

**THE U.S. HELSINKI COMMISSION DELEGATION TO
BOSNIA-HERZEGOVINA, ALBANIA AND TURKEY
(CODEL DeCONCINI)
October 21-26, 1994**



**A Report Prepared by the Staff of the
Commission on Security and Cooperation in Europe**

ABOUT THE ORGANIZATION (OSCE)

The Conference on Security and Cooperation in Europe, also known as the Helsinki process, traces its origin to the signing of the Helsinki Final Act in Finland on August 1, 1975, by the leaders of 33 European countries, the United States and Canada. Since then, its membership has expanded to 55, reflecting the breakup of the Soviet Union, Czechoslovakia, and Yugoslavia. (The Federal Republic of Yugoslavia, Serbia and Montenegro, has been suspended since 1992, leaving the number of countries fully participating at 54.) As of January 1, 1995, the formal name of the Helsinki process was changed to the Organization for Security and Cooperation in Europe (OSCE).

The OSCE is engaged in standard setting in fields including military security, economic and environmental cooperation, and human rights and humanitarian concerns. In addition, it undertakes a variety of preventive diplomacy initiatives designed to prevent, manage and resolve conflict within and among the participating States.

The OSCE has its main office in Vienna, Austria, where weekly meetings of permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations and periodic consultations among Senior Officials, Ministers and Heads of State or Government are held.

ABOUT THE COMMISSION (CSCE)

The Commission on Security and Cooperation in Europe (CSCE), also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance with the agreements of the OSCE.

The Commission consists of nine members from the U.S. House of Representatives, nine members from the U.S. Senate, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair are shared by the House and Senate and rotate every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

To fulfill its mandate, the Commission gathers and disseminates information on Helsinki-related topics both to the U.S. Congress and the public by convening hearings, issuing reports reflecting the views of the Commission and/or its staff, and providing information about the activities of the Helsinki process and events in OSCE participating States.

At the same time, the Commission contributes its views to the general formulation of U.S. policy on the OSCE and takes part in its execution, including through Member and staff participation on U.S. Delegations to OSCE meetings as well as on certain OSCE bodies. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from OSCE participating States.

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PARTICIPANTS(1)

Senator Dennis DeConcini (Democrat-Arizona), *Commission Chairman*
Samuel G. Wise, *Staff Director*
Mary Sue Hafner, *Deputy Staff Director*
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INTRODUCTION

The Commission on Security and Cooperation in Europe, also known as the Helsinki or CSCE Commission, is a U.S. Government agency created in 1976 by Public Law 94-304 with a mandate to monitor and encourage compliance with the Final Act of the Conference on Security and Cooperation in Europe (CSCE), which was signed in Helsinki, Finland, on August 1, 1975 by the leaders of 33 European countries, the United States and Canada.

The Helsinki Final Act and subsequent CSCE documents encompass nearly every aspect of relations between States, including military-security; economic, scientific and environmental cooperation; cultural and educational exchanges; and human rights and other humanitarian concerns. In addition to setting standards for international behavior, the Final Act initiated a diplomatic process that has continued to the present. Periodic review meetings are held—Belgrade (1977-78), Madrid (1980-83), Vienna (1986-89) and Helsinki (1992)—with short experts meetings, seminars and longer conferences on specific issues in between. The goal has been to lower the barriers which had artificially divided Europe for more than four decades, and to build confidence and security between the participating States. With the Cold War over, however, the CSCE has taken on new tasks in addressing the instabilities of a Europe and Central Asia troubled with inter-ethnic strife as well as difficulties for emerging democracies in their political and economic reform efforts. The CSCE has also added many new members, including Albania, the Baltic States, the republics of the former Soviet Union, and three of the former Yugoslav republics.

The Commission consists of nine members of the U.S. House of Representatives, nine members from the U.S. Senate, and one member each from the Departments of State, Defense and Commerce. The positions of Chairman and Co-Chairman are shared by the House and Senate and rotate every 2 years, when a new Congress convenes. A professional staff of approximately 15 persons assists the Commissioners in their work.

The Commission carries out its mandate in a variety of ways. First, it gathers and disseminates information on Helsinki-related topics both to the U.S. Congress and the public. It frequently holds public hearings with expert witnesses focusing on these topics. Similarly, the Commission issues reports on the

implementation of CSCE commitments, particularly by the countries of East-Central Europe and the former Soviet Union but also by the United States. It also issues reports on specific CSCE meetings. The Commission plays a unique role in assisting in the planning and execution of U.S. policy at CSCE meetings, including through participation as full members of the U.S. delegations to these meetings. Finally, members of the Commission have regular contact with parliamentarians, government officials and private individuals from CSCE participating States. These contacts are maintained in Washington but also take the form of Commission delegations, usually with the participation of other Members of Congress, to other countries, such as the October 1994 Commission delegation to Bosnia-Herzegovina, Albania and Turkey.

BOSNIA-HERZEGOVINA—OCTOBER 22, 1994

Objectives of the Visit. The Commission delegation travelled to the Bosnian capital of Sarajevo to meet with senior government leaders as well as United Nations officials, in order to assess the current situation in Bosnia-Herzegovina as the third winter of the conflict in that country approaches. Specifically, the delegation was interested in local observations of the prospects for peace, international policies to enhance those prospects quickly and effectively, and the continuing humanitarian crisis that continues in the meantime.

These objectives are part of a larger Commission effort to document the tragic events which have transpired in Bosnia-Herzegovina and other parts of the former Yugoslavia since that federation began in violent disintegration, and to raise public awareness of the severe violations of CSCE principles and provisions that have been the result. This was, in fact, the fourth Helsinki Commission delegation that visited Bosnia-Herzegovina. Delegations led by Senator DeConcini visited the republic in April 1990 and March 1991, while it was still a constituent part of the Yugoslav federation that, theoretically, at least, still functioned. A delegation led by Representative Steny H. Hoyer, the Commission's Co-Chairman, visited Sarajevo in July 1994, after more than two years of continual conflict characterized by aggression and genocide on the part of Serb militant forces. Commission staff also observed the first multi-party elections in Bosnia-Herzegovina in November 1990, and the referendum on independence in February/March 1992.

The Context of the Visit. Bosnia-Herzegovina is one of six former Yugoslav republics and is the size of Alabama. Its capital is Sarajevo. It had a pre-conflict population of 4.4 million 44% of which was Muslim Slav, 31% Serb (Orthodox) and 17% Croat (Roman Catholic). Many viewed themselves genuinely “Yugoslavs,” with 30-40% of marriages in urban areas mixed, and all speak the same South Slavic language. The conflict altered these statistics substantially, as over two million have been displaced, more than half now refugees abroad. More than 200,000 are dead or missing and presumed dead, 85% of which are civilian.

Within Yugoslavia, Bosnia-Herzegovina had a functioning multiethnic society, especially in urban areas. November 1990 multi-party elections, however, divided the population as the majority opted for political parties representing their respective nationalities, resulting in a fragile coalition in which a Bosnian Muslim served as the first head of state (president of a collective, multiethnic presidency), a Bosnian Croat as head of government (prime minister), and a Bosnian Serb as head of parliament.

The new Bosnian President, Alija Izetbegovic—along with counterpart Kiro Gligorov in Macedonia—originally sought to keep Yugoslavia together as a genuine federation based on the equality of its constituent parts, the departure of Slovenia and Croatia left the Bosnians with a choice of independence or joining the

remaining portion of the former Yugoslav state that was certain to be dominated by Serbia. Bosnia-Herzegovina held a referendum in February/March 1992 in which Muslims and Croats chose independence over a smaller Serb-dominated federation (Serbs boycotted the polling). The country was recognized by the US and Europe in April 1992. It joined CSCE at that time.

Serb militants led by Radovan Karadzic, armed with weapons from a withdrawing Yugoslav military, started a conflict at the same time which nevertheless had the appearance of being orchestrated well in advance. The conflict was marked by the shelling of civilian centers and severe ethnic cleansing, which included forced displacement, mass executions, concentration camps, torture and the rape of tens of thousands simultaneously and throughout the country. The Serb militants quickly conquered approximately 70% of the newly independent country. Apparent international acquiescence to a carve-up, especially through maps associated with international peace proposals, encouraged nationalist Bosnian Croats supported by Croatia to engage in their own land grab, leading to Bosnian/Muslim-Croat fighting in 1993. Greater international initiative and tougher stances brought Bosnian Croat and Muslims back together in a fragile federation early in 1994, but have proven insufficient to persuade the Bosnian Serbs to return at least one-third of the territory they seized by force.

More specifically, on July 6, 1994, a 5-nation Contact Group⁽²⁾ announced a new settlement plan which, while widely viewed as rewarding Serb aggression, was at least offered to the parties on a take-it-or-leave-it basis, with a two-week deadline for a clear response, with consequences and/or rewards based on the answer. The Bosnians accepted the plan on time and unconditionally. The Bosnian Serbs effectively and repeatedly said no, by stating conditions and attacking UN personnel. Still, the plan was left open for them to accept, and the arms embargo illegally imposed on legitimate Bosnian forces remained in force despite warnings otherwise. On July 30, a Contact Group ministerial agreed only to tighten sanctions on Serbia in response to Serb rejection of the plan, and intra-Serb squabbling derailed this approach before it was even implemented.

