

HUMAN RIGHTS, DEMOCRACY, AND INTEGRATION IN SOUTH-CENTRAL EUROPE

HEARING BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE ONE HUNDRED NINTH CONGRESS SECOND SESSION

JUNE 15, 2006

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HUMAN RIGHTS, DEMOCRACY, AND INTEGRATION IN SOUTH-CENTRAL EUROPE

June 15, 2006

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The hearing was held at 2:11 p.m. in room 2226 Rayburn House Office Building, Washington, DC, Hon. Christopher H. Smith, Co-Chairman, Commission on Security and Cooperation in Europe, presiding.

Commissioners present: Hon. Sam Brownback, Chairman, Commission on Security and Cooperation in Europe; Hon. Christopher H. Smith, Co-Chairman, Commission on Security and Cooperation in Europe; and Hon. Benjamin L. Cardin, Ranking Member, Commission on Security and Cooperation in Europe.

Other Members of Congress present: Hon. George V. Voinovich, U.S. Senator from Ohio.

Witnesses present: Rosemary A. DiCarlo, Deputy Assistant Secretary of State for European and Eurasia Affairs, U.S. Department of State; Daniel Serwer, Director of Peace and Stability Operations, U.S. Institute of Peace; Janusz Bugajski, Director of the New European Democracies Project, Senior Fellow, Europe Program, Center for Strategic and International Studies; Joseph K. Grieboski, President and Founder, Institute for Religion and Public Policy; and Nicolae Gheorghe, Senior Advisor, Office for Democratic Institutions and Human Rights, Organization for Security and Cooperation in Europe.

HON. CHRISTOPHER H. SMITH, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. SMITH. The Commission will come to order, and good afternoon, everybody. In the past 15 years, by the count of the Helsinki Commission, we've held more than three dozen hearings on one of the several countries of south-central Europe. Some of today's witnesses on the second panel have participated in various initiatives, including those hearings, the Commission has undertaken in the region.

The Helsinki Commission can be proud of its record, I believe, for standing for principle and for humanity in the face of extreme nationalism, violence and genocide. At this stage, it is appropriate that, for once, we look at Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, and Serbia together.

With few exceptions, there has been progress throughout the region and many of the outstanding problems are common problems.

For me, the best example of this is trafficking in persons. All countries under consideration today are tier two according to the latest State Department report, which means that they have not met minimum standards, despite taking steps to do so.

I hope this hearing can focus attention on what more can be done in the region to help victims of trafficking, to punish those responsible for this modern-day slavery and ultimately to prevent the crime from occurring in the first place.

I would note parenthetically that yesterday we held a day-long hearing in the subcommittee that I chair, the Africa, Global Human Rights and International Operations Subcommittee, on the trafficking in persons report. Ambassador Miller was our witness from the administration. And we also had Julia Ormond, who is the U.N. Ambassador, Goodwill Ambassador for Trafficking, and a number of NGOs, as well as people who had been trafficked themselves.

I do want to express concern about laws and draft laws under consideration today in many of the countries which are supposed to protect religious freedom, but actually do more to restrict this fundamental right. Arbitrary thresholds are placed on what can be legally recognized as a religious group.

Not meeting those arbitrary thresholds often has very real consequences for believers: not being able to obtain appropriate worship facilities or limiting the practice of one's faith. Ultimately, such legal impediments send the signal that it's OK to discriminate against individuals who are not traditional, especially those belonging to new or minority faith communities.

Discrimination and violence are also felt by Roma, who are often purposely stereotyped as society's outcasts. In practice, in the Balkans, there may actually be more tolerance of Roma than exists in several of the so-called Western countries of Europe, but the sad fact remains that they still face very significant problems.

Kosovo remains, in many ways, worthy of more intense Commission focus. The international community should not be proud of what has been achieved after 7 years there. In particular, the fact that hundreds of displaced Roma remained for so long in unhealthy, lead-contaminated camps in northern Mitrovica, run by U.N. agencies, is shameful. And the international community and local Kosovar Albanian authorities must follow through on their commitment to rebuild the original Romani neighborhood there.

I welcome the recent positive gestures of the new Kosovar leadership, which indicates a willingness and desire to accommodate Kosovo's Serb, Roma and other minority communities. Now is the time to go beyond gestures to more meaningful concrete steps.

Meanwhile, I encourage the Serb minority in Kosovo to remain engaged and to seek the best possible outcome for their families. I also call on Belgrade to be constructive in supporting this community. It certainly is counterproductive to fan the flames of hatred, as a recent ad in "Roll Call" did, by equating an independent Kosovo with Afghanistan under the Taliban.

As someone who has many times criticized the Kosovar Albanians for their attacks on Serbian Orthodox churches and minority enclaves, especially in 2004, I think it is abhorrent to label the Al-

banians as anti-Western extremists simply because of their faith, as Muslims.

I also want to express my support for the people of Bosnia Herzegovina. No people in the region suffered more than they did in the 1990s, as noted in the resolutions passed by both Houses marking the 10th anniversary of the Srebrenica last year. No country, in my view, deserves European integration more.

I am heartened to see that Bosnia is now looking to move beyond the Dayton Agreement, which helped restore peace in 1995, but limits the country's democratic development. The defeat of a recently proposed constitutional reform package is a disappointment, but I hope it will not be a long-term setback.

At least opposition was based on the package not going far enough in its reforms, and I hope to hear how the United States and the international community can engage the people of Bosnia in order to make their government more effective and ultimately to make their democracy reflect the will of the citizenry rather than simply a balance of ethnicities.

I also maintain an interest on developments in other countries of concern. Albania, Macedonia, Montenegro, and Croatia have strong records of friendship with the United States. They deserve our support for their efforts to establish solid democratic institutions and the respect for the rule of law.

And while the legacy of Milosevic still haunts Serbia, I do remain confident in the ability of the courageous and democratic forces there to restore their country to its rightful place in Europe. I believe we should remain firm in our commitment to help the people of Serbia as they seek to build a brighter future.

I note that we have been joined by our distinguished Chairman of the Helsinki Commission and, as Co-Chair, I yield the floor to our distinguished chairman.

Mr. BROWNBACK [presiding]. Thank you, Congressman Smith. Appreciate that.

Going in order of appearance, Senator Voinovich, if you want to make an opening statement.

HON. GEORGE V. VOINOVICH, U.S. SENATOR FROM OHIO

Mr. VOINOVICH. I thank you very much, Mr. Chairman, for allowing me to sit and listen to the witnesses who are here today.

As one who has been to the region 10 times and 6 times to Kosovo and have spent time with both the negotiating teams in Serbia and Kosovo, where I also met Mr. Ahtisari, Mr. Rohan, and Mr. Wisner, I am very interested in hearing from our witnesses about how they perceive what is going on in that region of the world.

I believe the problems there deal fundamentally with human rights. If all of the people living in that part of the world understood that if they practiced the second great commandment, "love thy neighbor as thyself," many of the problems would disappear.

I'm doing everything I can to encourage the Serbian leadership to come to the table and negotiate. I've met with the President of Kosovo, Mr. Sejdiv, and the Prime Minister, Mr. Ceku and they seem to understand that they must address the human rights

issues that have been ongoing in Kosovo, including the protection of Serbian minorities and the Serbian Orthodox Churches.

I am here to listen to what the witnesses have to say and I appreciate the fact that you've allowed me to sit with you.

**HON. SAM BROWNBACK, CHAIRMAN,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. BROWNBACK. Well, I'm delighted to have you here and your expertise is well known and appreciated, I think, on this set of topics.

The purpose of the hearing is—and I associate my comments with Congressman Smith—is to look specifically at the human rights situation and the degree of democratic development in Albania, Bosnia Herzegovina, Croatia, Macedonia, Montenegro, and Serbia in the hope of encouraging these companies to take the additional steps that will make integration possible.

The hearing is not about debating the future status of Kosovo, but about making Kosovo a place where human rights and democratic principles are respected. There is a lot that needs to take place before that statement is fulfilled in that region.

Congressman Cardin, did you have an opening statement you'd like to make?

**HON. BENJAMIN L. CARDIN, RANKING MEMBER,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. CARDIN. Thank you, Mr. Chairman. I'm just going to just ask unanimous consent to put my entire statement into the record. I'm sorry I didn't get here to hear the opening statements of my colleagues.

I just would observe that Senator Voinovich has been one of our real champions here in the U.S. Congress and the issues concerning this part of the world. And I had a chance to be with the senator as we talked about this issue at our OSCE meetings and I really do believe our commission has played a very positive role in the development and that it is very appropriate for us to be holding this hearing today.

We've invested an awful lot in the leadership of our nation in trying to bring about stability in the Balkans and I want to really encourage our commission to continue to take a very active role. I think we are making progress. I think there's still more that needs to be done. There are still issues that need to be completed, one, of course, being the international tribunal. And I look forward to hearing the testimony from the witnesses.

Mr. BROWNBACK. The first panel is the deputy assistant secretary of state for European and Eurasian affairs, Rosemary A. DiCarlo.

She currently serves in that position. She's a career member of the Senior Foreign Service, who previously served as Director for United Nations Affairs at the National Security Council. She's the Washington Deputy to the U.S. Permanent Representative to the U.N. She served in a number of other key positions.

We're delighted to have you here today and look forward to your statement. We'll put your full written statement in the record, so

if you want to summarize your position. Thank you very much for being here.

**ROSEMARY A. DiCARLO, DEPUTY ASSISTANT SECRETARY
OF STATE FOR EUROPEAN AND EURASIA AFFAIRS, U.S.
DEPARTMENT OF STATE**

Sec. DiCARLO. Thank you very much, Chairman Brownback, Co-Chairman Smith, Representative Cardin, Senator Voinovich. Thank you for inviting me to testify before the Helsinki Commission today. I [off-mike] issues I would like to highlight. I'd like to begin by stressing that we witnessed an overall improvement in human rights, democracy in the rule of law in south-central Europe over the past several years.

The Balkans today is a very different region from a decade ago, but much more work remains to be done. The year 2006 is a crucial one for the Balkans. As we move forward to [off-mike] major outstanding issue, the future status of Kosovo, we have the opportunity to put the conflict of the 1990s behind us once and for all.

But we cannot resolve Kosovo's status without devoting increased attention to the entire region. Therefore, the administration has [off-mike] south-central Europe and is committed to pursuing this policy that will accelerate the recent integration of [off-mike].

Mr. BROWNBACK. Ms. DiCarlo, just saying, I don't know if that microphone is working very well. You might want to move it closer to you so that you can be heard better.

Sec. DiCARLO. Can you hear me better now?

Mr. BROWNBACK. No, let's try the other microphone there to see if that one will work.

Sec. DiCARLO. Now can you hear me? I think so.

Mr. BROWNBACK. That's much better. Thank you.

Sec. DiCARLO. Thank you. As I said, I would like to stress that we witnessed an overall improvement, but we can't really go forward unless we have increased engagement. We are working to help prepare the region for a democratic future within NATO and the European Union.

Euro-Atlantic integration cannot be achieved without progress in key areas, especially those taken up by this commission. I'd like to give you a few examples of both the problems that we see and the progress that's been made.

We're working very closely with NATO candidates Albania, Croatia, and Macedonia on reforms needed to fulfill their aspirations to become NATO members in the near future. We stress repeatedly to these candidate countries that political and economic reforms are as critical as defense reforms for full-fledged membership. They have understood our message.

The people of Albania elected a new government last July in the much-improved elections that led to the first smooth transfer of power in the country's post-Communist period. We continue to work with the government and political parties to complete electoral reforms so that local elections next year are fully in compliance with international standards.

Albania is starting to change longstanding patterns of crime and corruption, but must do more. The Albanian government has recently signed an agreement with the Millennium Challenge Cor-

poration for over \$13 million to support initiatives to combat crime and corruption and improve the environment for legitimate business.

On Croatia, with its cooperation in facilitating the December arrests and transfer of Ante Gotovina to the Hague, the Government of Croatia took a major step toward addressing the injustices of the past.

Croatia has made progress in judicial reform and combating trafficking in persons. But Croatia must do more to ensure the fair treatment of minorities at the local level and create a welcoming climate for returns, including addressing the strong societal discrimination against minority returnees and resulting housing issues.

We're very pleased that the multiethnic coalition government in Macedonia has completed enactment of the legislation for the 2001 Ohrid Framework Agreement and is proceeding with its practical implementation. Ongoing challenges include equitable representation of minorities and state structures and decentralization of authorities at the municipal level.

Macedonia will hold elections in July and we are pressing political party leaders to address the serious flaws evidenced in the 2005 municipal elections. Elections that meet international standards are critical to Macedonia's bid for NATO and EU membership.

We're also committed to pursuing reform in Bosnia and Herzegovina that would lead to more effective governance. Last month's defeat of the constitutional reform package by two votes in the Bosnian parliament was disappointing, but we need to recognize that almost two-thirds of the parliament approved the package and the majority of the Bosnian people supported these efforts.

The Dayton constitution was not meant to be set in stone, and in order for Bosnia and Herzegovina to pursue its European aspirations, it must modernize its structures and strengthen institutions at the national level. Bosnian parties that back constitutional reform have called for a renewed effort after the October elections. The United States will strongly support such an initiative.

I'd like to turn to Kosovo now. The United States and its Contact Group partners determined that the status quo in Kosovo was neither sustainable nor desirable. U.N. Secretary General Kofi Annan launched a process to determine Kosovo's future status in order to promote long-term stability in the region.

Last fall, the Contact Group issued guiding principles for this process. Protection of minorities is at the core of these principles, and I'll name just a few. The settlement should ensure a multiethnic Kosovo. It should provide for constitutional guarantees and appropriate mechanisms to ensure the implementation of human rights for all citizens of Kosovo and to ensure the participation of all Kosovo communities and government.

The promotion of human rights and fundamental freedoms is at the heart of our Kosovo policy. We continue to press the Kosovo provisional government to implement U.N. developed standards for good governance and protection of minorities. These standards aim to enforce property rights, increase freedom of movement, prosecute perpetrators of interethnic crimes and provide adequate funding for the return of the displaced.

I'd like to stress that a stable, prosperous Serbia is key to stability in the region. The United States is committed to helping Serbia overcome the legacy of the Milosevic era and move forward toward membership in the Euro-Atlantic community. Increased engagement with Serbia is critical as we move to resolve Kosovo's future status.

Serbia has made important strides in some areas. Belgrade authorities have made considerable efforts to improve the lives of minorities, particularly in south Serbia, Vojvodina, and the Sandzhak. We are, however, following closely government efforts to lessen interethnic disputes, especially in southern Serbia, where tensions are still significant.

But Serbia has a lot of work to do to combat more effectively trafficking in persons, as traffic has continued to receive light punishments and law-enforcement efforts remain weak.

I'd like to say a few words about the newest state in the region, Montenegro. This week, the United States recognized Montenegro as an independent state. We congratulate the people of Montenegro for the peaceful and democratic manner in which the referendum on independence was conducted.

Montenegro will now have the challenge of strengthening existing institutions and developing new ones to join others in the region on the path to Euro-Atlantic integration.

There has been progress. Countries of the region have placed significant emphasis on justice and accountability for war crimes of the 1990s. Special courts in Serbia, Bosnia and Herzegovina and Croatia, established with U.S. assistance, are trying persons accused of atrocities and pursuing indictments locally.

Of the 161 persons indicted by the International Criminal Tribunal for the Former Yugoslavia, only six remain at large. Full cooperation in the region remains, however, a serious issue.

The majority of the six fugitives are believed to be in Serbia or the Republika Srpska. Still at large are notorious indictees Ratko Mladic and Radovan Karadzic, for whom the tribunal's doors will always remain open. We remain very concerned that Serbia has not apprehended and transferred Ratko Mladic to the Hague in compliance with its international obligations.

Non-cooperation in the region remains a roadblock to full integration with Euro-Atlantic institutions and we continue to engage authorities and use congressionally mandated sanctions to encourage compliance with the tribunal.

Efforts to combat trafficking in persons, an important bellwether for crime-fighting success, have been impressive throughout the region, although problems remain. Each of the countries in the region is making significant efforts to fully meet the minimum standards of the Trafficking Victims Protection Act.

The majority of the persons displaced as a result of the Balkan conflicts have returned home. The governments must press ahead to find durable solutions for the approximately 560,000 remaining refugees and internally displaced persons.

Despite the extreme toll the Balkan wars have taken on the lives of the people of the region, they are moving ahead. The international community must remain involved to support their efforts. The United States must remain involved and U.S. leadership is

key, but we do not act alone, but in close cooperation with our European allies and multilateral organizations such as NATO and the OSCE.

Again, I'd like to thank you for the opportunity to appear before you today, and I would be happy to answer any of your questions.

Mr. BROWNBACK. Thank you very much, Madam Secretary, for your comments and your attention to the region. I think it's critical that it continue to take place, and particularly I appreciate your highlighting the trafficking problem in the region, which is well known and needs to be emphasized and kept on top of because so many peoples' direct lives are involved with that.

We've got a good panel of members here. I just want to ask one question and go to my colleagues. I get a number of people coming to my office talking about the continued ethnic cleansing—that's not the right term—ethnic intimidation taking place in the region, frequently through attempts to destroy symbolic institutions or places.

You get members from the Orthodox Church coming in and saying, well, the church is being destroyed while forces are in the region and that these are efforts to intimidate and move people out of the region.

I would wonder how you see that set of issues and what can be done to address them?

Sec. DICARLO. Well, first of all, there certainly are vulnerable populations, vulnerable religions in the region. We tried very hard to work with all the governments in the region in first ensuring that they have the proper laws in place, and then in seeing that those laws are implemented.

I will give you an example, in the case of Kosovo, we pushed very hard on the provisional government to adopt a zero-tolerance policy when it comes to violence against minorities.

In Macedonia, for example, we have worked very hard with the government of Macedonia on its treatment of the Roma. The U.S. Agency for International Development funds a number of programs and funds a number of programs in not only Macedonia aimed at Roma, but throughout the region, to increase awareness, tolerance, and proper treatment of minorities and protection of human rights.

It's a problem, it's one that needs to be addressed very seriously. It will take a lot of time and obviously will involve also civil society organizations, which are really just beginning to grow in south-central Europe.

Mr. BROWNBACK. Thank you. Congressman Smith, and let's run the time clock at 5 minutes, so we can keep everyone informed of where they are.

Mr. SMITH. OK. Thank you.

Let me just ask, Madam Secretary, there's a great deal of concern among many of us that large numbers of women are being trafficked into Germany for the World Cup. And virtually every country under consideration today is a source country.

Some are countries of transit and to a lesser extent countries of destination, but they're all source countries. I'm wondering if our missions in each of these countries are paying special attention.

Yesterday, we heard from a number of Russian women who had been trafficked into Germany and suffered immensely as a result

of their mistreatment. That wasn't for the World Cup, but we know that those flows occur.

Second, recently, a number of us met with Cardinal Puljic, who was concerned that too few Catholics have been able to be reintegrated into Bosnia, and I wonder if you might speak to that briefly.

Next, many of us on this Commission have met numerous times and actually had hearings on the missing persons in the Balkans. If you could update us, what is being done to track down and to provide the most thorough accounting of those missing persons, that would be very helpful.

I do have other questions, which I then would submit for the record.

Sec. DICARLO. OK, thank you. On trafficking, yes, it is a serious problem in the region. We've seen improvements. We're seeing improvements. We not only have the countries of the region signing and trying to meet minimum standards, but we have seen improvement in law enforcement. We've seen improvement in witness protection.

We have in most of the countries of the region a serious problem with the judiciary, and this is where the problem lies, particularly, for example, the case of Croatia. That has done a fairly good job in investigating but has not been able to try the many people who have been indicted.

Our missions pay a lot of attention to trafficking. They pay a lot of attention because it's an important issue. It's one that we have made very clear is a priority and we've made it very clear to the countries that are aspirants for NATO that this is an issue that must be addressed. This is part of the reforms that we need to see them met.

And thank you for raising the World Cup issue. It's a key time. As far Cardinal Puljic is concerned—

Mr. SMITH. If you could, and this would best be for the record, but if you could get back to us—if there's a heightened look and a lookout on the part of our missions, because this would be a time when recruitment is at very high levels.

[The information referred to follows:]

The countries of South East Europe take seriously their responsibility in the fight against Trafficking in Persons (TIP). We have seen significant progress from governments in the region in their efforts to combat TIP, including aggressive law enforcement efforts in Bosnia and Herzegovina and Albania.

We have made it a priority to urge authorities to prevent trafficking, prosecute traffickers, and protect victims. To this end, we continue to provide assistance for rule of law capacity building, shelters, and social services through almost \$4 million in Support for East European Democracy FY05 funds. We have also provided governments with strategies to help focus their efforts and improve their ability to address TIP.

Our missions have urged government officials to pay particular attention to TIP in connection with the World Cup, and report a heightened awareness of the issue by

authorities. For example, in Albania, the government ordered increased vigilance at border crossings, focusing in particular on groups and young unaccompanied women. Prevention efforts in connection with the World Cup include campaigns to heighten awareness about recruitment efforts, and engagement with the Catholic Community in Tirana to increase understanding of the risk of trafficking and prostitution. In addition to heightened vigilance by police, Serbia aired four anti-trafficking public service announcements on Serbian National Television throughout the World Cup. The Provisional Institutions of Self Government in Kosovo produced television advertisements and street posters that were displayed during the World Cup.

Sec. DICARLO. Yes, thank you. We will raise that with them. Thank you.

On Cardinal Puljic, he met with a representative from the State Department as well when he was here and raised his concerns about the number of—the very few Croat Catholics remaining in Bosnia and Herzegovina and their unwillingness to return, their concern about return.

It's a serious issue, we understand. There is an overall problem in Bosnia and Herzegovina right now in that economically it is not a place that attracts returns. The economy is not so good, unemployment is not good. In the case of the Croats in particular, Croats feel they are disadvantages because they don't have their own entities.

The other issue that is one I think that detracts from the return is that many of them are settled in Croatia, and the Croatian Government does provide incentives and programs for Bosnian Croats to settle in Croatia. So, obviously, they have the opportunity to live in a country that is on its way to the European Union, has candidate status and they do have some kind of financial assistance to do so. This is very much part of the problem.

Mr. SMITH. And the missing persons?

Sec. DICARLO. Yes, in missing persons, we have both the international commission that's looking at it and the Red Cross looking at it. A number of efforts have been made to find missing persons. It's quite clear—in Kosovo, I believe still 2,000 that have not been identified, not found. In Bosnia and Herzegovina, we're looking at about 6,000.

It's still a serious issue. Efforts are being made. It's one that has gone very slowly, you're absolutely right, and we have to continue pushing. The United States has provided considerable funding for this effort, I think somewhere to the tune of \$4 million in the last year.

Mr. SMITH. Thank you so much.

Sec. DICARLO. Thank you.

Mr. BROWNBACK. Congressman Cardin?

Mr. CARDIN. Thank you, Mr. Chairman.

First of all, thank you for your testimony and thank you for your work. I want to know whether the United States has a view on the requests that have been made regarding a new trial for the wartime local Bosnian leader Fikret Abdic. We've gotten some inquiries on him and I just would appreciate what your view is on that.

Sec. DICARLO. Thank you very much. This just came to our attention, that indeed there were concerns about the Abdic trial, which I believe was held in Croatia. We have asked both of our embassies to look into the matter and get back to us. We don't have any information on that at this point, but I will get back to you—

Mr. CARDIN. Would you get back to me on that?

Sec. DICARLO. Absolutely.

[The information referred to follows:]

Based on discussions our Embassy in Zagreb has had with OSCE and ICTY representatives in Croatia, we believe Fikret Abdic's case was conducted in a fair and relatively calm manner in Croatia in 2002.

Abdic is a dual citizen of Croatia and Bosnia and Herzegovina (BiH) who could not be extradited to BiH and thus was tried in Croatia based on a Bosnian indictment and Bosnian evidence. Abdic's trial in Croatia for crimes committed in BiH was possible via an Agreement on Mutual Legal Cooperation in Civil and Criminal Matters signed between Croatia and BiH. In July 2002, the county court in Karlovac sentenced Abdic to 20 years imprisonment for committing war crimes in the Bihac area of BiH during 1993–1995. The Supreme Court later reduced this sentence from 20 to 15 years, taking into account Abdic's age and extenuating circumstances caused by the war then being fought. He is currently serving out this 15 year sentence in Croatia.

We remain committed to the principle that all war crimes trials proceed in a fair, credible and transparent manner.

Mr. CARDIN. Appreciate that.

I also want to talk about the Serbian compliance with the conditions on the annual certification on its compliance with the war crimes tribunal. We're obviously concerned about Mladic being turned over to the tribunal, but there are other issues. So can you just share with us the current status in regards to the certification process?

Sec. DICARLO. Well, as of May 31, the secretary decided that she was not in a position to certify this year that Serbia was in cooperation with the International Criminal Tribunal. Since she certified a year ago in June, she felt that not enough progress had been made. Not only had we not seen any arrests of fugitives, but there had been a problem in handing over documents, other issues, to the tribunal.

Obviously, this is an issue that we treat with great seriousness. We think it's very important that Belgrade officials are in full compliance. We note that a year ago when we did for a period suspend some of the funding to the central government, it produced action in Belgrade and in Banja Luka and 17 indictees were turned over to the Hague.

Mr. CARDIN. And I appreciate that, because I agree with the last observation. It seems to me that we are able to make progress when there are deadlines that need to be met and would encourage the State Department to continue to use that type of judgment in

this process. We obviously would like to bring an end to this chapter, but there's still work that needs to be done with the international tribunal.

And, last, and I'll be happy if you want to get back to me, but I would like your take on what happened with the constitutional reforms in Bosnia as to whether it was a good thing or not that they were put aside or rejected and what is likely to happen as far as the changes as it relates to these issues?

Sec. DICARLO. Thank you very much. First of all, we were very disappointed that the reforms did not pass. Our embassy worked very, very hard in lobbying efforts. Our colleagues from the U.S. Institute of Peace initiated the project and were very heavily engaged.

I think we all felt that the reforms put on the table were the very first step in what would be a long-term process to reform the Dayton constitution, but they were necessary first steps. We understand that there were some party leaders who felt we did not go far enough, others who felt that perhaps there wasn't highlighted enough of a role for, in particular, Bosnian Croats.

But the point that we made continuously is that this is the first step and you have to take the first step to get to the second step. We never envisioned constitutional reform in Bosnia being wrapped up all at once. It is our intention to support those leaders who want to pursue constitutional reform after the October elections.

Bosnia Herzegovina is now in the electoral period and it's not the time to be raising these issues. Political parties are—we'd like to see them focus on issues such as the economy, et cetera, and not use constitutional reform as a political football. But after the elections, we are very willing and have expressed our commitment to work with those leaders who want to move this forward.

It's our view that we have to do this as a project with the European Union. We had very strong European support during this process and we would do it jointly with them. Obviously, a lot of the reforms that would be taken by the Bosnian Government would be to meet European standards such as setting up new ministries, a ministry of agriculture, for example.

