment continued. However, following an unprecedented wave of international pressure, Atakov was released in January 2002. After his release, the KNB has kept him under close surveillance in his family's home in Kaaka and has prohibited him from meeting with other Baptists.¹¹⁰

The government has also taken an increasingly tough position toward unofficial Islam. The distribution of imported Islamic literature has been prohibited, unregistered mosques have been closed and in mid-2002 the last *madrassah* (Muslim school) existing in the country was shut down. Members of the Shiite Muslim minority have reportedly faced harassment and hundreds have been forced to leave the country since the late 1990s.¹¹¹

The IHF is deeply concerned about the extremely repressive human rights situation in Turkmenistan and calls on the OSCE community to actively exercise pressure on the regime of President Niyazov to respect the fundamental rights of its citizens, including the right to freedom of religion. Benchmarks for progress should include that the Turkmen government abolish the restrictions imposed by the 1996 Law on Religion; stop harassing and punishing members of religious minorities who engage in peaceful activities to express and pursue their religious convictions; and allow conscientious objectors to carry out civilian service.

¹⁰⁹ Office of General Counsel of the Jehovah's Witnesses, "Disturbing Reports from Turkmenistan Prisons," September 24, 2002; and information from the Office of General Counsel of the Jehovah's Witnesses to the IHF, June 2003.

¹¹⁰ Keston Institute, "Atakov Freed from Prison, but Pressure Continues," January 10, 2002; Keston Institute, "Freed Baptist Under Surveillance," January 27, 2002; Human Rights Without Frontiers, "Turkmen Convert Prepares to Die in Prison," February 6, 2002; *Human Rights Watch World Report 2003*.

¹¹¹ RFE/RL, "Turkmen Leader Tightens His Grip on Unofficial Islam," *Turkmen Report*, June 28, 2001; RFE/RL, "Rights Groups: Turkmenistan Represses Non-traditional Religions," *Turkmen Report*, February 16, 2001.

Uzbekistan

Around the time of independence in 1991, Uzbekistan experienced a religious revival, with the population taking a growing interest in matters of faith. In response to this development, the regime of President Karimov soon took measures to step up its control over religious activity in the country. In particular, it began suppressing Muslims involved in religious activities outside of state-sanctioned mosques and other Muslim institutions. In the late 1990s, this crackdown developed into a wide-scale campaign, which has been relentlessly waged ever since. During the last decade, members of non-Muslim minority religions have also been subjected to increasing harassment.

While the majority of the population in Uzbekistan is at least nominally Muslim, the government exercises strict control over Islam worship and study, including by approving the content of sermons and appointing imams.¹¹² By law, involvement in religious activities carried out by groups that are not registered with the authorities is punishable with fines or imprisonment. Proselytism, religious education without official permission and wearing religious garment in public are also prohibited, and any manifestation of religious convictions or distribution of religious information that is considered “extremist” is subject to harsh penalties.¹¹³

With reference to the need to combat the threat of radical Islam, the Uzbek government has systematically persecuted Muslims exercising Islam beyond strict state control since 1997. This campaign grew particularly intense after February 16, 1999, when a series of bombs exploded in the capital of Tashkent, killing 16 people. The government later accused the Islamic Movement of Uzbekistan (IMU), an armed organization that seeks to overthrow the Uzbek government and is based primarily in Afghanistan, of being responsible for the attacks.¹¹⁴

While the IHF acknowledges that the existence of the IMU represents a threat, it notes that the Uzbek government has not limited itself to arrests of those linked to the IMU or persons believed to be pursuing their goals by violent means. The government has in fact targeted primarily individuals who peacefully practice their religion outside of state-sanctioned institutions. In particular, members and supporters of Hizb-ut-Tahrir (Party of Liberation), a banned movement advocating the non-violent establishment of an Islamic Caliphate in Central Asia, have been targeted. The government has imprisoned thousands of peaceful Muslims – there are currently an estimated 7,000 religious and political prisoners in the country¹¹⁵ – after arbitrary or discriminatory arrests and unfair trials lacking any basic procedural guarantees. Torture has been routinely used to extract confessions, which regularly have been accepted into evidence and often have served as the sole basis for conviction. Those who have been convicted have been sentenced to lengthy prison terms – and sometimes to death – on grounds such as membership in an illegal movement, distribution of illegal religious literature or “extremist” activities.¹¹⁶ Recently women have increasingly been targeted,

¹¹² Forum 18, “Total State Control Over Islamic Faith,” May 20, 2003.