As the international community groped for an adequate response to continued Bosnian Serb rejection of the peace plan, efforts focus on the split between the Bosnian Serb militants and the Serbian government of Slobodan Milosevic. Serbia has accepted non-military monitors to verify that there is no more military support for Serb militants crossing the 375-mile border with Bosnia-Herzegovina. Reports abounded of violations in the form of nighttime crossings, pontoon bridges, helicopter flights (in violation of the no-fly zone) and new routes through Serb-occupied parts of Croatia, although much of them remain unconfirmed. Most analysis indicates that the number of observers (not to exceed 200) is too low, that their mandate and logistical ability to thwart cross-border support is weak and that, while Milosevic may very well have abandoned political rival Radovan Karadzic and the Pale branch of the Bosnian Serbs, he has not abandoned the larger effort of bringing one-third of Croatia and one-half to three-fourths of Bosnia-Herzegovina into his realm. Nevertheless, some sanctions on Serbia were being eased at the time of the Commission visit to Bosnia-Herzegovina, specifically regarding airline flights, and sports and cultural exchanges. Bosnian Serb leader Radovan Karadzic appears concerned that he will lose support, and is trying to convince Bosnian Serbs that they will still win despite the problems with Belgrade.

President Clinton indicated that he would seek a multilateral lifting of the arms embargo on Bosnia-Herzegovina if the Bosnian Serbs did not accept the peace plan by October 15, almost three months after the initial deadline for acceptance, but Russia, France and Britain remained opposed to such action. The Bosnians themselves apparently decided to ask for a delay in implementing a decision to lift the embargo,

though they wanted a decision to do so right away, due either to pressure from France and Britain who were threatening to withdraw their UN Protection Force (UNPROFOR) contingents or their own calculation in preparing for a third winter of war. As it stands at the time of the visit, UN member-states were preparing to consider the issue and find a compromise. Meanwhile, NATO began urging UN officials to more quickly and aggressively respond to Bosnian Serb attacks by calling upon the air power offered by the Alliance. At the United Nations, U.S. President Clinton had recently urged the organization to get tough in enforcing its resolutions.

During this same time, Serb militants continued ethnic cleansing in the parts of northern Bosnia under their control, especially around Banja Luka and Bijeljina, expelling about 10,000 non-Serbs in the past three months. They also linked up with their counterparts in Croatia in an attack on the Bihac region in the northwest corner of the country, over which Bosnian forces recently and fully wrested control from the forces of local Muslim renegade leader, Fikret Abdic. Sarajevo had recently seen some of the worst fighting in months, forcing the frequent closure of Sarajevo airport, a “pinprick” airstrike against Serb militants, and even UN warnings to the Bosnians not to further provoke the Serbs. Serb militants regularly violated the 12-mile Sarajevo exclusion zone, and had cut off electricity and natural gas to the city, forcing the water supply to drop as well. In the midst of fighting on the perimeter of the Sarajevo exclusion zone, 20 Serbs, including militants and female medical support staff, were killed and their bodies mutilated, prompting threats by Radovan Karadzic of renewed attacks if UNPROFOR does not achieve the removal of the Bosnian forces from the area around Mount Igman to the south. The 500 Bosnian troops, calculating that Bosnian Serb power is being stretched thin, refused to move. Despite the possibilities for escalation, the largest exchange of prisoners of the conflict—over 300 individuals—took place between the Serb militants and the Bosnian forces.

Serb militants resumed the shelling of Mostar as that Herzegovinian city's Muslim and Croat inhabitants continue to try to reconcile differences that led to fighting in 1993. The inability to stop Serb aggression has led to increased tensions between Bosnian Croats and Bosnian Muslims, especially around Mostar. A recent meeting of Presidents Izetbegovic and Tudjman in Zagreb tried to reenforce Bosnian-Croatian ties being tested by lack of an overall agreement.

At the time of the visit, Bosnians and the international organizations participating in relief efforts were together preparing for a third winter of war, and colder weather had already arrived and relief supplies have been depleted by the airport's repeated closing. Moreover, the Serb militants, responding to Serbia's cutoff of supplies to them, hindered UN activities in turn, causing a depletion of fuel supplies for relief operations in particular. The militants recently attacked one UN convoy, killing a driver, and stole a substantial amount of medicine from another.

The Visit and Observations. Soon after arriving in Frankfurt, Germany, Chairman DeConcini, three staff and the U.S. Air Force escort officer boarded a U.S. Air Force transport plane destined for Sarajevo with relief supplies, accompanied by the U.S. Ambassador to Bosnia-Herzegovina, Victor Jackovich. Several hours later, they arrived at Sarajevo airport, which is under United Nations control, and were driven into downtown Sarajevo. There, they met with Ejup Ganic, Vice President of Bosnia-Herzegovina; Kresimir Zubak, President of the newly created Bosnian federation; and Haris Silajdzic, Prime Minister of Bosnia-Herzegovina. After its meeting with the latter, the delegation attended the opening of a full session of the Bosnian government cabinet, during which Prime Minister Silajdzic noted Chairman DeConcini's longstanding efforts on behalf of Bosnia-Herzegovina. The delegation also meet with B. Henri Roussetot,

a deputy to the official representative of UN special advisor on the former Yugoslavia in Sarajevo. Finally, prior to departure that evening, the delegation visited the building designated for the operation of the U.S. Embassy in Sarajevo, and observed some of the destruction caused by Serb shelling in parts of the city.

Bosnian officials all welcomed Chairman DeConcini's visit, with Prime Minister Silajdzic in particular noting the Senator's commitment from the beginning to helping Bosnia-Herzegovina as it moved toward independent statehood. They also noted that the delegation's presence signified continued U.S. concern generally. The United States, in their view, represents a legal and moral approach to solving world problems.

At the same time, the delegation arrived in Sarajevo when Bosnian frustration over U.S. unwillingness to press for real international action to stop the war was rising greatly. In particular, dismay and anger was expressed over President Clinton's statement the day before that "[t]he people of the United States don't want our soldiers to go there [to Bosnia-Herzegovina] to engage in a battle that is essentially a civil war." The Bosnians explained that this is not a civil war, but that it is often called that to establish a sense of moral equivalence between aggressor and defender, and to soften the compelling arguments made to assist the victim. Prime Minister Silajdzic also noted that the Bosnian Government had never asked for U.S. ground forces to be deployed in Bosnia-Herzegovina, and wondered what was the utility of all his visits to Washington if, at this late date, such an unfounded statement continues to be made. Chairman DeConcini sought to allay Bosnian frustrations by describing his sense of President Clinton's genuine concern over the Bosnian conflict, but agreed nonetheless with the Bosnian characterization of the war as one of aggression orchestrated and supported by Serbia.

Regarding specific policy options, much of the discussion focused on the possibility of lifting the arms embargo on Bosnia-Herzegovina. The Bosnian position was enunciated clearly: to lift the arms embargo through a Security Council resolution right now, but to postpone actual deliveries of arms for about six months, until the Spring of 1995. Again, frustration was expressed over U.S. and European misrepresentations of this position as a six-month delay in deciding to lift the embargo on the basis of alleged Bosnian second thoughts. Prime Minister Silajdzic also wondered why President Clinton had to say he had personal problems with lifting the embargo, and why he used congressional pressure as a reason to seek its lifting rather than stating, as he did earlier, that it was the right thing to do. Although Federation President Zubak noted that there were some genuine misgivings about lifting the embargo, generally there was confidence that Bosnian forces could withstand a Serb militant response to a decision to lift the arms embargo on Bosnia-Herzegovina, and that the population would be willing to endure renewed Serb attacks in retribution. The overall message was that Serb threats of renewing sieges and escalating the ferocity of their aggression should not deter the international community from taking this action. Indeed, some individuals countered that the interim period between a decision to lift and the arming of the Bosnian forces would be a critically opportune time to get the militants to agree to a settlement.

Other responses were discussed as well. Continued negotiation was essentially ruled out. The Bosnian authorities stated their continued commitment to the Contact Group plan on the table, so far rejected by the Serbs, but complained that each new negotiating process brought results that were less and less favorable to them. At this stage, they asserted, ethnic cleansing has, in fact, been accepted, because the settlement plan in part recognizes the results. NATO was recognized as a serious threat that could be used against the Serbs, but that it was not being used. As one official put it, the NATO ultimatum of February 1994 was a real force to bring peace, but it has since turned into a "Mickey Mouse" operation. This was

largely attributed to the United Nations, which is overly bureaucratic in its means of operation and concerned more about self-preservation than in accomplishing its tasks. While the easing of sanctions on Serbia was criticized, hope was expressed the Serbian President Milosevic would move to recognize Bosnia, Croatia and the other former Yugoslav republics, which would be a significant step forward even if his basic objectives may not have changed.