We also think that, perhaps, the way to proceed is to have it be a broader effort, not only a long-term one but a broader one that brings in civil society.

Mr. CARDIN. I think you may have touched upon that, but as you see the constitutional reform moving forward, do you see modifications to what was presented as a way of trying to move this forward?

Sec. DICARLO. It think that will depend on the Bosnians themselves, what they feel they are comfortable with. They have a package now that works, that improves the functioning of the parliament, streamlines the presidency, gives additional authorities to the council of ministers. They can improve upon this.

I think it depends on what they feel they are able to do after the October elections. If they feel they can make improvements on this package, then obviously we would support that.

Mr. CARDIN. Thank you.

Thank you, Mr. Chairman.

Mr. BROWNBACK. Senator Voinovich?

Mr. VOINOVICH. Yes, thank you, Mr. Chairman. Do I have to turn this on or is it on?

Mr. BROWNBACK. I think you're on, there. You're on.

Mr. VOINOVICH. Thank you.

First of all, I'd like to thank you and the State Department for the effort that you're making to respond to the recommendations of Kai Eide after his last visit to Kosovo in October 2005. These recommendations deal with, for example, the Kosovo police and judiciary, which are fragile institutions. The transference of competencies in these areas should be considered with great caution.

I'm grateful that the State Department understands how important it is to establish effective infrastructure for preserving any final solution so that the negotiations between Serbia and Kosovo can be successful. We need to dispel the feeling that once the U.N. leaves Kosovo, the minorities are going to pack their bags and leave.

One of the things that Kai Eide recommended in his 2005 report was that future status process must be moved forward with caution and artificial deadlines should not be set. I'm really interested in your opinion about what's going to happen now that the U.N. representative in Kosovo, Mr. Jessen-Petersen is going to leave.

I mean, one of the things that's of grave concern to me is the fact that the U.N. Mission in Kosovo, which doesn't have a good history of doing its job of protecting human rights, is finally doing a much better job. Jessen-Petersen has been a great leader, but he's scheduled to leave, and the European Union is likely to take over.

They'll have some 60 people, who are not there right there now. I'm worried about a transition from the U.N. mission in Kosovo to the European Union and what impact that's going to have on people's confidence that once this is over that the institutions are going to be in place to make sure the agreements are fulfilled.

Sec. DICARLO. Thank you. We, too, regret the departure of Jessen-Petersen, who's done an excellent job. Our understanding is that Secretary General Annan is now looking at names and hopes to announce a successor to Jessen-Petersen in the very near future.

There is a very able deputy in place, an American citizen, former general, Steven Schook. Mr. Schook was the chief of staff to the KFOR commander during the March 2004 riots and was the head of the NATO office in Sarajevo. He knows the region well and he will be in charge until a successor is in place.

As far as the future, we have decided in the Contact Group that no matter what the outcome of Kosovo's status is there will be an international civilian mission on the ground in Kosovo and international military presence. The international civilian mission will most likely be an international one, not just an EU one, and that is the United States will participate.

The primary role of this mission will be to supervise implementation of the settlement, and that mission will be in place as long as it is needed to be there. And we envision at this point a seamless transfer from UNMIK to whatever this new mission is.

Mr. VOINOVICH. One of the concerns that people have, and I talked to General Jones about this, is the rumor that perhaps U.S. KFOR forces are going to be diminished after a settlement. I know that they're coming up with some new policies and a more flexible force because of the fact that when they had the riots 2 years ago

on March 17, KFOR was not able to move quickly to suppress them.

And, of course, there were NATO caveats, put in place by some of the nations, that limited what they could do with their forces. There is video footage of the churches that were destroyed and people's houses that were burned down and nothing was being done by KFOR because the nation in charge of that area didn't have the authority to protect property.

We hope these issues have been worked out. But I think the support from KFOR is very important and I'd like to hear your perspective on how important it is that the U.S. forces remain there to give confidence to people who want to live there after this agreement is finished. They need to be there to make sure that the human rights provisions are indeed carried out.

Sec. DICARLO. Thank you. Yes, indeed, we do think it's important for U.S. troops to remain, and my understanding is that at this point there are no plans to draw them down. NATO has and is in the process of implementing what is called a task-force structure where they would be rotating troops and they would be better able to deal with the situation of March 2004, of riots, riot control.

They are also working very closely with the international police mission that's on the ground and local police, as well. This is something that has then I think heightened in the last few weeks. You may have read that KFOR is now expanding its presence in the north, in the northern part of Kosovo, international civilian police as well, because there are concerns for possible unrest in the north.

I just wanted to clarify, when you referred to the EU mission that was on the ground planning now, that's an EU police and rule of law mission, because the EU is going to take over major responsibility for police and police training and training of judges after the status is determined.

However, U.S. international prosecutors will remain, and U.S. police as well.

Mr. VOINOVICH. Could I ask a follow up on that?

Mr. BROWNBACK. Please, go ahead.

Mr. VOINOVICH. It was my understanding that OSCE has about 1,000 people stationed at their mission in Kosovo. Is anyone in the State Department looking at what the OSCE staff and U.N. mission, which has about 4,000 people, are doing in Kosovo to determine if the work needs to be continued by Europeans or others?

Sec. DICARLO. Yes, we're actually working very closely right now with the OSCE, with the U.N., with NATO and with the EU on what the international presence will look like after status is determined. The OSCE will remain, will continue in some of the areas that it has and the capacity-building areas. But we'll probably do extensive monitoring, and, particularly, monitoring of provisions of the settlement.

Not sure what the numbers will be and specific functions, but we're working on that right now.

Mr. BROWNBACK. Thank you. And I do appreciate all of your interest and focus in the region and Senator Voinovich is somebody that I certainly turn to on dealing with things in this region, because of his knowledge and his work in it.

I do hope on that last point that that's something we can emphasize, because one of the big problems, it strikes me, in the region has been this ethnic intimidation. And it seems to go on in lots of different ways and places, and any time we can be helpful of slowing that or stopping that ethnic intimidation from taking place, it seems like that's to help long-term benefit to have in an ethnically diverse area. And not just, OK, we sort this group that way and that group sorts this way is not a long-term solution I don't think anybody's looking for, but yet that seems to be what's taking place.

I found it interesting that you talked about the incentives the Croatians are putting in place to get people, I guess, there. I did not realize that was taking place, but I hope we can be helpful in keeping the diversity where it is.

Secretary, thank you very much for joining us. I appreciate your being here and appreciate your good work.

Sec. DICARLO. Thank you. Thank you very much.

Mr. BROWNBACK. I call up the second panel now, Daniel P. Serwer, Vice President, Center of Post-Conflict Peace and Stability Operations, U.S. Institute of Peace; Janusz Bugajski, Director of new European democracies project and Senior Fellow of Europe program, Center for Strategic and International Studies, CSIS; Nicolae Gheorghe, Senior Advisor, Office for Democratic Institutions and Human Rights, Office for Security and Cooperation in Europe; Joseph Grieboski, Founder and President, Institute on Religion and Public Policy.

And that's an excellent panel that we appreciate people being here.

As I understand that Mr. Gheorghe has landed at the airport, is rapidly speeding this way, even as we go forward. We'll go on with the panel and hopefully he'll be here in time to present as well.

All of your statements will be placed in the record fully. If you would like to summarize them, I will run a time clock at 5 minutes each to give you an idea where you are. If you needed to go some over that, that's not a big problem at all, but I want to give you some idea of where you are on time.

Mr. Serwer, thank you very much for joining us and the floor is yours.

**DANIEL SERWER, DIRECTOR OF PEACE AND STABILITY
OPERATIONS, U.S. INSTITUTE OF PEACE**

Mr. SERWER. Thank you, Mr. Chairman. My thanks for this opportunity to testify before the commission, where I first appeared in December 1998. Milosevic was then in power, Kosovo was in the throes of a violent Albanian insurgency and Serbian crackdown and Bosnia was still a place where war seemed possible. No doubt, things have improved since then.

That said, I'd like to be brutally honest about the current situation in Bosnia, Serbia and Kosovo. While none of these places is going back to war, none of them has established peace on a firm foundation. It's time to name names as to why.

In Bosnia, the path to Europe is blocked. Great strides have been made. The country now has a single defense ministry and unified, if not entirely united, armed forces. But Republika Srpska has failed to arrest Radovan Karadzic, too many Croat political leaders

in Bosnia still dream of their own entity and the constitution that the United States gave Bosnia at Dayton does not meet European standards.

The U.S. Institute of Peace has for the past year supported a Bosnian initiative to revise that constitution in accordance with Council of Europe guidelines, and I'm proud to have sitting behind me Don Hays, who has led that effort as the State Department employee on loan to the U.S. Institute of Peace.

Remarkably, Bosnian politicians reached an agreement on amendments. Disappointingly, the amendments failed by two votes in the Bosnian Parliament. The fault on this issue lies not so much with the one Croat and one Bosniak who defected from their parties in the vote, but with Haris Silajdzic, whose entire party voted against the constitutional amendments.

Silajdzic was a wartime prime minister who merits the admiration of all those who sought to extract Bosnia from the maelstrom of 1992–95. But in peacetime, he has preferred to campaign quixotically for abolition of the entities that make up Bosnia, the federation and Republika Srpska, rather than support more realistic changes that can really be approved in Parliament.

It's of course true that the entities which froze in place Bosnia's warring parties make governance there difficult and costly, but there is no possibility of eliminating the entities in the foreseeable future, and Bosnia faces a challenging year because of developments in Montenegro and Kosovo.

I hope the constitutional amendments will be brought back to Parliament and passed, with Silajdzic's party abstaining. This would solidify Bosnia's democratic institutions and take the country a giant step closer to European integration.

Let me turn next to Serbia, where democratic institutions have unfortunately failed to complete the revolution that began on October 5, 2001, with the fall of Slobodan Milosevic.

From that time forward, the question has been whether Serbia, the vital center of the Balkans, would hold on to past myths of Greater Serbia and all of Kosovo as a Serb Jerusalem or look forward to a future inside the European Union.

Since Zoran Djindjic's assassination, Serbia has chosen the past over the future. This is why Ratko Mladic, I resist calling him a general, is not in the Hague. Prime Minister Vojislav Kostunica, who governs with support from those who advocate Greater Serbia want to protect Mladic from arrest and the Serbian security services from reform.

He has refused to govern with support from Djindjic's more Europe-focused party. I trust Europe, which has more leverage than the United States, will succeed in twisting Kostunica's arm hard enough to make Mladic go to the Hague, but that's on enough. We need to see real reform of the security sector, including the police and secret services.

The United States was correct to suspend assistance to Serbia. In order to send an even clearer signal, the administration should give the \$7 million remaining this fiscal year to those in Serbia's courageous civil society, who are insisting that the country come to terms with the past through truth and justice, rather than by denying crimes or covering them up.

Kostunica's backward-looking attitude extends to Kosovo as well, where Serbia is determined to maintain governing authority over Serbs on a clearly defined territory. This may not be partition, but it's too close for comfort.

Ethno-territorial separation of this sort would set a precedent that Albanians would want to follow in southern Serbia, as well as in Macedonia, and it would revive efforts at ethno-territorial separation in Bosnia. To prevent it, the international community will have to do more than issue Contact Group statements saying that it will not allow partition.

It will need to have a clear plan for international control of Serb-populated areas and eventual transition to Pristina's control. I see some signs of technical preparation for this, but little sign of the political will needed to prevent Serbia from achieving de facto and even de jure partition.

Turning to Kosovo, the failure of its provisional institutions of self governments to get Serbs back to their homes safely and securely is the biggest single obstacle to determining final status, which should be done this year. Kosovo's elected leadership must take responsibility for this failure.

Former President Ibrahim Rugova, who is the living symbol of Kosovo's struggle for independence, former speaker of the Kosovo parliament Nexhat Daci and several prime ministers have so far failed, despite some with good intentions, to do all that needs to be done.

It's late in the game, but not too late for recently elected President Sejdiu and Prime Minister Ceku, who will be here next week, to correct the mistakes of their predecessors. Otherwise, I fear that the final status decision will be far less clear and unequivocal than it should be.

I hear rumblings of giving Kosovo independence but keeping it out of the U.N. until it meets more standards. This, some Europeans think, would help democrats in Serbia fend off electoral gains by socialists and radicals. Would that all U.N. members were subjected to such rigor, but since they're not, doing so with Kosovo would encourage extremists and likely lead to violence. And it would not prevent the radicals from coming to power in Serbia, which is likely no matter what is done in Kosovo.

Mr. Chairman, this is a year of decision in the Balkans. The question is whether the decisions will bring peace or instability.

We started well. The unequivocal result of the Montenegrin referendum, slightly more than the 55 percent the EU insisted upon, bodes well.

If Sarajevo chooses constitutional amendments, Belgrade chooses to send Mladic to the Hague and reforms the security sector, Pristina chooses to get Serbs back to their homes and the Contact Group provides for international supervision of the Serbs of Kosovo, the year could end well with a clear decision on Kosovo's status.

Thank you.

Mr. BROWNBACK. Thank you very much, sir. We've got a vote that's on in the Senate now, and I don't know if our House colleagues are coming back.

What we'll do is we'll put the hearing in recess until either they can get back in from the House side or that we're back from the Senate side. It unfortunately takes a little time to walk over and get back. And I apologize to our witnesses and those in attendance, but just really can't avoid it any other way. So we will be in recess until either Congressman Smith or myself or Senator Voinovich gets back here to bring us back out of recess.

In recess.

[Recess.]

Mr. BROWNBACK. Call the hearing back to order. Thank you all for staying with us. I apologize. Both Senator Voinovich and I had a vote, Senate side, which we could be called back for probably as soon as 30 minutes for an additional vote. So I would ask the presenters, if they can, to stay at their presentations for 5 minutes so we can make sure to get through those as much as we possibly can.

Let's see, Mr. Bugajski, director of New European Democracies Project, senior fellow for CSIS. If you would, thank you for joining us.

JANUSZ BUGAJSKI, DIRECTOR OF THE NEW EUROPEAN DEMOCRACIES PROJECT, SENIOR FELLOW, EUROPE PROGRAM, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

Mr. BUGAJSKI. OK, thank you, Mr. Chairman, thank you to the Commission for inviting me. I will try to be as brief as possible, focused on really four countries, the three U.S.-Adriatic Charter countries, Albania, Croatia, and Macedonia, as well as the newly restored state of Montenegro.

And three issues, as specified, as you requested, human rights, democratic consolidation, and international integration. In sum, I would say, as compared to a decade ago, the eastern Adriatic zone has become one of political stability and international cooperation.

All four of these Adriatic littoral states have made significant progress towards ensuring civil and minority rights according to prevailing Europe standards, consolidating their democratic and market systems and pursuing beneficial bilateral and multilateral ties with their neighbors.

The next stage of evolution, I think, has to focus on good governments, economic development, international institutional integration and strengthening regional and European security with U.S. involvement.

Very briefly, Albania, human rights, the record has made steady progress over the past few years. Albania does meet general European standards. However, and I think we'll hear this a little bit later, as in many other countries in this region and other regions, the Roma community continues to suffer from societal discrimination and there is concern by human rights organizations on such issues as citizens' privacy rights, politicization of the media and reported police abuse against prisoners. This isn't, I must say, just Albania, but I'm signaling some of the issues that we need to focus on.

Croatia, I think, has developed a very respectable human rights record. Relations between majority Croats and minority Serbs have certainly improved over the years. Nevertheless, I think tensions

still persist at local level. I think more can and should be done to reintegrate those Serbs who are willing and able to come back to Croatia. At the same time, I think Croatia does need international assistance, not the least financial, to help provide economic opportunities, housing and so forth, for the incoming minority.

Macedonia, I think the large Albanian minority has clearly benefited from the implementation of the Ohrid agreement, which terminated the potentially destructive war. Albanians are much more equitably represented in all state institutions and they've required additional collective rights in language use, education and so forth.

Montenegro. Montenegro has a multiethnic society in which national religious identity has not played a divisive or conflictive role. In fact, during the elections, to the information we have, most of the minority population, both Albanian and Muslim, did vote for independence for Montenegro.

I think, though, it is important that the sizable Serbian population, which voted against independence, is fully integrated into state institutions and does not feel excluded from the process of development after independence. Again, democratic consolidation.

I think all the governments are clearly making progress as functioning pluralistic democracies. In the case of Albania, clearly this political polarization has to be somehow handled and moved beyond over the coming years. And I think there are good indications that maybe Albania is getting out of its bipolar disorder, so to speak.

In terms of Croatia, as I said, fully functioning pluralist democracy. Nevertheless, reforms, as in many other countries need to be pursued, particularly in the judiciary, police, security service sector and so forth.

Macedonia, as was said, faces elections. A lot of progress has been made. Progress is never enough, of course, and there still needs to be more done in terms of coping with official corruption, with police reform, judicial reform and so forth.

And, last, Montenegro, which does possess the infrastructure of an independent state, now also has to launch its own process of further economic and political and structural reform, particularly in combating corruption, organized crime that comes across the borders and trying to build a stable state in the eastern Adriatic region.

Last is the question of international integration, and here I would stress that the prospect of EU and NATO membership is absolutely key, a key stimulant for enhancing human rights and promoting democracy throughout the region. This was the case in Central Europe, and I think this is the case in southeast Europe. Any kind of postponement or ambiguity in terms of eventual accession I think will send a very negative message, a very counterproductive message throughout the region.

Last, but not least, let me give just one or two of my own policy recommendations, things I think need to be accomplished over the coming few years. First, I think the U.S.-Adriatic Charter needs to become more focused on membership, NATO membership for Croatia, Macedonia and Albania. And I think a very strong signal can be sent at the Riga summit, the NATO summit this fall.

Second, I think Montenegro should as feasible be invited to join the U.S.-Adriatic Charter. I think this will encourage the new state to plug into all the initiatives that the charter has already launched and to become a source of stability in the region.

Third, I think momentum must be given to promote effective democratic governments across the region and across board there's combating crime, some of these other questions that were raised earlier.

Fourth, I think each country must aim to ensure administrative reform, privatization, legislative reform in order to attract foreign investment. And this also would include infrastructure development—I think all the things that are essential to raise living standards, because ultimately ethnic conflicts, human rights abuses, thrives when there are economic inequalities, wide disparities, poverty, pauperization and so forth.

I think this is the area that really we need to focus on in the future. In other words, a potential market of 25 million people, how to attract investment, how to plug this region into the European mainstream. And I think in that way the mission in southeast Europe will be largely completed and we can move on to other critical areas—in other words, the Black Sea region, Caspian region and the Central Asian region to bring these into the sphere of the Trans-Atlantic community.

Thank you very much.

Mr. BROWNBACK. Very good and quite encouraging.

Mr. Grieboski.

**JOSEPH K. GRIEBOSKI, PRESIDENT AND FOUNDER, INSTITUTE
FOR RELIGION AND PUBLIC POLICY**

Mr. GRIEBOSKI. Thank you, Mr. Chairman, for the opportunity to testify today, and thank you as well for the initiative of holding this hearing. The status of religious rights in both society and under law is challenged significantly in each of the states of the region.

From active legislative measures to social, public contempt directed at religious minorities, the current condition of religious freedom has failed to demonstrate a significant departure from the rigid form and draconian practice under the Soviet era.

Regression of religious rights in the Balkans is a reflection of a greater rollback of democratic processes in general in Central and southeast Europe that that must be addressed and dealt with through political and diplomatic tools readily available to the United States, to the OSCE and to the entire international community.

Two factors in particular are key to understanding the devolution of religious rights in the region, particularly in the scope of legislative restrictions.

First, many of the states in the region have yet to amend the religion laws still on the books from the Soviet era. It is their belief that to be a modern European state, the laws must be amended to demonstrate their progress away from Soviet-era systems.

Second, and immediately following on the footsteps, these states mistakenly believe that it is imperative that there be religion laws

in the first place, and are using as models restrictive legislation found in other areas of Europe.

In my broader testimony, I have painted a picture of many of the states throughout the region but would like to take the opportunity to focus on three areas in particular, Bosnia Herzegovina, Serbia, and the province of Kosovo.

The law on freedom of religion and legal positions of religious communities and churches in Bosnia and Herzegovina violates OSCE and international standards on religious freedom. Not only does the law generate a great societal conflict, it perpetuates ethnic and nationalistic tensions and cultural and religious intolerance among various religious communities in Bosnia and Herzegovina.

Religious tensions that occasionally erupt in violence against religious communities are directly related to the ethnic lines dividing the country. A religious identity, for the most part, is reflected in the ethnic identity in the Bosnian population.

Bosnians, generally, are associated with Islam, Bosnian Croats with the Roman Catholic Church, Bosnian Serbs with the Serbian Orthodox Church. The Jewish community maintains a very small but important presence in Bosnian society. Despite the constitutional and legal provisions protecting religious freedom, discrimination against religious minorities occurs in virtually all parts of the country through a high threshold required for registration and penalties associated with free speech expressions.

These acts are the two predominantly used mechanisms to hinder the activities of religious minorities in the country. State favoritism expressed toward particular religious communities contributes to the increase in interethnic tensions in the country.

The State Department annual report also notes cases of misuse of religious symbols for political purposes and instigation of nationalistic sentiments. Moreover, a greater divergence within the society is perpetuated by foreign missionaries preaching a fundamentalist form of Islam unfamiliar to the indigenous Bosnian Muslim traditions. This advances a greater division not among various religious communities of Bosnia, but within the Muslim community itself.

In Serbia, the Parliament of Serbia recently passed, and the President signed into law, a draconian law on churches and religious communities. The essential objections to this law include inadequate separation of the church from the state, the combination of civil law and canon law and discrimination predominantly of small religious communities.

The law, as written, does not guarantee respect for fundamental religious freedoms. The law enforces already-existing institutional discrimination against religious groups that do not belong to the group of, quote, "traditional and religious communities." Among the most serious problems in the legislation are hazy registration requirements, limitations on naming rights, ill-defined state deregistration powers, speech restrictions, improper public disclosure requirements and undue deference to registration decisions of other European countries.

Particularly problematic is the adoption of a blatantly discriminatory amendment aimed primarily at minority religious communities. As this commission has commented, that measure removed

safeguards that would have allowed all religious communities currently registered to maintain that status. Regardless of whether they already enjoyed registration, all but seven communities would need to reregister.

The law, which was hastily passed through parliament with a 120–4 vote, without consultation with domestic religious communities, international organizations such as the OSCE or nongovernmental organizations, severely discriminates the smaller religious communities by establishing unrealistic registration standards and by allotting to the government expansive review power.

The law passed by the assembly guarantees preferential treatment by creating explicit and limited classes of faith groups that advance specific religious communities while marginalizing other faith groups. Registration guidelines require burdensome documentation that only serves to stall groups from moving forward within the process.

In the province of Kosovo, the provisional authorities have recently introduced a draft religion law that potentially violates the religious rights of individuals and institutions at every level. The law, if passed, would represent a substantial interference with the rights of minority religious communities and churches unable to meet the 10-year rule and population rule under the draft law.

For example, religious communities unable to meet the duration and representation requirements would be deprived of the right to charge persons with the provision of spiritual services and to make use of appropriate facilities and security forces and hospitals in areas of custody or imprisonment, as well as in preventive, cure and social restraining facilities.

The law, as drafted, violates the right to a freedom of religion and belief within European standards, international standards and U.N. standards.

Mr. BROWNBACK. Thank you very much, Mr. Grieboski.

I want to say we're extremely honored and privileged to have Nicolae Gheorghe with us here today. I know he's made a heroic effort to be here, including a flight that was delayed, to come directly from a trip through Kosovo and Macedonia. And he'll be testifying again tomorrow in front of the Helsinki Commission on the human rights of Roma or lack thereof.

He's been one of the outstanding advocates for the recognition of Roma in international human rights documents and Romani human rights issues.

So I'm delighted to have you here today. Thank for making so much effort to be here with us today, Mr. Gheorghe.

NICOLAE GHEORGHE, SENIOR ADVISOR, OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS, ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

Mr. GHEORGHE. Thank you, Mr. Chairman, and thank you Congressmen for this and members of the Commission for including the issue of Roma on the agenda of this hearing and for offering me the opportunity to bring this testimony in such a distinguished company of scholars and analysts.

In fact, I just wanted to reconfirm what I sense has been said here, that there is progress in the area in many countries on the

way to move toward established democracies and to try to cope with the effects of the devastating conflicts and wars just some recent years ago.

The population that we speak about, the Roma, in many ways are benefiting from these changes and enjoying a higher degree of rights than in the previous times. Nevertheless, there are major issues which I would like to bring into the attention. Most of the states which emerged from the former Yugoslavia more or less legitimate themselves on nationalist ideologies with a strong ethnic component.

The political elites of the regions and of each country, they are more and more learning the vocabulary of the democracy, of the civil rights, of the human rights, including the jargon of the European Union, an organization to which many of them aspire to belong.

But, in reality, in everyday life, the political elite is maintaining a public discourse which is mainly rooted in the ethnic nationalism which is traditional in the area.

And I don't think that all the troubles in the Balkans are settled. We may still witness symptoms of this confrontation between, I repeat, political ideologies and motivations of the ruling classes in the regions.

The Roma are suffering because of that because they are not perceived as a national minority, proper, what is a nation. They lack national territory or a key state to defend their rights in theory, in constitutions and in laws. In some countries, in Serbia and Macedonia, in Croatia, in Bosnia and Herzegovina, they enjoy—they are defined as a national minority with different interpretations of the concept—less in Albania, where they are considered to be only a cultural or a linguistic minority.

In practice, this is not enacted, because the reality of the politics is that the rights of specific minorities in specific countries are negotiated in the bilateral relations between the states. Of course, almost all of the states in the region, they agree with Council of Europe Framework Convention for the Protection of National Minorities. So, in theory, everything is OK. In reality, it's a huge gap which has to be filled with the reality of making the rights in everyday life.

I say this, for instance, because I came from Skopje. The issue, which has dominated Roma-related activists, NGOs and the media, it's a case of a 16 year-old boy who disappeared in May in very ambiguous, confusing circumstances, but there was an incident with the police. Tragically, he lost his life, being thrown in a river after so many days.

The police that were involved in this in different ways which still has to be clarified by a proper investigation. But what is frustrating for the people is that after so many days, the family did not receive any explanation from the police about the circumstances of the death and the responsibility of the police in these circumstances. And there is the suspicion that the involvement of a special police unit which is dealing with strict criminality is heavily involved with that and their involvement is hidden.

I say that because, just coming from the airport, I noticed that it's a welcoming address for the travelers and we have been as-

sure that we will be treated with courtesy, respect, and dignity. Maybe the habits of courtesy in Balkans are different than the ones in the United States, but the respect and the dignity of the human persons are the same, and what is lacking in that special case, it's the sense of respect and therefore the persons who deserve to have full information about the way that police are conducting investigations.

What made me also worry about that in the Roma community is that it's a sense of frustration because of this, of a lack of proper respect of the rights and in some corners of the civil associations of the Roma, I hear discourse which sometimes indicates the possibility that this frustration may culminate in a more radical discourse and eventually a radical action to make their voice heard.