¹¹³ Human Rights Watch, *Memorandum to the US Government Regarding Religious Persecution in Uzbekistan*, August 10, 2001, at <http://www.hrw.org/backgrounder/eca/uzbek-aug/index.htm>

¹¹⁴ Human Rights Watch, *Press Backgrounder on Human Rights Abuse in Uzbekistan*, 26 September 2001, at <http://www.hrw.org/backgrounder/eca/uzbek092501-bck.htm>

¹¹⁵ This estimate was made by the Independent Human Rights Organization of Uzbekistan in 2002.

¹¹⁶ See for example IHF, *Mission to Central Asia (Kazakhstan, Kyrgyzstan and Uzbekistan)*, 7-16 June 2001, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=871; and IHF, *Human Rights and Terrorism in the Central Asian OSCE States*, December, 2001, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=888

apparently because most male members of Hizb-ut-Tahrir have already been imprisoned or have gone underground.¹¹⁷

Muslims prisoners are often subjected to ill-treatment and torture as a way of punishing them for their religious convictions or in order to compel them to renounce their faith or stop practicing their religion. During the last few years, numerous cases have been reported where Muslims allegedly have died in custody as a result of the harsh treatment they have received.¹¹⁸ Those guilty of abusing religious detainees have hardly ever been brought to justice: in 2002 there were two cases where law enforcement officials were found guilty of torture in cases involving victims prosecuted for membership in Hizb-ut-Tahrir.¹¹⁹ However, countless other cases of torture have not been investigated nor prosecuted, including such where victims have died.

These are just a few examples of Muslims who have been harassed for the peaceful exercise of their religious beliefs during the last two years:

- On February 10, 2003, a district court in the capital Tashkent sentenced Adyljon Ziyayev, Davron Rashidov, Rustam Nigmatov, Bakhodyr Khashimov and Shoakbar Azimov to between seven and ten years in prison for attempted undermining of the constitutional system, preparation of documents containing a threat to public security and order and involvement in a banned organization. The five men, who were accused of membership in Hizb-ut-Tahrir, only admitted to attending unsanctioned Islamic classes in order to enhance their knowledge of their faith. Human rights activists expressed serious doubts about the fairness of the procedure, and the men alleged that they had been systematically beaten and whipped during the investigation.¹²⁰
- On November 28, 2002, a Tashkent city court sentenced Iskandar Khudoberganov to death on charges of “religious extremism” and various anti-state activities, including terrorism. During the trial, no concrete evidence to support the charges against Khudoberganov was presented. The verdict against him was primarily based on a confession that he claimed had been extracted under torture while he was held in pre-trial detention.¹²¹ According to Khudoberganov: “they tied my hands from behind, hit me with truncheons and chairs and kicked me on the kidneys. They didn’t let me sleep. For weeks they didn’t give me food to force me to confess. They said: ‘think of your relatives, your mother, your wife, your sister, think of their honor. We’ll bring them here and rape them in front of your eyes’. Only then I gave in and signed what they wanted me to sign.”¹²² The judge entirely dismissed all allegations of torture and reportedly told Khudoberganov that the Ministry of Interior “is not a holiday resort.” In the same trial five other men were also found guilty of “religious extremism” and sentenced to between six and 16 years in prison on the basis of confessions that

¹¹⁷ Information from the Human Rights Society of Uzbekistan (HRSU) to the IHF. The HRSU is an IHF cooperating organization.

¹¹⁸ Between November 2001 and April 2003 Human Rights Watch documented 18 cases where imprisoned Muslims allegedly died because of torture or ill-treatment. Human Rights Watch, *Deaths in Custody in Uzbekistan*, Human Rights Watch Briefing Paper, April 4, 2003, at <http://hrw.org/backgrounder/eca/uzbek040403-bck.htm>

¹¹⁹ For more information on these two cases, see the IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America. Report 2003 (events of 2002): Uzbekistan*, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=1322

¹²⁰ Forum 18, “Long sentences for five Tashkent Muslims,” March 19, 2003.

¹²¹ Amnesty International, Appeal: Uzbekistan, November 28, 2002; Human Rights Watch, “Alleged Torture Victim Sentenced to Death,” December 4, 2002, at <http://hrw.org/press/2002/12/uzbek1204.htm>.