Finally, some discussion focused on the federation within Bosnia-Herzegovina, essentially between the Bosniac/Muslim population and the Bosnian Croat population. Officials viewed the federation as the only viable alternative for both sides. However, some concern was expressed over continued opposition to the federation plan on the part of Bosnian Croat extremists, and the perceived lack of seriousness with which Bosnian officials approach the federation is only encouraging these extremists. Moreover, the inability of the international community to take on the challenge posed by Serb militants will cause the federation to fray, just as acquiescence to earlier Serb aggression only encourage division among Bosnian and independent Croat forces united against what was perceived to be a common threat.

In the meeting with UN officials, many of the concerns Bosnians raised about UN activities were raised. The response was not in total disagreement. The officials noted that everything must be done with the agreement of both sides, however unpleasant that may seem. The current, admittedly passive approach, had accomplished some objectives and contained some problems, but the drawbacks were causing some to consider a different approach. A serious problem, for example, is with the utilities for the city of Sarajevo, which are effectively under Serb militant control. Efforts were being considered to put these utilities under UN control, but even UN personnel trying to maintain the electric lines within Sarajevo were being subjected to sniper attack. The conclusion the delegation reached was that UN officials on the ground were aware of the shortcomings of the general approach to the conflict of which they were apart, but that there was no real alternative given the constraints UN member-states have imposed on their own resolve to see UN resolutions enforced.

Concluding Statement. On his departure from Sarajevo, Chairman DeConcini made the following statement on his visit to Bosnia-Herzegovina:

“In my brief but informative visit to Sarajevo, I was very much impressed by the determination of Bosnia's political leaders to persevere in the face of what is clearly aggression and genocide. This determination is strong because of a desire to defend one's home, but strengthened further by the correct belief that commonly held international principles are at stake here, with implications for the whole world.

“I do not want to give the impression that what I advocate is what the United States and the international community will do, but I am committed, as many of my fellow members of Congress are, to fighting for a policy towards the conflict in Bosnia that will make peace, rather than to keep a peace that does not exist. To this end, I call upon the international community to decide right now to lift the arms embargo that illegally continues to be imposed on this country; to look to NATO for more punitive airstrikes than we have seen so far to ensure U.N. resolutions are respected; to oppose the further lifting of sanctions until a peace agreement in Bosnia-Herzegovina is actually being implemented, and Serbia recognizes Bosnia-Herzegovina and its territorial integrity. The United States should take the lead in these areas, and take unilateral action if the international community persists in its acquiescence to Serb militant aggression.

“Finally, with the third winter of the conflict approaching, the international community must redouble its efforts to supply and deliver food, fuel, medicine and other humanitarian aid. I am proud of U.S. leadership and commitment in this area. Recent Serb militant efforts to block relief efforts cannot be tolerated.

“I will inform President Clinton of my observations when I see him later this week, and will suggest that he try to visit Sarajevo some time in the near future to see the city himself.”

ALBANIA—OCTOBER 23, 1994

Objectives of the Visit. The Commission delegation travelled to Albania at the invitation of President Sali Berisha. The visit offered the opportunity for the Commission to observe firsthand the vast changes which have taken place in Albania since the elections of 1992, which ousted the communists from power after nearly 50 years of ruthless repression and isolation. It also was intended to show support for Albania during this time of crisis and conflict in the Balkans and, at the same time, to encourage Albania to make continued progress and avoid making mistakes which could damage Albania's image abroad. Chairman DeConcini's third visit reflected the importance which the Commission attaches to democratic development and social stability in Albania.

A Commission delegation led by Chairman DeConcini was first permitted to visit Albania in August 1990. This represented the first official visit by an American delegation in almost half a century. By the time of a second visit by Chairman DeConcini in March 1991, the country had changed enormously, in part due to Commission urging that the country come closer to compliance with CSCE provisions before full membership in the CSCE was granted.

Flaws in the first multi-party elections at the time gave cause for continued concern, but, soon after a Commission hearing in Washington on democratic developments in Albania, the Commission Co-Chairs recommended full CSCE membership, which was granted by consensus and with strong German support in June 1991. Continued pressure to reform, both internal and external, caused further changes leading to the March 1992 elections, which the Commission also observed and which brought Sali Berisha and his Democratic Party to power. Since that time, the Commission has continued to observe and report on the developments in Albania as the country continues its transition to an market-oriented and democratic country integrated in European and world affairs.

The Context of the Visit. Albania is a mountainous country along the southern east-Adriatic coast and is about the size of Maryland. Its capital is Tirana and has a population of 3 million. The Albanian people are 70% Muslim, 20% Orthodox and 10% Roman Catholic. The only sizable non-Albanian population is a Greek minority, the size of which is disputed but probably ranges between 3-7% of the population. Almost as many ethnic Albanians live in the former Yugoslavia as in Albania itself, making up 90% of the population of Kosovo, 25-40% that of Macedonia, and 7% that of Montenegro.

Albania's communist leadership, led by Enver Hoxha, was so ruthlessly Stalinist that it broke first from the Soviets and then the Chinese, making Albania the most isolated, repressed and impoverished country in Europe. Romania's violent revolution convinced this leadership to seek maintenance of power by reform rather than by trying to crush an increasingly restless population. The Labor Party (Communi-

nists), renamed Socialists, won the somewhat flawed first multiparty elections in March 1991, but lost badly one year later to the leading opposition Democratic Party, whose leader, Sali Berisha, became President of the country.

Berisha has been seeking to build a democracy and develop a market-oriented economy, but in a country that all but collapsed with civil anarchy and an almost complete economic break-down. While considered to be essentially democratic and non-nationalistic, some nevertheless believe him to be too powerful and over-bearing. Moreover, in 1993 there were signs of slipping in democratic progress and greater nationalism, although international criticisms seemed to have led to increased moderation in 1994. The Socialist Party, formerly the communist Labor Party, frequently blocks government initiatives, and both sides deserve blame for the absence of a constitution in recent years (the Assembly did pass a Human Rights law, however, that would be incorporated into the constitution once one is passed). President Berisha, much to the dismay of the opposition, has called for a November 6, 1994, referendum on a new draft constitution.⁽³⁾

The Albanian economy, while still relatively undeveloped, is the fastest growing in Europe, with an 11% growth rate in 1993 and an 8-9% projected growth rate in 1994. There is slowness in foreign investment, however, due partly to an inadequate legal structure but also the generally dangerous political climate in the Balkans as a whole, with conflict in nearby Bosnia-Herzegovina that could spread to neighboring Kosovo or Macedonia and draw Albania into the fray.

The situation in Albania has improved so markedly since the March 1992 elections that replaced the communist Socialist Party with the opposition Democratic Party that a comparison really cannot be made. That said, there are several areas where problems persist. One is the media. While the 1993 media law was based on a German law, as a practical matter it contains language limiting free expression regarding criticisms of the government that could be abused in a country in transition. As a practical matter, they currently are not, although a trial earlier this year of several journalists for publishing an alleged military secret confirmed the need for concern. Fortunately, President Berisha pardoned those journalists sentenced, but the law is still on the books.

The judicial system continues to be a problem. There is, at best, only rudimentary understanding of concepts of the rule of law, due mostly to the decades of ruthless communist rule that both shaped the Albanian mindset and encouraged an emotional desire to get even. It is almost impossible to get a trial on a controversial issue that could be considered impartial and protective of defendants' rights. Virtually the entire former communist leadership, including those prominent during the recent transition from communist to non-communist rule, are now serving long sentences in prison, some after being held for months and months in pre-trial detention.

Greece and Greek activists claim that there is wholesale discrimination against the sizable Greek community in southern Albania, and go as far as to use the now popular term of "ethnic cleansing" as a potential threat. While Greeks, as a minority, are more vulnerable to democratic shortcomings than the Albanian majority, there does not seem to be a policy specifically directed against them, and efforts have been undertaken to facilitate education in Greek and other minority programs. In fact, the Albanian Government has, to some extent at least, tried to placate the Greek population in an attempt to keep it at a

distance from extremist forces. Not unexpectedly, Albanian authorities are not consistent in this regard, often slip in their awareness of ethnic concerns, and are easily provoked by extremists to take action that is to their own detriment.

The recent trial of five ethnic Greeks for spying and illegal arms possession can be viewed in this light. They were sentenced for 6 to 8 year terms, lowered by 1 or 2 years on appeal. While the trial demonstrated the clear shortcomings with the judicial system, Greek activists are able to present it instead as a ethnic issue, with the Albanian authorities allegedly out to get the Greeks.

Other problems, much smaller in scale, include alleged Democratic Party manipulation of some local elections in late May, and confrontation between former political prisoners seeking compensation and pre-communist era property owners reclaiming what they lost half a century ago.

Albania has developed good relations with the United States and the West generally since shedding its isolationist and repressive mantle in the early 1990s. The country remains primarily concerned about the situation in neighboring Kosovo and other parts of the former Yugoslavia. With almost as many Albanians in the former Yugoslavia as in Albania itself, Albanians consider their people a divided nation, and this gives occasion rise to support for separatist or extremist forces among ethnic Albanians residing in neighboring countries, although international pressure and Berisha's own moderate inclinations have generally kept Albanian policies fairly responsible. The only exception to this was support for radicals in Macedonia in 1993, although this support was withdrawn and Berisha himself called upon the Albanians of Macedonia to participate in the Macedonian elections held one week prior to the Commission visit. The Albanians of Kosovo, of course, are so repressed that Albania is more in front of, rather than in opposition to, the general international approach to the crisis there. It tacitly recognizes Kosovo's self-proclaimed independence and ethnic Albanian government under Ibrahim Rugova and Bujar Bukoshi. The outbreak of violence on a wide scale in Kosovo could easily draw Albania into a war with Serbia, which could then develop into a wider Balkan conflagration.