This is also more specifically the case of Kosovo. We have to cope with the reality of tens of thousands of people displaced from their homes, houses destroyed, whole neighborhoods destroyed. After 7 years, for many of them, the prospects of returning to their homes is still very far away.

In Mitrovica, where I spent the weekend, there was one of the largest Roma neighborhoods in the Balkans, with about 750 houses and 7,000 to 8,000 inhabitants. All of these houses have been destroyed by the Albanian mobs after the entry of KFOR troops in Mitrovica in June and the middle of July 1999.

Until now, the population of that neighborhood is spread in northern Mitrovica, most of them in Serbia, tens of thousands and many of them in Western Europe. Since seven years, it was not possible to find a proper solution to return and reconstruct their houses.

Only recently, under strong political pressure, it was agreed to grant part of the land where the houses have been, and now a modest progress can be noticed. Two blocks of that are starting to grow, with the prospect that people may be accommodated for the cold season.

Since 7 years, about 700, 800 people are living in centers for displaced persons in very adverse environments with high degrees of lead contamination, which started to impact negatively on the health of the people. The results of progress that I witnessed, about 60 families are moved in the new center, organized to provide emergency treatment.

In spite of that, the prospects for finding a durable solution for restoring the property right and the ownership of the people who are in northern Mitrovica, it is not yet completely foretold.

What is lacking is the participation of the people in deciding about their future and, again, one of the reasons for coming, the effort, and answering the invitation to come here is to appear to you, to the State Department and to the Congress, to use the influence that you have for assuring the participation of minorities in the discussion about the future status of Kosovo.

There are lead services, there are attempts to involve minorities, but there is no significant mechanism to make the participation meaningful in discussion of the future of Kosovo. And without the participation of minorities, the prospect of having a multiethnic Kosovo is not yet clear.

In the case of Roma, there is also this need to find the other mechanism for assuring their participation in discussion and to guarantee their rights in future Kosovo, whatever will be the status which will result from negotiation.

That case illustrates a little bit the tragedy of the people in the region, because the Roma in that region, not being hundreds of thousands of people, because of the different historical circumstances, enjoyed a degree of social integration and of cultural advancements higher than other parts of Europe.

Actually most of the educated Roma are coming from that region, those who managed over the last decades to contribute to the flourishing of their language and of culture. The tragedy of the world means that this elite is now—most of them are displaced.

That had a very negative impact on the capacity of people to self organize and to promote their rights and we need a strong effort to restore this capacity of the people to be meaningfully integrated and to develop the proper leadership.

And that's why I think that giving to the Roma of Kosovo the rights to be a constituent part of the population and of the future society and their future political entity, it might be the guarantee that they are looking for in order to have the return assured.

But in terms of the issue of returns of the refused asylum seekers, from Western Europe, tens of thousands may be returned, in Serbia, in particular, where the conditions for accommodation for housing, for health, for education, are quite poor. I think that, all of us, we may try to make our contribution to assure that this basic respect for human rights and for the dignity of each person has been assured in spite of the adverse conditions of the last decade.

Thank you very much.

Mr. BROWNBACK. Thank you, Mr. Gheorghe, and thank you very much for your great work that you've done in this particular area, and I wish you Godspeed in continuing it. That's very important.

We're probably going to be called for a vote here at 4, I'm guessing, but I want to get a few questions in and turn it over to Senator Voinovich.

I get a different resonance here, and tell me if I'm picking it up wrong, and, or maybe all of you actually agree and you're just looking at different pieces of the puzzle here.

Mr. Serwer and Mr. Bugajski—pardon me—I hear you saying, look, things are substantially better in this region, obviously not perfect. No place is perfect, but we're moving really on the right track. And I hear Mr. Grieboski saying, look, it's just not working very well here for religious minorities in particular. Do you disagree with him, or is that, no, yes, he's right, it's just this is still one of the areas that still need to be worked on?

Mr. BUGAJSKI. I don't disagree with him. I don't know all the details of what he actually is saying in any individual country. I haven't yet read his testimony. I would say, however, that the standards that these countries would need to meet in terms of religious and other freedoms in order to enter the European Union, and even for NATO membership, are essential.

In other words, that they have to be kept on track for where they're lacking, for the kinds of freedoms, whether in human or collective or religious freedoms, where there's still progress to be

made. I'm not saying they have made it, far from it. If you read my testimony, I'm not saying the progress is complete. It's a work in progress.

Nevertheless, the fact that they're considered to be on track through the association process, through candidacy in the case of Croatia and hopefully Serbia, Montenegro and Kosovo will also get on this track—I think that to me indicates that sooner or later these countries will make progress on these issues. But we need to be able to pressure, both through carrots and through sticks.

Mr. BROWNBAC. And your policy recommendation is that we've got the specific measures out there. We've just got to keep pushing them on these topics, and that the carrot, big carrot at the end of this, is joining NATO and EU.

Mr. BUGAJSKI. Those are the two big carrots, and the third big carrot I would say is becoming part of the mainstream, in other words, to benefit from the modern economy, raising living standards. It's not going to solve every problem, but I think it would contribute to resolving some of the worst abuses and suspicions and paranoias that we've seen in the region.

Mr. BROWNBAC. Mr. Serwer, any divergence on that thought?

Mr. SERWER. No, I think it's not surprising, though, that you should find in Serbia, Bosnia, and Kosovo things lagging behind some of the places that Janusz was talking about: Croatia, Macedonia, Albania. Serbia, Kosovo, and Bosnia have been through much worse in the way of conflict and they're going to take a longer time to recover.

I don't mean to excuse anything about their laws on religion, by any means, but I do think it's important to recognize that they are way behind.

Mr. BROWNBAC. Mr. Grieboski, do you disagree with these two gentlemen, of what they are saying in the overarching situation?

Mr. GRIEBOSKI. No, Senator, in the overarching situation, there's been great advancement in the process of democratization throughout the region. However, what's in the one element for which I was asked to testify, that of religious rights, we have not seen that same progress. And, very often, this is a result of the international community's lack of attention to the role of religious rights and religious minorities in that overall process.

As there's been advancement in freedom of the press, freedom of speech, freedom of assembly, very often the international community does not hold these states to the same conditions on freedom of religion.

Mr. BROWNBAC. Do you agree, Mr. Serwer, is that accurate?

Sorry about our lack of technology to spread around here.

Mr. SERWER. Yes, so far as I know, it's accurate. It should surprise no one that places that won't arrest Mladic also have on religion that aren't very—don't meet Western standards. They don't meet Western standards in a number of different respects.

Mr. BROWNBAC. It just seems like that's such a basic issue in that region. It's a basic issue in so many places of the world, but much of the conflict has both an ethnic and religious tie to it that if you're going to defuse the conflict over time you've got to defuse the ethnic and religious battling, splitting apart on those bases, don't you?

Mr. SERWER. Well, absolutely, you do, and it seems to me that there are efforts underway in the way of writing common histories of the region, that is, getting ethnic groups to write common histories, truth and reconciliation commissions, things of this sort which will help to clear the air and to enable a much better understanding across religions.

But the fact of the matter is, in Bosnia today, you probably have more distance between Croats, Muslims and Serbs than you had before the war. That's a fact of the matter and that's what we've got to deal with. And I agree with Mr. Grieboski that the effort of the commission and of others to raise the international visibility of the religious issue is very important in getting it resolved.

Mr. BROWNBACK. Any additional policy recommendations on resolving this set of issues that any of you would make, other than what you've already put forward?

Mr. BUGAJSKI. If I could just add, I don't know how much influence we would have, but in the case, for example, of the Orthodox communities in the Balkans, I think it is essential to have mutual recognition. In other words, for the Macedonians Orthodox Church and the Montenegrin Orthodox Church, which is in the process of restoring its property, its position and so forth, I think it's important for the Serbian Orthodox Church to recognize the existence of those churches, of those denominations. Because that in itself helps to recognize the statehood, the nationality, the history of its neighbors and I think will help in ethnic reconciliation in the region.

That would be one of my recommendations.

Mr. BROWNBACK. Very good.

Mr. Gheorghe, again, I really appreciate your work and your testimony on this, and I appreciate what you've done for the Roma community and I just want that noted for the record in particular.

Senator Voinovich?

Mr. VOINOVICH. Thank you, Mr. Chairman. I've spent a lot of time in the region and sometimes I think that I'm an idealist. I believe that if we can get all of the Southeast European countries into the European Union and NATO membership for those who want it, that it would be the glue or cement to bring them together and maintain stability. Until now, the Balkans, or Southeast Europe, has been on the outside. Our foreign policy has been what I call the "barking dog foreign policy." That is, if the region barks, we throw it a bone, we ignore it, until it starts barking again. But we have a wonderful opportunity at this time to make a difference for the region and bring it into Europe.

What I'd like you to comment on is, No. 1, how important do you believe it is that the European Union continue to hold out the prospects of membership in the EU? I've talked with Olli Rehn, who is in the head of enlargement for the EU. He seems to understand the importance of this. I've talked to Belgium's Foreign Minister Karel De Gucht. I've talked to Germany's Foreign Minister Mr. Steinmeier. They seem to get it, but back in their own respective countries, and in other European countries, there is a feeling that they've expanded enough. The good news is it seems like their leaders understand that the prospect of membership is important. I know we're working forward to trying to get Croatia and Macedonia, Albania into NATO and Montenegro, maybe, Bosnia and

Herzegovina. But EU membership is their priority. In your view, how important is EU membership to the stability of the region?

And, second, in spite of the lack of human rights in Kosovo, do you believe that there is a possibility of a multicultural Kosovo, where the rights of minorities are protected, and the patrimonial sites of the Serbian Orthodox Church are protected, so that refugees can return and that they can achieve a multiethnic country? Can Kosovo accomplish something similar to what is occurring in Macedonia, where you have the Albanian minority and the ethnic Macedonians who have come to some agreement and are working together and it appears to be making significant progress. Or something similar to what is happening in Croatia, where it seems like Prime Minister Sanader is working to bring the minorities back in to Kraina and Slavonia and work with them. So in sum, how important is the EU and NATO membership and do you believe that we have a chance of any kind of a multiethnic society in Kosovo?

Mr. BROWNBACK. Senator, if I could step in just real briefly here. I'm going to have to run myself for another engagement that I have to do and I'm going to turn the hearing over to you to go as you need. This is a great panel and I really appreciate your being here and I want to give you the time you need to ask any questions. You should.

Mr. VOINOVICH. Really appreciate it.

Who wants to start?

[Crosstalk.]

Mr. BUGAJSKI. I think I've already stated, but I think maybe I should reiterate that the EU and the prospect of EU and NATO membership I think is absolutely essential for two reasons. One, I think it promotes the kind of reforms that we would like to see across the board, economic, social, political, structural, security, and so forth.

Second, I think it gives the society a stake in those reforms. In other words, there's an end product to this. We're not simply sacrificing, implementing these reforms just for the sake of it. There is an end product, which is being part of the European family, European community, being able to travel to every part of Europe, to work there and so on and so forth.

I think that was clearly the case in Central Europe with the eight members that came in a couple of years ago. I think the aspirations of the Balkan people, of people in the Balkans, are no different to those in Central Europe. Soon we're going to have Bulgaria and Romania in the European Union.

This region simply cannot be a black hole or a black zone in the middle of Europe. The question is, how to get there?

Obviously, one has to keep pressing for them to conduct the sort of reforms that are necessary, but on the other hand, I think it's essential for the European Union to educate their own publics that it's beneficial for them to have a bigger Europe.

It's not beneficial for them to become protectionist at this point against the rest of Europe. In other words, they have benefited from the entry of Poland and Czech Republic and so forth. They will also benefit from the entry of a Serbia or a Bosnia or an Albania.

So that's I think two messages I think need to be sent.

Mr. SERWER. Senator, you're my kind of idealist. You're a realist. I think what you described is the only way. I would only emphasize that in seeking candidacy to NATO and the EU, there has to be a consistent application of standards, that we can't overlook the kinds of things that Mr. Grieboski is talking about.

Mr. VOINOVICH. It's interesting that I was not aware of these laws that were passed. In fact, I just said to my assistant that we're writing to President Sejdiu and to Prime Minister Ceku and indicated to them that I don't really think that passage of such a law is in the best interest of the future of Kosovo, particularly when we're talking about having a multiethnic society, and particularly when they're trying to negotiate with the Serbian Orthodox Church to protect the patrimonial sites. I mean, those kinds of things really argue against what we're trying to accomplish there.

Mr. SERWER. I would add, on the question of Kosovo being multiethnic, I don't want to be overly idealistic about this. There are very profound problems in Kosovo, an enormous distance between Serbs and Albanians. The fact that the languages that they speak are mutually incompatible is extremely important. It's not like central Bosnia, where Serbs, Croats, and Muslims can all understand each other.

There's an enormous language gap. I have proposed elsewhere that that be filled by having a second language in Kosovo being English for both Serbs and Albanians, but I won't go into that. I would only say that I think it will take a considerable amount of time.

You've got a situation today where the Serbian enclaves are essentially governed directly by Belgrade. And they are very isolated from the surrounding Albanian communities. The Serbs in those enclaves are required to drive around in cars that bear Serbian license plates, not the license plates of the U.N. that should be the legal license plates in Kosovo.

They're therefore subject to intimidation. They're identifiable and subject to intimidation throughout Kosovo. And the Albanians who drive into Serb areas are also subject to intimidation because they, too, are ethnically identifiable.

We got rid of ethnically identifiable license plates in Bosnia I think it was 2 or 3 years after the war, recognizing the problem. It is now how many years after the war? It's seven years after the war in Kosovo. We still haven't gotten rid of ethnically identifiable license plates.

It's very difficult for people to return in Kosovo. I do not minimize the threat to Serbs in Kosovo, but it's made worse by the license plate issue, by the isolation of the Serbs in Kosovo and by the fact that the communities really aren't talking to each other much.

The U.S. Institute of Peace has sponsored any number of dialogues between Serbs and Albanians, but they're a drop in the bucket.

There should have been a much more intense effort in that direction.

Mr. VOINOVICH. One thing I'd be interested in your commenting on is the report from some of our KFOR forces at Camp Bondsteel, who are working out in the community. Quite frankly, they had

some really good stories to talk about certain towns where Serbs and Albanians were getting together and living peacefully. They talked about some towns that weren't so good, and they attributed it, frankly, to Belgrade trying to encourage them not to cooperate or work with the Albanian Kosovars.

And then, of course, the Serbs recently passed, or put an edict out, that said that any of the communities there that were getting financial help from the Serbs—and, as you point out, they're getting help—should refuse to take any help from the Kosovar Government.

What do you think about those kinds of actions on the part of the Serbian Government?

And then, of course, the Serbs recently passed, or put an edict out, that said that any of the communities there that were getting help from the Serbs—and, as you point out, they're getting help—should refuse to take any help from the Kosovar Government.

And those kinds of actions on the part of the Serbian Government make me wonder, where are they going?

Mr. SERWER. Well, I think where they're going is trying to achieve ethno-territorial separation. That is, they want the Serbs separated from the Albanians on territory that can be governed directly from Belgrade. And, failing that, they want to postpone the solution. The proposal they have made is for 20 years.

But I don't want to imply that this can all be overcome overnight. We're going to need an international presence in Kosovo.

That international presence is going to have to be prepared to protect not only Serbs but Roma and other minorities, and it's going to have to be there for a considerable amount of time before we can overcome this problem.

Mr. VOINOVICH. I spent a lot of time with Kai Eide, who I think has done a terrific job. He lays it out here in this paper he submitted to the UN Secretary General. These are all of the things he said have to be in place if this is going to be successful. But your opinion is it's going to be a long time and it's going to take a lot of work and there's going to have to be some goodness on the part of people to come together and some enlightenment in Belgrade.

I think that you mention about President Kostunica. I mean, I've been encouraging him for four years to send Mladic to the Hague. I met with Sanader about 2 years ago, and I said, Mr. Prime Minister, you must send Gotovina to the Hague. I said it will be wonderful if you do it, and he did, and things are coming along in Croatia today. And I happen to be of Serbian heritage, but my people are from Croatia. I'd like to say the same thing for Serbia. I'd like to have them not be the black hole. I'd like to see them be on their way to NATO and in the European Union. And it just seems, for some reason, President Tadic gets it, but I'm not sure he has the willpower or influence over the ministry to stand up and say this is the future for Serbia. Unfortunately, President Kostunica, who is a wonderful man, his peripheral vision is not very good. And I think, as you said, he's in the past. What they don't understand is, that the boundaries mean nothing if you can move back and forth and commerce can move and you can improve the quality of life of the people who live in your country and see their economic wellbeing improved and there are more jobs and so forth.

And it just seems that getting that across is very difficult.

Mr. SERWER. President, I hope you won't President Sejdiu and Prime Minister Ceku when they're here next week, either. They need the same message.

Mr. VOINOVICH. Well, I have encouraged the State Department to bring President Tadic and Prime Minister Kostunica here. I think that the Serbs need to know that we love them right now, I really do. I think they've been through a lot and it's not easy and I think we ought to let them know that we still love them and that we want to help them. I've editorialized too much. I'd like to hear from the other witnesses.

Mr. GHEORGHE. I'd like to add to your idealism. As a matter of fact, Kosovo is less multiethnic now than it was before the war, and that's a reality, and we'll stay with this reality for a while. But here and there, the multiethnic landscape of the community I preserved, is there. In Prizren, for instance, I recognize each time that the community there is pretty well preserved, and from the point of view that the Roma, they are there and they will stay there.

I think that is with the opportunities opened by the institutional reforms, some of them will benefit. There is already some embryonics of multiethnic media and of cultural institutions of the minorities in that area.

If you go to Pristina, it's a different reality. It's there that the number of minorities who are living in Pristina, it's almost zero now.

Mr. VOINOVICH. Zero.

Mr. GHEORGHE. In Mitrovica, we need, in place of security forces and institutional arrangements, I think we need economic incentives.

That region was one of the most prosperous of the Kosovo and of the former Yugoslavia. Eventually, it may become again, if the European Union is enough strong to use economic incentives to bring people together to work and to reconstruct their visions of working together. And of course if your country, too, will use this instrument of promoting business and employment of people. That's one of the—

Mr. VOINOVICH. In other words, the whole issue of economics in terms of getting people to stay and to return. I know in Croatia, in the town where my family was cleansed in Operation Storm, I've got a cousin that came back, but the rest of the family will never come back. And the reason they won't is because there's no jobs there. They've gone to Austria, they've gone to Canada, they've gone someplace else. There's no future there for young people who are currently living in other places. There is no reason to come back.

Now, USAID has been working on little entrepreneurship things. For instance, setting up a little business and that kind of thing. Do you think that is something that we should really give some consideration to if this is going to be successful?

Mr. GHEORGHE. Sure. We need good businesspersons, companies, also with the motivation for the welfare of the communities in order to invest money there and to, again, to bring people to work together. When you speak with the common Albanians on the

streets and with the Serbs, they'd like to return to work. They'd like to have their jobs.

So politics is politics and it's important. Elites are important—
Mr. VOINOVICH. The whole economy is bad, period.

Mr. GHEORGHE. There is no more economy. Income is hurting, both for Belgrade and from Pristina.

What people have is an identity rooted in work and in the interrelations of work. If I was a little bit optimistic last week when I visited the Roma Mahalla is that I see there that the market, it's the downtown shops are moved in an area then. I said, well, that's a good place for a bazaar. If you have a bazaar back in Mitrovica, we'll have Roma commercial dealers taking the advantage and eventually the risk to be there.

And the second idea which I heard and people are speaking about is having a multi-linguistic university in Mitrovica, like in Tetovo. And the university in Tetovo managed to bring a lot in terms of relaxing the tensions between Albanians and Macedonian Serbs. A multi-language university in Mitrovica, in northern Mitrovica, will help very much people again to be together, the students.

And this is the political class of trades, not to demand, as we said, who is still kept in the course of 1974 constitution of Tito. Because part of the political elite of Serbia and of Kosovo are still rooted in that constitution, where they had nations, peoples, ethnic communities, and so on.

Creating a new generation of educated people to stay together and to let English, I mean, the language which gives access to the business, will help also immensely. I also dreamed that if there will be a kindergarten or a grammar school for Roma, to be part of that would be university, from the beginning, to learn both Serbian, Albanian, Romani, and English, in order to allow people to read—so, with probably a little bit of bold courage and imagination, I see that the elements of the culture can be preserved and eventually reinvented in the region.

Mr. VOINOVICH. You're a real idealist.

Mr. GHEORGHE. Without that, I think that we cannot do our work. I mean, very few people here will accept—

[Crosstalk.]

Mr. VOINOVICH. Yes, thanks.

Mr. Grieboski.

Mr. GRIEBOSKI. Very quickly, Senator, I'd like to touch on the EU, NATO question. I'd like to reflect the comments of my colleagues here at the table. They're absolutely right that the prospect of EU and NATO membership as a carrot and as a goal within certain standards is necessary in order to move these states forward.

My only addition to that would be that the onus should not be just on the states themselves, seeking membership, but on the international institutions like NATO and the EU to guarantee that those standards are truly being followed, not just in theory, but in practice, particularly when it comes to the religious freedom question and to the religious minority question, that passing laws is one thing, as you well know.

But the following of those laws is another question, and whether or not the religious rights are protected on the ground in these

countries is more important, I think, than just the passage of the legislation. And I think that onus is very much on organizations like the OSCE and the EU and NATO to guarantee that those rights are being protected.

As far as the Kosovo question, we once again, as I was listening to my colleagues, we were talking about the ethnic issue. What we are not talking about, and what we are not hearing, is how the ethnic issue is actually being used to cover the religious problems in Kosovo. That is, we talk about Serb versus Albanian.

There's no discussion of the question of Islam, particularly fundamentalist Islam, rising within Kosovo and being used as a motivating force and a motivating threat throughout the region, but also Kosovo itself. Just as an example, since 1999, since the arrival of UNMIK and NATO forces, almost 150 Serbian Orthodox churches have been destroyed, none of which have been rebuilt.

Yet, at the same time frame, over 200 mosques have been built in Kosovo, all of which were funded by the Iranians and the Saudis—the majority of which, let me rephrase that, have been funded by the Iranians and the Saudis.

This, to me, is an indication of a significant and serious problem of Islamist religiosity developing throughout the area. And the interesting thing is, as you know, Senator, you've been there many times, Kosovar Albanians are not particularly religious people.

Their religious identity is very much something that they wear but not something that they believe.

What we have heard is that the mosques are irrelevant of whether or not they are used. The majority of these 200 mosques are chained and unused. And what we have heard from individuals on the ground in Kosovo when we were there is that this is more important for the religious mapping, more important for the religious landscape of Kosovo than it is even for the usage of the mosques.

And so, again, this is one of those situations where I would encourage the international community, where I would encourage the United States in particular, to monitor not just the ethnic issues, but the religious issues, the draft law of the Kosovo parliament.

And I learned this morning that there have been some amendments to that and it's now being sent back to parliament to improve it slightly. But that is really just a billboard for a much larger problem that exists within inter-religious rights within Kosovo.

Mr. VOINOVICH. Well, I know that there's been some robust discussion between the Serbian Orthodox Church and the Kosovars in terms of the future. In fact, I had the Bishops Theodosija and Grigorevic in my office, and there's a problem there because it's a difference of opinion between them and Bishop Artemije who's up in Gracanica.

But they are making progress and they are repairing churches. The international community came forward with about \$4.5 million and when I was there I found out that they weren't spending it, so I wrote to the Patriarch and I said, what's going on? And they looked into it and they had a problem and they are moving forward with that. I really think that that's fundamental to any future, but if—and that's why we're going to check this law. If this law, that flies right in the face of what needs to be done.

Mr. GRIEBOSKI. Senator, we have a copy of the draft law that I'd be more than happy to share with your staff.

Mr. VOINOVICH. I'd like that, yes. If you can get it to me as soon as possible.

Mr. GRIEBOSKI. We'll do that today, sir.

Mr. GHEORGHE. Just we have there are lights and shadows. We cannot speak only about Serbs, Orthodox, and the Albanian Muslims.

There's the situation of Roma living in the Serb enclaves in Gracanica. It's as difficult as in other parts, because there are Roma living in Gracanica, in the Serb enclaves.

They speak Serbian language, but as religion, they are Muslims, and they told me that it is difficult for them to practice their everyday religious habits amidst the Serbian minority, so they are—

[Crosstalk.]

Mr. VOINOVICH. In other words, there are Roma that can speak Serbian there in Gracanica, and they have difficulty practicing their Roma—

Mr. GHEORGHE. That's also something we have. They're a minority from a minority, and this is the intricacy of the situation there.

Mr. VOINOVICH. Well, I started out in saying that—we talked about dignity and respect, treating other people like you want to be protected. I'll never forget, I met after the war in 2000, with Mr. Thaci and Mr. Rugova and there was one other person there, I can't remember his name. I spent 45 minutes with them, and at the end, I said, I know you want independence and you want your own Kosovo. Whether you accomplish this goal will depend upon how you treat your minorities. If you can get over the past and the hatred and treat them like they didn't treat you, you can be successful. You can start a new chapter for Kosovo and guarantee that your children and grandchildren aren't going to be killed.

And I saw Mr. Thaci in 2006. He is part of the Kosovo Unity Team. And I said, I gave you some good advice and you'd be a lot further ahead today if you had listened to me. You haven't done what you're supposed to do. It's been 5 years.

So I'd like to say thank you very much for being here. I appreciate your perspective. I still have this dream and I'm going to keep spending time on it. My father died many years ago. He was a Serb and a peacemaker. And I would love to be able to say before I die, that his part of the world has moved closer together and they've become part of Europe and the quality of life for the people is what it should be.

And I want to thank each of you for your role in making that happen, and do you have any other thoughts that you'd like to share with me or the members of this Commission? I'd be more than happy to receive them.

Mr. GHEORGHE. I don't see the United States as the best to advise the region on what might be the laws regarding national minorities or their rights and freedoms. What you may teach all of us, I'm coming from the region, is what means individual human rights? What I learned after 1990s, coming from Romania and going there, it is this language and these values. And that's something that is now growing in the region and that's something that you may stress all the time. Because the social categorization, col-

lective categorization, religious, ethnic, national, in the region all continues all the time to create frictions.

But what is new and probably for the young generation, it's learning this new language, which contributed a lot to change the landscape in Romania, in Bulgaria, in Hungary, Czech Republic, and other countries which are more advanced in the transition. I think that has to be stressed and re-stressed each time, how these values and their respective laws and their respective institutional arrangements to put the values and laws in practice can be learned, can be in the region by everyone, old and young people. The young are the hook.

Thanks.

Mr. VOINOVICH. Thank you very much.

[Whereupon, at 4:24 p.m., the hearing was adjourned.]

APPENDICES

PREPARED STATEMENT OF HON. SAM BROWNBACK, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

This afternoon's hearing focuses on what many would call "the Balkans" but is more accurately labeled today as "South-Central Europe." This region is geographically to the south but otherwise central to Europe and European affairs today.