¹²² Amnesty International, Appeal: Uzbekistan, November 20, 2002.

allegedly were obtained under duress.¹²³ On January 28, 2003, the sentence against Khudoberganov was upheld on appeal¹²⁴ and on April 29, 2003, the Court of Appeals of the Supreme Court decided against hearing the case. As of this writing, Khudoberganov is in imminent danger of being executed. In an open letter of June 26, 2003, the IHF urged President Karimov to stay the execution of Khudoberganov pending the examination of the case by the UN Human Rights Commission. There are strong indications that three other men who were convicted in the same trial as Khudoberganov were executed in May 2003.¹²⁵

- On July 16, 2002, a Tashkent court found Musharraf Usmanova guilty of chairing a female Hizb-ut-Tahrir group and gave her a suspended two-year prison sentence. The trial lasted only one day and the verdict was based on rumors and testimonies that allegedly had been obtained by coercion and that were retracted in court. Prior to trial Usmanova was held in *incommunicado* detention for about two weeks. Usmanova is the widow of Farhad Usmanov, a well-known Muslim activist, who was tortured to death in police custody in 1999.¹²⁶
- On March 26, 2002, the Fergana Province Court convicted a group of fourteen people charged with “Wahhabism” and sentenced them to between 3,5 and 13,5 years in prison.¹²⁷ The sentences were primarily based on self-incriminatory statements that the defendants had made during the investigation into their cases. The defendants claimed that police had used torture to coerce them to confess their guilt and therefore retracted their confessions during the trial. However, the judge dismissed these claims, arguing that the defendants only tried to avoid punishment.¹²⁸
- On August 8, 2002, the bodies of Husnidin Alimov and Muzafar Avazov were returned to their relatives for burial. Both men had been imprisoned for their religious activities in the infamous Jazlyk prison camp. Sixty to seventy percent of Avazov’s body bore clear signs of burns, apparently from immersion in boiling water. According to his relatives the back of his head had a gaping wound and his hands had no fingernails. The IHF is in the possession of photographs attesting to the gravity of the injuries. The prosecutor also warned the family of Avazov against giving information about the case to the media and others. Moreover, the authorities reportedly restricted viewing of Alimov’s body, with the police accompanying the corpse and being present during the funeral. In a statement published in September 2002, the IHF criticized the inadequate investigations into the circumstances of these two deaths, and expressed disappointment with claims by Uzbek officials that the two men had sustained their deadly injuries as a result of fighting.¹²⁹

¹²³ Amnesty International, Appeal: Uzbekistan, November 28, 2002; Human Rights Watch, “Alleged Torture Victim Sentenced to Death,” December 4, 2002.

¹²⁴ *RFE/RL Reporting Central Asia*, Volume 3, Number 6, February 6, 2003.

¹²⁵ See, IHF, “Open Letter to the President of Uzbekistan Concerning Iskandar Khudoberganov’s Death Sentence,” June 26, 2003, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=2552

¹²⁶ Human Rights Watch, Briefing Paper: *Religious Persecution of Independent Muslims in Uzbekistan from September to July 2002*, August 20, 2002, at <http://hrw.org/backgrounder/eca/uzbek-aug/uzbek-brief0820.pdf>; *Human Rights Watch World Report 2003*, at <http://www.hrw.org/wr2k3/>

¹²⁷ *BBS Monitoring Service*, March 26, 2002, citing Birlik website March 25, 2002.

¹²⁸ Human Rights Watch, Briefing Paper: *Religious Persecution of Independent Muslims in Uzbekistan from September to July 2002*, August 20, 2002.

¹²⁹ See IHF, “Death by torture in Uzbekistan,” September 23, 2002, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=609; and IHF Statements to the OSCE Human Dimension Implementation Meeting in Warsaw 9-19 September 2002, at <http://www.ihf-hr.org/reports/osce02/IHF%20InterventionsOSCEWar02%20.pdf>

- On February 7, 2002, Ikrom Aliev was reportedly brought to his family from the Navoi prison, where he had been detained on charges related to his religious activities. According to Aliev's relatives, he was unable to move the right side of his body, had a swollen head and could not speak when he was returned from prison. The authorities claimed that this was due to tuberculosis. However, when the family took Aliev to a tuberculosis hospital, the doctor who examined him concluded that he did not suffer from tuberculosis, but had contracted his injuries as a result of being hit on the head with a heavy object. Two days later Aliev died.¹³⁰

In the aftermath of September 11, the Karimov regime has sought to mute international criticism of its relentless campaign against independent Muslims by presenting it under the pretext of an Uzbek contribution to the "war on terrorism."¹³¹ It also appears that the international community largely has accepted this pretext. Since the attacks on the World Trade Center and Pentagon, the US and other western governments have at times voiced strong criticism regarding the repressive policies carried out in Uzbekistan, but they have failed effectively to attach consequences to their criticism. Western governments have also been prompt to applaud small-scale reforms that have lacked any fundamental impact and that have been dismissed as sheer window-dressing by local human rights activists. The IHF is concerned that insufficient constructive criticism from the international community strengthens the impression of the Karimov regime that it has a *carte blanche* to curtail basic rights of its citizens as long as this is done under the pretext of counteracting terrorism. Such a policy does not only lack any sincere commitment to international human rights standards but is also likely to help aggravating the problem. As local observers have stressed, the repressive Uzbek campaign against independent Muslims has furthered resentment within the population and has increased rather than decreased the number of people supporting the use of violent means.