Relations with Greece are, however, the most tense at the moment. Throughout 1994, there have been numerous border incidents involving shooting, and the killing of Albanian border patrols by a Greek extremist group. Indeed, it was the investigation of this particular border incident that led to the arrest and trial of the five Greeks, who were originally also charged with treason. In response to the trial, Greece has made fairly clear threats to Albania, blocked further European Union assistance to the country and expelled tens of thousands of Albanian citizens illegally residing in Greece in an extremely heavy-handed way. The United States, Russia, Bulgaria and others have sought to mediate differences, but there is little chance for progress at the moment.

The Visit and Observations. After being greeted and briefed by the new U.S. Ambassador to Albania, Joseph Lake, the delegation met with President Sali Berisha. Chairman DeConcini remarked on the changes he had seen just on his way from the airport to the presidential offices. The President noted that, in the beginning of its democratic transformation, Albanians were idealistic, and it worked miracles fast. He said that the main regret was not making changes even more quickly, and saw the U.S. political system, more than European ones, as the model to be followed, given the crucial importance it attaches to freedom and the balance of power.

President Berisha expressed optimism that the draft constitution would be accepted in the November 6 referendum. The referendum, he explained, was necessary because the opposition, the Socialists in particular, blocked efforts to have a draft go through the Assembly. If the constitution passed, it would be followed by new penal, labor and other legal codes. Old laws must comply with the new constitution, and an effective constitutional court was assured. When asked about how the 1993 media law related to the constitution, the President implied that the law would have to be interpreted in accordance with constitutional provisions, and that, while he approved the law, he did not feel Albania needed a law regarding the operation of the media in the first place. Chairman DeConcini expressed the hope that the Albanian Constitution would be a living constitution, which can be interpreted over time in a way to facilitate democratic development and institutional stability.

Also raised was the constitutional provision—Article 7, paragraph 4—requiring a permanent residency in Albania of 20 years in order to head a large religious community. Chairman DeConcini questioned the need for this in a constitution and its appropriateness given that paragraph 1 of the same article stipulates that religion is separate from the state in Albania. President Berisha responded that the Albanian Orthodox Church, which would be most affected by this paragraph in that its current head, Anastasios Yannaoulatos, is from Greece, became autocephalous earlier in the century with great difficulty. Given Albanian wariness over foreign influences perceived to be attempts to dominate Albania, he added that the decision to allow a Greek to head the church, necessary because the communist regime had decimated the ranks of qualified clergy in its anti-religious zeal, was a very sensitive and controversial move which he nevertheless made. He stressed, however, that it was accepted from the beginning that Anastasios would only serve provisionally, and, with Albanians emerging from religious training, it was time to install a more permanent figure, who, according to the rules the Albanian Orthodox Church itself established, must be from Albania. In the end, the President did not indicate that there was much room for compromise on this issue once the draft constitution passes.

Much of the remainder of the conversation focused on the recent trial of five Greeks from Albania for spying and illegal arms possession, and the larger ethnic and inter-state issues surrounding the event. Chairman DeConcini said he viewed the severe shortcomings in the trial as a problem with the judicial process, not as a problem with ethnic rights and relations in Albania. The Senator noted that the United States has many organizations that can help build an impartial and effective judiciary in Albania, training judges, defenders and prosecutors alike. He added that, while it is understandable that Albania does not yet have a sufficiently capable judicial system, President Berisha needed to publicize his determination to bring it up to the standards he himself has set for Albania as a whole. President Berisha noted some of the shortcomings of the system but expressed his personal and genuinely felt conviction (which most Albanians probably share) that the defendants were, in fact, guilty as charged. Berisha cited statistics pointing out that arms possession in Greek-populated regions of southern Albania was several times higher than the national average, and these individuals were creating that problem. He criticized Greece and Greek extremists for abusing the liberties in the social system for spying and making trouble. Chairman DeConcini acknowledged that everybody was giving Berisha advice on how to defuse the situation, but suggested that a retrial might be best in that it falls short of a full pardon—if the defendants are felt to be guilty—yet acknowledges the judicial shortcomings of the Albanian court. Berisha said that the sentences were lowered on first appeal and are now in the final stages of the appeal process.

This discussion turned quickly into the larger issue of Greek-Albanian tensions, on the social level within Albania and on the inter-state level between the two Balkan countries. President Berisha noted that the CSCE High Commissioner for National Minorities, Max van der Stoep, had yet again visited the country and concluded that the rights of members of the Greek and other minority communities were being respected. He expressed anger that Greece argues otherwise, while denying the very existence of minorities on its own territories, let alone respecting their rights. He asked that the Greek and Albanian constitutions be compared in the rights they acknowledge and give. He also expressed dismay that the original terms of the CSCE High Commissioners work in Albania included an examination of minorities in Greece, but that the CSCE seemed simply to accept Greek insistence that there were no minorities to be examined. Chairman DeConcini noted President Berisha's principles, which he respected, but cautioned, as a true friend of Albania, that the real world was favorable to Greek concerns in many way, rightly or wrongly, and that he should avoid rash responses that could backfire to Albania's detriment.

In concluding the meeting, both the Chairman and the President noted the good state of Albanian-American relations. President Berisha said economic progress was good, but still much below potential. Chairman DeConcini expressed a desire to see more American investment in Albania and said he would encourage the start-up of the Albanian-American Enterprise Fund as soon as possible.

President Berisha thanked Chairman DeConcini for coming to visit Albania again, but said that this was too short to be considered a real visit and that he should therefore come back again. The Chairman agreed.

Concluding Statement. On his departure from Tirane, Chairman DeConcini made the following statement on his visit to Albania:

“It is genuinely a pleasure to have visited Albania for a third and final time as Chairman of the Helsinki Commission, prior to my retirement from the United States Senate. In the seven years that I have co-chaired the Commission with Representative Steny Hoyer, Albania has stood out positively in my mind for the tremendous strides it has made in the respect shown for human rights and fundamental freedoms, democratization and integration into European and world affairs after decades of isolation. This progress contrasts tremendously with the otherwise troubled situation in the Balkans as a whole. I saw Albania in 1990 as a one-party state which denied free expression and religious practice to its people. I saw Albania in 1991 in the midst of the tumultuous transition from communist to non-communist rule. Today, I see Albania working to become a democracy, and the enthusiasm of its people, which I will never forget, convinces me that it will eventually succeed.

“I had a very friendly and substantive meeting with President Sali Berisha, during which I expressed this conviction. We also discussed current problems in Albania which may hinder progress on the road to becoming a solidly democratic country. I expressed concern that the lack of development in Albanian judicial practices has worked against Albania's image abroad and could be used wrongly and dangerously to stir tensions in Albania. Upon my return to Washington, I intend to contact the National District Attorney's Association, the American Bar Association, the U.S. Judicial Conference and other groups to see how they can assist Albania in training prosecutors, defense attorneys and judges.

“We also discussed the recent trial in which five ethnic Greeks from Albania were sentenced for spying and illegal arms possession. I remain concerned that the evidence may not have sufficiently proven the guilt of the defendants and that major irregularities in their detention and the proceedings did not afford them the impartiality that is their right. Such problems seemed to exist at least somewhat for other high profile trials in Albania.

“I urged the President to continue to find ways to mitigate the effects of the trial, to respect the rights of all Albanian citizens, including members of the country's Greek community, and to improve the credibility and impartiality of Albania's judicial system. In the meantime, we expressed our common desire to see Greece engage in a dialogue with Albania on issues of common concern right away, and to avoid acts of retribution and provocation.

“Other issues which we discussed included a press law which is viewed by many as potentially restrictive. President Berisha described the draft constitution to be put to a public referendum on November 6 as guaranteeing freedom of expression and other human rights and fundamental freedoms. I expressed hope that this was so and that, if adopted, it would be more than a document but a vehicle for really protecting these rights and freedoms, as well as democratic institutions across the board.

“On foreign policy issues, we agreed on the good state of Albanian-American relations, and expressed confidence that U.S. Ambassador Joseph Lake will maintain the strong presence in Albania so effectively begun by William Ryerson. I supported greater American investment in Albania's growing economy, and will encourage a quick start for the Albanian-American Enterprise Fund. We expressed common outrage over continued conflict in the Balkans, which continues with an unabated severity. I welcomed the President's support for ethnic Albanian participation in the recent Macedonian elections and encouraged Albania to remain a responsible player in the Balkans during these difficult times.

“As we parted, I wished President Berisha the best, and asked him to express my sincerest thanks to the people of Albania for their hospitality during previous visits and for giving me hope for the future during these troubled times.”