A central desire for the people of this region is to become an integrated part of Europe. Membership in the European Union and the North Atlantic Treaty Organization is a widely held policy priority. The ending of the Cold War in the early 1990s made this movement possible, but a subsequent decade of regional conflict delayed the reforms necessary to make integration a reality. Now, just as some countries in the region have made remarkable strides to recover—encouraging their neighbors to do the same—there is concern that Europe will leave them behind.

I genuinely hope that this will not be the case and believe the candidacy of these countries to join European and Euro-Atlantic institutions will be strongest if they have solid democratic credentials. The purpose of this hearing, therefore, is to look specifically at the human rights situation and the degree of democratic development in Albania, Bosnia-Herzegovina, Croatia, Macedonia, Montenegro and Serbia in the hope of encouraging these countries to take the additional steps that will make integration possible.

This also applies to Kosovo, the status of which has yet to be determined. Whatever the outcome, the same human rights and democratic norms must apply, and the authorities in Kosovo should expect to be held accountable for their record of compliance. To be clear, the subject of this hearing is not about debating the future status of Kosovo but about making Kosovo a place where human rights and democratic principles are respected.

On the one hand, it is to the credit of the people in the region and many of their leaders that, so soon after the horrendous conflicts that occurred, they are as close to being ready for European and Euro-Atlantic integration as they are. On the other hand, there is much still to be done. Trafficking in persons remains a problem throughout the region, along with the associated evils of organized crime and official corruption. Restrictions on religious freedom, in law and in practice, indicate a lingering intolerance toward diversity. Discrimination and violence against Roma is a common problem too commonly ignored.

Beyond the regional problems, there are specific circumstances for each:

Bosnia, for example, must find a way to move beyond the Dayton Agreement which restored peace ten years ago but hinders true democracy in that country today.

Kosovo must consider how to accommodate its minority communities and give those displaced from a conflict seven years ago a real opportunity to return if they choose. This is an issue on which I have relayed my continuing interest to the State Department,

and I want to thank the Department for its responsiveness to my concerns. The situation for minorities in Kosovo, however, remains bleak, and intensified efforts are needed if the situation there is to improve significantly.

Macedonia's next hurdle is the election only a few weeks away, which must meet international standards if the country is to maintain its integration momentum.

Serbia, meanwhile, must get serious about dealing with war crimes and the nationalist legacy of Slobodan Milosevic.

Montenegro, which we welcome as the newest European state and soon-to-be 56th participating States in the OSCE, must now demonstrate that independence opens the door to further democratic and economic reform.

Albania must similarly show its reforms are not just nice promises or good intentions but genuine commitment and solid reality.

Croatia, which has advanced the farthest thus far, has an opportunity to demonstrate that being ahead is not a cause to slow the pace, and that democratic governance is not a burden but a blessing for majority and minorities alike.

To address these issues we have for our first panel the Deputy Assistant Secretary of State for European Affairs, Rosemary DiCarlo, a career member of the Senior Foreign Service valued not only for the position she holds in the Department but the knowledge and experience she brings to it. Her presentation of the views of the Department of State will be followed by analyses from experts on South-Central Europe and some of the the issues of great concern in that region.

**PREPARED STATEMENT OF HON. BENJAMIN L. CARDIN,
RANKING MEMBER, COMMISSION ON SECURITY AND
COOPERATION IN EUROPE**

I welcome today's focus on the situation in the Balkans. While the situation varies from one country to another, all have made some progress toward European and Euro-Atlantic integration. Still, problems remain, and I want to encourage not only the authorities but the people—from Croatia to Albania—to take additional reform measures.

I say this not only so they can “join the club”, be it NATO, the EU or both. I say this, because these same reforms that will improve the eligibility of countries for integration will also lead to the real improvement of the daily lives of the citizens of those countries. As an active member of the Helsinki Commission, I have focused considerably on the economic dimension of the OSCE, and through this work it becomes obvious how organized crime, official corruption and the absence of the rule of law not only threaten human rights but thwart economic development, including foreign investment, as well. None of the countries we are examining today have scored well on Transparency International Corruption Perceptions Index, ranking no higher than 70th and mostly well below that of 158 countries surveyed in 2005. I will continue to encourage the OSCE Participating States to sign, ratify, and implement the new United Nations Convention against Corruption.

This will be the subject of the work in the Second Committee of the OSCE Parliamentary Assembly annual session, scheduled for early July in Brussels. The committee members are focusing on improving regional economic integration, particularly in the Balkans. The resolution we will consider in Brussels notes that “creating common interests and de facto solidarities . . . dissuade States from resorting to force in order to settle their differences.”

As Chairman of the committee, I am also working to have the Assembly address corruption through initiatives to change parliamentary immunity laws. By depriving public officials of the ability to use their status as elected officials as a shield against prosecution for criminal acts, we help ensure greater integrity. Good governance, particularly in national representative bodies, is fundamental to the healthy functioning of democracy.

I will be sure to bring the transcript of today's hearing to the attention of my fellow parliamentarians from the countries concerned. In the meantime, I hope to hear how United States policy is helping these countries to advance toward full integration in Europe. I also hope our experts provide insight on what more can be done, as I am particularly interested in ideas to help the Romani communities and others who are economically disadvantaged and deprived by discrimination and intolerance of the opportunity to better their lives.

Beyond greater opportunity, I have strongly felt that the people of the Balkans also need greater justice. For that reason, I have been a strong proponent of full cooperation by all states with the International Criminal Tribunal for the former Yugoslavia, based in The Hague. Whatever criticisms one may have regarding the tribunal's work, the precedents it has set is one of the few positive developments that has come from the aggression and genocide of

the 1990s. While far from certain, no ruthless thug anywhere around the globe can completely rule out the possibility of being held accountable in a court of law for the horrendous crimes he or she committed or helped to orchestrate.

As the tribunal seeks to implement its completion strategy, it is important to realize that this strategy is really the responsibility of all. Justice is not something the UN member-states delegated to the tribunal; the tribunal is merely a tool through which the member-states seek justice. Justice will not be complete, most of all, if Ratko Mladic and Radovan Karadzic and other indictees remain at large. The Serbian Government and Republika Srpska authorities in Bosnia must do more in this regard. I am sure that, if there is sufficient will, we can bring these war criminals to justice. Until there is, I continue to support the effort to condition U.S. assistance to Serbia, which remains in the Foreign Operations Appropriations bill passed by the House last week.

The completion strategy also means other governments must do their part. I am particularly concerned that Russia is a haven for persons indicted by The Hague. One such person believed to be in Russia is Vlastimir Djordjevic, who has been accused of organizing the murder of three Albanian American brothers arrested by Serb authorities in 1999. Their bodies were found in a mass grave in 2001.

I hope that the United States has raised this issue with Russian authorities and will continue to do so, including at the G-8 summit.

I also hope that the United States is devoting sufficient resources to locating at-large indictees. While our intelligence resources are in heavy demand in combating terrorism, I believe we have an interest in seeing this effort completed the right way—with indictees in The Hague. And until they are in The Hague, the United States, its friend and allies should ensure that the tribunal remains adequately funded.

Finally, I think it is important to note that some cases are being handed to war crimes chambers in the courts of the countries of the region. This is a welcomed development; everyone agrees that justice is best served closer to home. These chambers deserve continued international support as well.

I look forward to hearing from our witnesses today.

PREPARED STATEMENT OF ROSEMARY A. DiCARLO, DEPUTY ASSISTANT SECRETARY OF STATE FOR EUROPEAN AND EURASIA AFFAIRS, U.S. DEPARTMENT OF STATE

Chairman Brownback, Co-chairman Smith, thank you for inviting me to testify before the Helsinki Commission today. I am pleased to have the opportunity to speak with you about human rights, democracy and integration in South Central Europe.

Our vision for the region is one of peace and stability—where the countries of South Central Europe are part of a Europe whole, free and at peace. To this end, we have worked to help prepare the region for a democratic future within NATO and the European Union.

As Under Secretary Nicholas Burns stated in his November 8 testimony before the Senate Foreign Relations Committee, the year 2006 is a crucial one for the Balkans. As we move forward to resolve the one major outstanding issue—the future status of Kosovo—we have the opportunity to put the conflicts of the 1990s behind us once and for all. But we cannot resolve Kosovo's status without devoting increased attention to the entire region. Therefore, the Administration has intensified its engagement with the countries of South Central Europe and is committed to pursuing a policy that will accelerate the region's integration into the Euro-Atlantic community.

Euro-Atlantic integration cannot be achieved without progress in key areas, including the issues taken up by this Commission. We have witnessed a marked overall improvement in human rights, democracy and the rule of law in South Central Europe over the past several years. The Balkans today is a very different region from a decade ago, when its people were held hostage by wars, ethnic cleansing, and the forced displacement of approximately four million people. The United States has played a major role in helping the region move towards one in which peaceful, stable, and democratic multiethnic societies respect and protect the rights and fundamental freedoms of all its people. Today the image of the Balkans is no longer that of a dark and dangerous corner of Europe, but a place where democratic governments are in place and progress is apparent every day.

Cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) has significantly improved. Persons indicted for war crimes are increasingly facing justice. Of the 161 individuals indicted by the Tribunal since its inception, only six fugitives—with the transfer of Dragan Zelenovic this past weekend—remain outstanding. With its cooperation in facilitating the December arrest and transfer of Ante Gotovina, the Government of Croatia took a major step towards addressing the injustices of the past. Serbia and Bosnia and Herzegovina's Republika Srpska improved their cooperation by assisting with or facilitating the transfer of 17 fugitives to The Hague since October 2004. With the ICTY concentrating efforts on senior leaders most responsible for wartime atrocities, there is increasing focus in the region on prosecuting other persons indicted for war crimes, including those cases transferred from The Hague. We are working with Bosnia and Herzegovina, Serbia and Croatia to ensure designated courts are capable of handling war crimes cases according to international

standards, and to ensure these cases are tried in a fair and transparent manner. The Sarajevo War Crimes Chamber of the Bosnian and Herzegovina State Court opened in March 2005. Four cases have been transferred there from the ICTY for prosecution, and three others are expected in the near term. The Chamber also has cases that have arisen locally. The ICTY Prosecutor's Office has also sent the Bosnian State Prosecutor over 150 cases for review, investigation and possible indictment; on April 7, the Chamber handed down its first conviction in such a case. At present, there are currently over 40 war crimes cases at the Chamber, either in the pre-trial, trial or appeals stage. In addition, the State Prosecutor's Office has referred over 90 war crimes cases to lower courts in Bosnia for trial.

In Belgrade, on May 26, Serbia's Special Court for War Crimes handed down a 20-year sentence to a former Bosnian Serb officer accused of using 27 civilians as a human shield. This action followed the Special Court's first verdict, on December 12, 2005, convicting 14 Serbs of the 1991 murder, torture and inhumane treatment of more than 200 Croatian prisoners of war. Three trials are currently underway in the Special Court: one against 5 members of the Scorpions paramilitary unit for the 1995 Srebrenica-related killing of 6 Bosniak youths, another against 7 Bosnian Serb members of the Zvornik territorial defense indicted for the 1992 forceful eviction and killing of 174 Muslim Bosniaks, and a third involving 8 until-recently-active members of the Serbian police and State Security service (BIA) for the 1999 killing of 48 members of the Berisha family in the Kosovo village of Suva Reka. In Croatia, the Supreme Court on April 29 confirmed a Zagreb County court conviction of a former paramilitary member who received 15 years in prison for his involvement in killings in Srebrenica and for torture of prisoners of war near Vukovar. Croatian courts will soon begin prosecuting a case transferred from The Hague. While important work remains—and the June 3 killing in Belgrade of a key “protected witness” in the Djindjic assassination case highlights important concerns regarding organized crime and witness protection—these convictions mark a significant step forward for the region in the local prosecution of war crimes, and in establishing the credibility and transparency of the criminal justice system.

To this end, we continue to provide significant assistance: our contributions to date to the Sarajevo War Crimes Chamber have reached nearly \$14 million. We will contribute \$1 million in Fiscal Year 2006 for training and equipment to increase capacity for Serbia's Special Court for War Crimes to investigate and prosecute cases, including those originating from ICTY case files. With more than \$1.5 million in assistance to Croatian courts, the U.S. has strengthened Croatia's ability to try these and other domestic war crimes cases in accordance with internationally recognized legal standards.

The majority of persons displaced as a result of the Balkan conflicts have returned home. Since the Dayton Accords were signed a decade ago, 1,012,970 people have returned to their homes in Bosnia and Herzegovina; almost half of them to places where they now constitute an ethnic minority—including areas that were the worst hit by the conflict. We are pressing governments throughout

the region to assist in finding durable solutions for all remaining refugees and internally displaced persons (IDPs). Only by providing real opportunities for sustainable returns—through the protection of vulnerable populations, the resolution of outstanding property issues, and the promotion of viable economic activities—can the region’s long-term stability and integration into Europe be ensured.

Throughout the region, the rule of law is taking hold, and countries are becoming more effective at fighting crime and administering justice. Efforts to combat trafficking in persons—an important bellwether for crime-fighting success—have been impressive throughout the region. We have made it a priority to urge authorities to make progress, including by providing strategies to help focus government efforts in all areas of anti-trafficking and using our assistance—almost \$4 million for the region in Fiscal Year 2005—to support reforms. Each of the countries in the region is now making significant efforts to fully meet the minimum standards of the Trafficking Victims Protection Act. Albania continues to demonstrate strong law enforcement efforts, convicting 54 traffickers in 2005, with Albanian courts issuing significant penalties. Bosnia and Herzegovina increased funding for victim protection and coordinated with NGOs to screen, identify, and assist victims. The Department’s Trafficking in Persons report cited Bosnia’s strike force as a best practice. Croatia is implementing a comprehensive awareness and prevention program targeting potential victims. Last May, the Macedonian government passed important witness protection legislation to provide resources and improve safeguards for victim-witnesses. Montenegro made tangible progress in prosecution and protection, and Serbia increased efforts to protect victim-witnesses. Challenges remain for the region, especially regarding the difficult issues of victim identification, witness protection, and official complicity, but given the strength of crime networks in the region, South Central Europe has made significant progress in fighting trafficking.

Efforts continue to fight organized crime and corruption which, if left unchecked, would threaten the stability of the region and the safety of its people. Albania has broken up several notorious smuggling and criminal groups, and is starting to change longstanding patterns of crime and corruption. Thanks in part to U.S. assistance in improving border security, the illicit transit of people and goods across the Adriatic has been reduced to a fraction of what it once was. The Albanian Government recently signed an agreement with the Millennium Challenge Corporation for \$13.85 million in funding to support reforms and initiatives specifically targeting crime and corruption and improving the environment for legitimate business.

Elections throughout the region have generally been judged to be free and fair. On May 21, the people of Montenegro voted in favor of independence with an exceptional turnout of 86.5 percent. The final results have been certified and announced, and the parliament of Montenegro has adopted a declaration on independence. We were pleased that the campaign and the referendum were carried out in a peaceful, democratic, and transparent manner; both sides of the vote demonstrated political maturity in handling this momentous decision. The people of Albania elected a new govern-

ment last July in a much improved election which led to a smooth transfer of power, the first in the country's post-communist period. We continue to encourage the government and political parties in Albania to complete the process of electoral reform so that local elections early next year are fully in compliance with international democratic standards.

Important reforms continue in Macedonia, whose multiethnic coalition government has completed the legislative implementation of the 2001 Ohrid Framework Agreement and is proceeding with its practical implementation. Ongoing challenges include working toward equitable representation of minorities in state structures and decentralization of authorities to the municipal level, which should enhance the efficiency and accountability of government, and offer greater protections to minorities. Continued and full implementation of the Framework Agreement remains the key to Macedonia's future as a stable, prosperous multiethnic democracy.

The Balkans have indeed come a long way since Milosevic presided over the worst human rights abuses in Europe after World War II, but important work remains.

Cooperation with the ICTY is still an issue in the region. Five of the six remaining fugitive indictees are Bosnian Serbs, and the majority of them are suspected to be in Serbia or the Republika Srpska. These fugitives include notorious indictees Ratko Mladic and Radovan Karadzic—for whom the Tribunal's doors will always remain open. This non-cooperation remains a roadblock to full integration with Euro-Atlantic institutions, and we continue to engage authorities and use congressionally-mandated sanctions to encourage compliance with the Tribunal. We will continue to expect all authorities in the region to fulfill their international obligations.

The return of refugees and IDPs constitutes a major unresolved issue within the region, and significant efforts are still needed to ensure that displaced persons have the freedom and perception of security to return to their homes if they so choose. Approximately 360,000 people remain displaced in Serbia and Montenegro (80,000 refugees from Croatia, 35,000 refugees from Bosnia and Herzegovina, and 225,000 IDPs from Kosovo, according to official United Nations High Commissioner for Refugees [UNHCR] estimates), 190,000 displaced persons in Bosnia are still seeking a durable solution. An additional 100,000 Bosnian refugees living outside Bosnia continue to express an interest in return. In Bosnia, Croatia and Kosovo, we continuously and strongly encourage authorities to provide a welcoming atmosphere for minority returns, including through reconstruction of housing and infrastructure.

Throughout the region, we continually urge authorities at all levels of government to implement their commitments and to facilitate returns. A number of U.S.-funded projects that focus on agricultural producers, microcredits, small business creation and more accountable local government contribute to the sustainability of returns. Democracy Commission small grants contribute to the capacity building of local NGOs, including those who represent minority returnee communities.

Overall returns to Kosovo are far too low, and we are working closely with Kosovo's provisional government to create a more conducive environment for returns. Earlier this month, Kosovo officials

signed a Protocol on Returns with the United Nations Mission in Kosovo (UNMIK) and Serbia delineating each party's responsibility for facilitating returns, including defining the parameters for returns to places other than one's home. The Contact Group has also developed with UNMIK a list of 13 priority Standard action items, many of which focus on minority rights and call upon Kosovo officials to do more to enforce property rights, ensure funding for returns and prosecute individuals responsible for inter-ethnic crimes.

We continue to provide assistance to help these vulnerable populations. In Fiscal Year 2006, our Bureau for Population, Refugees and Migration will provide \$13.8 million for activities related to the protection, return, and local integration of displaced persons in the Balkans; of this total, \$11.3 million will fund UNHCR's efforts in the region, and \$2.5 million will go to NGO programs in Kosovo and Serbia. For the last three years, the Bureau of Population, Refugees and Migration Ambassador's Fund has provided our embassies in the region with funds for small-scale projects that benefit minority communities. These projects have included the contribution of educational materials to schools, as well as the reconstruction of vital community infrastructure (schools and clinics) in sensitive return areas. Through Support for East European Democracy funding, we also support economic and democratic development necessary for sustainable returns, assist municipalities where local government and minority communities work together to foster returns and build a multiethnic society, and fund institutions to resolve outstanding property claims. The United States has also granted refugee status to approximately 150,000 individuals displaced from Bosnia and Herzegovina over the last fifteen years.

Governments are judged on how they treat their most vulnerable citizens—and ethnic minorities in the Balkans remain vulnerable to discrimination and violence. There are places where ethnic minorities feel unsafe and unwelcome in their communities, as in parts of Kosovo. In the Serbian province of Vojvodina minorities have experienced in the recent past instances of discrimination, hate speech and vandalism to property. Our embassy has kept a careful watch there and reports notable improvement. Protection of minority rights is a priority U.S. objective throughout the region. Just as there can be no true reconciliation until all war criminals are brought to justice, there can be no lasting peace until religious and ethnic minorities feel welcome and secure.

The protection of minorities is central to our policy in Kosovo. We actively support the ongoing UN-led negotiations to determine Kosovo's future political status this year. The resolution of Kosovo's status must ensure that Kosovo's minorities are protected and that Kosovo remains multi-ethnic. It must also promote stability in the Balkans and further this region's integration into the Euro-Atlantic community. Since last November, the United States and other members of the Contact Group (including France, Germany, Italy, Russia, the United Kingdom and the United States) have supported UN Special Envoy Martti Ahtisaari's efforts to broker agreements between Serbia and Kosovo that would solidify a multi-ethnic Kosovo where Kosovo Serbs and other minorities are confident of their safe, secure and prosperous future. Contact Group ministers agreed last January that every effort should be made to

achieve a negotiated solution in the course of 2006. With our Contact Group partners and in coordination with the U.N. Mission in Kosovo, we continue to press the Kosovo government to implement U.N.-developed standards for good governance and protection of minorities. These standards aim to enforce property rights, increase freedom of movement, prosecute perpetrators of inter-ethnic crimes and provide adequate funding for the return of the displaced. The promotion of human rights and fundamental freedoms remains at the forefront of our Kosovo policy, as it has been throughout the Balkans for over a decade.

An especially vulnerable ethnic group, the Roma—along with the Ashkalia and Egyptian communities—continues to suffer disproportionately throughout the region. Whether it be physical harassment from police, lack of access to basic services such as education, health care and housing, or societal discrimination, the Roma are among the most marginalized of minorities. Croatia, Macedonia and Serbia and Montenegro participate in the Decade of Roma Inclusion. After months of active engagement by our Embassy in Sarajevo, Bosnia and Herzegovina is preparing to apply for membership in the Decade of Roma Inclusion and expects to complete its remaining action plans by September 1. As a result of our advocacy, the Bosnian Ministry of Human Rights and Refugees has honored its commitment to fund the activities of the Council of Roma. We are also providing a \$40,000 grant through the Department's Human Rights and Democracy Fund for Romani NGOs to conduct a nationwide population survey, which will draw attention to critical areas that the government must address. Our Embassy in Sarajevo has nominated a Romani activist for an international visitors program on managing diversity in a multi-ethnic society, in addition to awarding a number of Democracy Commission grants to Romani NGOs to address human rights issues of concern to Bosnian Roma. The Maryland National Guard humanitarian medical mission is also scheduled to set up one-day clinics in July in four different Roma communities near Tuzla, providing several thousand Roma with access to basic medical, dental and optometry services.

In northern Kosovo, we continue to closely monitor and support UNMIK's efforts to relocate approximately 500 displaced Roma from dangerously contaminated IDP camps. On June 6, representatives from the U.S. Office in Pristina visited 248 Roma now residing at a cleaner, safer temporary facility. Work is also underway to rebuild this community's original neighborhood, to which some families may be returning to as early as August. Work is clearly underway, one of the three lead-contaminated camps has been closed, and lead abatement therapy is expected to begin next week. We are transferring \$1 million in assistance to help UNMIK meet the immediate medical emergency needs of this population, and continue to engage UN and Kosovo officials to encourage their active efforts to ensure these individuals have a durable solution.

While each of the countries in the region generally respects the right of religious freedom, we have been closely following recent legislative restrictions on religious freedom. We share the Commission's concerns regarding Serbia's Law on Churches and Religious Organizations, and our Ambassador in Belgrade has led efforts to

engage the government by urging Prime Minister Kostunica and President Tadic to pursue positive changes in the legislation. We are watching closely for the ameliorative amendments promised by the President. In Kosovo, we are pressing the authorities to adopt expeditiously the internationally accepted draft religious freedom law that would foster increased tolerance in Kosovo.

We continue to pursue political reform throughout the region. Last month's defeat of the constitutional reform package by two votes in Bosnia and Herzegovina was disappointing, but we will continue to support the efforts of the Bosnian people to modernize their constitution and to streamline their state government. The Bosnian parties that back constitutional reform have called for a renewed effort after the October elections; we will strongly support such an initiative. In advance of Macedonia's July 5 parliamentary elections, we are pressing political party leaders to address the serious flaws evidenced in the 2005 municipal elections as well as working with major parties to develop issues-based campaigns and enhancing participation by women, youth and other minorities, such as Roma. We have provided funding there for smaller NGOs to conduct voter education campaigns and worked with the Islamic community to gain their public support for free and fair elections and guarantees for individual voting rights. We continue to work with Government of Croatia to increase transparency, develop codes of ethics, and increase public accountability, thereby increasing citizens' faith in government. The civil society sector is growing stronger in the Balkans, and non-governmental organizations are proving to be strong partners in the transition to democracy and free market economies. But the sector is still in need of support, both financial and political, in order to keep the transitions on the path to "irreversible democracy."

Our leadership is key to continued progress in the Balkans, but the United States works closely with our European allies and through multilateral organizations. With our Contact Group partners, we support President Ahtisaari's efforts to resolve Kosovo's status. Through the OSCE, we advance elections that meet international standards and we work with allies to promote democratization through the observation of elections, expansion of civil society capacities in the region, and monitoring of freedom of the media. Through NATO, we continue to help play a key role as a guarantor of security in the region. In Kosovo, the NATO-led KFOR provides a stabilizing force, which is particularly important during the status negotiation process. In addition, the prospect of enhanced relationships with NATO, through Partnership for Peace or membership in the institution itself, provides the impetus for needed political, economic and defense reforms throughout the region.

Despite the extreme toll the Balkan wars have taken on the lives of its people, they are moving ahead. Those who once fought each other are now cooperating to advance political and economic reforms, strengthen respect for minorities, ensure opportunities for all citizens, aid civil society organizations that support vulnerable populations, and resolve post-conflict problems and cross-border issues. In this respect, our goals for South Central Europe are coming to fruition, and the United States and the international com-

munity, including this Commission, can take pride in our contributions. The promise of stability and Euro-Atlantic integration looms closer than ever for much of the region, and those who fear being left behind have taken notice. The international community's continued involvement will be necessary to ensure democratic institutions are strong enough to endure, that tolerance and ethnic reconciliation triumph over past hatreds, and that the countries of the region adequately prepare themselves to take their rightful place in Europe.

**PREPARED STATEMENT OF DANIEL SERWER, DIRECTOR OF
PEACE AND STABILITY OPERATIONS, U.S. INSTITUTE OF
PEACE**

Mr. Chairman, my thanks for the opportunity to testify before your Commission, where I first appeared in December 1998. Milosevic was then in power, Kosovo was in the throes of a violent Albanian insurgency and Serbian crackdown, and Bosnia was still a place where war seemed possible. No doubt things have improved since then.

That said, I would like to be brutally honest about the current situation in Bosnia, Serbia and Kosovo. While none of these places is going back to war, none of them has established peace on a firm foundation. It is time to name names as to why.

BOSNIA: MISSED OPPORTUNITY

In Bosnia, the path to Europe is blocked. Great strides have been made—the country now has a single Defense Ministry and unified, if not entirely united, armed forces. But Republika Srpska has failed to arrest Radovan Karadzic, too many Croat political leaders in Bosnia still dream of their own entity, and the constitution that the U.S. gave Bosnia at Dayton does not meet European standards.

The United States Institute of Peace has for the past year supported a Bosnian initiative to revise that constitution in accordance with Council of Europe guidelines. Remarkably, Bosnian politicians reached an agreement, with assistance from my colleague Don Hays—on loan to the Institute from the State Department—and the staff of the Public and International Law and Policy Group headed by Paul Williams. Disappointingly, the amendments failed by two votes in the Bosnian parliament.