Since the late 1990s, the authorities have also stepped up harassment of non-Muslim minority religious communities. While some minority groups have not been able to obtain registration because they have not met the requirement of 100 members imposed by the 1998 Law on Religion, other groups have been denied registration on arbitrary grounds. Meetings held by members of unregistered groups have been raided, and participants have been interrogated, arrested and fined for participating in "illegal" religious activities, even though they only have gathered to pray and discuss matters of faith. Religious publications have also been confiscated and used to bring administrative cases of possessing "illegal" religious material. Among the minority religious communities targeted are various Protestant churches and Jehovah's Witnesses, who seem to have been singled out for particularly intense harassment.¹³²

In spite of repeated attempts, Jehovah's Witnesses have not succeeded in obtaining registration in most of the country's cities, and currently only groups in Fergana and Chirchik are registered with the authorities. During the last few years, more than 170 Jehovah's Witnesses have been arrested because of their religious activities. While held in custody, many Jehovah's Witnesses have reportedly undergone emotional and physical abuse.¹³³ For example:

- On May 1, 2003, four Jehovah's Witnesses were arrested by police for preaching their faith on the street in Kagan in western Uzbekistan. The men were taken to the local police department, where

¹³⁰ Human Rights Watch, *Deaths in Custody in Uzbekistan*, *Human Rights Watch Briefing Paper*, April 4, 2003.

¹³¹ For a lengthier discussion on this topic, see the chapter on Human Rights Abuses in Chechnya and Central Asia: The International Response After September 11 in IHF, *Anti-terrorism Measures, Security and Human Rights – developments in Europe, Central Asia and North America in the Aftermath of September 11*, April 2003, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=390

¹³² See, for example, Keston Institute, "The fewer churches we have, the fewer problems," August 2001.

¹³³ Information from the Office of General Counsel of the Jehovah's Witnesses to the IHF, June 2003.

they reportedly were beaten, one of them so badly that he lost consciousness. After several hours they were released, but police threatened to bring criminal or administrative cases against them. Although two of the men had their injuries documented by a doctor, the police department later denied that the men had been subjected to physical abuse. One of the police officers who was involved in the interrogation of them reportedly stated: “No one beat the Jehovah’s Witnesses” [because] “[t]hey had not committed a serious enough offence to deserve a beating!”¹³⁴

For the first time ever, in November 2002, a minority believer – a Jehovah’s Witness – was convicted under a Criminal Code article specifically aimed at religious activity. According to an official expert study presented during this trial, Jehovah’s Witnesses are considered to hold religious beliefs threatening national security, inter alia because they refuse to serve in state offices or in the military.¹³⁵ The conviction raised fear that the government will expand its campaign against “religious extremism” in full scale to Jehovah’s Witnesses and other minority religious communities.

- In July 2002, Jehovah’s Witness Marat Mudarisov was summoned by a Tashkent office of the National Security Service (formerly KGB) and requested to renounce his faith in writing. As he refused, he was intimidated, subjected to extreme physiological pressure and beaten for more than six hours in the presence of his mother. On the same occasion, a leaflet was allegedly planted in his bag, and ostensibly found in his possession. This leaflet had not been published by the Jehovah’s Witnesses and was in Uzbek, a language that Mudarisov – who is an ethnic Tatar – does not understand. Mudarisov’s mother later witnessed that the officer who lead the interrogation of her son had demanded that she hand over her son’s bag to him. On the basis of the leaflet, as well as Jehovah’s Witnesses’ publications, Mudarisov was subsequently charged with “inciting religious hatred.” For more than three months he was held in pre-trial detention in deplorable conditions: he had to share a cell intended for four people with six others, was given only limited amounts of food and was only allowed to shower once a week. On November 29, 2002, a Tashkent district court found Mudarisov guilty and gave him a three-year suspended prison sentence.¹³⁶ On February 7, 2003, the ruling was upheld on appeal.¹³⁷

¹³⁴ Forum 18, “Police beat Jehovah’s Witness,” June 2, 2003.

¹³⁵ Human Rights without Frontiers, “Conviction of Jehovah’s Witness sets religious precedent,” December 5, 2002.

¹³⁶ Information from the Office of General Counsel of the Jehovah’s Witnesses to the IHF, June 2003.

¹³⁷ *RFE/RL Central Asia Report*, February 14, 2003.