TURKEY

October 23 - 26, 1994

Objectives of the Visit

From October 23 to October 26, 1994, the delegation visited Turkey to examine issues of mutual concern to the United States and Turkey, including human rights issues, the Kurdish situation, conflict in the Balkans and the Middle East peace process. The delegation held meetings in both Ankara and Diyarbakir. The Helsinki Commission has long followed human rights developments in Turkey, issuing reports in 1982 and 1988, and sponsoring numerous public briefings. In 1989, Chairman DeConcini led a delegation to Ankara and Diyarbakir that became the first U.S. Congressional delegation given access to political prisoners in a Turkish jail.

The delegation examined and discussed a number of human rights problems which have persisted since the DeConcini visit in 1989. These include continued widespread use of torture, restrictions on the exercise of free expression, the situation of Turkey's Kurdish citizens, and the human rights implications of terrorism. Of particular concern to the delegation were recent reports that Turkish security forces were evacuating and burning Kurdish villages in an effort to combat the outlawed Kurdistan Workers Party (PKK). The delegation also requested to meet with jailed Democracy Party (DEP) parliamentarians charged with making pro-Kurdish expressions or associating with members of the PKK. Requests to meet with these individuals and other political prisoners detained for speech crimes were denied by the Government of Turkey.

The Context of the Visit

Turkey's population of 60 million, includes some 12 million Kurds. 99% of Turkey's citizens are Muslims. Armenian, Greek, Jewish and other non-Muslim minorities also live throughout Turkey. Astride Europe and Asia, Turkey is surrounded by Greece, Bulgaria, Armenia, Georgia, Iran, Iraq and Syria.

Political Context

In 1980, after a decade of political violence, Turkey's military seized power for the third time since 1960. In 1983, civilian rule was restored and elections held. In 1987, as in 1983, Turks voted for the party led by Turgut Ozal. In 1991 elections, no party received a majority in the 450-seat parliament. Suleyman Demirel, Prime Minister on six previous occasions (twice ousted by the military) formed a coalition government between his True Path Party (TYP) and the left-leaning Social Democratic Party (SDP). President Ozal died in April 1993 and was replaced by Demirel, chosen by Parliament. In June 1993, Tansu Ciller became the first woman to serve as Prime Minister. Her TYP maintains a ruling majority with the junior coalition partner SDP, led by Deputy Prime Minister Murat Karayalcin. Turkey's military, a most respected institution in Turkish society, plays an important role in shaping policy. According to many observers in and outside of Turkey, military leaders control current Kurdish policy, although officials deny such a scenario.

In March 1994, the three major political parties suffered setbacks in local elections. The Islamic fundamentalist Welfare Party (RP) was a major beneficiary, winning mayorships in Istanbul and Ankara. Some view RP gains as a portent of rising fundamentalism—a threat which warrants Western support of Turkey more than ever. Others view this electoral support as a result of widespread corruption, government failure to address the needs of burgeoning urban migrant populations, and RP outreach to “fellow muslims.” The Kurdish-based Democracy Party (DEP) boycotted the elections after dozens of its candidates were murdered, over 300 campaign workers arrested, and its Ankara headquarters bombed.

By-elections for 22 vacant parliament seats, scheduled for December 4, 1994, were postponed on November 18, following a Constitutional Court ruling which allows displaced persons to register to vote. These elections were called after 13 DEP parliamentarians were kicked out of parliament following the party's banning. Under the constitution, by-elections will be mandated should a 23rd vacancy occur in Parliament. The government had announced that jailed DEP parliamentarians could participate in the by-elections, and, if elected, could have been able to reclaim their seats—although questions remained as to

how the parliamentarians could conduct campaigns from jail. The DEP successor party, HADEP, announced on November 3, 1994 that it would boycott the elections. Three HADEP candidates had been assassinated and party officials claimed that free elections in southeast Turkey would be impossible.

Since 1987, successive Turkish governments have announced intentions to address prominent human rights concerns through various reform packages. The most recent reforms were introduced this past May by Prime Minister Ciller. None of the “democratization packages” have been implemented, and where restrictive laws have been eliminated, they have been replaced by equally restrictive ones. Ironically, while many of Turkey's democratic institutions in many respects appear stronger than ever, the human rights situation continues to deteriorate on several significant fronts.

Kurdish situation

Kurds, like Turks, are Muslims, and comprise about 12 million of Turkey's 60 million inhabitants. They maintain distinct languages and cultural forms. Many remain concentrated in less developed areas of southeast Turkey, although many have now migrated to cities throughout Turkey. The relationship between Turkey and its Kurdish population has been a tumultuous and often bitter one. A longstanding ban on speaking Kurdish was only recently lifted. Restrictions on the naming of Kurdish children, towns and other forms of expression were imposed largely to maintain a “Turkish” State secure from any threats of separation. Since the establishment of modern Turkey in 1923, Kurds have faced pressures to assimilate, often being erroneously referred to as “mountain Turks.” Many have come to consider themselves Turkish and fully participate in all aspects of society. It has been pointed out that up to one third of the deputies in the Turkish parliament have Kurdish ancestry. Kurds who promote and express their Kurdish identity, however, continue to face serious persecution.

Since 1984, over 13,000 people have died in confrontations involving Turkish security forces and members of a Kurdish separatist/terrorist group, the Kurdistan Worker's Party (PKK), which operates out of Syria, Iraq, Iran and hideouts in remote mountain regions. Turkey's Kurdish policy is complicated by relations with neighboring Iraq, Iran and Syria, each of which has substantial Kurdish populations and questionable intentions. Turkish security forces have mounted numerous cross border raids into neighboring countries. Ten southeastern Turkish provinces are under a constant State of Emergency authorizing local authorities to curb political, cultural and media activity. The government's current policies to combat the PKK have drained treasury coffers of almost 7 billion dollars a year, strained relations with neighboring states, and subjected Turkey to increased worldwide human rights criticism.

Particularly in Southeast Turkey, local residents often must choose between supporting guerrillas and risking reprisal by Turkish security forces—or not helping and facing PKK retribution. Villagers have been rounded up by security officials and subjected to beatings, mass arrest and intimidation. Locals believed sympathetic to Turkish authorities, and most recently school teachers, have been executed by the PKK. Escalating violence and growing nationalism further polarize Turks and Kurds. Growing resentment and anger over security force abuses have in turn fueled Kurdish nationalism and support of the PKK. Turks, angered by the costs and brutality of terrorism are increasingly resentful of Kurdish demands.

The rights of Turkey's Kurdish citizens have been increasingly restricted under the mantle of combating terrorism. Reports indicate that between 1000 and 2000 Kurdish villages have been forcibly evacuated and destroyed on security grounds—creating from one to two million refugees, some of whom have

fled to Northern Iraq. Shadowy death squads, allegedly connected to security services are believed responsible for assassinating political activists and Kurdish politicians including Mehmet Sincar, a DEP Member of Parliament. The number of disappearances has also dramatically increased over the past year. While Kurdish music and publishing are not now prohibited, the exercise of such freedoms remains problematic, especially in the Southeast. Cassettes and literature are seized at roadblocks and persons in possession of such materials are often beaten and arrested.

The government's campaign to stifle moderate Kurdish political voices has enabled the PKK to gain support among those Kurds unable to voice cultural and political aspirations. One DEP parliamentarian was the victim of an unsolved murder, and others are in jail facing the death penalty, or in exile. In the campaign period before the March 1993 local elections, DEP party headquarters were bombed and over 300 DEP election candidates and campaign workers were arrested. The elections were eventually boycotted by DEP. In the present run-up to December 4 parliamentary by-elections, DEP's successor, HADEP, has already suffered its first assassinations, and, like its predecessors, faces legal action in the near future. HADEP has announced it will not participate in the upcoming elections. The PKK has threatened to kill candidates participating in the by-elections and has called for Kurdish non-participation as a way to further delegitimize the State.

Free Expression

Free expression remains restricted in Turkey. While Turkey's lively press reports on many issues previously considered "taboo," the government still maintains legal restrictions on expression and self-censorship is still practiced by artists, journalists and publishers for fear of reprisals or legal action. Despite the repeal of a number of restrictive articles in the Turkish Penal Code in 1990, new laws, especially Article 8 of the "Anti Terror Law" continue to be used to criminalize speeches or writings which advocate pro-Kurdish positions. Efforts are underway to liberalize laws which are presently used to restrict free speech, however, it remains to be seen whether such reforms will be adopted and implemented. Meanwhile, individuals continue to be detained, mistreated and prosecuted for the contents of their speech, writings or works, and publications continue to be banned or seized.

Public opinion is openly manipulated by media outlets controlled by government or other political sources. With respect to Kurdish rights issues and the war in Southeast Turkey, informed debate has fallen victim to inflammatory prefabrications or severely restricted information. A threat by the PKK to attack journalists and newspaper outlets in Southeast Turkey has also contributed to the lack of objective reporting from the region.

The Committee to Protect Journalists has listed Turkey as one of 15 countries where journalists are most at risk. Since 1993, 17 journalists and 14 newspaper distributors have been victims of unsolved murders. The removal from office of 13 duly elected parliamentarians because of speeches they made or documents they signed has seriously undermined Turkey's stated commitments to free speech. In addition to the DEP parliamentarians, eight of whom are presently jailed, dozens of other writers, artists, academics and politicians are imprisoned for simply exercising their rights to free speech. Mehdi Zana, Haluk Gerger and Fikret Baskaya are just a few of the more well known such political prisoners.