Fault on this issue lies not so much with the one Croat and one Bosniak who defected from their parties in the vote, but with Haris Silajdzic, whose entire party voted against the constitutional amendments. Silajdzic was a wartime prime minister who merits the admiration of all those who sought to extract Bosnia from the maelstrom of 1992-95. But in peacetime he has preferred to campaign quixotically for abolition of the entities that make up Bosnia—the Federation and Republika Srpska—rather than support more realistic changes that can be approved in Parliament.

It is true that the entities, which froze in place Bosnia's warring parties, make governance difficult and costly. But there is no possibility of eliminating the entities in the foreseeable future, and Bosnia faces a challenging year because of developments in Montenegro and Kosovo. I hope the constitutional amendments will be brought back to Parliament and passed, with Silajdzic's party abstaining. This would solidify Bosnia's democratic institutions and take the country a giant step closer to European integration.

SERBIA: STILL LOOKING BACKWARDS

Let me turn next to Serbia, where democratic institutions have unfortunately failed to complete the revolution that began on October 5, 2001 with the fall of Slobodan Milosevic. From that time forward, the question has been whether Serbia—the vital center of the Balkans—would hold on to past myths of Greater Serbia and

all of Kosovo as the Serb Jerusalem, or look forward to a future inside the European Union.

Since Zoran Djindjic's assassination, Serbia has chosen the past over the future. This is why Ratko Mladic—I resist calling him general—is not in The Hague. Prime Minister Vojislav Kostunica governs with support from those who advocate Greater Serbia, want to protect Mladic from arrest and the Serbian security services from reform. He has refused to govern with support from Djindjic's more Europe-focused party.

I trust Europe—with more leverage than the U.S.—will succeed in twisting Kostunica's arm hard enough to make Mladic go to The Hague, but that is not enough. We need to see real reform of the security sector, including the police and secret services. The U.S. was correct to suspend assistance to Serbia. In order to send an even clearer signal, the Administration should give the \$7 million remaining this fiscal year to those in Serbia's courageous civil society who are insisting that the country come to terms with the past through truth and justice, rather than by denying crimes or covering them up.

Belgrade's backward-looking attitude extends to Kosovo as well, where Serbia is determined to maintain governing authority over Serbs on clearly defined territory. This may not be partition, but it is too close for comfort. Ethno-territorial separation of this sort would set a precedent that Albanians would want to follow in southern Serbia as well as in Macedonia, and it would revive efforts at ethno-territorial separation in Bosnia.

To prevent it, the international community will have to do more than issue Contact Group statements saying that it will not allow partition: it will need to have a clear plan for international control of Serb-populated areas and eventual transition to Pristina's control. I see some signs of technical preparation for this, but little sign of the political will needed to prevent Serbia from achieving *de facto* and even *de jure* partition.

KOSOVO: CLARITY COUNTS

Turning to Kosovo, the failure of its Provisional Institutions of Self Government to get Serbs back to their homes safely and securely is the biggest single obstacle to determining final status, which should be done this year. Kosovo's elected leadership must take responsibility for this failure. Former President Ibrahim Rugova, who was the living symbol of Kosovo's struggle for independence until his death earlier this year, former speaker of the Kosovo Parliament Nexhat Daci, and several prime ministers have so far failed—despite some with good intentions—to do all that needs to be done.

It is late in the game, but not too late for recently elected President Sedjii and Prime Minister Ceku to correct the mistakes of their predecessors. Otherwise, I fear that the final status decision will be far less clear and unequivocal than it should be. I hear rumblings of giving Kosovo independence, but keeping it out of the UN until it meets more standards. This, some Europeans think, would help "democrats" in Serbia fend off electoral gains by the Socialists and Radicals. Would that all UN members were subjected to such rigor, but since they are not, doing so with Kosovo would encourage

extremists and likely lead to violence. And it would not prevent the Radicals from coming to power in Serbia, which is likely no matter what is done in Kosovo.

CONCLUSION: A YEAR OF DECISION

Mr. Chairman, this is a year of decision in the Balkans: the question is whether the decisions will bring peace or instability. We've started well: the unequivocal result of the Montenegrin referendum—slightly more than the 55 per cent the EU insisted upon—bodes well. If Sarajevo chooses constitutional amendments, Belgrade chooses to send Mladic to The Hague and reform the security sector, Pristina chooses to get Serbs back to their homes, and the Contact Group provides for international supervision for the Serbs of Kosovo, the year could end well, with a clear decision on Kosovo's status.

The views expressed in this testimony are those of the author, not the U.S. Institute of Peace, which does not take positions on policy.

**PREPARED STATEMENT OF JANUSZ BUGAJSKI, DIRECTOR OF
THE NEW EUROPEAN DEMOCRACIES PROJECT, SENIOR
FELLOW, EUROPE PROGRAM, CENTER FOR STRATEGIC
AND INTERNATIONAL STUDIES**

Thank you for inviting me to testify before the Helsinki Commission and allowing me to present my views on the present and future of South-Central Europe. I will focus attention on the three U.S.-Adriatic Charter countries, Albania, Croatia, and Macedonia, as well as the newly restored state of Montenegro, in briefly discussing three issues: the progress of human rights, democratic consolidation, and international integration.

In sum, as compared to a decade ago the eastern Adriatic or Western Balkan region has become a zone of political stability and international cooperation. All four of these eastern Adriatic littoral states have made significant progress toward ensuring civil and minority rights according to prevailing European standards, consolidating their democratic and market systems, and pursuing beneficial bilateral and multilateral ties with neighbors. The next stage of evolution, especially once the outstanding status issue of Kosovo is finally resolved by international powers, must focus on good governance, economic development, international institutional integration, and the strengthening of regional and European security.

HUMAN RIGHTS

Albania: Albania's human rights record continues to make steady progress and more closely meets general European standards. The country's small ethnic minorities are not subject to violations or abuse and the country remains renowned for its religious tolerance. However, the Roma community continues to suffer from societal discrimination and concern has been expressed by human rights organizations over reported police abuses against prisoners, infringements on citizens' privacy rights, the politicization of the media, and violence and discrimination against women and children. All these issues will need to be addressed more effectively as Albania moves ahead toward potential candidacy status in the EU over the coming few years.

Croatia: Croatia has developed a respectable human rights record. However, although relations between majority Croats and minority Serbs have improved over the years, tensions still persist in some areas of the country amidst complaints that Zagreb has not done enough to encourage refugee returns and Serbian reintegration into Croatian society. While some of the criticism is justified, the number of refugees wishing to return to Croatia has also declined because of factors beyond the government's immediate control, including limited economic opportunities in rural areas and small towns, inadequate financial resources, and Serbian reluctance to return to impoverished areas of the country. Nonetheless, in order to enhance inter-ethnic and inter-state reconciliation Zagreb should redouble its efforts to ensure minority representation in state institutions at central and local levels and provide more employment opportunities for returning Serbs.

Macedonia: The large Albanian minority in Macedonia has clearly benefited from the implementation of the Ohrid Framework

Agreement that terminated a potentially destructive guerrilla war launched by Albanian militants in the summer of 2001. Albanians are much more equitably represented in all state institutions and have acquired additional collective rights in language use and education, and have a major voice in legislation that affects ethnic minorities. However, the situation of the Roma population remains problematic as it does throughout the region, especially in terms of discrimination and the absence of affirmative action to enable Romanis to escape the cycle of poverty.

Montenegro: Montenegro has a multi-ethnic society in which national or religious identity has not played a divisive or conflictive role in the country's progress toward independence. Indeed, the majority of Montenegro's Albanian and Muslim communities voted together with Slavic Orthodox Montenegrins for an independent state. The sizeable Serbian minority, many of whom voted to preserve the union with Serbia, must also remain integrated in all state structures and benefit from independence and the new country's accelerated reform program in line with EU standards.

DEMOCRATIC CONSOLIDATION

Albania: The new Democratic Party government has committed itself to pursuing crucial reforms, including a sustained campaign against organized criminality and official corruption, ensuring judicial efficiency and independence, and improving the functioning of public administration. Albania's destructive political polarization also needs to be tackled by encouraging parliamentary and national consensus on important reformist measures so that the losers in elections are not losers in the broader political process. Legal investigations against corrupt officials should not become a platform for political battles between the two largest parties and must be conducted on a strictly non-partisan basis.

Croatia: Croatia is a fully functioning pluralistic democracy with an effective multi-party system and capable executive, legislative, and judicial institutions. Since the beginning of the decade Zagreb has trimmed presidential powers and vested increasing authority in its parliamentary structures. This has reduced prospects for the replication of the Tudjman era when a personalistic quasi-authoritarian system was in place. Croatia has an independent mass media and numerous civic structures that can freely monitor, comment, and impact on government policy and holds politicians accountable to the rule of law.

Macedonia: Macedonia has successfully implemented all the stipulations in the 2001 Ohrid Framework Agreement. This has included an administrative reorganization that threatened to provoke inter-ethnic conflicts amidst accusations by some militant Macedonians that it would lead to a division of the country. Instead, the redistricting has decentralized governmental authority and enabled local governments to gain a larger stake in economic development. In the long-term, the reforms will benefit inter-ethnic coexistence. However, progress still needs to be made on reforming the police service and the judiciary and dealing more effectively with official corruption. Macedonia faces parliamentary elections later this year and they should confirm the progress and stability that the country has achieved.

Montenegro: Montenegro possesses the infrastructure of an independent state with functioning administrative, legislative, and judicial institutions, a separate economic system, and the euro as the official currency. After the prolonged struggle to achieve statehood, Podgorica will now need to focus on meeting the criteria for EU candidate status. This will include administrative and judicial reform, combating official corruption, and other measures that are being implemented by Montenegro's Adriatic neighbors.

INTERNATIONAL INTEGRATION

Albania: Albania is engaged in the EU's Stabilization and Association Process (SAP). The Union called for improvements in Tirana's performance in fighting crime and corruption and in pursuing other reforms in order to conclude a Stabilization and Association Agreement (SAA) and move toward EU candidate status. The SAA was signed on 12 June 2006. Albania also has a European Partnership with the EU, which defines short and medium term priorities for reform monitored by the European Commission.

Albania has maintained a close relationship with the U.S. and Washington supports the country's membership in NATO once Tirana completes essential military reforms. The Adriatic Charter countries have dispatched a joint 12-person medical team to the ISAF (International Security Assistance Force) in Afghanistan, stationed in Kabul. This is the first international mission the Adriatic Charter members have conducted jointly. In addition, Albania has approximately 120 personnel in Iraq, under U.S. command, 30 soldiers with ISAF in Afghanistan, and about 60 peacekeepers alongside NATO in Bosnia-Herzegovina.

Croatia: Of the four Adriatic states, Croatia is furthest along toward EU entry as an official candidate country. Zagreb's improved cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), particularly following the capture of indicted war criminal General Ante Gotovina, enabled the country to open negotiations on EU membership in October 2005. It also helped to put Croatia on track for NATO accession. Nevertheless, issues of minority rights and refugee returns will continue to be monitored as Croatia embarks on the process of meeting the voluminous EU criteria for accession. Croatia has upheld good relations with the U.S. and with NATO. 50 members of a Military Police platoon serve in the ISAF mission in Afghanistan and 30 Croatian troops serve as UN peacekeepers in nine different trouble spots. Zagreb aspires to NATO membership and will need to complete a package of reforms in order to qualify for a formal invitation.

Macedonia: Macedonia attained candidate status with the EU in December 2005, although its accession discussions have not yet commenced. These will begin once the country is assessed by EU representatives as having reached a sufficient degree of compliance with the Union's membership criteria. A major report on Macedonia's progress toward EU accession is due to be issued by the close of 2006. Macedonia has developed a close relationship with the U.S. and has benefited from Washington's recognition of its constitutional name. Skopje has 35 personnel serving in Iraq with the Multi-National Division in Baghdad, and 20 soldiers with the NATO-led ISAF in Afghanistan.

Montenegro: A peaceful divorce will enable both Montenegro and Serbia to focus on their crucial domestic reforms and the arduous process of EU integration. Montenegro will no longer be held back by Belgrade's self-isolation due to its inability to arrest the indicted war criminal General Ratko Mladic. It can now redouble its commitment to structural reform and will be judged on its own performance. Montenegro entered the SAA process in 2005 as part of the EU's agreement with the Union of Serbia and Montenegro. In line with the "twin-track" approach, negotiations were launched with the State Union and with the two republics in their respective fields of competence in October 2005. With the break-up of the Union, Montenegro will have its own individual track through the SAA toward EU candidate status. Given Serbia's slowdown in relations with the EU, Montenegro is likely to move faster toward membership. Its small size and small economy may make it easier to complete necessary reforms, comply with EU standards, and move toward accession.

Independence for Montenegro and Serbia, and eventually Kosovo will create the underpinnings of credible states that are domestically legitimate and internationally recognized. This will also change the nature of international involvement from that of peace-enforcement and state building to economic investment and institutional integration throughout the Western Balkans. The final dissolution of post-Yugoslavia will also help terminate the rationale for the sizeable security apparatus that Serbia and Montenegro inherited from the Milosevic regime. The creation of light modernized detachments that can respond to contemporary threats will help reduce lingering security fears throughout the region and direct attention toward economic development and foreign investment.

POLICY RECOMMENDATIONS

CONSOLIDATING REGIONAL SECURITY

- The U.S.-Adriatic Charter needs to become more focused in enabling Albania, Croatia, and Macedonia to move toward NATO accession. NATO's Riga Summit in November 2006 provides a valuable opportunity to affirm each country's progress in preparation for formal membership invitations in 2007 or early 2008.
- Montenegro should be invited to join the U.S.-Adriatic Charter as soon as feasible. This will help to engage the new state in a number of regional and trans-Atlantic security initiatives. Montenegro also meets the criteria for inclusion in NATO's Partnership for Peace (PfP) program. To attain Alliance membership, Podgorica will be required to accelerate its military reform program and comply with NATO's Membership Action Plans (MAPs). Montenegro also needs assistance from the U.S. and NATO in the establishing its own Ministry of Defense. Montenegro's restored international role will help the NATO allies in countering security threats along Europe's expanding borders in the Adriatic-Balkan-Black Sea zone, including ethnic strife, political and religious terrorism, organized crime, and energy insecurity.

PROMOTING DEMOCRATIC GOVERNANCE

- Momentum must be given in promoting effective democratic governance across the region and cooperation across borders as witnessed in the most successful parts of Central-Eastern Europe where countries were given firm prospects for EU and NATO accession. There are continuing concerns in some states about the performance of government institutions, the level of official corruption, and the extent of administrative and legal transparency.

STIMULATING ECONOMIC DEVELOPMENT

- Each country in the Adriatic-Balkan region must aim to ensure administrative reform, transparent privatization, and a legislative and taxation system that attracts foreign investment and releases private enterprise. This will be the most effective impetus for economic development in a region stifled by a confluence of negatives: the legacies of communism and statism, the impact of recent wars, corruption, criminality, mismanagement, international isolation, and institutional dependency.

- A concerted international investment effort must be undertaken to upgrade, and in some cases rebuild altogether, the basic cross-regional infrastructure network such as road, rail, energy systems, and telecommunications. The Western Balkan market of some 25 million people can thereby capitalize on more significant and targeted foreign direct investments.

South Central Europe or South Eastern Europe remains a stellar example where the U.S. and the EU have worked closely together to expand the zone of European security. With its Balkan stabilization mission completed, the Allies will be able to focus more intensively on the next phase of trans-Atlantic enlargement and Allied security in the Black Sea, Caspian, and Central Asian regions.

**PREPARED STATEMENT OF JOSEPH K. GRIEBOSKI,
PRESIDENT AND FOUNDER, INSTITUTE FOR RELIGION
AND PUBLIC POLICY**

Mr. Chairman, Distinguished Commissioners, Ladies and gentlemen:

I would like to thank you in advance for the opportunity to speak about the human rights situation of Roma minorities in South Central Europe. My work as the Adviser on Roma and Sinti Issues with the Organization for Security and Cooperation in Europe, has allowed me to witness first hand some of the injustices Roma face as they attempt to access their political and civil rights. While many constructive steps have been taken to address the multifaceted challenges confronting Roma in this region, much work remains to be done.

As Europe's largest, trans-national minority, Roma populations are unique in the socioeconomic challenges presented to them. Roma number in the millions across-Europe's states, but lack a 'kin state' or any 'ethnic-territorial space'. In addition, having limited political status, many Roma communities throughout the OSCE region, and particularly the countries of South and Central Europe, are viewed by the majority population as a category of "second-class" humans, and a burden to the states and societies which define themselves and "others" in ethno-national public discourses. Even when some Roma do reach income levels on par or above their non-Roma neighbours, the stigmatization that they experience impacts upon their ability to buy land, send their children to local schools and participate in civic life.

While the recognition of civil and political rights of Roma in the countries of South and Central Europe has improved over the recent years, serious problems remain. These problems were well summarized by Livia Jaroka, the first Romani woman Member of the European Parliament: "There are still widespread difficulties in enforcing the social inclusion strategies. The anti-discrimination (laws) where they are . . . are not fully implemented in practice. . . . public officials and the media frequently make anti-Gypsy remarks, and Roma are racially targeted for violence and verbal abuse."

It is safe to say that the issue of racism and discrimination continues to be the underlying cause behind the problems Roma face in their access to economic, public and political life of the communities and countries in which they live. Moreover, in recent years, discrimination has taken on new forms and I would like to mention here just two illustrations of these new phenomena which are referred by the activists as "anti-gypsyism": the rise of the skin-heads movements in countries undergoing political and economic transformation, in particular in Russia; and the escalation of hate-speeches targeting specifically the Roma. In relation to this, in 2005 and 2006, the Football Federation in Romania as well as the National Council for Combat of Discrimination resorted to fines and other punitive measures against clubs, in order to take decisive action against racial hatred. But what is LACKING: the political condemnation of such phenomena by top political leaders of the country, by Members of Parliaments, and by opinion leaders with influence on the public mind.

The relations between Roma and police play a significant role in this context. They constitute the most visible aspects of relations between minority and majority, highlighted by the media, with multiple implications for successful minority-majority relations in all spheres.

The methodology deployed by the ODIHR Contact Point is based on taking a proactive role in analyzing measures taken by participating States to address points of tension between Roma and non-Roma, which could lead, if neglected, to open conflict. This methodology involves active support of local authorities and Roma communities in participating States to jointly initiate, share practical initiatives, and implement solutions to the root causes of such tensions. This includes strengthening the capacity of Roma and Sinti in democratic NGOs and of Romani media. Moreover, this cannot be realized without extensive co-operation with NGOs and civil society activists acting to combat racism and xenophobia in general, such as those involved in combating anti-Semitism, Islamophobia, etc. We are closely cooperating with the OSCE/ODIHR Tolerance and Non-discrimination Unit in supporting their programmes and data bases on discriminatory issues.

In implementing its programmes and projects, the ODIHR pays special attention to the advancement of fundamental human rights for Roma and Sinti, with a special focus on those agreed upon by OSCE participating States. The OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, endorsed by all 55 participating States, offers guidelines and detailed recommendations for OSCE participating States to formulate Roma-related comprehensive policies that are: “. . . aimed at ensuring that Roma and Sinti people are able to play a full and equal part in our societies, and at eradicating discrimination against them”.

Complementary to the OSCE, the Council of Europe, the EU institutions, some UN agencies, the World Bank , some high profile international organizations (among others, the OSI, the project of Ethnic Relations etc.) are elaborating and implementing a variety of programmes and projects towards improving the situation of Roma populations in particular countries, regions, and local communities.

As a result, there are quite numerous programmes/projects (governmental, inter-governmental, and non-governmental) addressing the alleviation of poverty, income-generation, improving schooling or health, building institutions and associations in view of preserving and developing cultural rights, etc.

Yet, while different political commitments, recommendations and programmes/projects are welcome, many of them do not offer the means to combat human rights violations of individual Roma persons (and groups). Moreover, in some countries, and in particular in relation to political circumstances (as for example, those of the accession to the EU of some countries in Central-Eastern and South-Eastern Europe), the elaboration and adoption of Roma-related national or “comprehensive policies” became an activity which consumed time, human resources , money, etc. and which is advertised mainly among international actors and organizations; this policy making exercise (while necessary, as part of imparting social knowledge) it is not matched by the corresponding political will.

Political action should be used to build institutional arrangements and to provide the needed funding, commitment and promises laid down by these “policy papers” to be translated in acts. This would reflect the realities experienced by Roma people in their daily lives. In the daily life of a Roma people, families and groups are facing the destructive effects of racial prejudices and discriminatory treatment enacted by the State and public officers, teachers, medical doctors, etc.

We need to re-focus public policies and the action tools of the participating States as well as of the international communities working with Roma. This should be done, among other areas, by making the combating of racism and respect for human rights, the central theme and goal of public action.

One aim to achieve this objective is to include Roma in all phases of the decision-making process.

If a re-focused approach does not take place, if discrimination in Roma populations continues, if violation of human rights remains unreported, un-investigated and un-tried. . . . Then we may foresee an increase of frustration for members of Roma communities. This could translate, in turn, to a possible radicalization of the discourse and, eventually, of the action employed by activists of these communities.

While the discourse related to Roma and minority rights policy has broadened, the underlying problems Roma communities face has remained unchanged. If utilizing the poverty discourse allows us to have more data available for supporting policies, if by crying “national Minority” one ensures some form of representation and inclusion of Roma in institutions, it does not address the roots of the continuous violations of human rights of the Roma.

I would like to illustrate my presentation of today by addressing a recent case of what could constitute Roma rights abuse and action in relation to it relevant for my testimony today. In the Former Yugoslav Republic of Macedonia, in May of this year, a 16-year old Roma boy went missing after an encounter between two Roma boys and the police forces. The boy was found dead in a river 16 days later. His father questions the cause of his death, while the body is still at the Institute for Court medicine at the Medical faculty in Skopje, where the cause of death is still being investigated. Beyond the tragedy of the incident, I would like to read here the statement of a Roma activist in relation to how the Roma dealt with this incident: “What kind of a nation are we? I see mistakes done by all of us; we have to be ashamed of ourselves, what kind of activists, what kind of NGOs are we, when we haven’t shown unity and firmness. I can tell this that we have become apparatus which only has a program and we only work according to that.”

A number of countries are witnessing the emergence of new trends and patterns of abuse of Roma rights. Denial of political participation, despite (sometimes reluctant and incomplete) recognition of Roma as a national minority; and mounting intricate hurdles on the way of obtaining personal documentation, residence and citizenship—which bar Roma from enjoying a host of other rights—are examples of persistent and systemic exclusion. Furthermore, the region has experienced a rise in right-wing extremism, whose principal targets are often Roma, as well as a rise to power

of nationalist politicians and political parties who sometimes score points, and votes, on public anti-Romani sentiments. Mass involuntary return of Roma from Western Europe, usually without any infrastructure set up to receive them, and resulting massive social problems of Roma, have not helped majority acceptance and integration of Roma. Human trafficking is gradually becoming the scourge of the poor and marginalised—which often is the condition of Roma. National responses to these new phenomena have been largely inadequate, which means Roma rights must remain on the agenda of human rights monitors at home and abroad.

OVERVIEW OF CIVIL AND POLITICAL RIGHTS IN OSCE COUNTRIES IN THE BALKAN AREA

Most countries in focus are parties to the principal human rights instruments guaranteeing equal access to a range of civil and political rights, such as the International Covenant for Civil and Political Rights (ICCPR); European Convention for the Protection of Fundamental Freedoms (ECHR); International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD).¹ Some countries are parties to the Framework Convention on National Minorities (FCNM) and also specifically recognised Roma as national minorities (Serbia, Former Yugoslav Republic of Macedonia, Croatia, and recently Montenegro). Remarkably, several of the West Balkan countries were among the first to ratify Protocol 12 to the ECHR establishing a free-standing provision against discrimination.

Serbia, Montenegro, Croatia, FYROM and Bosnia-Herzegovina specifically recognised Roma as national minorities; however, in all of the countries those Roma who are not citizens are not entitled to minority protection. This effectively excludes more than half of the countries' Roma from the scope of protection. In Kosovo, international monitors noted inconsistencies concerning the identity of some communities, e.g. Roma, Egyptians and Ashkali, without regard for self-identification of members of those communities.² Albania only recognised Roma (and not Egyptians) and only as a cultural (rather than national) minority, which limits their opportunities for enhanced political participation, granted to other minorities there. In BiH, the Advisory Committee on the implementation of the FCNM noted that “serious problems remain in the application of the Framework Convention with regard to the Roma. Full and effective equality has not been secured for Roma, who continue to be exposed to discrimination (in all fields of life).”

Remarkably, several of the West Balkan countries were among the first to ratify Protocol 12 to the ECHR establishing a free-standing provision against discrimination. However in practice,

¹ Kosovo, in the absence of the settled status, is not a party to international Treaties. Recently, this legal limbo has resulted in a rejection of a case by the European Court for Human Rights (“Strasbourg Court”) due to lack of jurisdiction. The case concerned Roma refugees who were settled, initially temporarily, on a heavily poised land, with ensuing severe health problems

² Representatives of the international community often refer to the aforementioned groups together as “RAE communities”. While understanding that this term has been devised merely for practical reasons, to facilitate the task of referencing, the Advisory Committee considers that such a designation should be avoided as it may be perceived as a sign of lack of acceptance of the specific identities of the groups concerned. Para 27, AC FCNM on Kosovo.

these commitments often remain on paper and/or are deviated from. Only a handful of countries have adopted comprehensive antidiscrimination legislation (Kosovo). The rest, despite regular and strong recommendations from international monitoring bodies have been slow in doing so. But even when the antidiscrimination provisions are in place, the lack of proper enforcement and low awareness among Roma and public at large of the ban on discrimination result in limited application of the provisions and thus render those provisions ineffective. In Kosovo, despite having the progressive antidiscrimination legislation, Roma remain de facto among the most discriminated communities.

Romani women across the board remain the most vulnerable category even among the generally disadvantaged Roma. Discrimination on the basis of belonging to Roma minority for them is compounded by gender discrimination. Romani women represent one of the most endangered segments of the populations of Europe, as it has been pointed out in a recent Report adopted by the European Parliament (on 2 June). This is emerging as a serious problem in post-communist countries of Southeastern Europe. Although some governments took some steps to address disadvantages faced specifically by Roma women, for example Serbia and Albania specifically included a gender component in their respective Strategies, this remains on the declaratory level, without any visible improvements.

In all countries it has been reported that Romani women appear to be particularly adversely affected by the lack of personal documents.

Roma women seem even more disadvantaged than Roma men when it comes to political participation. Reportedly, some cultural practices result in “family voting” (when husbands vote on behalf of the family), or even in mass non-voting of women.

In addition, women reportedly are afraid to complain to the police in case of domestic violence, as the police officers allegedly often respond with further racial abuse. According to the ERRC CEDAW Shadow Report on Macedonia: “. . . of 34 cases in which Romani women reportedly informed the police in cases of domestic violence, 20—or 59%—of women stated that the police subjected them to racial prejudice and degrading treatment: In only 5 out of 34 reported cases (15%) did the police actually intervene (which usually simple meant a verbal warning for the perpetrators). When 43-year-old D.D. from Stip sought police assistance after having been beaten by a member of her family, the police official to whom she turned reportedly stated, “You Gypsies fight amongst yourselves all the time. You have to solve your problems among yourselves.”