DEP Trial

On June 16, 1994, the Turkish Constitutional Court banned the pro-Kurdish Democracy Party (DEP), and stripped 13 deputies of their seats in Parliament. Two of the parliamentarians were detained and roughed up by police when leaving the Parliament building. Three others barricaded themselves in their offices for two days before surrendering to authorities. Presently, six are detained and on trial. Each faces the death penalty for speech crimes and some are alleged to have contacts with the outlawed PKK. Two others, arrested in subsequent weeks, are being tried separately on similar charges. Six DEP parliamentarians fled Turkey to avoid arrest and have established themselves in exile in Belgium. Two of these individuals appeared at a Helsinki Commission briefing in July. None of the parliamentarians are accused of acts of violence or advocating such acts, but rather face charges based solely on the contents of their speech or writings or alleged contacts with the outlawed PKK.

Recently, the jailed parliamentarians were told that they would be allowed to run for office in the by-elections, and if elected, could reclaim their immunity and their seats in Parliament. The PKK warned the jailed parliamentarians not to run. On November 3, 1994, HADEP officials announced their party would boycott the December by-elections. The jailed parliamentarians had indicated that they would not run for office. The by-elections were cancelled on November 18, 1994 after the Constitutional Court ruled that voting registries had to be updated to accommodate hundreds of thousands of refugees displaced by the conflict in Southeast Turkey.

The DEP trial is being observed by the international press, foreign parliamentarians, human rights activists and others. Many foreign observers have attended the proceedings to demonstrate concern and support. Access to the trial, which is supposed to be open, has been somewhat limited by space—a massive security presence has limited seating—and some observers have found themselves not on a pre-approved list, despite their efforts to “pre-register” with authorities.

The DEP trial underscores the government's military-based approach to the Kurdish question—a cornerstone of which is the criminalization of Kurdish-based political parties. When political parties are banned, a clear and unequivocal violation of the CSCE Copenhagen Document, the pattern in Turkey is that like-minded groups form on their heels or members move to more extreme parties. Many believe that if Kurds were allowed to form legal political parties, support for the PKK and other extremist groups would shift to the center.

The European Parliament and CSCE Parliamentary Assembly have called upon the Government of Turkey to release the parliamentarians and all others detained in Turkey for verbal crimes. In an October 4, 1994 letter signed by 16 Senators and 43 Representatives of the United States Congress (including 15 Helsinki Commissioners), similar concerns were transmitted to Turkey's Prime Minister.

Torture

Torture allegations remain widespread throughout Turkey. Most torture allegations focus on pre-trial detention periods when detainees are interrogated at police stations. Individuals have been held for weeks without access to lawyers and without being charged with specific crimes. Since 1992, the Commission has received reports of dozens of detainees dying under circumstances in which torture or other abusive conduct was alleged. Despite assurances by then Prime Minister Demirel that police stations would have “glass walls,” the government has yet to implement and enforce regulations aimed at eliminating illegal torture. Numerous sources report that medical workers in Turkey remain reluctant to report evidence of

torture for fear of reprisals from security personnel. The government prosecutes few for torture-related offenses, and punishments have been light. Legal reforms aimed at preventing torture and the use of confessions obtained under torture have been ineffective. Indeed, it appears to the Commission that torture may be on the rise.

On November 3, 1994 a Turkish court ordered the confiscation of “File of Torture” a booklet published by the Human Rights Foundation which documents deaths in detention since 1980 and hundreds of other torture cases. Government prosecutors are determining whether to charge the authors, Yavuz Onen, who met with the delegation, and Fevzi Argun, for disseminating “separatist propaganda,” a crime punishable by a two-to-five year prison sentence.

The Delegation Visit

The delegation was received in Ankara by the following officials: Parliamentary President Husamettin Cindoruk; Parliamentary Human Rights Commission Chair Sabri Yavuz; Parliamentary Vice-President and Tunceli Deputy Kamer Genc; CSCE Parliamentary Assembly Vice President Uluc Gurkan, and Foreign Ministry Deputy Undersecretary Unal Unsal. The delegation also met with leaders of the Human Rights Foundation, the Human Rights Association, lawyers, and former officials. Additionally, delegation members met with representatives of the Human Rights Association and the Bar Association in Diyarbakir.

Upon its arrival, the delegation was briefed by U.S. Ambassador Richard Barkley and embassy personnel. The Deputy Charge of Mission James Holmes hosted a roundtable meeting and reception for the delegation and human rights leaders, lawyers, Kurdish political activists and former officials. These individuals outlined problem areas, including: widespread persecution of those who seek to promote a Kurdish identity; military evacuation and destruction of Kurdish villages; the criminalization of moderate Kurdish-based political parties; restrictions on free speech illustrated by the trial of Democracy Party (DEP) parliamentarians; and continued use of torture. There was general agreement that a major challenge facing human rights reformers involved “removing the shadow of the military over civilian rule.” Some believed that the present “Kurdish problem” was a result of failed policies adopted over the years by successive Turkish governments.

In meetings with Turkish legislators, including the Speaker of Parliament, Husamettin Cindoruk, Chairman DeConcini expressed gratitude for Turkey's role during the Gulf War and its continued commitment to Operation Provide Comfort. He also expressed sympathy for the heavy toll on commerce caused by the enforcement of U.N. sanctions against Iraq and indicated he would raise the issue of seeking further compensation for Turkey's losses, particularly from Gulf States who have benefited most from continued allied pressure on Saddam Hussein. Chairman DeConcini also expressed belief that Turkey could play a critical role in promoting a CSCE-like regional framework for the Middle East. He noted that Turkish officials have already taken a leading role in expressing support for such a CSCME as a means of further developing a lasting and comprehensive regional peace.

In meetings with officials and private citizens, Chairman DeConcini unequivocally condemned PKK terrorism, pointing out that the Helsinki Commission had always denounced the use of violence for political objectives and had on numerous occasions in the past criticized the PKK for its use of violence. The delegation received further information on recent PKK tactics of killing school teachers, a practice which

has forced the closure of hundreds of schools and has kept thousands of children from classes. The delegation was told by Parliamentary President Cindoruk that the PKK continued to pursue its goal of independence under the guise of a campaign for human rights.

Foreign Ministry Deputy Undersecretary Unsal spoke of Syria's backing of the PKK to destabilize Turkey and how the PKK funded itself through extortion and narcotic and labor trafficking operations in Western Europe. The PKK, he claimed, had found “intellectual” support among Europeans and the liberal media. He added that as long as the PKK continued to operate, it would be difficult for the Turkish government to meet the human rights concerns of other countries. He and other officials indicated that Turkey had been receiving mixed signals from Western governments on human rights issues, claiming that Defense Secretary Perry had not raised human rights concerns with Turkish officials, while simultaneously, Congress was linking military assistance with human rights. A similar concern was raised with regard to communications between President Clinton and Prime Minister Ciller, which had led the latter to conclude the United States was not overly concerned with human rights in Turkey. Unsal added that talk in the West of a “political solution” was sometimes misunderstood to be support for an independent Kurdish state.

The delegation sought information on the ongoing efforts by security forces to evacuate and destroy dozens of Kurdish villages in Tunceli province while fighting the PKK. Thousands of villagers have fled and village leaders had travelled to Ankara to protest their treatment at the hands of security forces. When asked about this situation, one legislator claimed that an official parliamentary investigation would be initiated. He assured the delegation that if government forces were found responsible, compensation would be offered. Another legislator informed the delegation of efforts to provide housing for displaced persons before the onset of winter. As of this writing, no public official investigation has been initiated, nor have, according to press reports, new shelters been provided.

Official versions of ongoing village evacuations varied widely, both in meetings and in the media. One official indicated that the current “mentality of the military” was to believe that if villages were rendered uninhabitable, the PKK would be unable to hide or feed itself. A number of officials maintain that it is the PKK who is solely responsible for destroying villages and that the PKK disguises itself as Turkish soldiers before such actions. One official told the delegation that villagers were being relocated for their own safety so they could better receive services provided by the State. The delegation also saw press accounts of officials claiming that villagers burned down their own homes to collect compensation. In a public response to queries from village leaders, Prime Minister Ciller indicated that the PKK used helicopters, obtained in Russia and Armenia, to conduct village burnings, although military officials later insisted that Turkish airspace had not been violated. In meetings with private citizens in Ankara and Diyarbakir, there was a uniform belief that security forces were responsible, although it was acknowledged that the PKK has also directed violence against villagers believed to be collaborators, and in some cases, has destroyed their homes.

The delegation discussed restrictions on free expression in the meeting with Parliamentary President Cindoruk. Chairman DeConcini posed that by expanding rights of expression, the government might reduce extremism and perhaps curb terrorism. President Cindoruk indicated that even if such rights were expanded, terrorism would continue and the reforms would be misused to promote further demands. Other officials informed the delegation of ongoing efforts to revise relevant portions of the Constitution and “Anti-terror law” in order to better protect free speech. Some officials indicated it might be difficult for Parliament to pass proposed reforms given the present political climate. Chairman DeConcini expressed

hope that serious debate on the issue would continue, and observed that concrete measures decriminalizing speech crimes were necessary in order to bring Turkey into compliance with stated CSCE commitments.