ANTI-DISCRIMINATION LEGISLATION

Only a handful of countries have adopted comprehensive anti-discrimination legislation (Bulgaria and Romania). The rest, despite regular and strong recommendations from international monitoring bodies have been slow in doing so. But even when the antidiscrimination provisions are in place, the lack of proper enforcement and low awareness among Roma and public at large of the ban on dis-

crimination result in limited application of the provisions and thus render those provisions ineffective.

International pressure has played a serious role in encouraging the countries to take measures for improving the situation of Roma. In particular, several of the countries aspiring for the EU membership have already adopted special integration programmes for Roma (Albania, Bulgaria, Romania) or are in progress (Serbia). Furthermore, Serbia has made a declaration upon joining the Council of Europe to pay a special attention to the integration of Roma. Several countries (Serbia, Montenegro, Macedonia, Croatia, Bulgaria and Romania) participate in the Roma Decade.

However, critics claim that these measures are often void of concrete impact. This is because their implementation is lagging; because there is inadequate financial and administrative support; because the stakeholders were not duly included in the elaboration of the programmes concerning them; and because allegedly the governments themselves view such initiatives as a ticket to international acceptance, rather than a genuine commitment.

EMERGING TRENDS OF ABUSE OF ROMA RIGHTS

CIVIL REGISTRATION

Lack of personal documents and registration presents a very serious obstacle to Romani access to virtually all other rights and benefits. Some Roma have never been registered, others may have been registered in a different place but cannot recover their documents. Thousands of returned failed refugees from Western Europe do not have papers. Children born to unregistered parents cannot be registered, sometimes because their parents are themselves unregistered, sometimes allegedly because mothers cannot pay medical fees, which is perpetuating the vicious circle.

The lack of birth certificates, ID cards, health cards, working booklets etc exclude Roma from access to basic services such as education, health care, social welfare and registration with the employment office. In addition, individuals do not appear on voters' lists and cannot exercise their voting rights. The lack of an ID card and passport does not allow them to leave their country legally. The consequences are further marginalization of Roma persons and communities.

There were initiatives to overcome the problem. In Albania, for instance, registration was included among key priorities in the recently adopted National Programme for Roma, and a law was adopted to allow speedy and free-of-charge registration for unregistered persons (the estimated majority of whom are believed to be Roma). Many Roma are, in principle, eligible to benefit from the law. However, in process Roma encountered serious hurdles, for examples documents required in support of the registration were not free or were difficult to obtain; the public servants in charge of registration allegedly were not helpful explaining the procedures and requirements; and overall awareness of the law was so low that reportedly only those Roma who were informed and assisted by NGOs managed to register. The short duration of the Law (three months) meant that many more individuals were bound to be left out.

In Serbia, where according to the Amnesty International lack of registration has become “chronic” as generations of Roma live without papers, registration was also prioritised in the Draft National Strategy. However, since the adoption of the Strategy is being continuously delayed, the implementation of measures contained there, including registration, is also stalled.

In Croatia, the legal provisions of the Citizenship Law evidently have a disproportionately negative effect on Roma, who are excluded due to illiteracy, unawareness of the procedures, and other factors.

In FYROM, an exclusionary nationality law has caused statelessness among members of ethnic minorities, and particularly Roma.

POLITICAL PARTICIPATION AND VOTING RIGHTS

Even when Roma are eligible to vote and stand in elections, their chances for meaningful political participation are very slim. In most countries, Roma are able to participate in the elections only through mainstream parties (sometimes without disclosing their identity, which means their communities do not recognise them). When Roma parties are formed, their chances for election are limited by thresholds or methods of allocation of seats that are proven disadvantageous toward minority candidates.

In BiH, Roma as a “non-constituent” people are essentially barred from having a say in the country’s affairs. Moreover, as the government uses outdated and underestimated data on the Roma population (from the 1991 census) this makes it more difficult for the Roma to participate in the elections.

In Croatia, according to the new law, in order for minorities to vote they have to be registered in advance on the so-called “minority voting list.” The majority of Roma voters were not informed about this rule and as a result could not vote. There were alleged cases of voter manipulation, especially of those who were illiterate.

Although Roma are recognised as national or linguistic minorities, authorities in very few countries in focus have made an effort to provide electoral material in the Romani language, whether in written or oral form (e.g. via TV or radio). For many members of Romani population who illiterate, this means they have not had an opportunity to make an informed choice. Cases of vote buying among Roma communities were reported in several countries (such as FYROM and Bulgaria).

A positive trend is that politicians increasingly take into account Romani populations as voters whose ballots can make a difference, and reportedly many candidates across the region make visits to Romani settlements and encourage Roma to vote for them. However, often the electoral promises are broken. Even though this fact of political life is not limited to pledges made to Roma, in case of disadvantaged communities failure to deliver has a particularly negative reaction. Many Roma claim that politicians promise a lot—providing infrastructure to segregated Roma ghettos, creating more jobs for predominantly unemployed Roma, and so forth. But once elected, politicians often forget Roma exist. As a result, many Roma appear to lose faith in the political process.

Precarious living conditions of Roma are yet another of many obstacles to their political participation. A number of Roma report-

edly do not vote because the polling stations tend to be far away from their settlements, which are poorly connected and sometimes virtually inaccessible.

Roma women seem even more disadvantaged than Roma men when it comes to political participation. Reportedly, some cultural practices result in “family voting” (when husbands vote on behalf of the family), or even in mass non-voting of women.

As a consequence of the obstacles to effective political participation, Roma are vastly underrepresented in all levels of government and administration across Europe. Roma are often completely excluded from the political life of their respective countries, and Romani issues are virtually invisible in the national political discourse, perpetuating the vicious circle of exclusion.

RIGHTS OF REFUGEES, RETURNEES AND IDPS

Currently mass return of Roma refugees from Western Europe has a destabilising effect on the already fragile social fabric in some countries.

In Serbia, where thousands of refugees are now sent from the countries of Western Europe, virtually no infrastructure has been set up to receive the returnees, many of whom are Roma. As a result, Roma are forced to settle in makeshift settlements which lack elementary human conditions, e.g. cardboard shelters under the bridges or along the roads, without water, sewage or other essentials. Such settlements in themselves attract racist attacks by skinheads (see the section on Hate Crimes). Recently, the government announced opening a readmission office at the Belgrade airport. On this occasion, a Romani leader, Dragoljub Ackovic, noticed, “They open the office now, but it has been already three years that Roma are being returned from Western Europe. We expect that approximately 70,000 Roma will be repatriated . . . during the next one or two years. . . . There are no conditions for a return of Kosovo Roma who do not have a place to return to. Their no conditions for their reintegration in Central Serbia either, where unemployment is a big problem. We are asked to facilitate the return of Roma who have lived abroad for 15 years, where they had a job, and whose children don’t speak Serbian. Here the children will end up rummaging on the communal garbage dumps.”

In Kosovo, a scandalous and ongoing case of “temporary” settlement of Roma on the lead-poisoned land, in Northern Mitrovica, has cost health to many Roma, in particular to children. Moreover, among other minorities, Roma are evidently not safe in Kosovo, and not so long ago became victims of the ethnic riots there (see the section on Hate Crimes).

In Bosnia, ECRI noted with concern “reported instances of return-related violence and of manifestations of hostility vis-à-vis Roma. . . . Verbal abuse and threats of violence have been widely reported and physical attacks have also taken place. There have also been demonstrations of local residents against plans to establish facilities for Roma.

HATE CRIMES

Recent years have seen a dramatic increase in levels of racially-motivated crimes, aggravated by patent impunity for the perpetrators of such crimes. Both have a demoralising effect on victims and society at large, where mistrust of the justice system and cynicism develop about the ability and willingness of both domestic and international actors to intervene for the sake of human rights.

In Croatia, according to the International Helsinki Federation, "Violence against the Roma population became almost a daily phenomenon with no public reaction at all."

In Serbia, the Minority Rights Centre criticised the Court's lenient sentencing for a dozen of skinheads who attacked a Roma settlement in February 2006. The thugs in black leather jackets in combat boots broke windows on several Roma houses shouting: "Gypsies, You're Dead Meat!" The perpetrators were fined 10,000 Dinars, while Roma were fined 15,000 Dinars. In Kosovo, in March 2004 some 50000 individuals took part in ethnic riots, injuring hundreds and displacing thousands of members of ethnic minorities, including a group of returned Askhalia, in Vucitrin. However despite the international presence, justice was slow to come: as of March 2006, only 426 persons were charged, primarily for petty crimes, and only half of those were sentenced.

POLICE ABUSE

Relations between Romani communities and police have traditionally been strained. However in recent years there have been more and more reports that in addition to usual unwarranted stops and searches of persons perceived to be Roma, the police use unnecessary force and even resort to practices that in many occasions were qualified as inhuman and degrading treatment, and even torture.

In BiH, ECRI noted that Roma are allegedly "the objects of disproportionately frequent checks and sometimes of harassment by law enforcement officials. Prejudice vis-à-vis Roma still appears to be widespread and some law enforcement officials have been reported to have held Roma responsible of crimes on the basis of little or no evidence and to have failed to investigate crimes committed against Roma. According to the Advisory Committee on the implementation of the FCNM, "The general lack of confidence in law-enforcement authorities by the Roma partly explains why few incidents involving police abuse against Roma are reported, a state of affairs which is aggravated by the extremely low number of Roma employed as police officers.

In Serbia, the Humanitarian Law Centre (HLC) reported physical and verbal abuse by unidentified police officers of Roma children washing car windows on the Belgrade streets. However, allegedly, investigation against the perpetrators has been slow and ineffective.

In the Former Yugoslav Republic of Macedonia, according to the ERRC, in June 2005, two police officers have abused three Roma men, after arresting them without providing justification or informing of their legal rights. Medical reports confirmed that the three men sustained serious injuries. However, the criminal charges that

the victims brought against the police were dismissed by the Public Prosecutor. Instead, the victims were advised to file a private lawsuit. As March 2006, proceedings were delayed because the accused officers reportedly did not show up at the hearing.

In addition, women reportedly are afraid to complain to the police in case of domestic violence, as the police officers allegedly often respond with further racial abuse. According to the ERRC CEDAW Shadow Report, "(o)f 34 cases in which Romani women reportedly informed the police in cases of domestic violence, 20—or 59%—of women stated that the police subjected them to racial prejudice and degrading treatment: In only 5 out of 34 reported cases (15%) did the police actually intervene (which usually simple meant a verbal warning for the perpetrators). When 43-year-old D.D. from Stip sought police assistance after having been beaten by a member of her family, the police official to whom she turned reportedly stated, "You Gypsies fight amongst yourselves all the time. You have to solve your problems among yourselves."

TRAFFICKING OF HUMAN BEINGS

Human trafficking is increasingly becoming a lucrative industry taking advantage of the poor and marginalised, and the countries in the West Balkans, besides serving as a convenient trafficking route, also supply large numbers of slaves for human trade.

In Albania, allegedly a disproportionate number of Roma and Egyptian children are victims of this phenomenon, according to both governmental and non-governmental sources. This was noted by ECRI: "Trafficked children tend mostly to be exploited as a source of labour, for instance sent to beg or sell small items in the streets, or to wipe car windows. Sometimes they are also used for illegal activities, in particular drug dealing or organised theft. Some children, especially adolescent girls, are also exploited for prostitution. The children that are most vulnerable come from broken families that also suffer from extreme poverty and high rates of illiteracy." Although the Albanian Roma Strategy devotes attention to the issue, there appear to be problems with the actual implementation.

Recently Kosovo was featured in the international media for large-scale trafficking facilitated, disturbingly, by members of the international peacekeeping forces. Amnesty International as kept track of these media reports,³ the following are two examples:

"Since the deployment in July 1999 of an international peacekeeping force (KFOR) and the establishment of the United Nations Interim Administration Mission in Kosovo (UNMIK) civilian administration, Kosovo(6) has become a major destination country for women and girls trafficked into forced prostitution.

KFOR and UNMIK were publicly identified in early 2000 as a factor in the increase in trafficking for prostitution by the International Organization for Migration (IOM).(35) In May 2000, Pasquale Lupoli, IOM's Chief of Mission in Kosovo, alleged that KFOR troops and UN staff in Kosovo had fed a "mushrooming of night clubs" in which young girls were being forced into prostitu-

³Amnesty International <http://web.amnesty.org/library/Index/ENGEUR700102004>

tion by criminal gangs. “The large international presence in Kosovo itself makes this trafficking possible.”

Serbia and Montenegro, according to the most recent US State Department report, do not comply even with the minimum requirements for the elimination of human trafficking. An estimated 30–50 percent of females in prostitution in Montenegro are victims of trafficking, and half of them are minors.

In closing, the challenge for international institutions is to assist national governments with large Roma population to re-conceptualize policies towards Roma which emphasize the positive aspects of Roma inclusion in majority society. Pursuing larger policies for the protection of minorities must not be done at the expense of those very individuals whom they aim to protect. For this to take place, recognition of Roma civil and political rights by local and national authorities will need to be better articulated and enforced. For any lasting changes to take place, there must be a thorough examination of the underlying root causes of human rights abuses towards Roma communities—namely issues of racism and discrimination—and these must be addressed through legislation and with the full support of international institutions.

**PREPARED STATEMENT OF NICOLAE GHEORGHE, SENIOR
ADVISOR, OFFICE FOR DEMOCRATIC INSTITUTIONS AND
HUMAN RIGHTS, ORGANIZATION FOR SECURITY AND
COOPERATION IN EUROPE**

Mr. Chairman, thank you for taking the initiative to hold this hearing on the status of human rights, democracy, and integration in South Central Europe. The status of religious rights in both society and under law is challenged significantly in each of the states of the area. From active legislative measures to social public contempt directed at religious minorities, the current condition of religious freedom has failed to demonstrate a significant departure from the rigid form and draconian practice under the Soviet system. Regression of religious rights in the Balkans is a reflection of a greater rollback of democratic processes in general in Central and Southeast Europe that must be addressed and dealt with through political and diplomatic tools readily available to the United States, the Organization for Security and Cooperation in Europe, and the entire international community.

Two factors in particular are key to understanding the devolution of religious rights in the region, particularly in the scope of legislative restrictions, each of which plays on the other. First, many of the states in the region have yet to amend the religion laws on the books from the Soviet days. It is their belief that to be a modern European state, the laws must be amended to demonstrate their progress away from Soviet-era systems. Second, and immediately following on the footsteps on the first, these states mistakenly believe that it is imperative that there be religion laws at all, and they are using as models restraining legislation from other European states, including France and Russia.

In this testimony, I have painted a broad picture of the religious freedom status in Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Macedonia, Moldova, Romania, Serbia and Montenegro, Slovenia, and Turkey.

ALBANIA

Article 10 of the Constitution of Albania states no official state religion and recognizes the equality of religious communities. However, in practice the traditional religions and predominant religious communities, such as Bektashi, Sunni Muslim, Roman Catholics and Orthodox Church receive a favorable treatment by the state.

A draft of the law on religions by the State Committee on Cults is in discord with the OSCE and European norms. The positive stipulations in the law guarantee basic religious freedom to all religious groups and communities; however, there are several provisions that are intended to undermine freedom of religion in Albania. One of the proposed new provisions sets a high threshold of 500 followers for a community to register with the state. Another condition restricts activities of unregistered religious communities and limits free speech, directly contradicting standards of the OSCE.

The new draft of the law on religion is viewed by the OSCE as unnecessary, as the Constitution does not warrant for a special law

on religion and the current version better reflects international standards for religious freedom.

There have been isolated incidents of attacks or discrimination of religious minorities. Jehovah's Witnesses came under pressure following the allegations against the religious group's influence in a series of juvenile suicides. Other isolated incidents of mistreatment of religious communities reflect a rather weak rule of law in the country than the state intent to discriminate against and prosecute religious minorities.

AUSTRIA

The Government of Austria possesses two laws classifying various religious organizations—the 1874 Law on Recognition of Churches and the 1998 Law on Status of Religious Confessional Communities. These laws have partitioned faith groups into three classifications: state-acknowledged religious societies, confessional communities and associations.

As the only classification recognized by the state as a religion, religious societies hold multiple advantages. The 1874 law guarantees religious societies with tax-related privileges, public freedom of expression protection, instruction in public schools by believers' own, government assistance of religious private schools, military chaplains of members' same faith and weekly television air time provided free of charge by the government.

Thirteen religious societies presently operate in Austria: the Roman Catholic Church, the Protestant churches (Lutheran and Presbyterian, called "Augsburger" and "Helvetic" confessions), the Islamic community, the Old Catholic Church, the Jewish community, the Eastern Orthodox Church (Russian, Greek, Serbian, Romanian, and Bulgarian), the Methodist Church of Austria, the Church of Jesus Christ of Latter-day Saints (Mormons), the Armenian Apostolic Church, the New Apostolic Church, the Syrian Orthodox Church, the Buddhist community, and the Coptic Orthodox Church.

The 1998 Law on Status of Religious Confessional Communities created new requirements for organizations to qualify for religious society status. Under section 11 of the 1998 law, religious groups must meet the following criteria:

1. be in existence for a period no shorter than 20 years; the group must be classified as a confessional community for at least 10 of these years;
2. have a membership equaling 2 persons for every 1000 Austrian citizens, or 16,000 members;
3. possess a "positive attitude toward society and the State;"
4. not initiate or take part in illegal disruption of relationships of other recognized religious societies or any other religious communities.

If the thirteen current religious societies in Austria were to abide by these standards only four would qualify for state recognition.

The second tier of religious organizations is the confessional community. In order to be classified as a confessional community, a religious organization must apply through the Ministry of Education and Arts. The application process includes providing proof of 300 group members in residence in Austria, providing documentation of

the group's belief system and its differences from other already recognized organizations. The Ministry of Education and Arts has the power to deny the application on the basis that "the teachings of their application are against the public safety interests of a democratic society, the public order, health and morals, or infringes on the protection of the rights and freedoms of another." A six-month waiting period before ruling is standard. Only after being approved does the community have the ability to legally purchase property and engage in contracting services and products.

The Austrian government recognizes ten religious groups as confessional communities: the Seventh-day Adventists, the Jehovah's Witnesses, the Baha'i Faith, the Baptists, the Evangelical Alliance, the Movement for Religious Renewal, the Hindu Religious Community, the Free Christian Community (Pentecostals), the Mennonites, and the Pentecostal Community of God.

The third classification of religious groups are associations. Under this law, groups who do not meet the criteria for religious societies or confessional communities can organize as an association and receive some of the benefits of confessional communities, most notably, real estate purchasing.

Any religion that is not recognized by the Austrian government is often viewed by Austrian society as a "sect." In Austrian cultural terms, a sect is a danger to societal balance, as seen by a recent poll in which 90% of Austrians believed sects are "inherently dangerous." This mentality is often aided by the government. Family counseling centers have been established to address the so-called threat of sects. These centers distribute materials listing religious minorities deemed dangerous, including Scientology, Yoga, Transcendental Meditation, and Hare Krishna.

The Ministry for Social Security and Generations, in conjunction with the City of Vienna, also works in similar discriminatory fashion. These groups partner to subsidize a group entitled The Society against Sects and Cult Dangers (GSK) with the purpose of counteracting the growth and influence of sects by disseminating information to schools in addition to running a counseling center to aid those who have been victims of cults.

BOSNIA & HERZEGOVINA

The Law on Freedom of Religion and Legal Position of Religious Communities and Churches in Bosnia and Herzegovina violates OSCE and international standards on religious freedom. Not only does the law generate a great societal conflict, it perpetuates ethnic and nationalistic tensions and cultural and religious intolerance among various religious communities in Bosnia and Herzegovina.

Religious tensions that occasionally erupt in violence against religious communities are directly related to the ethnic lines dividing the country. A religious identity, for the most part, is reflected in the ethnic identity in the Bosnian population. Bosnians generally are associated with Islam, Bosnian Croats with the Roman Catholic Church, and Bosnian Serbs with the Serb Orthodox Church. The Jewish community maintains a very small but important presence in Bosnian society. Despite the constitutional and legal provisions protecting religious freedom, discrimination against religious minorities occurs in virtually all parts of the country through a high

threshold required for registration and penalties associated with free speech expressions. These act as the two predominantly used mechanisms to hinder the activities of religious minorities in the country. State favoritism expressed toward particular religious communities contributes to the increase in inter-ethnic tensions in the country. State Department annual report also notes cases of misuse of religious symbols for political purposes and instigation of nationalistic sentiments. Moreover, a greater divergence within the society is perpetrated by foreign missionaries preaching a fundamentalist form of Islam, unfamiliar to the indigenous Bosnian Muslim traditions. This advances a greater division not among various religious communities of Bosnia, but within the Muslim community.

BULGARIA

In 2002, a law was passed in Bulgaria that required all religious communities and organizations, except for the Orthodox Church, to register with the government. Even though the law requires only registration with the Sofia City Court, some religious organizations are still harassed by local authorities for not registering with the local courts.

The U.S. State Department reported that many religious communities expressed a very real concern that some missionaries and other religious leaders were being denied visas to enter Bulgaria. Also being denied by the government were religious leaders trying to renew their residency visas to remain in the country. They have since resorted to applying for tourist visas but that visa greatly limits the time they are allowed to stay in the country.

Although showing some progress, the Bulgarian government has been very slow and reluctant to restore the property that was confiscated under the Communist regime. Many religious organizations still have outstanding claims on property that has not been restored to them.

CROATIA

The Government of Croatia neither has a state religion nor imposes any restrictions on the religious communities that operate freely within their borders. The Croatian government has an agreement with the Catholic, Orthodox, and Muslim communities, granting both those in the military and those in prison access to religious leaders of their affiliation.

Catholicism is the main religion taught in the public school system. However, the government does allow other religious education courses to take place if there are enough students to merit it. Even though this is legally allowed, many school children do not want to openly identify themselves as Serbian Orthodox for fear of social persecution.

Proving an increasingly difficult task for the Croatian government is the issue of refugees. Ethnic Serbs have run into problems when trying to return to Croatia. The Croatian government has often delayed repairing or rebuilding houses and communities where ethnic Serbs reside. Also, all new priests from the Orthodox Church must frequently renew their permits and residency status

with the government. The U.S. State Department reports that many have criticized the re-registration practice as it leaves a heavy burden on families to acquire health care benefits and pensions. The State Department also reports that ethnic Serbs are continually being discriminated against in many venues to include but not limited to housing and employment.

During the Yugoslav Communist rule, a large amount of property was nationalized or outright confiscated by the Communists. The Croatian government had agreed to property restoration or compensation with the Roman Catholic Church, but are very slow, even hesitant, to show progress in this area.

Many other religious communities, who do not have a set agreement with the government, and who also lost their property to the Communists during their rule, have complained about the lack of cooperation and aggressiveness on the part of the Croatian government to resolve this issue in a timely fashion. For example, the State Department reported that in 2004, the Serbian Orthodox community only had 10% of their land restored. It was also reported that Jewish property restoration was stalled. Plans for land development in the Muslim community have also been suspended. Even after a permit to construct a mosque was issued the government continued to delayed the project for over ten years.

In regards to anti-Semitism, the police nonchalantly investigate threats and so forth, but hardly even produce suspects. Even when party officials demonstrate anti-Semitic remarks, no action is taken.

GREECE

Under Article 13 of the Greek Constitution, proselytism is forbidden. Greece is the only member state of the European Union to list such a prohibition in its constitution. The Greek Orthodox Church has a significant amount of influence over the political and cultural environment in Greece. The government provides financial assistance in maintenance of Orthodox Church buildings and also pays for salaries and training for clergy.

Greece does not have a formal application process for recognition as a religion. The two components that create distinctions between religious organizations are their legal standing and their possession of, or lack there of, house of prayer permits.

In Greece two categorizations of legal entities exist. "Legal persons of public law" only describe three religious organizations: The Orthodox Church, Judaism, and Islam. All other religious groups are deemed "legal persons of private law." As private bodies, these religious groups face many limitations. As private organizations these religious groups cannot be represented in court as a religious entity. They also are not permitted to purchase or own property as a religious body; instead, all property must be registered with a legal entity with the expressed purpose of property ownership.

According to Law 1363 from 1938 and Law 1672 from 1939, in order to open houses of worship religious groups are required to apply for houses of prayer permits from the Ministry of Education and Religion. By law the Ministry can consult with local Greek Orthodox Bishops when making a decision on permit applications and has done so in recent applications of Scientology and Jehovah's

Witnesses. The Church of Scientology was denied a permit on the grounds that it failed to meet the standards of a religion. As a result, Scientology has registered as a non-profit organization.

The government has an agreement with the Muslim community of Thrace under the 1923 Treaty of Lausanne to allow for the establishment of “wakfs”—charitable and social organizations in the community. The Government also appoints and subsidizes two muftis and one assistant mufti in Thrace, arguing such practice keeps with procedure in Muslim countries. This has been met with opposition by many Muslims who insist that a non-Muslim country does not have the right to appoint muftis.

Another example of the Orthodox Church’s relationship with the government can be seen in the building of a church is the case of the Evangelical Free Church of Filiatra, on the Peloponese peninsula. Although the government had given its permission, the local Orthodox bishop objected to this by declaring the need to prohibit illegal proselytism. This opinion of the Orthodox bishop leaves the legal situation of these Protestant believers still unclear.

ITALY

The Italian government has recently reinitiated efforts to pass a religion law involving mental manipulation. If the draft law is to be added to Italy’s Criminal Code, it would be detrimental to legitimate conversions. Even though this law is aimed at sects and cults operating within Italy, it will be negatively affected other recognized religions in Italy.

The similarity between the proposed law and the legislation engineered by Mussolini is based upon the definition of “plagio”—the action of influencing a person so as to undermine their ability to make rational decisions. In 1981, the Italian Constitutional Court eliminated “plagio” from the Italian Criminal Code as unconstitutional.

The draft law violates human rights precedents set by the Italian courts as well as by the European Court of Human Rights. Specifically, a 1997 decision by the Italian Supreme Court has been frequently cited as a model ruling in terms of upholding democratic principles of religious pluralism. In that decision, the Supreme Court rejected as unconstitutional exactly what this draft law seeks to do—to criminalize religious proselytizing under the pejorative term “mental manipulation.” The proposed legislation would jettison that hard-won progress and take Italy back half a century.

The law’s vagueness could, against the intentions of the promoters, threaten Catholic organizations and movements not aligned with the dominating culture. Such a law is open to abuse, which is why the Constitutional Court took it off the books in the first place.

MACEDONIA

The primary religious target in Macedonia remains the Serbian Orthodox Church. The most recent judicial measures against it was a ban on the establishment of the Serbian Orthodox Church in the country, a law endorsed and upheld by Macedonia’s highest court. Deterioration of relations between the Macedonian and Serbian

churches followed the initiative by the Serbian Orthodox Church to re-unite in 2002 after 45 years of independence from the Serbian Orthodox Church by the MOC.

The impediment to the establishment of the Serbian church in Macedonia is rooted in the historical confrontation of ethno-nationalistic sentiments between Macedonia and Serbia. Integral in this is Macedonia's accusation of the Serbian government and the church of the imperial attitude and intentions by refusing to recognize Macedonian nationality.

As an example of the continued opposition to the Serbian church in Macedonia, Bishop Jovan has been imprisoned by the Government of Macedonia since 2004 for returning to the religious practices of the Serbian Orthodox Church and charged with the criminal offense of "causing national, racial and religious hatred and intolerance." Banished by the Macedonian Orthodox Church, Father Jovan was appointed in 2003 by the Serbian Orthodox Church as the head of the Serbian church within Macedonia. He remains incarcerated by the Macedonian government. The Court's decision in the case of Bishop Jovan demonstrates that a personal decision of an individual to join and advance religious beliefs, particularly of the Serbian Orthodox Church, in the Republic of Macedonia equates to causing religious hatred, dissonance and intolerance as sufficient grounds for a criminal conviction. This hence undermines the very essence of the religious freedom concept.

Moreover, the current draft of the Law on Churches, Religious Communities and Religious Groups limits each religion to only one registered religious community, does not permit foreign citizens to form a religious group or a religious community in the country and requires the headquarters of the Churches or religious communities to be based in the Republic of Macedonia along with other restrictions challenging religious freedom in Macedonia.

The endeavors to stake out national identity in Macedonia often lead to social discrimination of the Serb population and followers of the Serbian Orthodox Church in Macedonia. Various incidents of discrimination as well as incidents involving police harassment of followers have been recorded as well. Other religious minorities that have been suffering unequal treatment by the government in Macedonia include Macedonian Catholics, Jehovah's Witnesses, Baptists, Protestant Evangelicals, Seventh-day Adventists and Muslims.

MOLDOVA

The Government of Moldova passed the Law on Religions in 1992, which mandated that religious organizations must be registered with the Government in order to function. Those groups who fail to register are barred from owning property, employing staff purchasing land for public cemetery use or constructing houses of worship.

In 2002 the Parliament enacted amendments to the Law on Religions requiring any group hoping to register to submit a declaration of creation, by-laws, and a justification of the religion's religious beliefs to the State Service for Religions. Within 30 days the religious organization is entered into the Register of Religions.

The 2002 modifications permit the State Service for Religions to appeal to a Moldovan court for an annulment of the religious registration for an organization on the grounds that the group “carries out activities that harm the independence, sovereignty, integrity and security of the Republic of Moldova, the public order, or are connected with political activities.” Such vague and broad wording leaves minority religious groups vulnerable to persecution protected by law. Religious organizations registered with the Government are also prohibited from listing in their by-laws any conditions that contradict the Constitution or other Moldovan laws.

Despite intentions for the 2002 amendments to simplify and streamline the registration process, numerous religious organizations have been stymied in their efforts. The State Service for Religions has continually denied registration approval to the Church of Jesus Christ of Latter Day Saints, the Spiritual Organization of Muslims, the Central Muslim Spiritual Board of Moldova and the True Orthodox Church of Moldova.

In 2003 Parliament passed two laws that have drawn much concern from the international community. The Law on Combating Extremism, the Government has professed, is intended to quell the rise and spread of fundamentalist and violent religious thought. However, the law can just as easily be used as a source of exploitation of religious groups who have ties to political parties.

The Criminal Code is another 2003 adoption that could be misinterpreted to take advantage of minority groups by hampering the free speech and expression. One article in the code states “preaching religious beliefs or fulfillment of religious rituals which cause harm to the health of citizens, or other harm to their persons or rights, or instigate citizens not to participate in public life or in the fulfillment of their obligations as citizens” is a punishable offense. Such wording could be contorted to shift guilt on monastic clergy who by their own will and accord seclude themselves from the public arena.

ROMANIA

The Government of Romania drafted a new religion law in late 2005 and began pushing it through its upper and lower houses in early 2006. The law would create a three-tiered religious categorization for which groups must register.

The draft law specifies a number of qualifications that must be met in order to obtain the government’s most preferential status—religious denominations. Membership requires 0.1% of the population of Romania. At first glance this percentage may appear to be inconsequential; however, in reality it would require a religious group to consist of 23,000 members. This quota is an extremely high figure to prove legitimacy of a faith. Such a threshold would label Romania with the most restrictive registration system in the OSCE region.

In its current form a religious group must wait twelve years before reaching eligibility for ascension from the second-tier religious association. This extensive delay will create a moratorium for new communities that arise after such a law is passed. The Romanian government would be, in effect, stunting the growth of new religious groups and discouraging them from practicing their beliefs

openly. Groups below religious associations, those who have 300 or fewer adult members lack the legal right to own or purchase property, erect houses of worship or employ staff or religious leaders.

Additionally, the draft religion law would exempt places of worship from rulings handed down by the Romanian court system. In effect, this would eliminate any opportunity for religions to reclaim property under the control of other faiths. Civil law would also be sidelined in terms of internal discipline of clergy and canon law would be the only code to guide and reprove religious leaders.

The circumstances in which the Romanian legislature has considered the draft law is also a cause for concern. The government rushed the bill to parliament in an emergency procedure and the Senate failed to take a vote on the bill within 60 days of its introduction. Under Article 75 of the Romanian Constitution if a bill is not voted upon within 60 days it is automatically passed in its entirety. The bill awaits a vote in the Chamber of Deputies.

SERBIA

The parliament of Serbia recently passed and the President signed into law a draconian Law on Churches and Religious Communities.

Essential objections to this law include inadequate separation of the church from the state, the combination of civil law and canonical law, and discrimination—predominantly—of small religious communities. The law as written does not guarantee respect for fundamental religious freedoms. Further, the law enforces already existing institutional discrimination against religious groups that do not belong to the group of “traditional churches and religious communities”.

Among the most serious problems in the legislation are hazy registration requirements, limitations on naming rights, ill-defined state deregistration powers, speech restrictions, improper public disclosure requirements, and undue deference to registration decisions of other European Union countries. Particularly problematic is the adoption of a blatantly discriminatory amendment aimed primarily against minority religious communities. As this Commission commented, “That measure removed safeguards that would have allowed all religious communities currently registered to maintain that status. Regardless of whether they already enjoy registration, all but seven communities would need to reregister.”

The law, which was hastily passed through parliament with a 120–4 vote—without consultation with religious communities, international organizations such as the Organization for Security and Cooperation in Europe, or non-governmental organizations—severely discriminates against “traditional” and smaller religious communities by establishing unrealistic registration standards and by allotting to the government expansive review power.

The Serbian government currently recognizes seven religious communities—the Serbian Orthodox Church, Roman Catholic Church, Slovak Lutheran Church, Reformed Church, Evangelical Christian Church, Islamic communities, and Jewish communities. These groups enjoy privileged status as recognized faiths.

The law passed by the National Assembly guarantees preferential treatment by creating explicit and limited classes of faith

groups that advance specific religious communities while marginalizing other faith groups. Registration guidelines require burdensome documentation that only serves to stall groups from moving forward with the process. In the version just passed, the government has the ability to demand any documentation it deems appropriate during the registration period; another tool to delay registration and frustrate applicants. Under the law, the government also judges the beliefs of the religious organization and the sources of income of both the religious organizations as a whole and its individual members.

These and additional regulations combine to form a religion law that mirrors a recent draft religion law in Kosovo submitted by the Kosovo Provisional Authority, which has drawn considerable notoriety and criticism for partiality and extensive religious prejudice.

SERBIAN PROVINCE OF KOSOVO

The Provisional Authorities of Kosovo have recently introduced a draft religion law that potentially violates the religious rights of individuals and institutions at every level.

Under Section J of the law, Religious Communities and Churches can, subject to the conditions set out in this Law, acquire authorization to exercise special rights articulated in J(a)–(d). Registered Religious Communities may apply for acknowledgement of the special status pursuant to Article (J) on condition that: 1) they have, at the time of application, been legally established for at least 10 years; and 2) full-age citizens or foreigners with habitual residence in the territory of Kosovo belonging to the respective Religious Community count more than one per thousand of inhabitants of Kosovo according to the last census.

The law, if passed, would represent a substantial interference with the rights of minority religious communities and Churches unable to meet the 10 Year Rule and the Population Rule. For example, religious communities unable to meet the duration and representation requirements would be deprived of the right to charge persons with the provision of spiritual services and to make use of appropriate facilities in security forces, in hospitals, in areas of custody or imprisonment as well as in preventive care and social retraining facilities.

The law, as drafted, violates the right to freedom of religion or belief and the right to be free from discrimination based on religious grounds.

KOSOVO: EUROPEAN CONVENTION STANDARDS

The draft law cannot be countenanced with the right to freedom of religion or belief pursuant to Article 9 of the European Convention on Human Rights (Convention) and the right to be free from religious discrimination pursuant to Article 14 of the Convention.

The clear interferences with Article 9 and 14 rights cannot be justified by Kosovo authorities. Whatever the aim (or asserted aim) of the 10 Year Rule and the Representation Rule, the authorities cannot demonstrate that its enactment would be strictly necessary to meet a pressing social need, or that it is narrowly targeted to meet that need. The draft law has a disproportionate adverse im-

pact on minority religious organizations and communities new to Kosovo by depriving them of the right to perform critical religious functions in violation of the right to be free from religious discrimination under the Convention.

The draft law's approach contravenes the European Court of Human Rights' application of a fundamental human rights policy of the European Community to religious freedom issues—"the need to secure true religious pluralism, an inherent feature of the notion of a democratic society". Similarly, the Court has emphasized the importance of "pluralism, tolerance and broadmindedness, without which there is no democratic society".

As the Court has stressed, since religious entities exist in the form of organized structures," the autonomous existence of religious communities is indispensable for pluralism in a democratic society and is thus an issue at the very heart of the protection which Article 9 affords". It would frustrate this policy of "true religious pluralism" and result in arbitrariness and unfair discrimination to exclude minority faiths from attaining the same rights and benefits of other religions simply because they are small or new to Kosovo.

KOSOVO: OSCE STANDARDS

The draft law also violates OSCE standards. The OSCE, in a document entitled Freedom of Religion or Belief: Laws Affecting the Structuring of Religious Communities, has determined that population requirements such as Kosovo's are "troublesome" in relation to fundamental human rights standards and that such duration requirements contravene OSCE standards:

"The wording of this commitment in Principle 16.3 of the Vienna Concluding Document recognizes that the precise form of legal personality varies from legal system to legal system, but access to some form of legal entity is vital to OSCE compliance. This is clearly violated by the refusal to register religious groups that do not satisfy the 15-year rule. The drafters of the Russian legislation apparently attempted to remedy this defect by creating limited entity status, but this also fails to satisfy the OSCE commitment, because the limited status does not confer rights to carry out important religious functions. Failure to grant such status constitutes a limitation on manifestation of religion that violates Article 9 of the ECHR. It can hardly be said that denial of entity status, simply due to an organization's failure to 'exist' under a preceding, anti-religious, communist government, 'is necessary in a democratic society' or a proportionate response to a legitimate state interest".

KOSOVO: UNITED NATIONS STANDARDS

Finally, the draft law violates UN standards. The concepts of equality under the law and non-discrimination are emphasized in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. As stated in one United Nations study:

"The important guiding principle is that no individual should be placed at a disadvantage merely because he is a member of

a particular ethnic, religious or linguistic group. Above all, in any multi-ethnic, multi-religious and multi-linguistic country, the strict application of the principles of equality and non-discrimination is an indispensable requirement for maintaining the political and spiritual unity of the State concerned and achieving understanding and harmonious relations between the various components of society.”

The most important finding by the United Nations on religion is Human Rights Committee General Comment No. 22 on Article 18 of the Covenant, which guarantees freedom of thought, conscience and religion. This General Comment provides the Human Rights Committee’s definitive interpretation of the right to freedom of religion. The Human Rights Committee finds that:

“Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern 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 by a predominant religious community.” (Para. 2).

The Covenant thus clearly prohibits any attempt to discriminate against religions because they are small or are newly established in a State.

The General Comment also emphasizes the narrow permissible restrictions government may impose on religions, and the need to ensure equality and non-discrimination among religions.

“In interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination . . . Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in Article 18 . . .” (Para 3).

The draft law in governing the ways that religious communities acquire rights essential to important religious functions and to economic survival, imposes limitations on the organizational manifestations of religion or belief. Like any other limitation on freedom of religion, they must be justifiable under the exacting standards detailed in the United Nations Human Rights Committee General Comment No. 22. In addition, it must be clear that restrictions are not applied with discriminatory purpose or in a discriminatory manner. The draft law does not meet these requirements.

The draft law violates European Convention, OSCE and UN standards.

ON THE GROUND IN KOSOVO

The situation of religious freedom in Kosovo remains utterly intolerable under accepted international standards.

As the time for talks on the future status of Kosovo draws near, the need to examine the record of political and social developments in the province to determine the level of preparation of Kosovo for either autonomous or independent rule is most urgent.

The present record of rule of law, protection of the rights of religious and ethnic minorities, and the return/resettlement of inter-

nally displaced people by the Provisional Authority of Kosovo—all of which are indispensable for democratic governance—have been gravely unsatisfactory in the last six years. We cannot discuss viable political self-rule of Kosovo unless there is a well-demonstrated, long-term commitment on the part of Kosovo power holders to the preservation of peace and ethnic diversity of the region through both legislative and institutional means. As I will expound below, since 1999 the Kosovo Provisional Authority on numerous occasions acted contrary to pertinent democratic commitments and norms, and therefore cannot be trusted as the sole independent guarantor of rights and freedoms for all peoples of Kosovo.

The Institute on Religion and Public Policy led an investigative delegation of religious liberty leaders to Kosovo in August 2004 to inspect the situation in Kosovo and witness the damage in Pristina, Prizren, Dechani and other areas of the province in the aftermath of the ethnic violence earlier in March that same year. Admittedly it was the first such independent international religious delegation to visit Kosovo since 1999. It is both from the findings of the delegation and from the close monitoring of Kosovo by the Institute on Religion and Public Policy in the past several years that I am testifying today.

KOSOVO SINCE 1999: KEY SOCIOPOLITICAL DYNAMICS

Kosovo, the heart of Serbian Orthodoxy since the 12th century that largely formed the Serbian national identity in the following centuries, by 1999 was home to diverse religious and ethnic groups.

Kosovo Muslims who inhabited the region since victory in the epic battle of Kosovo in the 14th century constituted a significant majority in 1990s. Unfortunately, since 1981 no official census has been taken, and the demographic stratification of Kosovo is not statistically confirmed. By some estimation it has been increasing over the decades of communist rule favoring the wider autonomy for the region for the sake of balancing out Serbian influence in larger Yugoslavia and has reached nearly 80% of total Albanians living in Kosovo by the early 1990s (hence the sentiment of the predominant Albanian population for self-rule on ethno-historical and demographic grounds).

When, in response to demands for greater self-rule and independence in the 1990s, Slobodan Milosevic radically reacted by conducting policies of ethnic cleansing and disfranchisement of Albanian population, the United States and NATO considered the plight of the people of Kosovo and engaged through NATO bombing of the Serbian capital Belgrade with the aim of forcing Milosevic to stop the ongoing ethnic cleansing. Following the bombardment, according to UN Security Council Resolution 1244, the peacekeeping mission UNMIK was established in Kosovo to oversee administrative matters of the region, while KFOR was formed as an international police force mandated to deter hostilities, establish security in Kosovo and daily protect the inhabitants. Under the Constitutional Framework for Provisional Self-Government of Kosovo of May 15, 2001, the Kosovo Provisional Authority was to assume power as the indigenous democratic governing body under the supervision of UNMIK. This mechanism was envisioned to ensure peaceful transi-

tion of Kosovo to the next stage of political arrangement, where independence was regarded by some as an option.

Mr. Chairman, all of these institutions have failed to protect the people of Kosovo from violence and instability.

Since 1999, around 200,000 Serbs have fled Kosovo for fear of communal or institutional violence. Largely these families are rarely known to return. Indeed, the refugees have cast their vote with their feet. As we have well seen from recent Balkan history, any change in demographic balance because of one ethnic group threatening the existence of another is bound to have repercussions in places of the region where the same ethnic groups live in close proximity to one other (e.g. Serbia and Bosnia and Herzegovina, etc). This out flux is critical for regional security balance, to say nothing of the day to day needs of fleeing peoples. Unfortunately, this problem in no way was adequately addressed by either UNMIK or Kosovo Provisional Authority.

Not only has the fear of violence been driving Serbs out of their homes in Kosovo, ethnic Serbs that remain in Kosovo are denied treatment in hospitals, denied construction of schools, and are inflicted with increasingly rigid travel restrictions, effectively confining them to Serbian ghettos. With implicit endorsement of the UN peacekeeping forces, this practice ensures the isolation of ethnic groups from each other, and thus conveniently creates an artificial environment where ethnic tension can be caged. But peace confined through a cage is no real peace, nor is it a democratic practice that allows individuals and communities to develop to their best capacity. True transformation heeds the rights of minorities and fosters diversity is needed, although the Kosovo Provisional Authority has not been able to provide it thus far.

MARCH, 2004 AND ITS CONSEQUENCES FOR FUTURE KOSOVO STABILITY

The most appalling event that demonstrated the incompetence of both Provisional Authority, UNMIK, and KFOR to protect the people of Kosovo started on March 17, 2004. On that day ethnic violence erupted involving over 50,000 individuals in at least 30 separate incidents, which claimed the lives of 19 civilians and injured over 900 persons, including international peacekeepers and members of the clergy. This violence displaced more than 4,000 persons, mainly Serbs, from their homes. The ethnic violence perpetrated by Kosovo Albanians resulted in the destruction or serious damage of more than 900 houses and 150 vehicles belonging to Kosovo Serbs, Roma, Ashkali, and other minorities. Our delegation learned that ethnic violence was directed toward the centers of cultural and religious life of Kosovo's minority communities, more specifically the Orthodox, and it resulted in the desecration of approximately 36 churches and monasteries, many centuries old, added up to the total of over 140 churches and other religious places ruined, damaged and desecrated in the past decade.

Let me illustrate how such atrocities could happen in the presence of multi-thousand regiments of KFOR that were supposed to ensure the security in the region. The Monastery of Djakovica is the home of several Orthodox nuns, some of them of senior age. During the first night of violence, French KFOR troops held back the attacking mob from the monastery that historically was a place

of great respect and pilgrimage for the Muslim population of Kosovo. On the second night, in the absence of the abbess, French KFOR troops forcefully threw the nuns, in the words of one of the elderly nuns, "like sacks of potatoes" into an armored vehicle. As the troops stood by watching, an angry mob attacked the monastery. French troops were alerted that an elderly nun who had recently suffered a heart attack was recovering in her cell, but responded that there was nothing they could do for her as the mob set her room on fire. By the Grace of God, the nun escaped to the neighboring forest and lived in the elements for three days with no food, shelter or blanket for fear of her life before returning to the monastery.

This is an exemplary story of how KFOR has generally perceived its mission: protect people, not property. The result is worth reiterating; 19 people dead, 900 injured. Although Italian and American troops did in some places prevent desecration, in general there is great need to reform KFOR policing practices and communication to prevent this from happening again.

While none of the Churches in Kosovo has yet been restored, the number of mosques has grown significantly with funding from Saudi Arabia and other Islamic states, as the plaques on these mosques indicate. Although many mosques are empty, such process of religious mapping in and of itself has symbolic and political repercussions.

After March 17, 2004 the Serbian population of Kosovo has refused to recognize as legitimate the authorities in Kosovo that failed to fulfill their mandate and largely boycotted the 2004 fall elections for the Kosovo Assembly. Without further explanation, let me simply point out that such a political situation is in no way conducive to either larger autonomy or independence of Kosovo.

Finally, the Institute on Religion and Public Policy has closely monitored the Kosovo Provisional Authority attempt to introduce a law on religion which violates significantly internationally accepted standards for religious freedom in at least seven of its articles. We voiced our objection to UNMIK about this law which was drafted to establish tight governmental control over religious groups and set limiting conditions of their ability to survive as communities. Needless to say such legislative initiatives by the Provisional Authority contradicts democratic standards and can further exacerbate religious stability in the region.

Clearly, the problem of internally displaced persons, the incapacity of Kosovar provisional institutions to prevent violence, and gross mistreatment of religious minorities by legislative and other socio-political means by current Kosovo institutions demonstrates the lack of democratic infrastructure that would prevent the region from further collapse into the very ethnic and religious violence that the international community initially intervened to stop and avert. Until the above is guaranteed, the independence of Kosovo cannot and must not be an option.

With this in mind, let me offer the following recommendations for urgent steps to address the present and future critical situation in Kosovo:

- UNMIK must appoint an investigative commission to find and render judicial persecution the perpetrators of the March 17 violence;
- The international community through UNMIK and the European Union must allocate aid to restore the demolished and desecrated churches to their full historical appearance and religious functionality;
- UNMIK must require the Provisional Authority to reverse its socio- economic policies toward the minority population of Kosovo and begin a legitimate and objective process for resettlement of the IDPs while ensuring freedom of movement of the minority population in the enclaves;
- NATO must permit KFOR to widen its mandate to fully protect all peoples of Kosovo as well as sites of historic and religious value and significantly improve communications and the chain of command and cooperation within KFOR;
- Encourage closer cooperation of OSCE and the structures of the European Union with Kosovo authorities for the economic reconstruction and supervision of the legislative, executive and judicial process in Kosovo.

SLOVENIA

The current law guarding religious freedom and registration of religious organizations in Slovenia dates back to 1976, long before the disintegration of the former Yugoslavia. An attempt to update the law began in 1998 with the introduction of a law to parliament, but the government withdrew the draft soon after. In 2003 the process commenced anew, with the formation of a task force, under the direction of the Office for Religious Communities. The present state of the draft religion law is unclear, with little progress reported in the past year.

After the 1998 draft law was removed for consideration from parliament, the government sought to reach agreements with religious organizations on an individual basis. In 1999 the Catholic Bishops' Conference came to terms with the state as did the Lutheran Church of the Augsburg Confession in 2000. In 2001 the position of the Catholic Church in Slovenia was further legitimized with an agreement between the Vatican and the State.

With two-thirds of the majority in Slovenia and with the head of the task force assigned to draft the new religion law being a member of the Catholic Sovereign Military Order of Malta, many minority faiths have become wary of the government's ties with the Catholic Church. Some have voiced the fear that the implementation of a new draft law will give the Catholic Church a legally privileged status above other faith groups.

In addition, a number of minority religions have faced difficulty in registering with the Office for Religious Communities in recent years. In 2000 the Director of the Office for Religious Communities, ceased processing all applications received from the previous year, declaring the registration law in place to be too vague in its criteria for what constitutes a religious group. The ban was lifted only after intense pressure from political groups and the media.

TURKEY

Turkey has numerous laws in place that fail to reach acceptable standards of religious freedom. Although the Constitution provides for freedom of religion, the Government plays an active role in protecting the secular ideology of the State.

Two governmental bodies supervise the state of religious affairs in Turkey. The Diyanet, under the control of the Prime Minister, oversees the country's 75,000 mosques and imams, who are categorized as civil servants. The second agency—the General Directorate for Foundations (Vakıflar Genel Müdürlüğü)—is responsible for oversight of all non-Muslim religious organizations and their corresponding places of worship, education and all other related areas.

The General Directorate for Foundations currently recognizes the legal status of 161 non-Muslim religious communities or “minority foundations.” However, the Government has utilized the Law on Foundations as a method to reclaim land for the State from minority religious groups. In recent years a number of these foundations have lost properties due to an inability to support the land or insufficient community population in the area. When reclaiming land the General Directorate has cited a 1974 High Court of Appeals ruling that stated minority foundations did not possess the right to obtain land beyond that which was declared in 1936. No legislation is currently in place that allows foundations to apply for reacquisition of lost property nor are foundations permitted to claim property listed as owned by a third party, which were often simply names of religious saints.

Many religious communities also have trouble providing education and training in their own faith tradition. In 1997 the Government enacted a law mandating eight years of compulsory secular education. Only after completion of this eight-year term can students elect to attend schools with a religious curriculum, such as imam hatip high schools, where young men receive education in both secular and Islamic theology. In addition, all religious courses taught outside of schools are controlled by the Diyanet, restricting children under the age of 12 from registering for official Qur'an courses.

Perhaps the most egregious offense to religious freedom in Turkey is commonly referred to as the headscarf law. Since the 1960s the Turkish government has periodically outlawed the wearing of headscarves for female students and professors in the university setting. The argument made by the government was that in doing so, it protected the laws of others—of those not wearing religiously associated clothing. Such a law maintains secularity and ensures that people not wearing headscarves could not be accused of being non-religious.

In 1997 the implementation of the headscarf law increased in intensity with the Turkish military strictly enforcing the law without exception. This strict interpretation of the law has barred women wearing headscarves from assuming elected positions in parliament, practicing law in court, teaching in private schools and universities, and working as state employees. Despite much international outrage over the law, the European Court on Human

Rights upheld Turkey's implementation of the headscarf law in 2005.

CONCLUSION

As I mentioned at the outset, this testimony reviewed the legislative, executive, and social conditions of religious freedom in the countries of the broader region of South and Central Europe.

Religious freedom is a priority issue within the human rights basket of the Organization for Security and Cooperation in Europe, and hence the US Commission on Security and Cooperation in Europe. Consequently, it is vital that the OSCE and the Helsinki Commission continue to dedicate the time, energy, and resources necessary to advance democracy and fundamental rights throughout the Balkans in particular and the OSCE region writ large.

As a mechanism to continue to advance the development of fundamental rights, I would like to encourage a significant increased investment of resources into the Advisory Panel of Experts on Freedom of Religion or Belief of the Office for Democratic Institutions and Human Rights of the OSCE. With a larger staff and further capacity to investigate, review, and recommend actions regarding religious freedom throughout the region, the issues covered in this testimony would be more quickly and effectively managed.

Further, I would like to recommend that the mandate of the Special Representatives of the Chairman in Office be amended slightly. In particular, the mandate of the Personal Representative of the Chairman-in-Office on Combating Racism, Xenophobia, and Discrimination, also focusing on Intolerance against Christians and members of other religions is too broad to be maintained by one office/person. In order to guarantee the greater protection and promotion of fundamental rights, I would encourage that a mandate for Intolerance against Christians and members of other religions be carved out of the current position and established as a separate and independent mandate in the person of another Special Representative.

Mr. Chairman, thank you again for the opportunity to address the Commission on Security and Cooperation in Europe, and I am happy to take any questions from the Commissioners.

RESPONSE OF DEPUTY ASSISTANT SECRETARY ROSEMARY DiCARLO TO WRITTEN QUESTIONS SUBMITTED BY THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Question 1. How does the State Department view the progress made by the Albanian Government since the elections held a year ago? Is effective action being taken against corruption and organized crime? Is the Department concerned about the government using anti-corruption efforts or reform more generally to go after political opponents? Are you concerned about the recent effort to remove the state prosecutor from office?