Although, the delegation was not allowed to meet with Democracy Party (DEP) legislators or other political prisoners imprisoned for speech crimes, Chairman DeConcini made a point of raising this issue in all official meetings. DeConcini reiterated the Commission's position that speeches by duly elected legislators should not be curtailed in a democratic society committed to CSCE principles. The Chairman repeatedly stated that it is a widely held view that government prosecutor's charges were motivated by politics. President Cindoruk stated his belief that some of the deputies should be acquitted, but that others were linked to the outlawed PKK. He added that their immunity was lifted in accordance with lawful procedures, by independent branches of government. He indicated that the jailed parliamentarians would be allowed to run for office in December by-elections. Chairman DeConcini asked how they might campaign from prison on an equal footing with other candidates. Mr. Cindoruk responded that the detained deputies could run by petition, and that it might be possible for them to be temporarily released in order to campaign. The delegation also raised questions about the conduct of such elections in areas where hundreds of thousands of refugees would be unable to meet residency requirements in order to vote. Mr. Cindoruk indicated that Council of Europe President Martinez had been invited to monitor the by-elections.

Delegation members visited the Human Rights Foundation torture rehabilitation facility and met with a number of professional staff. This visit represented the Commission's strong continuing concern with the use of torture, which remains widespread. Presently, it appears that heightened tensions and violence have lessened the political will and urgency of eradicating torture. Human rights advocates who met with the delegation claimed that torture had become routine in political cases and that forced confessions were used widely to convict persons of crimes. Torture techniques were constantly being refined, they added, to reduce detection and evidence that could be later used against abusers. Some individuals alleged complicity by medical professionals in both the conduct and coverup of torture. Chairman DeConcini urged the Chairman of the Parliamentary Human Rights Commission to redouble torture prevention efforts, especially during pretrial detention periods when detainees have no access to lawyers.

In Diyarbakir, delegation members met representatives from the local Human Rights Association office, the only branch allowed to operate in the State of Emergency region. Meetings were also held with Bar Association and other community leaders. A disturbing picture of the situation facing local inhabitants emerged. Participants acknowledged that violent acts perpetrated by the PKK contributed to the desperate human rights situation, but placed the preponderance of blame on security forces, whose actions had not only served to alienate the local population but had also pushed it into the arms of the PKK. It was claimed that most Kurds in the region recognized that an independent state was unachievable, but that the government kept this issue alive for propaganda purposes against the PKK.

Human rights activism, it was reported, often resulted in arrest, detention, ill-treatment, disappearance or assassination. Ten Human Rights Association leaders in southeastern provinces had been victims of unsolved murders over the past three years. Gathering information had become extremely difficult as people were afraid to speak about misconduct by security forces for fear of retaliation. For three years, a constant stream of migrants had been entering Diyarbakir as a result of village evacuations. The city's population had reportedly tripled in this time. Efforts to collect donations for people displaced from villages, however, had resulted in the immediate padlocking of Association offices. During the meeting, two

distraught Kurdish women from Princerlik presented a letter inquiring about one of their sons who had been taken from the family home two weeks earlier by security forces and had not been heard from since. The delegation was informed that hundreds of such cases had been brought to the attention of the Association in Diyarbakir alone. Local police and the military refuse to offer any assistance to families or lawyers seeking information about the increasing number of disappeared persons.

Bar Association officials cited numerous legal and other obstacles blocking human rights and democratization progress in southeast Turkey. They claimed that the existing legal order effectively denies a Kurdish identity of citizens of Turkey. The predominance of State Security Courts had led to a growing regional disparity in sentencing patterns, i.e. convictions result in greater jail time in the southeast than in other regions for similar crimes. The judges and prosecutors from State Security Courts came from outside the region and were viewed as representatives of the military. A 1989 law providing the right to counsel during detention was reportedly widely ignored in State Security Courts and efforts to pursue torture allegations with these authorities had proved impossible. Numerous examples of official coverups of torture were presented.

Observations. The delegation left Turkey very concerned as to whether Turkey can accommodate the interests and aspirations of its Kurdish citizens within the present political framework. For years Turkey has repressed, often brutally, a separate Kurdish cultural identity in favor of a secular Turkish identity. Whereas Turkey is not the same as it was only five years ago, the steady progression from denying the mere existence of Kurds to granting certain restricted liberties, has been accompanied by a growing gulf of mistrust between Kurds and Turks. The armed insurgency and the counter measures by the military are approaching the dimensions of a civil war. The Kurdish issue is a critical one for Turkey and all its citizens with very serious long-term repercussions for not only Turkey but the Middle East. Old unresolved questions are reemerging in Turkey and how it deals with those questions today will largely determine the state of democracy in Turkey tomorrow.

The very measures Turkey is employing to safeguard the state from threats of separatism are polarizing Turkish society even further. Rising nationalism and the tendency to view reforms as concessions to terrorism intimidate any who speak of compromise. The tactics of the PKK do nothing to engender support yet it is the PKK that finds itself the beneficiary of increased sympathy by a people who view themselves with no choices. Voices of moderation are squelched by threats of repression and even assassination.

While Turkey, and indeed all nations, are entitled to protect their citizens from terrorism and to preserve the integrity of their borders, Turkey has also obligated itself to uphold basic international human rights principles. Unfortunately, the legitimate rights of Turkey's Kurdish citizens appear increasingly violated in the fight against terrorism.

Military-based approaches, which do not differentiate between terrorism and protected forms of expression and which have failed to bring problems closer to resolution, should be reconsidered. Peace and stability remain unattainable as long as all sides are mired in a cycle of violence and forced into radical positions. A continued reliance on military-based approaches raises serious questions about whether present democratic institutions can function to meet the pressing needs of a modern multi-ethnic society.

A major element of any non-military approach must be official willingness to distinguish between terrorism and non-violent expression promoting the rights and identity of Turkey's Kurdish citizens. Similarly, the PKK must abandon the use of violence for political objectives and renounce aspirations for outright independence. If the PKK were to declare a unilateral ceasefire—as it did in March 1993—the Turkish government should seriously consider suspending its costly military campaign. Such a bi-lateral ceasefire could be a first step towards establishing a climate in which non-military approaches could be discussed and implemented. In such a climate, the Turkish government might consider the following courses of action—some of which are being discussed in Turkish political circles:

- 1) Allow all non-violent political parties to participate in political life.
- 2) Abolish restrictions on free expression including those within the Anti-terror law.
- 3) Repeal the State of Emergency.
- 4) Dismantle the village guard system.
- 5) Remove all restrictions on Kurdish linguistic and cultural expression.
- 6) Lift constraints on dissemination of Kurdish language television and radio broadcasts, print, music and other mediums.
- 7) Develop a government sponsored Institute of Kurdish Studies and allow schools to offer instruction in Kurdish, and
- 8) Convene a high-profile conference examining all aspects of Turkish-Kurdish relations.

Such policies at least offer a possibility to bolster Turkey's civilian democracy, stem violence, marginalize extremism by providing moderate alternatives, lift an oppressive climate which has stifled political and economic life throughout Turkey, and begin to reverse the destructive polarization of Turks and Kurds.

Opening Statement. Upon his arrival in Ankara, Turkey, on October 23, 1994, Chairman DeConcini issued the following statement:

“Our delegation has come to Turkey discuss issues of mutual concern to our two nations, including human rights issues, the Kurdish situation and conflicts in the Balkans. I have just arrived from Sarajevo and Albania where I have met with both Prime Minister Siladjic and President Berisha. Following my visit here I will join President Clinton at the signing of the Jordanian-Israeli peace agreement—a truly historic milestone in the quest for regional peace, and a priority of both our nations.

“For almost ten years, as Chairman of the Helsinki Commission, I have closely followed developments in Turkey and have gained a great respect for its people and leaders. I have developed a deep appreciation for the close relationship and cooperation which has grown over the decades between our nations. While we could see the first evidence of these ties in the Korean conflict, more recently we see similar such cooperation in Bosnia and Somalia. The United States is most grateful for Turkey's role during the Gulf War and its continued commitment to Operation Provide Comfort. Our countries have relied upon each other in the UN, NATO, and the CSCE. In the post-Cold War era, it seems to me, that our alliance is as important as ever.

“It is easy to see why the United States and Turkey should work towards strengthening the friendship between our nations. We share basic common interests in peace and stability in Europe, the Middle East and the successor states of the former Soviet Union. We share a goal in putting an end to the scourge of terrorism. We share a goal in achieving a just and lasting solution to the Cyprus issue. And furthermore, we share moral commitments to human rights which lie at the foundation of our multi-ethnic democracies and which are, most importantly to the Helsinki Commission, pillars of our international human rights commitments undertaken in the CSCE process.

“Over the years I have relied on our close relationship to frankly and openly discuss human rights problems in Turkey, as I do in my own and other countries. In 1989, I visited Turkey and saw first hand how Turkey accepted refugees from Bulgaria and Northern Iraq. Ours was the first Congressional delegation to be allowed to visit individuals detained in the Ankara Closed Prison for verbal crimes. And while we did ascertain a number of problems, some of which remain today, the frank and open nature of the visit encouraged me greatly.