Answer: Albania continues to make progress in strengthening its democratic institutions and the rule of law. The smooth transition of power according to the constitution and laws of Albania following the 2005 parliamentary election is a clear indication of Albania's commitment to the rule of law.

The Government of Albania campaigned strongly on the issue of crime and corruption, and placed the issue at the top of its agenda after taking office last September. Initial indications, especially in the fight against organized crime, have been positive. For example, in a major operation in May, seven members of a drug trafficking network who were laundering proceeds through construction projects were arrested simultaneously in four cities across the country. Also in May, a chief of police and three of his staff were arrested for producing false passports. Albanian government statistics show an increase in investigations of serious crimes, including smuggling, corruption, and human trafficking. Progress has not always been even, however, and crime and corruption remains a serious, ongoing problem and an obstacle to reform and political and economic development.

Albania signed an agreement on April 3 with the Millennium Challenge Corporation for a two-year \$13.85 million Threshold Country Program specifically targeted at crime and corruption. We will be monitoring closely the use of those funds, and we expect Albania to continue making significant strides against organized crime, trafficking in persons, and corruption.

We are aware of the escalating campaign of Prime Minister Berisha's government and his Democratic Party to remove the Prosecutor General (PG), a presidentially appointed position. We continue to reinforce to the government that democracy is built on the strength of institutions, above all the rule of law, and the government and people of Albania must respect and work through their institutions, laws, and regulations. We are optimistic that given the near universal desire of all Albanians to join Euro-Atlantic institutions, this government and successive governments will continue to reform and modernize Albania's laws and institutions along Euro-Atlantic standards.

Question 2. Some Albanian officials have previously been critical of the OSCE Presence in Albania. What are U.S. views regarding the Presence and its activities?

Answer: We have always strongly supported the activities of the OSCE in Albania and continue to support them. The Presence has made considerable effort to improve Albania's legal framework for and administration of elections and this has made a positive im-

pact. The Presence has also played a constructive and informative role on other issues, such as property restitution, anti-trafficking, good governance and human rights. We think these activities will continue to benefit Albania both in the near term and well after OSCE's mission there is finished.

In 2006 the OSCE Presence in Albania operates on a budget of \$3.8 million and with a staff of 112 in Tirana and four field offices.

Question 3. The development of the youth civic movement "Mjaft!" or "Enough!" in Albania is particularly welcomed in light of the highly polarized politics which exist in that country. Is there evidence that this organization has a demonstrable impact of government policies of concern to it? Can we expect the further development of civic-society organizations in Albania?

Answer: Mjaft's efforts in various "get out the vote" campaigns seem to have resonated well, especially with young and first-time voters—such a reaction is critical in a country with a very large youth demographic. Mjaft has also been actively engaged in raising awareness on environmental issues. We have supported them in the past and continue to find common cause on the need for a well-informed and active citizen participation in democratic governance.

We think further development of civil-society organizations is certain and an important part of USG assistance is going to promote the growth and maturation of civil society in Albania. We have directed over \$3.5 million in FY2005 and FY2006 toward strengthening civil society.

Question 4. While it might have been preferable, on net, to have passed the package of constitutional reforms recently defeated in Bosnia, in light of that defeat it might be useful to look at some of the criticisms it received. How would you respond to the allegation that accepting this package would have precluded further reforms to address the ethnic divisions upon which the country's structure is based? Do you believe there could have been more public debate and input? Is it possible at this time to have a better package, and, if not, is it better just to leave things as they are?

Answer: The package of reforms that was defeated by Bosnia's parliament would not have precluded further reforms to address ethnic division. The parties themselves recognized that further reforms would be necessary when they announced their commitment that the package represented first steps in a multi-phased process.

Due to the short time frame for enacting the reforms so that they could take effect for the October 2006 elections, the political parties decided to limit participation in the negotiations to those that signed their November 2005 commitment to pursue constitutional reform. Additional time would have afforded an opportunity for more public debate and input.

The results of the October elections will help determine whether changes can be made to the existing package of reforms. The package was the result of painstaking negotiation and compromise among Bosnia's six main political parties and three main ethnic groups. We believe it is important for Bosnia to follow through with creating a more functional and effective government.

Question 5. Was there any agreement by those involved in the negotiations of the constitutional reform package, implicit or explicit, that precluded any other constitutional issue from being considered in subsequent negotiations? Would the United States have actively supported such negotiations had the existing package of reforms been adopted?

Answer: We are not aware of any agreement, implicit or explicit, among any of the participants in the constitutional reform negotiations that would preclude discussion of any issues in subsequent phase of reform. The United States has stated repeatedly that the package of reforms endorsed by the Bosnian political parties that participated in the negotiations would only be first steps in a multi-phased process and that we were committed to supporting further reforms. The political parties themselves have expressed their commitment to pursuing further reforms after the first phase is completed.

Question 6. What is the United States doing to help locate persons indicted for war crimes that may be in Bosnia-Herzegovina?

Answer: We continue to engage authorities in Bosnia and Herzegovina and the Republika Srpska, in particular, to urge full, active cooperation with the ICTY. They have taken important steps to cooperate, but more work is needed, in particular by apprehending and transferring the remaining fugitives. The United States continues to support NATO's efforts to undertake operations against Persons Indicted for War Crimes, including via our command of the NATO Headquarters in Sarajevo.

Question 7. What does the defeat of the constitutional reform package mean for BiH's NATO and EU integration prospects?

Answer: The defeat of the reforms represents a setback in BiH's efforts to achieve full Euro-Atlantic integration. While neither NATO nor the EU have established "constitutional reform" per se as a condition for integration, the EU in particular has made clear that a more functional and streamlined government that can effectively interact with European institutions will be necessary for membership. The reform package specifically created new state ministries of agriculture and environmental protection to address EU accession requirements.

Question 8. We know the OSCE Mission in Bosnia has focused extensively on resolving issues relating to the country's system of education. Can you describe the issues and the success the OSCE and other international bodies may have had in addressing them? What more can be done?

Answer: The United States remains supportive of OSCE and other efforts to improve education in Bosnia and Herzegovina (BiH). BiH's education system is decentralized and segregated along ethnic lines. This results in different curricula, textbooks, exams, and standards throughout the country, often determined by the ethnic group that predominates in a given area. In many cases, Bosnian students are receiving very different versions of their country's history.

Since 2002, the OSCE Mission to BiH has taken the lead on education reform at the request of the High Representative. The OSCE Mission's education reform program focuses on four areas: 1) coordination/ political support to reform as required; 2) legislation; 3) access and non-discrimination; and 4) civic involvement in education reform. Specific activities include supporting textbook commissions to remove bias from national subject textbooks; supporting the establishment of PTAs, student councils, student unions; and organizing roundtables on the need for inclusive education and higher education reform.

On the legislative front, in June BiH's Council of Ministers adopted a draft law on higher education. Once passed by parliament and implemented, this law will establish one state-level set of procedures for accreditation and recognition of diplomas. The OSCE nonetheless judges that BiH, at state and entity levels, has a long way to go in reforming its education system.

The international community needs to continue to press politicians to support the establishment of a state-level ministry of education and urge greater accountability on education issues.

Question 9. While Croatia has made enormous strides politically and economically, particularly since 2000, we still continue to hear concerns regarding Serb returns. The number of Serbs who have returned to Croatia is probably higher than expected back in the late 1990s, but uniquely complex legal issues regarding property, as well as lingering resistance and lagging development in some localities, are viewed as obstacles still being overcome. What confidence do you have that Croatia is addressing these issues adequately and fulfilling its commitments from the January 2005 Sarajevo Declaration signed with Bosnia and Serbia to resolve outstanding refugee issues?

Answer: While high-level political commitment and financial assistance under the Sanader government have increased, we remain disappointed in the lack of meaningful progress on the Sarajevo Declaration, and believe that the Croatian government needs to be more dedicated to fulfilling its commitments. The restoration of tenancy rights, amendments to an ineffective Reconstruction Law, retroactive recognition of official documents from the 1991–1995 period (often referred to as “Convalidation”), the elimination of barriers to Croatian citizenship, the employment of ethnic minorities in both local and national governments, and enhanced transparency regarding the prosecution of ethnic Serb returnees for possible war crimes are all areas that need greater political will and follow-up implementation by the Government.

Question 10. What is the position of the leaders of Croatia's Serb communities regarding the country's European integration?

Answer: Ethnic Serbs are represented in the Parliament (Sabor) by the Democratic Independent Serb Party (SDSS) and have consistently supported Croatia's Euro-Atlantic integration. SDSS Deputy President Pupovac is a member of the National Board for Monitoring the EU Negotiations. As noted in the 2005 “New Program Direction” adopted at the 2005 SDSS Assembly: “The Serb community in Croatia holds that it is in its own interest for Croatia to

become an EU member as soon as possible, because it considers the Union's values to be its own values, and because it believes that this is the best way to ensure the development and strengthening of democratic institutions. In this regard, the SDSS will persistently stand side by side with the pro-European political forces in Croatia, acting so that accession to the Union is understood as one of the party's main internal policy goals."

Question 11. The State Department trafficking report indicated that no traffickers were convicted in 2005. There have been, in fact, some cases in the courts that were not completed in time to be covered by the report. Is there an update on this particular issue?

Answer: Currently, three defendants are in detention awaiting trial, two defendants are awaiting trial while not in detention, one defendant is awaiting Supreme Court determination on case appeal, and four defendants have been released due to lack of evidence.

Question 12. Does the United States support the phasing down and eventual closure of the OSCE Mission in Croatia? What have been the accomplishments of the mission from the U.S. point of view?

Answer: With the help of the OSCE Mission, Croatia has made significant progress with regard to police reform, electoral reform, freedom of the media and civil society development. More work still remains to be done with regards to refugee returns and integration, rule of law and minority rights.

We believe the OSCE Mission in Croatia is in its final phase and, as such, support its eventual closure according to a process of benchmarks measuring Croatia's efforts to undertake the remaining reforms. Our intention is to ensure the mission's mandate ends as soon as its important work is completed. We understand benchmarks still need to be negotiated and agreed upon, but could involve Croatia making specific progress in areas such as refugee returns and minority rights, including resolving the Occupancy and Tenancy Rights issue.

Question 13. The Commission has heard from American citizens who still have unresolved property claims in Croatia. Apparently, Croatia will consider such claims of foreign citizens only if there is a bilateral agreement in effect between the Croatia and the country concerned. Is the United States pursuing that at the moment, or are we urging Croatia to change its laws?

Answer: We have encouraged Croatia to take action to allow U.S. nationals to file claims for expropriated property, including resolving the 60 such cases registered with our Embassy in Zagreb (we estimate there may be a couple of hundred additional cases involving U.S. citizens to be resolved). We have urged the government to do so in the most expedient way.

The U.S. has expressed an interest in negotiating such an agreement with the Government of Croatia. Additionally, the Government of Croatia has informed us that it is considering an amendment to the restitution law that would permit foreigners to file di-

rectly for compensation and put non-citizens on equal footing with Croatian citizens for the purpose of this law.

As of yet, the Government had not yet submitted that draft amendment to the Croatian Parliament, nor had it signed any bilateral agreements with any country that would grant foreign citizens access to the 1997 property restitution law.

Question 14. The relatively new Kosovo government of Agim Ceku has made some gestures to the Serb and other minorities that, in the context of such little progress in Kosovo to date on these issues, looks promising. What has been the Kosovo Serb response to these gestures, and how does that differ from Belgrade's response? Are Serbs testing the new government to see if it means what it says about Serbs being able to make Kosovo their home even if independence is achieved? What else can be done to test the seriousness of Ceku's gestures?

Answer: While many Kosovo Serbs would like to fully participate in local political institutions, they do not have Belgrade's support to do so. With our partners in the Contact Group, we are pressing Belgrade to allow Kosovo Serbs to participate in Kosovo institutions.

Prime Minister Ceku and President Sejdiu have taken promising, initial steps to reach out to Kosovo's minority communities, including visiting Decani Monastery over Easter, visiting Serb returnees and addressing Kosovo Serbs in Serbian. While these symbolic gestures have set the right tone, the Contact Group expects tangible results.

To help Kosovo's leaders focus their efforts, the Contact Group provided Prime Minister Ceku and his government in June a list of thirteen priority action items to be completed over the next four to six months; this list asks for progress on returns, security for minorities, enforcement of property rights and the rule of law. We are encouraged with the seriousness with which Prime Minister Ceku has approached this issue, that he has completed two items on this list, and note that work has already begun on many of the other items. The Contact Group will continue to monitor progress in these and other standards to help improve the conditions for minority communities in Kosovo.

Question 15. In correspondence with the State Department, the Commission has expressed interest in engaging cooperative parties within the Serbian Orthodox Church in Kosovo in order to address some of the church's concerns and hopefully, the displaced or isolated people in Kosovo who the church seeks to help. Can you indicate the degree to which this engagement has taken or is possible?

Answer: Discussions on how to protect cultural and religious sites in Kosovo began in May under the auspices of UN Special Envoy Martti Ahtisaari. Various representatives from the Serbian Orthodox Church participated in this meeting, and negotiations on creating special protective mechanisms for religious sites in Kosovo are ongoing with the assistance of international experts. Officials from the Serbian Orthodox Church continue to work with the Kosovo government on the reconstruction of the 30 churches dam-

aged during the March 2004 riots; the second phase of this reconstruction is slated to begin this summer.

In May, Kosovo religious leaders met together as part of an Inter-Faith conference hosted by the Serbian Orthodox Church in Kosovo and pledged to work together on issues like the draft law on religious freedom and continuing a dialogue among religious communities. Senior State Department officials, including U.S. Special Representative for the Kosovo Talks Ambassador Frank Wisner, also continue to meet with Serbian Orthodox Church officials both in Washington and in Kosovo.

Any church-facilitated return projects should be in accordance with the Returns Protocol and coordinated with the Kosovo government and UN Mission in Kosovo.

Question 16. What concerns does the United States have regarding the situation in Mitrovica? Is this situation being addressed at the status talks in Vienna? Is there a possibility to eliminate the division of this city?

Answer: The situation in northern Kosovo, including Mitrovica, remains tense but calm. The NATO-led Kosovo Force continues to operate in this region, alongside international police and the Kosovo Police Service. UNMIK is also working with local authorities to hire additional Kosovo Serb police for Serb-majority communities in northern Kosovo.

UN Principal Deputy Special Representative in Kosovo Steve Schook has visited this region several times in recent months to meet with community leaders and address their security concerns. UNMIK has also begun a Mitrovica Focus Group, which aims to bring together local officials and the international community to coordinate on projects to meet this region's infrastructure and development needs.

As noted in the Contact Group's Guiding Principles, there will be no partition of Kosovo.

As part of the decentralization status talks underway, both parties have met and discussed the situation in Mitrovica. While different solutions have been proposed, implementing robust decentralization in the communities in northern Kosovo—as with the rest of Kosovo—will be central to any solution in order to provide these communities more control over important issues such as appointing local police chiefs and judges, education and healthcare.

Question 17. Kosovar Albanians often seem to perceive calls to respect human rights, including those of minorities, as motivated by attempts to delay any determination of Kosovo's status. This was particularly evident when international policy focused so heavily on "standards before status". Now that there has been some movement in at least discussing status issues, do Kosovar Albanians understand that, in fact, standards need to be met regardless of status, especially since they represent human rights norms all other European governments have accepted in the OSCE?

Answer: We believe the prospect of a resolution of Kosovo's status has helped increase positive momentum on Standards implementation. The government of Prime Minister Ceku has recently

taken steps to fulfill priority elements of the Standards, particularly in the areas of rule of law and protections for minorities.

In his June report to the UN Security Council, former Special Representative Jessen-Petersen praised the Kosovo provisional government for progress on standards implementation and for the overall decrease in ethnic-related violence this year. The Contact Group's Guiding Principles for the status process call for full implementation of the UN Standards and for the settlement to be fully compatible with international standards of democracy and human rights. We will continue to impress upon Kosovo Albanian leaders the importance of complying with these principles.

Question 18. There are what can only be called wild claims about Kosovar Albanian support for Islamic fundamentalism and international terrorism. While these claims seem to have no serious foundation, can you address the extent to which Islamic fundamentalists may find a base in Europe in Kosovo or other Muslim-inhabited areas of the Balkans?

Answer: The vast majority of Muslims in the Balkans are secular, Western-oriented and notably pro-American, and tensions in the region are rooted in ethnicity not religion.

We have seen evidence that Islamic extremist groups, including some with ties to the Middle East and terrorist groups, have tried to establish a presence in Kosovo. Islamic extremist groups have not found fertile ground in Kosovo; Kosovo Albanian Muslims generally resent these groups and view their efforts with great suspicion.

Bosnian authorities have closed down several Muslim NGOs supporting terrorism, and have established a Citizenship Review Commission to revoke the citizenship of foreign fighters with links to terrorism who remained in Bosnia after the wars of the 1990's. These foreign fighters and their extremist ideology are incompatible with BiH's traditionally tolerant Muslim community, and their radical doctrines appear to have limited appeal to Bosnian Muslims. The BiH government cooperates closely with the U.S. to combat extremism and terrorism, and is making commendable efforts to strengthen its law enforcement institutions and tighten its borders.

Question 19. Is the United States satisfied with the degree to which Macedonia accommodates Roma refugees from Kosovo?

Answer: Roma refugees from Kosovo receive temporary protected status (TPS) in Macedonia; they are not being forcibly returned to Kosovo at this time and generally receive adequate care, principally from UNHCR. There are weaknesses in the refugee status determination process for Roma and other applicants, as well as in the appeals system for those who are denied refugee or asylum status. Such status has only been granted in very few cases.

As reported in the Department's 2005 Human Rights Report, there were credible reports of police harassment and beatings of Roma, strong evidence that Roma refugees were discriminated against in the refugee status determination process, and general societal discrimination against the Roma community.

Embassy representatives continue to work with the Ministry of Interior to ensure thorough police investigation into alleged abuse cases and implementation of needed police reforms. USAID is implementing a range of programs to address discrimination against Roma, including seeking to increase the percentage of Roma in the educational system from pre-school to university.

Question 20. Macedonia previously had restrictive citizenship requirements that made stateless some who had resided in the republic before it achieved independent statehood. What changes have been made to address this situation, and is it now satisfactory?

Answer: In 2004, the Macedonian law on citizenship was amended to reflect the principles of the European Convention on Citizenship. Relevant changes included reducing the minimum residency requirement from 15 to eight years. This change allows an individual made stateless at the time of independence to apply for citizenship, provided they can prove legal residence in Macedonia for at least 8 years and a significant tie to the country.

According to the amended law, a stateless child or an individual granted refugee status must legally reside in Macedonia for 6 years from the date of status determination before becoming eligible for citizenship.

In addition, if an individual was a citizen of another former Yugoslav republic at the time of Macedonian independence, they have two years from the date of implementation of the amended law on citizenship to file for Macedonian citizenship, provided they have legally resided in Macedonia for at least 8 years and can prove a significant tie to the country. The legal deadline for filing has passed, and we will be monitoring the situation as the applications are processed.

Through USAID, we funded an ABA/CEELI Project (targeted primarily at Roma) that helped 1107 long term residents of Macedonia file citizenship applications. The total number of persons benefiting from this assistance was 1305 as some individuals are eligible for citizenship through a family member's application. (To date, approximately 300 of the applications have been processed and received their citizenship. The processing time of applications is approximately six to nine months, so we expect many more positive decisions from our group of applicants in the months to come.)

CEELI also has conducted training and informational workshops and outreach throughout Macedonia with NGOs and volunteers willing to assist citizenship applicants. Further, it established a system to help obtain supporting documents from neighboring countries, including Serbia and Kosovo.

Question 21. What is the situation for what were displaced persons and are now refugees in Montenegro from Kosovo?

Answer: The new Government of Montenegro has thus far not recognized the 18,000 displaced persons from Kosovo as "refugees"—instead stating that they will effectively maintain their status as IDPs, despite an internationally-recognized border between Kosovo and Montenegro. While the unprecedented circumstances of this group of displaced persons undoubtedly pose some complex legal questions, we believe that the conferral of refugee status on

all displaced persons from Kosovo by the Montenegrin government would be appropriate.

In addition to the displaced from Kosovo, Montenegro hosts 8,000 refugees from Bosnia and Croatia who also need help in finding a durable solution to their displacement. We are therefore encouraging the Government to pass new laws on Asylum and Citizenship in the near future, and to ensure that all displaced persons receive fair and equitable treatment—both in the actual provisions of the laws, as well as in their implementation. This includes allowing for full integration into Montenegrin society of those displaced persons who choose not to return to their country of origin.

Question 22. How does Montenegro's recently passed law on National Minorities affect the situation for Roma living in the country? One can question the wisdom of allocating certain seats in parliament to minority representatives, especially if they must come from ethnically based political parties, but if this is done should not the allocation include representatives of the country's Roma community?

Answer: The Supreme Court has invalidated as unconstitutional portions of the May 2006 law on national minorities that sought to create set-aside seats in parliament for ethnic and linguistic minorities. The President of the Court stated that legislators impermissibly created new Constitutional rights, namely collective electoral rights, without following the prescribed process to amend the Constitution.

We continue to encourage the government of Montenegro to provide affirmative protections for all ethnic minorities in their country through acceptable means.

Question 23. In signing the recently passed law on religion in Serbia, President Boris Tadic indicated that doing so and then amending the law was a preferable course to vetoing it only to be overridden by parliament. What action has the United States been pressing Serbian officials to take on this issue, and have there been any reports that efforts to amend the law might soon be undertaken as promised?

Answer: We share the Commission's concerns regarding the Law on Churches and Religious Organizations in Serbia. Embassy Belgrade, and Ambassador Polt personally, have been actively engaged with the government to urge the law to be amended and brought into compliance with international standards. Ambassador Polt has urged Prime Minister Kostunica and President Tadic first to not to allow passage of the law and then to modify the legislation. Ambassador Polt also hosted a meeting with leaders of minority religious communities and representatives from the OSCE and the Council of Europe in early May to hear their concerns on the new law. Embassy staff has also met with the Minister of Religion to express our disappointment in the religion law and urged the Minister to make positive changes through the law's implementation.

Following up on Embassy Belgrade's May meeting with religious leaders, the Evangelical Alliance on July 4 submitted to the Presidents Office a list of their proposed amendments and comments on the Law on Religion, which Embassy Belgrade is currently review-

ing. Embassy Belgrade has met with President Tadic's staff and is working with them and religious leaders to propose positive improvements in the law.

Question 24. Can you assess the human rights situation, as well as the degree of tension which exists, in the ethnically mixed areas of Serbia, in particular in southern Serbia, Vojvodina and the "Sandzak" region? Is Belgrade responding to minority concerns adequately? Are the minorities themselves expecting too much?

Answer: The U.S. continues to monitor the treatment of minorities in Serbia closely, encouraging Belgrade and local authorities to respond swiftly to any incidents that may occur and to be proactive in addressing the concerns of minorities. Our Deputy Chief of Mission visited Vojvodina last fall, and political officers from both our Embassies in Belgrade and Budapest made a joint visit there in November. Ambassador Polt visited the Sandzak region this spring, and Embassy Belgrade participated in an OSCE-led observer mission of the June 4, 2006 elections in southern Serbia. Southern Serbia, Vojvodina and the Sandzak are also priority target areas for U.S. assistance focusing on vulnerable areas in Serbia.

We are encouraged by the efforts of Serbian President Tadic, Serbian Prime Minister Kostunica and the former Minister for Human and Minority Rights (of Serbia and Montenegro) Rasim Ljajic to address these issues, both publicly and in meetings with local leaders. Concerns remain, including how well the Government of Serbia is addressing grievances within its various minority communities, but progress has been made and there have been no specific egregious violations of human rights in the last several months.

In Vojvodina, ethnically motivated incidents have continually decreased since Spring, 2004, and there have been far fewer violent incidents against minorities. Most incidents are limited to graffiti and vandalism, and the government response even to these incidents has improved. PM Kostunica has moved slowly on his proposal to create a multi-ethnic commission to oversee the handling of inter-ethnic incidents, but he has made his ministers available to meet with minority leaders on a number of issues. In October 2005, Minister of Human Rights and Refugees Ljajic met with minority leaders there in October 2005 and announced that perpetrators of ethnically based crimes will face tougher sentences. Minister Ljajic also organized a conference in Subotica in November 2005 to discuss minority issues in Vojvodina. The Government continues to implement its 10-point strategy for improving ethnic relations in the province, including education and public awareness campaigns, and support for greater representation of minorities in the police and judiciary.

In Southern Serbia, minority rights are "satisfactory" and "greatly improved" from two years ago, according to independent observers. The Serbian Government's Coordinating Body reports close working relationships with local leaders. Despite minor concerns about presence of Serbian military in region, there have been no reported incidents of human rights violations or mistreatment of minorities by the military. Recent municipal elections in Presevo, Medvedja and Bujanovic reflected the considerable progress that has been made there over the last three years. Monitors of the elec-

tion reported minor irregularities, but they were not widespread or malicious and all ethnic groups participated as both candidates and on election boards/polling station boards, cooperating at polling stations and showcasing firm support for a democratic process.

In the Sandzak, as throughout the region, ethnic identity and religious identity are closely linked. There have been no reports of serious incidents between the Serbs and the Muslim majority there; most of the tension is caused by the extreme rivalry between two Bosniak political parties. Violent incidents between Serbs and Muslims in the Sandzak are usually linked to high visibility soccer matches. We remain closely engaged with political and community leaders in Sandzak to ensure just treatment and representation of all ethnicities.

Question 25. The State Department has indicated it cannot certify Serbian compliance with conditions that would have allowed certain U.S. assistance to continue past May 31. Is the United States also prepared to try to block assistance from international financial institutions if needed, in particular to ensure that Ratko Mladic is apprehended and transferred to the International Criminal Tribunal for the former Yugoslavia, located in The Hague?

Answer: In order to succeed and take its place as a respected member of the Euro-Atlantic community, Serbia must confront its legacy of Milosevic-era war crimes and honor its international legal obligations. By cooperating with the ICTY, Serbia can demonstrate that it respects the rule of law—a critical barometer for foreign businesses contemplating investing in Serbia’s future.

After a comprehensive review of actions undertaken by the Government of Serbia and Montenegro that are relevant to the criteria laid out in Section 563(a) of the 2006 Foreign Operations, Export Financing and Related Programs Appropriations Act, Secretary Rice determined that the actions of Serbia and Montenegro as related to their obligation to cooperate with the ICTY did not demonstrate sufficient progress to justify certification.

Consistent with Section 563(b) of the FY 2006 Foreign Operations, Export Financing, and Related Programs Appropriations Act (FOAA), the U.S. will not support loans and assistance of the international financial institutions for the central Government of Serbia. In addition, our support for any loans or assistance of the international financial institutions for Serbia would also be consistent with the Secretary’s February 9 determination pursuant to the “Lautenberg amendment” (Section 561 of the FY 2006 FOAA).



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