“The CSCE encourages openness as a means of establishing confidence and trust. Dialogue is a way to avoid misunderstandings. Disagreements between friends are to be expected, but as friends, such differences are more easily overcome. I therefore welcome the opportunity to meet with my parliamentary colleagues in Turkey to discuss human rights, the Kurdish issue and other topics of mutual interest to our governments. I also welcome the opportunity to meet with human rights leaders, academics and members of the press.

“I realize that the work of the Helsinki Commission to publicize human rights issues in Turkey is perceived by some as interference in Turkey's internal affairs. As obsolete as such reasoning has been rendered on the eve of the 21st century, Turkey has more importantly obligated itself to scrutiny by adhering to a set of standards and principles by which all CSCE states are expected to be measured.

“As I prepare to leave the Senate, I am pleased to be back in a country for which I hold a deep fondness—a fondness which is surely responsible for my sincere concerns for Turkey's future. I hope that our visit and the opportunity for frank discussion of the difficult issues facing our countries will have the effect of reinforcing our friendship.”

Concluding Statement

After having returned to Washington, D.C., Chairman DeConcini issued the following statement concerning his visit to Turkey:

“From October 23 to October 26, 1994, I visited Turkey as Chairman of both the Commission on Security and Cooperation in Europe (Helsinki Commission) and the Senate Intelligence Committee. I was interested in following up on issues examined during my last visit in 1989, including human rights, the Kurdish situation, conflicts in the Balkans and the Middle East peace process. I then joined President Clinton at the signing of the Jordanian-Israeli peace agreement—an historic milestone in the quest for regional peace, and a priority of both the United States and Turkey.

“I want to thank those officials with whom I had the privilege of meeting: Parliamentary President Husamettin Cindoruk; Parliamentary Human Rights Commission Chair Sabri Yavuz; Tunceli Deputy and Parliamentary Vice-President Kamer Genc; CSCE Parliamentary Assembly Vice-President, Deputy Uluc Gurkan; and Foreign Ministry Deputy Undersecretary Unal Unsal. I also extend my gratitude to those leaders of human rights groups, lawyers, and former officials who met with the delegation. Delegation members met with representatives of the Human Rights Association and the Bar Association in Diyarbakir. I was, however, disappointed that requests to meet with jailed Kurdish parliamentarians and other political prisoners were denied. This marked a significant departure from the openness with which I was received during my 1989 visit.

“Terrorism is threatening Turkey's stability and remains a major factor in the cycle of violence plaguing Turkey and all its citizens. The deteriorating human rights situation, an apparent unwillingness and inability of Turkey's leadership to seek new approaches to the Kurdish situation, to curb widespread use of torture, and to remove restrictions on free expression were evident and disturbing. Despite these problems, the delegation left Turkey with a heightened appreciation of mutual interests and shared democratic values and a renewed commitment to strengthening the friendship between our nations.

“In official meetings, I expressed our nation's gratitude for Turkey's role during the Gulf War and its continued commitment to Operation Provide Comfort. I expressed concern for the heavy toll on commerce caused by the enforcement of U.N. sanctions against Iraq and indicated I would raise the issue of seeking further compensation for Turkey's losses, particularly from Gulf States who have benefited most from continued allied pressure on Saddam Hussein. I also expressed my belief that Turkey can play a critical role in promoting a CSCE-like regional framework for the Middle East. Turkey's government has already taken a leading role in expressing support for such a CSCME as a means of further developing a lasting and comprehensive regional peace.

“In meetings with officials and private citizens, I unequivocally condemned PKK terrorism and stated my belief that Turkey's territorial integrity could never be called into question. I pointed out that the Helsinki Commission had always condemned the use of violence for political objectives. The delegation received information on recent PKK killings of school teachers, a tactic which has forced the closure of hundreds of schools and has kept thousands of children from classes.

“I also discussed ongoing efforts by security forces to evacuate and destroy Kurdish villages in Tunceli province while fighting the PKK. Village leaders had travelled to Ankara to protest their treatment at the hands of security forces. When asked about this situation, one legislator claimed that an official parliamentary investigation would be initiated. He assured the delegation that if government forces were found responsible, compensation would be offered. Another legislator informed the delegation of efforts to provide housing for displaced persons before the onset of winter.

“Restrictions on free expression were also a topic of discussion. The delegation was informed of efforts to examine relevant portions of the Constitution and “Anti-terror law” which might be amended to better protect free speech. We were told that pending legislation could result in the

release of many currently detained for speech crimes. Some officials indicated, however, that it might be difficult for Parliament to pass proposed reforms given the present political climate. I expressed hope that serious debate on the issue would continue, and observed that concrete measures decriminalizing all forms of non-violent expression were necessary in order to bring Turkey into compliance with stated CSCE commitments.

“A recent incident has further underscored my concerns in this area. On November 3, 1994, a Turkish court ordered the confiscation of “File of Torture” a booklet published by the Human Rights Foundation which documents deaths in detention since 1980 and hundreds of other torture cases. Government prosecutors are determining whether to charge Yavuz Onen, who met with the delegation, and Fevzi Argun for disseminating “separatist propaganda,” a crime punishable by a two-to-five year prison sentence. These types of cases should not be pursued in any democratic nation committed to protecting free expression.

“Our delegation was not allowed to meet with Democracy Party (DEP) legislators or other individuals imprisoned for what I believe are speech crimes. I reiterated my belief that the rights of ordinary citizens and duly elected legislators to freely express themselves should not be curtailed in a democratic society. Parliamentary President Cindoruk indicated that the jailed legislators were linked to the outlawed PKK, but added they would be allowed to run for office in December by-elections. I asked how they might campaign from prison on an equal footing with other candidates and raised questions about the conduct of such elections in areas where hundreds of thousands of refugees would be unable to meet residency requirements in order to vote. Mr. Cindoruk responded that the detained deputies could run by petition, and that it might be possible for them to be temporarily released in order to campaign. He added that the Council of Europe had been invited to monitor the by-elections.

“Continued widespread use of torture was also discussed. During my 1989 visit and in subsequent years officials indicated that concrete measures were being taken to reduce torture and to educate police officers about proper and acceptable methods of interrogation and about respect for the civil rights of detainees. However, today, heightened tensions and violence have lessened the political will and urgency of eradicating torture. Human rights advocates who met with the delegation claimed that torture had become routine in political cases and the forced confessions were widely used to convict persons of crimes. I urged the Chairman of the Parliamentary Human Rights Commission to redouble torture prevention and monitoring efforts, especially during pretrial detention periods when detainees have no access to lawyers and most torture is alleged to occur.

“It was discouraging to note that rising nationalism is fueling present government policies, accounting in part for the inability of Turkey's leadership to take meaningful steps toward a non-military resolution of the Kurdish issue. Sensational and often irresponsible media reports are reinforcing prevailing hardline attitudes in both the government and public. In such an environment, an open debate about the fundamental problem confronting Turkey—much less discussion of compromise—is increasingly impossible, even though many admit that the present policies are not working. A great challenge facing Turkish policymakers is therefore how to over-

come a leadership deficit on this issue. If non-military solutions to the Kurdish problem are to be successfully pursued, current or future leaders will have to develop the political will and lead the people of Turkey toward greater democratization.

“I also believe, however, that Turkey's allies must also do more to demonstrate their support for efforts by Turkey's government to pursue greater democratization and integration into Europe. The reluctance of Western nations to exercise the necessary political will to save the multicultural and largely Muslim Bosnian state from genocide is not lost upon the Turkish psyche. Governments and organizations who raise human rights concerns with the Turkish government must also acknowledge the human rights costs of terrorism. Western nations can emphatically demonstrate their commitment to deterring terrorism by bringing pressure against the Syrian regime to cease its support of the PKK. Furthermore, Western nations could ban activities of the PKK on their territory to counter growing perceptions in Turkey that Western nations tolerate or sympathize with the PKK. Also, European states should redouble efforts to confront xenophobia and discrimination directed against Turkish workers and their families.

“I left Turkey convinced more than ever that the government must consider non-military approaches to meeting the concerns of Kurdish citizens who do not support the use of violence and who are presently victimized by both sides. Moderate political voices, whether Turkish or Kurdish, must be legitimized and heard—and they must condemn the terrorism of the PKK. I believe that the foundations of Turkey's democracy are threatened by policies and attitudes which fail to differentiate between terrorism and protected forms of cultural and political expression. While new approaches and policies might find little support at first, in the long term, they offer the best hope of resolving an increasingly divisive issue. Until this critical question is peacefully resolved, Turkey's efforts in many other areas will be jeopardized—as will continued close cooperation and relations with Western allies.

1. Not all of the individuals cited were participants in the entire delegation itinerary.
2. The United States, Russia, France, the United Kingdom and Germany.
3. The draft would help define the powers and relationships of government branches and institutions, but there are questions regarding some specific provisions. There is also the question, which would be moot if the the constitution passes overwhelmingly, of whether a mere majority of those voting should be the hurdle for accepting a document as fundamental as a constitution, on which there should be a very broad social consensus.